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PENNSYLVANIA BULLETIN

Volume 27
Saturday, November 1, 1997 • Harrisburg, Pa.
Number 44
Pages 5583—5732

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Environmental Quality Board's Nitrogen
Oxides Allowance Requirements

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Radiological Health

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Environmental Quality Board
Fish and Boat Commission
Governor's Office
Independent Regulatory Review Commission
Insurance Department
Pennsylvania Public Utility Commission
Turnpike Commission

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

No. 276, November 1997

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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

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Part II

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Environmental Quality Board's
Nitrogen Oxides Allowance Requirements

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THE COURTS

Title 234—RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

[234 PA. CODE CHS. 1100 AND 1400]

Order Promulgating Pa.R.Crim.P. 1124A and Approving the Revisions of the Comments to Pa.R.Crim.P. 1124 and 1410; No. 229; Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining the Supreme Court's promulgation of Pa.R.Crim.P. 1124A (Challenges to the Weight of the Evidence) and approval of the correlative revisions of the Comments to Rule 1124 (Challenges to Sufficiency of Evidence) and Rule 1410 (Post-Sentence Motion; Appeal), on October 15, 1997, effective January 1, 1998. These rule changes provide the procedures for raising challenges to the weight of the evidence to ensure that weight challenges are raised with the trial judge before appeal. The Final Report follows the Court's Order.

Order

Per Curiam:

And Now, this 15th day of October, 1997, upon the recommendation of the Criminal Procedural Rules Committee, the Recommendation having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3), and a Final Report to be published with this Order,

It is *Ordered* that:

- (1) Rule of Criminal Procedure 1124A is hereby promulgated; and
- (2) the revisions of the Comments to Rules of Criminal Procedure 1124 and 1410 are approved, all in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective January 1, 1998.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

PART I. GENERAL

CHAPTER 1100. TRIAL

(Editor's Note: The following is a new rule. It is printed in regular type to enhance readability.)

Rule 1124A. Challenges to the Weight of the Evidence.

(1) A claim that the verdict was against the weight of the evidence shall be raised with the trial judge in a motion for a new trial:

- (a) orally, on the record, at any time before sentencing;
- (b) by written motion at any time before sentencing; or
- (c) in a post-sentence motion.

(2)(a) If the claim is raised before sentencing, the judge shall decide the motion before imposing sentence, and shall not extend the date for sentencing or otherwise delay the sentencing proceeding in order to dispose of the motion.

(b) An appeal from a disposition pursuant to this paragraph shall be governed by the timing requirements of Rule 1410(A)(2) or (3), whichever applies.

Official Note: Adopted October 15, 1997, effective January 1, 1998.

Comment:

The purpose of this rule is to make it clear that a challenge to the weight of the evidence must be raised with the trial judge or it will be waived. Appellate review of a weight of the evidence claim is limited to a review of the judge's exercise of discretion. See *Commonwealth v. Widmer*, 689 A.2d 211 (Pa. 1997), and *Commonwealth v. Brown*, 648 A.2d 1177, 1189-1192 (Pa. 1994).

When a claim is raised before sentencing, the defendant may, but need not, raise the issue again in a post-sentence motion. See Rule 1410(B)(1)(a)(iv).

Committee Explanatory Reports:

Final Report explaining the October 15, 1997 adoption of Rule 1124A published with the Court's Order at 27 Pa.B. 5599 (November 1, 1997).

Rule 1124. Challenges to Sufficiency of Evidence.

[(a)] (A) A defendant may challenge the sufficiency of the evidence to sustain a conviction of one or more of the offenses charged in one or more of the following ways:

- (1) a motion for judgment of acquittal at the close of the Commonwealth's case-in-chief;
- (2) a motion for judgment of acquittal at the close of all the evidence;
- (3) a motion for judgment of acquittal filed within 10 days after the jury has been discharged without agreeing upon a verdict;
- (4) a motion for judgment of acquittal made orally immediately after verdict;
- (5) a motion for judgment of acquittal made orally before sentencing pursuant to Rule 1405.B;
- (6) a motion for judgment of acquittal made after sentence is imposed pursuant to Rule 1410 **[.B] (B)**; or
- (7) a challenge to the sufficiency of the evidence made on appeal.

[(b)] (B) A motion for judgment of acquittal shall not constitute an admission of any facts or inferences except for the purpose of deciding the motion. If the motion is made at the close of the Commonwealth's evidence and is not granted, the defendant may present evidence without having reserved the right to do so, and the case shall otherwise proceed as if the motion had not been made.

[(c)] (C) If a defendant moves for judgment of acquittal at the close of all the evidence, the court may reserve decision until after the jury returns a guilty verdict or after the jury is discharged without agreeing upon a verdict.

Official Note: Previous Rule 1124 adopted January 24, 1968, effective August 1, 1968; amended September 18, 1973, effective January 1, 1974; amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; rescinded July 1, 1980, effective August 1, 1980, and not replaced. Present Rule 1124 adopted January 28, 1983, effective July 1, 1983; amended March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; **Comment revised October 15, 1997, effective January 1, 1998.**

Comment:

Previous Rule 1124, which suspended certain Acts of Assembly as being inconsistent with the Chapter 1100 Rules, was rescinded in 1980, as unnecessary in view of the Judiciary Act Repealer Act (JARA). Present Rule 1124 was adopted to codify the procedures applicable to challenges to the sufficiency of the evidence to convict in view of JARA, which repealed the statutes concerning such challenges. See JARA § 2(a), 42 P. S. § 20002(a) [194], [1275], [1322].

Paragraph [(a)] (A), amended in 1993, standardizes the terminology in Pennsylvania for challenges to the sufficiency of the evidence before verdict in view of *Smalis v. Pennsylvania*, 476 U.S. 140 (1986). See also Fed.R.Crim.P. 29. These amendments do not preclude the use of demurrers for other than sufficiency of the evidence challenges, as otherwise provided by law. For similar reasons, the term "motion for judgment of acquittal" is used in subparagraph [(a)] (A)(6) instead of "motion for arrest of judgment" in order to align this aspect of Pennsylvania legal terminology with that of the majority of other states and with the Federal Rules. See Fed.R.Crim.P. 29. This amendment is not intended to change Pennsylvania law. It follows that the inadvertent use of the word "demurrer" where "motion for judgment of acquittal" is now appropriate, would not affect an otherwise valid sufficiency challenge.

A motion in arrest of judgment would still be the appropriate means for raising a challenge based on the court's jurisdiction, on double jeopardy, or on the statute of limitations. Subparagraph [(a)] (A)(4) permits an oral motion for judgment of acquittal to be made immediately after verdict, a procedure of long standing in Pennsylvania.

Other amendments in paragraph [(a)] (A), however, reflect changes in Pennsylvania practice. Under [present] Rule 1410, the time for a written post-verdict motion for judgment of acquittal has been moved to post-sentence. Rule 1405.B provides a narrow exception to these new procedures by authorizing an oral motion for extraordinary relief, which is made before sentencing.

A defendant may challenge the sufficiency of the evidence in any one or more of the ways listed in paragraph [(a)] (A) of this rule. If the defendant does not move for a judgment of acquittal before verdict pursuant to subparagraph [(a)] (A)(1) or [(a)] (A)(2), the defendant may still raise the issue for trial court review after the jury has been discharged without agreeing upon a verdict pursuant to subparagraph [(a)] (A)(3), or after verdict pursuant to subparagraphs [(a)] (A)(4), [(a)] (A)(5), or [(a)] (A)(6). The defendant may also raise the issue for the first time on appeal under subparagraph [(a)] (A)(7). If the defendant does move before verdict and the motion is denied, the defendant may renew the motion before the trial court pursuant to subparagraphs [(a)] (A)(3) through [(a)] (A)(6).

Appellate review of a weight of the evidence claim is limited to a review of the judge's exercise of discretion. See *Commonwealth v. Widmer*, 689 A.2d 211(Pa. 1997) and *Commonwealth v. Brown*, 648 A.2d 1177, 1189-1192 (Pa. 1994). Therefore, although a challenge to the sufficiency of the evidence may be raised for the first time on appeal, paragraph(A)(7), a challenge to the weight of the

evidence must be raised with the trial judge or it will be waived. See Rule 1124A.

For procedures governing a motion for judgment of acquittal after the jury has been discharged without agreeing upon a verdict, see Rule 1125.

Committee Explanatory Reports:

Final Report explaining the March 22, 1993 amendments published with the Court's Order at 23 Pa.B. 1699 (April 10, 1993).

Final Report explaining the October 15, 1997 Comment revision concerning weight of the evidence claims published with the Court's Order at 27 Pa.B. 5599 (November 1, 1997).

CHAPTER 1400. SENTENCING

Rule 1410. Post-Sentence Procedures; Appeal.

[A.] (A) *Timing.*

(1) Except as provided in Section D, a written post-sentence motion shall be filed no later than 10 days after imposition of sentence.

(2) If the defendant files a timely post-sentence motion, the notice of appeal shall be filed within 30 days of the entry of the order deciding the motion, or, if the judge fails to decide the motion, within 30 days of the entry of the order denying the motion by operation of law.

(3) If the defendant does not file a post-sentence motion, the defendant's notice of appeal shall be filed within 30 days of imposition of sentence, except as provided in subsection [A] (A)(4).

(4) If the Commonwealth files a motion to modify sentence pursuant to Rule 1411, the defendant's notice of appeal shall be filed within 30 days of the entry of the order disposing of the Commonwealth's motion.

[B.] (B) *Optional Post-Sentence Motion.*

(1) *Generally.*

(a) The defendant in a court case shall have the right to make a post-sentence motion. All requests for relief from the trial court shall be stated with specificity and particularity, and shall be consolidated in the post-sentence motion, which may include:

(i) a motion challenging the validity of a plea of guilty or nolo contendere, or the denial of a motion to withdraw a plea of guilty or nolo contendere;

(ii) a motion for judgment of acquittal;

(iii) a motion in arrest of judgment;

(iv) a motion for a new trial; and/or

(v) a motion to modify sentence.

(b) The defendant may file a supplemental post-sentence motion in the judge's discretion as long as the decision on the supplemental motion can be made in compliance with the time limits of subsection [B] (B)(3).

(c) Issues raised before or during trial shall be deemed preserved for appeal whether or not the defendant elects to file a post-sentence motion on those issues.

(2) *Trial Court Action.*

(a) *Briefing Schedule.* Within 10 days after a post-sentence motion is filed, if the judge determines that briefs or memoranda of law are required for a resolution of the motion, the judge shall schedule a date certain for

the submission of briefs or memoranda of law by the defendant and the Commonwealth.

(b) *Hearing; Argument.* The judge shall also determine whether a hearing or argument on the motion is required, and if so, shall schedule a date or dates certain for one or both.

(c) *Transcript.* If the grounds asserted in the post-sentence motion do not require a transcript, neither the briefs nor hearing nor argument on the post-sentence motion shall be delayed for transcript preparation.

(3) *Time Limits for Decision on Motion.*

The judge shall not vacate sentence pending decision on the post-sentence motion, but shall decide the motion as provided in this subsection.

(a) Except as provided in subsection (3)(b), the judge shall decide the post-sentence motion, including any supplemental motion, within 120 days of the filing of the motion. If the judge fails to decide the motion within 120 days, or to grant an extension as provided in subsection (3)(b), the motion shall be deemed denied by operation of law.

(b) Upon motion of the defendant within the 120-day disposition period, for good cause shown, the judge may grant one 30-day extension for decision on the motion. If the judge fails to decide the motion within the 30-day extension period, the motion shall be deemed denied by operation of law.

(c) When a post-sentence motion is denied by operation of law, the clerk of courts shall forthwith enter an order on behalf of the court, and shall forthwith furnish a copy of the order by mail or personal delivery to the attorney for the Commonwealth, the defendant(s), and defense counsel that the post-sentence motion is deemed denied. This order is not subject to reconsideration.

(4) *Contents of Order.* An order denying a post-sentence motion, whether signed by the judge or entered by the clerk of courts, shall include notice to the defendant of the following:

(a) the right to appeal and the time limits within which the appeal must be filed;

(b) the right to assistance of counsel in the preparation of the appeal;

(c) the rights, if the defendant is indigent, to appeal in forma pauperis and to proceed with assigned counsel as provided in Rule 316; and

(d) the qualified right to bail under Rule 4009(B).

[C.] (C) After-Discovered Evidence.

A motion for a new trial on the ground of after-discovered evidence must be filed in writing promptly after such discovery. If an appeal is pending, the judge may grant the motion only upon remand of the case.

[D.] (D) Summary Case Appeals.

There shall be no post-sentence motion in summary case appeals following a trial de novo in the court of common pleas. The imposition of sentence immediately following a determination of guilt at the conclusion of the trial de novo shall constitute a final order for purposes of appeal.

Official Note: Previous Rule 1410, adopted May 22, 1978, effective as to cases in which sentence is imposed on or after July 1, 1978; rescinded March 22, 1993, effective as to cases in which the determination of guilt

occurs on or after January 1, 1994, and replaced by present Rule 1410. Present Rule 1410 adopted March 22, 1993 and amended December 17, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996. Comment revised September 26, 1996, effective January 1, 1997; amended August 22, 1997, effective January 1, 1998; **Comment revised October 15, 1997, effective January 1, 1998.**

Comment:

This rule is derived from previous Rules 321, 1123, and 1410. See also Rules 1122, 1124, and 1125.

For post-sentence procedures after a sentence of death has been imposed, see Rule 360.

The purpose of this rule is to promote the fair and prompt disposition of all issues relating to guilty pleas, trial, and sentence by consolidating all possible motions to be submitted for trial court review, and by setting reasonable but firm time limits within which the motion must be decided. Because the post-sentence motion is optional, the defendant may choose to raise any or all properly preserved issues in the trial court, in the appellate court, or both.

Timing

Section **[A] (A)** contains the timing requirements for filing the optional post-sentence motion and taking an appeal. Under subsection **[A] (A)(1)**, the post-sentence motion must be filed within 10 days of imposition of sentence.

When a defendant files a timely post-sentence motion, the 30-day period for the defendant's direct appeal on all matters in that case — including all issues related to any informations and any charges consolidated against the defendant for trial — is triggered by the trial judge's decision on the post-sentence motion or the denial of the motion by operation of law. The appeal period runs from the entry of the order. As to the date of entry of orders, see Pa.R.A.P. 108. No direct appeal may be taken by a defendant while his or her post-sentence motion is pending. See subsection **[A] (A)(2)**.

If no timely post-sentence motion is filed, the defendant's appeal period runs from the date sentence is imposed. See subsection **[A] (A)(3)**. Under subsection **[A] (A)(4)**, however, when the defendant has not filed a post-sentence motion but the Commonwealth files a motion to modify sentence under Rule 1411, it is the entry of the order disposing of the Commonwealth's motion that commences the 30-day period during which the defendant's notice of appeal must be filed. See Rule 1411(B)(2)(b).

All references to appeals in this rule relate to the defendant's right to appeal. The rule does not address or alter the Commonwealth's right to appeal. For Commonwealth challenges to sentences, see Rule 1411.

Optional Post-Sentence Motion

Section **[B] (B)** represents a departure from traditional Pennsylvania practice. It is intended to give the defendant the option of resubmitting for the trial judge's consideration issues which were raised before or during trial. Although the defendant may choose to raise only some issues in the post-sentence motion, the decision on

the motion triggers the appeal period on all properly preserved issues. See subsection [A] (A)(2).

Under subsection [B] (B)(1)(c), any issue raised before or during trial is deemed preserved for appeal whether or not the defendant chooses to raise the issue in a post-sentence motion. It follows that the failure to brief or argue an issue in the post-sentence motion would not waive that issue on appeal as long as the issue was properly preserved, in the first instance, before or during trial.

Nothing in this rule precludes the judge from granting a motion for extraordinary relief before sentencing under the special provisions of Rule 1405.B. But see Rule 1405.B(3).

Under subsection [A] (A)(1), if a defendant chooses to file a post-sentence motion, the motion must be filed within 10 days of imposition of sentence. The filing of the written post-sentence motion triggers the time limits for decision on the motion, including any supplement to it filed pursuant to subsection [B] (B)(1)(b). See subsection [B] (B)(3)(a).

For procedures governing post-sentence challenges to the sufficiency of the evidence, see Rule 1124 [(a)] (A)(6) and [(a)] (A)(7). **For challenges to the weight of the evidence, see Rule 1124A.**

In those cases in which a petitioner under the Post Conviction Relief Act has been granted leave to file a post-sentence motion or to appeal nunc pro tunc, the filing of the post-sentence motion or the notice of appeal must comply with the timing requirements contained in Section A of this rule. See the Post Conviction Relief Act, 42 Pa.C.S. §§ 9541 et seq.

Briefs; Transcripts; Arguments

Under subsection [B] (B)(2)(a), the judge should determine, on a case-by-case basis, whether briefs or memoranda of law are required for a fair resolution of the post-sentence motion. If they are not needed, or if a concise summary of the relevant law and facts is sufficient, the judge should so order. Any local rules requiring briefs or oral argument are inconsistent with this rule. See Rule 6(b)(1). Under subsection [B] (B)(2)(c), the judge, in consultation with defense counsel and the attorney for the Commonwealth, should determine what, if any, portions of the notes of testimony must be transcribed so that the post-sentence motion can be resolved. The judge should then set clear deadlines for the court reporter to insure timely disposition of the motion. Nothing in this rule precludes the judge from ordering the transcript or portions of it immediately after the conclusion of the trial or the entry of a plea.

Subsection [B] (B)(1)(b) permits the trial judge to entertain a supplemental post-sentence motion at his or her discretion, as long as the decision on the supplemental issue(s) is made within the time limits of subsection [B] (B)(3).

For the recording and transcribing of court proceedings generally, see Rule 9030. The requirements for the record and the writing of an opinion on appeal are set forth in the Pennsylvania Rules of Appellate Procedure.

There is no requirement that oral argument be heard on every post-sentence motion. When argument is to be heard, however, the judge should determine whether the post-sentence motion argument must be argued before the

judge alone, or before a panel sitting en banc. It is recommended that, except in extraordinary circumstances, the post-sentence motion be heard by the judge alone. The judge may make any rulings that could be made by a court en banc. *Commonwealth v. Norris*, 389 A.2d 668 (Pa. Super. 1978). On the powers of courts en banc, see *Commonwealth v. Bonser*, 258 A.2d 675 (Pa. Super. 1969). For cases in which there has been a change of venue, see Rule 312.

When oral argument is heard on the post-sentence motion, the defendant need not be present.

Disposition

Under subsection [B] (B)(3), once the defendant makes a timely written post-sentence motion, the judge retains jurisdiction for the duration of the disposition period. The judge may not vacate the order imposing sentence pending decision on the post-sentence motion. This is so whether or not the Commonwealth files a motion to modify sentence. See Rule 1411.

Subsection [B] (B)(3)(b) permits one 30-day extension of the 120-day time limit, for good cause shown, upon motion of the defendant. In most cases, an extension would be requested and granted when new counsel has entered the case. Only the defendant or counsel may request such an extension. The judge may not, sua sponte, extend the time for decision: a congested court calendar or other judicial delay does not constitute "good cause" under this rule.

The possibility of an extension is not intended to suggest that 120 days are required for decision in most cases. The time limits for disposition of the post-sentence motion are the outer limits. Easily resolvable issues, such as a modification of sentence or a guilty plea challenge, should ordinarily be decided in a much shorter period of time.

If the trial judge decides the motion within the time limits of this rule, the judge may reconsider that decision, but the judge may not vacate the sentence pending reconsideration. Rule 1410 [B] (B)(3). The reconsideration period may not be used to extend the timing requirements set forth in section [B] (B)(3) for decision on the post-sentence motion: the time limits imposed by subsections [B] (B)(3)(a) and [B] (B)(3)(b) continue to run from the date the post-sentence motion was originally filed. The trial judge's reconsideration must therefore be resolved within the 120-day decision period of subsection [B] (B)(3)(a) or the 30-day extension period of subsection [B] (B)(3)(b), whichever applies. If a decision on the reconsideration is not reached within the appropriate period, the post-sentence motion, including any issues raised for reconsideration, will be denied pursuant to subsection [B] (B)(3)(c).

Under subsection [B] (B)(3)(a), on the date when the court disposes of the motion, or the date when the motion is denied by operation of law, the judgment becomes final for the purposes of appeal. See Judicial Code, 42 Pa.C.S. §§ 102, 722, 742, 5105(a) and *Commonwealth v. Bolden*, 373 A.2d 90 (Pa. 1977).

An order entered by the clerk of courts under subsection [B] (B)(3)(c) constitutes a ministerial order and, as such, is not subject to reconsideration or modification pursuant to 42 Pa.C.S. § 5505 or Pa.R.A.P. 1701.

If the motion is denied by operation of law, subsection [B] (B)(3)(c) requires that the clerk of courts enter an

order denying the motion on behalf of the court and immediately notify the attorney for the Commonwealth, the defendant(s) and defense counsel that the motion has been denied. This notice is intended to protect the defendant's right to appeal. The clerk of courts must also comply with the notice and docketing requirements of Rule 9024.

The disposition of a motion to modify a sentence imposed after a revocation hearing is governed by Rule 1409 (Violation of Probation, Intermediate Punishment, or Parole: Hearing and Disposition).

Contents of Order

Subsection [**B**] (**B**)(4) protects the defendant's right to appeal by requiring that the judge's order denying the motion, or the clerk of courts' order denying the motion by operation of law, contain written notice of the defendant's appeal rights. This requirement insures adequate notice to the defendant, which is important given the potential time lapse between the notice provided at sentencing and the resolution of the post-sentence motion. See Rule 1405.C(3).

Miscellaneous

When the defendant is represented by new counsel on the post-sentence motion, the defendant must raise any claim that prior counsel was ineffective, and the court must consider and decide the claim. Furthermore, unless the existing record is adequate for a determination of the claim, the judge must hold an evidentiary hearing. See *Commonwealth v. Hubbard*, 372 A.2d 687 (Pa. 1977); *Commonwealth v. Dancer*, 331 A.2d 435 (Pa. 1975). For procedures governing the appearance and withdrawal of counsel, see Rule 302.

Under subsection [**B**] (**B**)(1)(a), the grounds for the post-sentence motion should be stated with particularity. Motions alleging insufficient evidence, for example, must specify in what way the evidence was insufficient, and motions alleging that the verdict was against the weight of the evidence must specify why the verdict was against the weight of the evidence.

Because the post-sentence motion is optional, the failure to raise an issue with sufficient particularity in the post-sentence motion will not constitute a waiver of the issue on appeal as long as the issue was preserved before or during trial. See subsection [**B**] (**B**)(1)(c).

Under subsection [**B**] (**B**)(1)(a)(ii), a challenge to the sufficiency of the evidence would be made in a motion for judgment of acquittal. See Rule 1124.

A post-sentence challenge to a guilty plea under this rule is distinct from a motion to withdraw a guilty plea prior to sentence. See Rule 320. Cf. Standards Relating to Pleas of Guilty § 2.1(a)(ii), A.B.A. PROJECT ON MINIMUM STANDARDS FOR CRIMINAL JUSTICE (Approved Draft, 1968). Properly preserved issues related to guilty pleas need not be raised again in the post-sentence motion, but the defendant may choose to do so. A key consideration for the defendant is whether the record will be adequate for appellate review. If counsel is uncertain about the record, it is recommended that the guilty plea be challenged in the post-sentence motion.

Issues properly preserved at the sentencing proceeding need not, but may be raised again in a motion to modify sentence in order to preserve them for appeal. In deciding whether to move to modify sentence, counsel must carefully consider whether the record created at the sentencing proceeding is adequate for appellate review of the

issues, or the issues may be waived. See *Commonwealth v. Jarvis*, 663 A.2d 790 (Pa. Super. 1995). See also Rule 1405.C(4). As a general rule, the motion to modify sentence under subsection [**B**] (**B**)(1)(a)(v) gives the sentencing judge the earliest opportunity to modify the sentence. This procedure does not affect the court's inherent powers to correct an illegal sentence or obvious and patent mistakes in its orders at any time before appeal or upon remand by the appellate court. See, e.g., *Commonwealth v. Jones*, 554 A.2d 50 (Pa. 1989) (sentencing court can, sua sponte, correct an illegal sentence even after the defendant has begun serving the original sentence) and *Commonwealth v. Cole*, 263 A.2d 339 (Pa. 1970) (inherent power of the court to correct obvious and patent mistakes).

Once a sentence has been modified or reimposed pursuant to a motion to modify sentence under subsection [**B**] (**B**)(1)(a)(v) or Rule 1411, a party wishing to challenge the decision on the motion does not have to file an additional motion to modify sentence in order to preserve an issue for appeal, as long as the issue was properly preserved at the time sentence was modified or reimposed.

Commonwealth challenges to sentences are governed by Rule 1411. If the defendant files a post-sentence motion, the time limits for decision on the defendant's motion govern the time limits for disposition of the Commonwealth motion to modify sentence, regardless of which motion is filed first. See Rule 1411(C)(1). If the defendant elects to file an appeal and the Commonwealth files a motion to modify sentence, decision on the Commonwealth's motion triggers the defendant's 30-day appeal period. See Rule 1410 [**A**] (**A**)(4).

Given that the Commonwealth has 10 days to file a motion to modify sentence under Rule 1411(B)(1), it is possible that the defendant might elect to file a notice of appeal under [**paragraph**] Rule 1410 [**A**] (**A**)(3) followed by the Commonwealth's filing a timely motion to modify sentence. When this occurs, the defendant's notice of appeal is rendered premature, because the entry of the order disposing of the Commonwealth's motion to modify sentence then becomes the triggering device for the defendant's notice of appeal. In this situation, counsel for the defendant should be aware that Pa.R.A.P. 905(a) addresses this problem. In response to an extensive history of appeals which were quashed because of the premature filing of the notice of appeal, the last sentence of Pa.R.A.P. 905(a) was drafted to create a legal fiction which treats a premature notice of appeal as filed after the entry of the appealable order. For a discussion of this provision, see Darlington, McKeon, Schuckers, and Brown, *Pennsylvania Appellate Practice*, 2d., § 905.3.

For bail proceedings pending the outcome of the post-sentence motion, see Rules 4002 and 4009.

Although there are no post-sentence motions in summary appeals following the trial de novo pursuant to Section [**D**] (**D**), nothing in this rule is intended to preclude the trial judge from acting on a defendant's petition for reconsideration. See the Judicial Code, 42 Pa.C.S. § 5505. *See also Commonwealth v. Dougherty*, 679 A.2d 779, 784 (Pa. Super. 1996).

Committee Explanatory Reports:

Final Report explaining the provisions of the new rule published with the Court's Order at 23 Pa.B. 1699 (April 10, 1993).

Report explaining the December 17, 1993 amendments published with the Court's Order at 24 Pa.B. 334 (January 15, 1994).

Final Report explaining the September 13, 1995 amendments concerning bail published with the Court's Order at 25 Pa.B. 4116 (September 30, 1995).

Final Report explaining the September 26, 1996 Comment revision on Rule 1409 procedures published at 26 Pa.B. 4900 (October 12, 1996).

Final Report explaining the August 22, 1997 amendments to subsections [A] (A)(4) and [B] (B)(3) published with the Court's Order at 27 Pa.B. 4553 (September 6, 1997).

Final Report explaining the Comment references to Rule 1124A (Challenges to the Weight of the Evidence) and to Commonwealth v. Dougherty published with the Court's Order at 27 Pa.B. 5599 (November 1, 1997).

FINAL REPORT¹

Challenges to the Weight of the Evidence; New Pa.R.Crim.P. 1124A; Correlative Revisions to the Comments to Pa.Rs.Crim.P. 1124 and 1410

On October 15, 1997, upon the recommendation of the Criminal Rules Committee, the Supreme Court of Pennsylvania adopted Pa.R.Crim.P. 1124A (Challenges to the Weight of the Evidence) and approved revisions of the Comments to Rule 1124 (Challenges to Sufficiency of Evidence) and Rule 1410 (Post-Sentence Motion; Appeal), effective January 1, 1998. New Rule 1124A provides the procedures for raising challenges to the weight of the evidence, ensuring that weight challenges are raised with the trial judge before appeal. The correlative changes include revisions to the Rule 1124 Comment, which distinguish challenges to the sufficiency and the weight of the evidence, and to the Rule 1410 Comment, which cross-reference new Rule 1124A and address weight challenges in summary cases.

Background

Correspondence with the Committee and developing case law have made it clear that the optional post-sentence motion procedures of Rule 1410 and the absence of specific procedures for handling weight of the evidence claims have generated confusion about whether a weight of the evidence claim, which has not been raised with the trial judge, may be raised for the first time on appeal under Rule 1410. See, e.g., *Commonwealth v. Widmer*, 689 A.2d 211 (Pa. 1997), rev'g 667 A.2d 215, and *Commonwealth v. Hodge*, 658 A.2d 386 (Pa. Super. 1995).

When the issue was first raised with the Committee by a common pleas judge, in late 1995 following the Superior Court's decision in *Commonwealth v. Widmer*, 667 A.2d 215 (Pa. Super. 1995), the Committee agreed that the matter needed to be addressed. Initially, the Committee felt that a Comment provision would suffice, given the long-standing and clear requirement that weight of the evidence claims must be addressed to the discretion of the trial judge. See, e.g., *Commonwealth v. Brown*, 648 A.2d 1177, 1189-1192 (Pa. 1994). However, in the face of the case law documenting ongoing confusion, we concluded that the best solution was a separate, narrow rule which, by its requirements, would ensure that these weight claims are always first raised with the trial judge.

¹ The Committee's Final Reports should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the Committee's explanatory Final Report.

During the course of our discussion of weight claims in a Rule 1410 context, the Superior Court decided *Commonwealth v. Dougherty*, 679 A.2d 779 (Pa. Super. 1996). In *Dougherty*, the Superior Court noted that although Rule 1410(D) prohibits post-sentence motions in summary cases, a weight claim may be raised after sentencing as a motion for reconsideration pursuant to 42 Pa.C.S. § 5505. After reviewing *Dougherty*, the Committee agreed to add a citation to the case in the Rule 1410 Comment explanation of section (D).

Description of Rule Changes

1. New Rule 1124A (Challenges to the Weight of the Evidence)

The Committee considered placement of the new rule, and agreed that it should follow Rule 1124 (Challenges to Sufficiency of Evidence) to underscore the procedural differences between the two, a distinction that is further addressed in the Comments to both rules by emphasizing that sufficiency challenges may be raised for the first time on appeal, while weight challenges must be raised with the trial judge.

The new Rule 1124A procedures are straightforward, and require that the weight of the evidence claim be raised in the first instance with the trial judge, either at any time before sentencing, by oral or written motion, or after sentencing, in a Rule 1410 post-sentence motion. See Rule 1124A(1). For weight challenges raised before sentencing, the new rule makes it clear that the motion may not be used to delay sentencing and that the judge must decide the motion before imposing sentence. See Rule 1124A(2)(a).

The rule also makes it clear that no separate avenue of appeal is created under the new procedures. The time for appeal of the judge's disposition of the motion is governed by the timing provisions of Rule 1410(A)(2) or (3). Under Rule 1410 (A)(2), if the defendant files a post-sentence motion, disposition of that motion governs the time for appeal of the weight claim. If no post-sentence motion is filed, the time for appeal is governed by Rule 1410(A)(3), i.e., the notice of appeal must be filed within 30 days of imposition of sentence.

The Rule 1124A Comment states unequivocally that a challenge to the weight of the evidence must be raised with the trial judge or it will be waived, and includes citations to *Commonwealth v. Widmer*, 689 A.2d 211 (Pa. 1997), and *Commonwealth v. Brown*, 648 A.2d 1177, 1189-1192 (Pa. 1994). Finally, to avoid any interpretation that weight claims raised before sentencing must be raised again in a post-sentence motion, the Comment also notes that when a weight claim has been raised before sentencing, it may, but need not, be raised again in a post-sentence motion.

2. Revision of the Comment to Rule 1124 (Challenges to Sufficiency of Evidence)

As noted above, the revision to the Rule 1124 Comment states, as simply as possible, the basic difference between sufficiency and weight challenges: although sufficiency challenges may be raised for the first time on appeal, weight challenges must be raised first with the trial judge or they will be waived. Citations to *Commonwealth v. Widmer*, 689 A.2d 211 (Pa. 1997) and *Commonwealth v. Brown*, 648 A.2d 1177 (Pa. 1994) also have been included here.

3. *Revision of the Comment to Rule 1410 (Post-Sentence Procedures; Appeals)*

The additions to the Rule 1410 Comment cover two areas. First, in that part of the "Optional Post-Sentence Motion" section of the Comment which discusses sufficiency challenges, the Committee has added a cross-reference to new Rule 1124A. Second, in that part of the "Miscellaneous" section of the Comment which notes the availability in summary cases of post-sentence reconsideration pursuant to 42 Pa.C.S. § 5505, we added a citation to *Commonwealth v. Dougherty*, 679 A.2d 779 (Pa. Super. 1996)(although there are no post-sentence motions in summary cases after a trial de novo, see Rule 1410(D), a defendant may raise a challenge to the weight of the evidence after sentencing in a summary case by petitioning for reconsideration pursuant to 42 Pa.C.S. § 5505).

[Pa.B. Doc. No. 97-1734. Filed for public inspection October 31, 1997, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Suspension; Corrected

Notice is hereby given that on September 23, 1997, pursuant to Rule 214(d)(l) of the Pa.R.D.E., John William Morris from the State of New Jersey has been placed on Temporary Suspension by the Supreme Court of Pennsylvania until further Order of the Court.

ELAINE M. BIXLER

Secretary

*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 97-1735. Filed for public inspection October 31, 1997, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD [25 PA. CODE CHS. 121, 126 AND 139] Gasoline Volatility

The Environmental Quality Board (Board) by this order amends Chapters 121, 126 and Chapter 139 (relating to general provisions; standards for motor fuels; and sampling and testing) to read as set forth in Annex A. The final-form regulations will limit the volatility of gasoline sold in the Pittsburgh-Beaver Valley Area during the ozone season.

These final-form regulations will be submitted to the Environmental Protection Agency (EPA) as a revision to the State Implementation Plan (SIP).

The Board approved the amendments at its September 16, 1997 meeting.

A. Effective Date

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

B. Contact Persons

For further information, contact Terry Black, Chief, Regulation and Policy Development Section, Division of Compliance and Enforcement, Bureau of Air Quality, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-1663; or M. Dukes Pepper, Jr., Assistant Counsel, Bureau of Regulatory Counsel, Office of Chief Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. 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 final rule is available electronically through the Department of Environmental Protection (Department) Web site (<http://www/dep.state.pa.us>).

C. Statutory Authority

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

D. Background and Summary of the Amendments

These amendments establish controls on the volatility of gasoline sold in the Pittsburgh-Beaver Valley Area as part of the Commonwealth's demonstration of attainment of the health-based ozone standard. Based on 1991 through 1994 monitoring data, the EPA, on July 19, 1995, determined that measured air quality in the area met the ozone National Ambient Air Quality Standards (NAAQS) and that the statutory requirement for an attainment demonstration (and other related requirements) was no longer applicable. However, there were a number of ozone exceedances in 1995 that resulted in a violation of the ozone NAAQS. In response to this violation, the Governor formed the Southwestern Pennsylvania Ozone Stakeholder Working Group to review the ozone problem and recommend additional emission control programs.

In response to the 1995 ozone NAAQS violation, the EPA, on June 4, 1996, published a finding at 61 FR 28061 et seq. that the area was no longer attaining the ozone standard and reinstated the applicability of the attainment demonstration and related requirements. These requirements are those established by Part D of Title I of the Clean Air Act, sections 182(b) and 172(c)(9) (42 U.S.C.A. §§ 7511a(b) and 7502(c)(9)). The EPA recognized the work of the Southwestern Pennsylvania Ozone Stakeholder Working Group when it published the schedule for completion of the attainment demonstration for the Pittsburgh-Beaver Valley Ozone Nonattainment Area. The schedule was a result of a letter submitted by the Commonwealth. Under the schedule, by December 31, 1997, the Commonwealth must submit to the EPA, as a SIP revision, final regulations establishing the emission controls contained in Annex A. In the event the Commonwealth fails to meet this schedule, the sanctions established by the Clean Air Act will go into effect early in January, 1998. These sanctions include 2 to 1 emission offsets and (after 6 months) the loss of Federal highway funds in the Pittsburgh-Beaver Valley Ozone Nonattainment Area.

These amendments are one of four core emission reduction strategies necessary for the demonstration of attainment of the ozone standard. The four strategies are:

1. Minor changes to the proposed low-enhanced (decentralized) motor vehicle emission inspection and maintenance program.
2. The second phase (55% reduction) of the Ozone Transport Commission NO_x Memorandum of Understanding.
3. Clean gasoline proposal.
4. Stage II vapor control requirements.

These four core strategies were recognized by the Southwestern Pennsylvania Ozone Stakeholder Working Group as necessary to achieve the ozone standard in the Pittsburgh-Beaver Valley Area and this proposal was recommended by the Stakeholder Group. Other mandatory strategies were considered by the Stakeholder Group, but were found to be either unreasonable or impracticable. In addition, the Department discussed these regulations with the Air Quality Technical Advisory Committee (AQTAC). At its July 21, 1997, meeting, the AQTAC recommended adoption of the final-form regulations.

The Department is adding definitions for the terms "compliant fuel," "Federal reformulated gasoline or RFG," "importer," "low RVP gasoline," "Pittsburgh-Beaver Valley Area" and "Reid vapor pressure." In addition, the Department is modifying the definition of "distributor."

These final-form regulations add a new Subchapter C (relating to gasoline volatility requirements) to Chapter 126. Section 126.301 (relating to compliant fuel requirement) provides that this new subchapter applies to the sale of gasoline in the Pittsburgh-Beaver Valley Area between May 1 and September 15 of each calendar year. Section 126.301 also imposes a Reid vapor pressure (RVP) limit on all gasoline marketed in Allegheny, Armstrong, Beaver, Butler, Fayette, Washington and Westmoreland Counties. The regulation provides for Federal reformulated gasoline (RFG) as an alternate compliant fuel. The restrictions on fuel would be effective between May 1 and September 15 of each year beginning in calendar year 1998 for all refiners, distributors, resellers, carriers and

wholesalers. The restrictions would be applicable between June 1 and September 15 of each year for all wholesale purchaser consumers and retailers of gasoline. Finally, if the RFG is required by Federal law to be sold in the Pittsburgh-Beaver Valley Area, the requirements of these final-form regulations are terminated.

The requirements of § 126.302 (relating to labeling requirements) for gasoline dispensed at any retail outlet in the Pittsburgh-Beaver Valley area have been deleted in response to comments received.

Section 126.303 (relating to recordkeeping and reporting) requires each entity in the gasoline dispensing network, beginning with the terminal owner, to maintain records of the date, name and address of transferor and transferee, the location and volume of gasoline being sold or transferred, and a statement certifying that the gasoline meets the RVP or RFG requirements. These records must be retained for at least 2 years from the date of sale or transfer of the compliant fuel.

Section 126.304 (relating to compliance and test methods) and the amendments to Chapter 139 (relating to sampling and testing) establish the compliance test methods for evaluating fuel volatility and RVP. These test methods are consistent with the requirements established by the EPA.

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

Comments were received from petroleum industry representatives, the EPA and the Independent Regulatory Review Commission (IRRC). The comments from the petroleum industry and IRRC suggested that the program implementation dates be changed to be consistent with the Federal fuel program dates and that the pump labeling requirements be deleted. Changes were made in response to these comments altering the program start dates and deleting the pump labeling provisions.

Other comments from the industry suggested that the prohibition against mixing of complying and noncomplying fuels could prohibit blending to correct off-specification gasoline. Noncomplying fuel should not be in the area during the control period, and these requirements have not been changed in the final rulemaking. A commentator indicated that the proposed regulation requires the segregation of low volatility gasoline and RFG and will prohibit the mixing of RFG and low volatility gasoline in the pipeline or storage and may keep RFG from the market. The Federal definition of RFG prevents the mixing of a fuel certified as RFG with any non-RFG gasoline. No change was made in response to this comment. A commentator suggested that industry codes be allowed to identify gasoline in addition to the other identifiers. The final rulemaking provides for use of appropriately identified product codes. Several commentators questioned whether there would be a test tolerance of 0.3 psi allowed for enforcement purposes. This is an implementation issue based on the analysis technique, and the final-form regulations do not specifically provide a testing tolerance. However, testing and analysis are conducted in a manner consistent with Federal requirements.

The EPA made a number of comments related to the proposed amendments. One comment related to possible Federal preemption of the RFG provisions in the amendments. Based on further discussions with the EPA, this is an issue that can be addressed by the EPA in its review and approval of SIP. The EPA also questioned the level of emission reduction credits the Department would claim

because of the difference in reductions which occur with the use of the different complying fuels. There is a slight difference in evaporative emission reductions between the RFG and low volatility fuels, but the overall emission reductions including evaporative and tailpipe emissions are actually greater with the RFG than with the low volatility gasoline. The Department plans to take credit only for emission reductions realized through the use of low volatility gasoline. No changes have been made to the regulation to address the EPA's comments.

One industry commentator, in response to the Department's request for comment regarding a "ramp-up" interval, suggested that the amendments should not specify details of getting complying fuel into the market, but that the matter should be left to the industry to comply by the required deadlines. No provisions are contained in the final-form regulations regarding a "ramp-up" period.

One industry commentator, in response to the Department's request for comment regarding the generation of emission reduction credits (ERCs) for use of the RFG, suggested that this program would be too complex and costly to implement and advised against a program. No specific provisions are contained in the final-form regulations regarding the generation of ERCs.

One industry commentator described an implementation/enforcement policy which the Department should consider. Implementation policy will be developed after the final rule is promulgated. Enforcement will be consistent with the Department's *Thoughtful and Thorough Enforcement Policy* dated September 21, 1995.

F. *Benefits, Costs and Compliance*

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

Benefits

The approximately 2.8 to 3 million people in the seven counties affected by these final-form regulations will benefit from the sale of cleaner burning fuel. Both low RVP gasoline and RFG have been proven to reduce emissions of volatile organic compounds (VOC), compounds that are instrumental in the formation of ground level ozone. In addition, RFG lowers emissions of air toxics, nitrogen oxides, carbon monoxide and benzene.

Compliance Costs

There will be an increased cost to the regulated community to produce compliant fuel. Both low RVP and RFG cost more to make than conventional gasoline. It is anticipated that the increased cost of production the refiners experience will be passed onto the consumer and, consequently, the regulated community will not bear the increased cost. Estimates regarding the price per gallon increases vary depending on a number of factors, but generally the increase has been documented to be 1 to 2¢ per gallon for low RVP and 3 to 5¢ per gallon for RFG. This cost, based on an estimate of the number of gallons sold in a 5 month period in the seven county area, could range from \$4 million to \$20 million each ozone season.

Compliance Assistance Plan

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

Paperwork Requirements

There will be additional recordkeeping and reporting costs for any entity that sells or transfers gasoline intended for use in the seven-county Pittsburgh-Beaver Valley Area during the ozone season. Each transferor or

transferee will be required to alter its current recordkeeping documents to include the information required by these final-form regulations.

G. *Sunset Review*

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

H. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 21, 1997, the Department submitted a copy of the proposed amendments to IRRC and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In compliance with section 5(b.1) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of the comments, as well as other documentation.

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

These final-form regulations were deemed approved by the House and Senate Environmental Resources and Energy Committee on October 7, 1997. IRRC met on October 9, 1997, and approved the final-form regulations in accordance with section 5(c) of the Regulatory Review Act.

I. *Findings of the Board*

The Board finds that:

(1) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 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 and a public hearing held as required by law, and all comments were considered.

(3) These final-form regulations do not enlarge the purpose of the proposal published at 27 Pa.B. 2130 (May 3, 1997).

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

J. *Order of the Board*

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

(a) The regulations of the Department, 25 Pa. Code Chapters 121, 126 and 139, are amended by amending §§ 121.1, 139.4 and 139.14 and adding §§ 126.301—126.303 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

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

JAMES M. SEIF,
Chairperson

(Editor's Note: Proposals to amend § 121.1 remain outstanding at 27 Pa.B. 1822, 4325 and 4340 (April 12, 1997 and August 23, 1997). For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 5561 (October 25, 1997).)

Fiscal Note: Fiscal Note 7-319 remains valid for the final adoption of the subject regulations.

Annex A

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

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 121. GENERAL PROVISIONS

§ 121.1. Definitions.

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

* * * * *

Compliant fuel—Low RVP gasoline or RFG.

* * * * *

Distributor—A person who transports, stores or causes the transportation or storage of gasoline at any point between a refinery, an oxygenate blending facility or terminal and a retail outlet or wholesale purchaser-consumer's facility. The term includes a refinery, an oxygenate blending facility or a terminal.

* * * * *

Importer—A person who imports gasoline or gasoline blending stocks or components from a foreign country into the United States.

* * * * *

Low RVP gasoline—Gasoline that has an RVP of 7.8 pounds per square inch or less as determined in accordance with the appropriate sampling and testing methodologies in 40 CFR Part 80, Appendix E (relating to test for determining Reid vapor pressure (RVP) of gasoline and gasoline-oxygenate blends).

* * * * *

Pittsburgh-Beaver Valley Area—The seven-county area comprised of the following Pennsylvania counties: Allegheny, Armstrong, Beaver, Butler, Fayette, Washington and Westmoreland.

* * * * *

RFG—*Federal Reformulated Gasoline*—Gasoline that meets the requirements for RFG as specified in 40 CFR Part 80 Subpart D (relating to reformulated gasoline).

RVP—Reid Vapor Pressure—The measure of pressure exerted on the interior of a special container as determined by the appropriate methodologies in 40 CFR Part 80, Appendix E.

* * * * *

CHAPTER 126. STANDARDS FOR MOTOR FUELS
Subchapter C. GASOLINE VOLATILITY REQUIREMENTS

- Sec.
 126.301. Compliant fuel requirement.
 126.302. Recordkeeping and reporting.
 126.303. Compliance and test methods.

§ 126.301. Compliant fuel requirement.

(a) This subchapter applies to gasoline which is sold or transferred into or within the Pittsburgh-Beaver Valley area during the period May 1 through September 15, 1998, and continuing every year thereafter.

(b) A refiner, importer, distributor, reseller, terminal owner and operator or carrier, may not:

(1) Sell, exchange or supply gasoline that is not a compliant fuel during the period described in subsection (a).

(2) Blend, mix, store or transport or allow blending, mixing, storing or transporting of compliant fuel with noncompliant fuel during the period described in subsection (a).

(c) A retailer or wholesale purchaser-consumer may not sell, exchange or supply gasoline that is not a compliant fuel during the period June 1 through September 15, 1998, and continuing every year thereafter.

(d) If RFG is required by operation of Federal law to be sold in the Pittsburgh-Beaver Valley, this subchapter no longer applies after the date that RFG is required to be sold.

§ 126.302. Recordkeeping and reporting.

(a) Beginning with the terminal owner or operator who sells or transfers gasoline intended for use in the Pittsburgh-Beaver Valley area during the period described in § 126.301(a) (relating to compliant fuel requirement), each time the physical custody of or title to a shipment of gasoline changes hands, other than when gasoline is sold or transferred for use in motor vehicles at a retail outlet or wholesale purchaser-consumer's facility, the transferor shall provide to the transferee a copy of the record described in this subsection. This record shall legibly and conspicuously contain, at a minimum, the following information:

- (1) The date of the sale or transfer.
- (2) The name and address of the transferor.
- (3) The name and address of the transferee.
- (4) The location of the gasoline at the time of transfer.
- (5) The volume of gasoline which is being sold or transferred.

(6) A statement or grade code certifying that the gasoline has an RVP of 7.8 pounds per square inch or less per gallon or is certified as RFG. If the gasoline is certified as RFG, each invoice, loading ticket, bill of lading, delivery ticket and other document that accompanies a shipment of RFG shall contain a statement from the refiner that certifies this fact.

(b) A person who transports, stores or sells compliant fuel that is intended for use in the Pittsburgh-Beaver Valley area during the period described in § 126.301(a), shall segregate the compliant fuel from noncompliant fuel and the documentation described in subsection (a) shall accompany the compliant fuel at all times.

(c) Each person in the gasoline distribution network shall maintain records containing the compliance information in subsection (a). These records shall be retained for at least 2 years from the date of the sale or transfer of compliant fuel.

§ 126.303. Compliance and test methods.

(a) Compliance with the 7.8 pounds per square inch RVP standard shall be determined by use of the sampling and testing methods specified in this section. Sampling or testing of gasoline required by this chapter shall be accomplished as follows:

(1) Sampling of gasoline for the purpose of determining compliance with this subchapter shall be conducted in accordance with 40 CFR Part 80, Appendix D (relating to sampling procedures for fuel volatility).

(2) Testing of gasoline for purposes of determining compliance with this rule shall be conducted in accordance with 40 CFR Part 80, Appendix E (relating to test for determining Reid vapor pressure (RVP) of gasoline and gasoline-oxygenate blend).

(b) RFG shall be certified and tested in accordance with 40 CFR Part 80, Subpart D (relating to reformulated gasoline).

CHAPTER 139. SAMPLING AND TESTING

Subchapter A. SAMPLING AND TESTING METHODS AND PROCEDURES

GENERAL

§ 139.4. References.

The references referred to in this subchapter are as follows:

* * * * *

(18) "Sampling Procedures for Fuel Volatility," 40 CFR Part 80, Appendix D (relating to reformed gasoline).

(19) "Tests for Determining Reid Vapor Pressure (RVP) of Gasoline and Gasoline-Oxygenate Blends," 40 CFR Part 80, Appendix E (relating to test for determining Reid vapor pressure (RVP) of gasoline and gasoline-oxygenate blends).

STATIONARY SOURCES

§ 139.14. Emissions of VOCs.

* * * * *

(b) The following are applicable to tests for determining the emissions of VOCs:

* * * * *

(8) Test methods for the determination of RVP in gasoline shall be in accordance with the procedures in 40 CFR Part 80, Appendix E (relating to test for determining Reid vapor pressure (RVP) of gasoline and gasoline-oxygenate blends).

[Pa.B. Doc. No. 97-1736. Filed for public inspection October 31, 1997, 9:00 a.m.]

Title 58—RECREATION

FISH AND BOAT COMMISSION [58 PA. CODE CHS. 61, 63, 65 AND 69]

Fishing

The Fish and Boat Commission (Commission) by this order amends Chapters 61, 63, 65 and 69. The Commission is publishing these amendments under the authority of 30 Pa.C.S. (relating to Fish and Boat Code) (code). The amendments deal with fishing.

A. *Effective Date*

These amendments will go into effect on January 1, 1998.

B. *Contact Person*

For further information on the amendments, contact Laurie E. Shepler, Assistant Counsel, (717) 657-4546, P.O. Box 67000, Harrisburg, PA 17106-7000. This final rule-making is available electronically through the Commission's Web site (<http://www.fish.state.pa.us>).

C. *Statutory Authority*

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

D. *Purpose and Background*

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

E. *Summary of Changes*

1) Sections 61.1, 61.4 and 61.7 (relating to Commonwealth inland waters; Conowingo Reservoir; and Susquehanna River and tributaries). Regulations for the Susquehanna River (footnote in § 61.1 and § 61.7) and the Conowingo Reservoir (§ 61.4) prohibit the harvest of American shad; this was done primarily to protect adult shad that were being trapped and transported up river for stock rebuilding purposes. River herring and hickory shad are other anadromous fish species for which restoration is expected within the Susquehanna River Basin through the operation of the fish passage facilities at the dams. Harvest of hickory shad is prohibited in the Conowingo Reservoir where the Commission follows the regulatory lead of the state of Maryland. Prohibiting harvest of American shad, hickory shad and both species of river herring will remain important during the initial phases of fish passage at the dams. It is appropriate that these fish stocks be protected from harvest during the population building phases in the entire Susquehanna River Basin.

Amending § 61.7 and footnote #4 to § 61.1 to make it illegal to take, catch or kill hickory shad and alewife and blueback herring (collectively known as river herring) will provide the appropriate protection. Amending § 61.4 to make it illegal to take, catch or kill alewife and blueback herring (collectively known as river herring) will add protection to these species in addition to the protection already provided to American shad and hickory shad in the Conowingo Reservoir. The Commission adopted these changes with the clarification that landlocked alewife taken from inland ponds, lakes or reservoirs (such as Lake Raystown), collected by legal means and measuring less than 8 inches in length may be harvested for use as baitfish.

2) Sections 61.1, 61.2, 63.11 and 63.12 (relating to Commonwealth inland waters; Delaware River and River Estuary; eel chutes; and eelpots and fyke nets). Management of American eels is a subject of much discussion among East Coast jurisdictions. According to the *American Eel and Horseshoe Crab Public Information Document* prepared by the Atlantic States Marine Fisheries Commission American Eel Plan Development Team, "status of American eel populations along the Atlantic seaboard is poorly understood. At the same time, growing exploitation of American eel has raised concern by various fisheries management interests. Domestic and overseas markets utilize nearly all life history stages of eels and demand for the species continues to be greater than the fishery can supply." The economic value of eels, particularly baby eels or elvers (also glass eels), has been referred to as the next most lucrative commodity next to illegal drugs. Values of several hundred dollars per pound of elvers are not uncommon, particularly when destined for aquaculture use in Asia or Europe. It is common knowledge that major suppliers follow the migration and obtain elvers in various jurisdictions through permitted or illegal fisheries, or both. The lack of uniformity, particularly length limits, complicates and hinders action by law enforcement personnel.

This Commonwealth, by virtue of having only one or two commercial fisheries for eels, is relatively well off compared to most other jurisdictions. Even so, the Commission's regulations merit some attention in light of problems with American eel fisheries. Under the code, an applicant can be issued an eel chute (weir) license for \$25 for reaches of the North and West Branches of the Susquehanna River, the Juniata River downstream of Mount Union and in the Delaware River. In recent years, undoubtedly due to a scarcity of eels in the Susquehanna drainage, no such permits have been issued. Two were issued for the Delaware River in 1996 with only one involving active fishing and reporting a catch slightly over 400 pounds. Much of the Delaware River, especially that involving the Delaware Water Gap National Recreation Area, is now closed to commercial take of any species, including eels. The authority requiring issuance of eel chute licenses is statutory, and the Commission has no explicit statutory authority to refuse to issue licenses to qualified licensees. However, the Commission does have explicit statutory authority to prohibit the sale of eels taken from Commonwealth and boundary waters. Accordingly, staff recommended that § 63.11(13) be amended so that eels caught lawfully under this section may not be sold or offered for sale. In addition, this section should be amended to add a new subsection providing that eels taken with eel chutes shall be subject to the same size and creel limits as eels taken with hook and line.

It is not known how many anglers take eels with eelpots as currently permitted under § 63.12. It is speculated that few if any take advantage of this practice, which does not require any special permit or license. Staff further suggested that eelpots be considered an illegal device having no place in today's fisheries management plan for American eel.

Use of fyke nets as authorized by § 63.12 requires a \$10 permit and may occur only in the Delaware River common to this Commonwealth and New Jersey. In 1996, staff initiated a moratorium on issuing fyke net permits in anticipation of possible changes brought about by an ASMFC coastwide eel management plan. This was intentionally done to minimize inconvenience to anglers who geared up to harvest and sell elvers only to lose that

opportunity a year or so later. One permit was issued before word on the moratorium became known to staff. It is not known whether or not that permit was utilized. Based on social conflicts involving fyke netters in other jurisdictions, uncertainty of American eel stocks and the philosophical difference of a commercial elver fishery contrary to recreational angling throughout the rest of this Commonwealth, except Lake Erie, staff suggested that the fyke net program be retired.

American eels, both adult and young, still play a role in recreational angling in this Commonwealth. It is the intent of staff to continue to permit the taking of eels as bait and as conventional sport harvest (if taken on hook and line). In doing so, a 6-inch minimum length limit (with a 50 fish possession limit) needs to be considered to facilitate law enforcement relative to the harvest and trafficking of elvers through Commonwealth markets and to be consistent with regulations in neighboring jurisdictions. This means an angler taking elvers with a seine, dip net or other legal device will have a 6-inch minimum and an 8-inch maximum. The 8-inch maximum applies to eels, chubs, suckers, lampreys and fallfish when taken as baitfish. Otherwise, those over 8 inches in length can be taken only by hook and line.

The Commission adopted changes consistent with staff's recommendations with the understanding that staff will meet with representatives from New York and New Jersey to ensure regulation uniformity.

3) Sections 63.6, 63.7 and 63.8 (relating to authorized devices for game fish, baitfish and fishbait; exceptions to limitations on devices; and long bows, spears and gigs). A review of these regulations revealed a need to clarify or make minor corrections to insure that anglers are able to understand them and that the original intent is contained therein. The Commission adopted these changes that do not alter or change the regulations in any significant manner.

4) Section 65.24 (relating to miscellaneous special regulations). Management of Harveys Lake, a 658-acre natural lake in Luzerne County, has been dynamic and at times controversial in the last 10 years or so. In the mid-1980's, stocking was terminated as the lake exceeded the 200-acre maximum for the adult trout program. Fingerlings stocked on a put-grow-and-take basis were used in recognition of suitable thermal and chemical traits characteristic of a two-story lake. Evaluation of fingerling stockings in comparison to larger size trout indicated very poor survival during the first and perhaps most critical year in the lake. Losses over the dam and predation by chain pickerel, perhaps walleye, and resident waterfowl were thought to be limiting factors in the use of fingerlings. About the same time, results from use and harvest studies across the State on trout-stocked waters were being used to revise stocking rates for better use of hatchery trout and to provide more opportunity for trout angling. Staff recognized the potential to provide year long opportunity for trout angling on a few select two-story lakes/reservoirs through the stocking of adult trout at a very light stocking rate, particularly when use of fingerlings did not achieve success. Thus, adult trout stocking was phased back into the program for Harveys Lake. Brown trout have been emphasized given their greater potential to achieve a larger size in a two-story lake with alewife forage.

Staff would now like to advance the management of Harveys Lake, bearing in mind several key aspects, including: 1) keeping the lake open as long as possible for warmwater/coolwater species angling; 2) providing more

trout fishing opportunity by stocking adult trout prior to opening day, during the spring inseason period, and in the fall; 3) stocking a mix of rainbow and brown trout in recognizing differences in catchability and the idea that some, primarily brown trout, will provide the basis for a trophy fishery; and 4) using special regulations to manage a trophy fishery without eliminating opportunity for the typical trout angler to catch and keep a few trout from recent stockings.

New regulations are envisioned to manage a trophy fishery while still permitting anglers to enjoy recently stocked trout center on a reduced daily creel, an elevated minimum length limit and a short period of no-fishing. For a program based on the stocking of hatchery trout, a three trout daily creel will be used in an attempt to prolong the fishery. While the Statewide 7-inch length limit will still apply, only one of the three fish daily limit may exceed 18 inches. This is intended to emphasize the trophy potential of trout stocked in Harveys Lake as it takes brown trout on the average two seasons before the 18 inch length is attained. The no-fishing season of April 1 through 8 a.m. of the opening day of regular trout season is like that for waters in the late winter-extended trout fishing program. It is staff's intent to maximize the number of days Harveys Lake is open for angling but have a very short closure so preseason stocking for the mid-April opener can occur.

The general approach has been aired at several meetings, including meetings of the Luzerne County Federation of Sportsmen and the Harveys Lake Protection Association. Overall reaction has been favorable. On final rulemaking, the Commission slightly reworded the proposed amendments for the purpose of clarity.

5) Section 69.12 (relating to seasons, sizes and creel limits—Lake Erie). Fisheries Management staff have noted changes in (1) water quality; (2) aquatic macrophyte (vegetation) density; and (3) fish species composition in Presque Isle Bay. Generally, improvement in water quality has been noted. Aquatic macrophyte density has increased undoubtedly as a consequence of zebra mussel colonization and related increases in water clarity. Changes in fish species composition can be expected to exhibit modes fluctuations as a consequence of environmental factors. However, substantial increases in rough-fish, primarily quillback, have been noted in recent surveys. Recent surveys also have found evidence of natural reproduction of muskellunge.

Increases in Great Lakes muskellunge stocks in Lake Erie in the vicinity of Buffalo, NY, have been documented. Additionally, recent studies by New York biologists suggest that Great Lakes muskellunge utilize very specific spawning habitats and young muskellunge associate themselves with very specific types of aquatic vegetation. cursory survey information suggests that these habitats and aquatic plants are available in Presque Isle Bay. Given adequate habitat (spawning and nursery) and availability of adequate forage fish, staff are anxious to foster recovery of the Great Lakes strain muskellunge by protecting larger and mature size classes. Great Lakes muskellunge exhibit maturity schedules where all or most females attain sexual maturity by age 7 at approximately 39 inches. Given this schedule, staff recommended to the Commission that a minimum size limit of 40 inches be established with a one fish daily creel limit. Restrictive regulations and perhaps supplemental stocking of Great Lakes strain muskellunge from out-of-State sources will be used to restore wild muskellunge populations to

Presque Isle Bay with a multi-year evaluation. The Commission adopted changes consistent with staff's recommendations.

When the proposed changes appeared in the *Pennsylvania Bulletin* on proposed rulemaking, the proposed daily creel limit for muskellunge was omitted. Under § 51.5 (relating to correction of regulations), the Commission's staff made a corrective amendment to this section to reflect that the daily creel limit is one.

6) Sections 69.31 and 69.33 (relating to seasons; and use of trap nets). A notice of proposed rulemaking containing proposed changes to §§ 69.21—69.39 was published at 26 Pa.B. 5982 (December 14, 1996). Staff also directly solicited comments from all licensed commercial fishermen on Lake Erie. Although the Commission did not receive any comments during the public comment period, it received one comment shortly after the comment period ended. The commentator offered many suggestions worthy of consideration. However, the extensive changes that he suggested, while within the scope of the proposed rulemaking, required further staff review and will profit from public input. Accordingly, the Commission adopted the regulations as proposed at its January 1997 meeting and agreed to consider additional changes as proposed rulemaking at its spring 1997 meeting.

During a technical staff review in March 1997, staff considered the commentator's requests. Staff found no compelling reason to regulate the time of year when walleye are harvested commercially; therefore, staff recommended that when the total allowable harvest is attained, the season is closed. Staff also acknowledged that trap nets fish more easily and efficiently in shallow water thereby improving the expectation that the total allowable catch can be attained. The distance limits recommended by staff are intended to preserve navigation.

As a result of the technical review, staff recommended to the Commission that the regulations be amended as set forth in this Preamble. The Commission adopted changes to the regulations consistent with staff's recommendations.

F. Fiscal Impact

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

G. Paperwork

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

H. Public Involvement

A notice of proposed rulemaking containing the proposed changes was published at 27 Pa.B. 4450 (August

30, 1997). The only change to attract public comment was the amendment to the muskellunge regulations set forth in § 69.12. The Commission received nine public comments favoring the proposed changes. One of the letters also included a list of 142 signatures of anglers who support the changes. Copies of all public comments were provided to the Commissioners.

Findings

The Commission finds that:

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

(2) A public comment period was provided and that all comments received were considered.

(3) The adoption of the amendments to the regulations of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapters 61, 63 and 69, are amended by amending §§ 61.1, 61.2, 61.4, 61.7, 63.6—63.8, 63.11, 69.31 and 69.33 and by deleting § 63.12 to read as set forth at 27 Pa.B. 4450 and by amending § 65.24 and 69.12 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(b) The Executive Director will submit this order, 27 Pa. B. 4460 and Annex A to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order, 27 Pa.B. 4450 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

PETER A. COLANGELO,
Executive Director

(Editor's Note: See 27 Pa.B. 5609 (November 1, 1997) for a document which amends § 65.24, amended in this document. The amendment at 27 Pa.B. 5609 has been incorporated into this document.

(A proposal to amend § 63.8, amended in this document, remains outstanding at 27 Pa.B. 4456 (August 30, 1997).

Fiscal Note: Fiscal Note 48A-68 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.24. Miscellaneous special regulations.

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

<i>County</i>	<i>Name of Water</i>	<i>Special Regulations</i>
	* * *	* * *
Crawford and Erie	Conneaut Creek E. Branch Conneaut Creek M. Branch Conneaut Creek W. Branch Conneaut Creek Mud Run Stone Run	Salmon and Steelhead: 12:01 a.m. the day after Labor Day until midnight the Thursday before the opening day of trout season in April. Minimum size limit: 15 inches. Daily creel limit: 3 (combined species). Lake Erie fishing permit is not required.
Crawford	Crazy Run	Salmon and Steelhead: 12:01 a.m. the day after Labor Day until midnight the Thursday before the opening day of trout season in April. Minimum size limit: 15 inches. Daily creel limit: 3 (combined species). Lake Erie fishing permit is not required.
	* * *	* * *
Erie	E. Branch Conneaut Creek Marsh Run Temple Run Turkey Creek	Salmon and Steelhead: 12:01 a.m. the day after Labor Day until midnight the Thursday before the opening day of trout season in April. Minimum size limit: 15 inches. Daily creel limit: 3 (combined species). Lake Erie fishing permit is not required.
	* * *	* * *
Luzerne	Harveys Lake	During the period from the opening day of trout season through midnight March 31, the daily creel limit for trout (combined species) is 3, only one of which may exceed 18 inches in length. Fishing is prohibited from April 1 through 8 a.m. of the opening day of regular trout season. Warmwater/coolwater species, except as provided in this section—Inland regulations apply.
	* * *	* * *

CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES

Subchapter B. SPORT FISHING AND ANGLING

§ 69.12. Seasons, sizes and creel limits—Lake Erie.

(a) It is unlawful to take, catch, kill or possess fish, except during the seasons specified in this section. It is not a violation of this section if a fish caught out of season from water where fishing for other species is lawful is immediately returned unharmed to the waters from which it was taken.

(b) It is unlawful to take, catch, kill or possess fish of less than the minimum size specified in this section. It is not a violation of this section if an undersized fish taken from waters where fishing is otherwise lawful is immediately returned unharmed to the waters from which it was taken.

(c) It is unlawful to take, catch or kill more than 1 day's limit of any species of fish as specified in the following chart during 1-calendar day. It is unlawful to possess more than 1 day's limit of any species of fish as specified in the following chart except under the following circumstances:

(1) A person may possess any number of lawfully caught fish at the person's residence.

(2) A person who is engaged in a fishing trip away from home for 2 or more consecutive calendar days may, while transporting fish from the place where caught to his

residence, possess a number of fish equal to no more than two times the daily creel limit for that species of fish. In prosecution for violation of this section, it shall be a rebuttable presumption that a person transporting fish from a fishing site caught all the fish during 1-calendar day.

(3) A fish will not be considered to be caught in violation of this section if it is immediately returned unharmed to the waters from which it was taken.

(4) A fish caught that is not to be counted in the creel limit shall be immediately released unharmed into the water from which taken. Except as otherwise provided in § 53.24 or § 63.40 (relating to tournament and fishing derby permits; and fishing tournament and fishing derbies), a fish placed on a stringer, or confined by any type of container, structure or device, or not returned immediately to the water, will be considered as part of the daily creel or possession limits. Fish returned to the water shall be handled carefully and be returned unharmed to the water from which taken.

(5) Fish may be given to another person, but the fish will be counted in the donor's creel limit and neither the donor nor the recipient may kill or possess (while in the act of fishing) more than the limit allowed.

(d) The following seasons, sizes and creel limits apply to Lake Erie and Presque Isle Bay, including peninsula waters:

<i>SPECIES</i>	<i>SEASONS</i>	<i>MINIMUM SIZE</i>	<i>DAILY LIMIT</i>
MUSKELLUNGE and MUSKELLUNGE HYBRIDS PIKE Northern	Inland seasons apply: See § 61.1	40 inches 24 inches	1 2
WALLEYE*	Open year-round	15 inches	6
BASS Largemouth Smallmouth	January 1 to opening day of trout season in April and first Saturday after June 11 until December 31 Opening day of trout season in April until first Saturday after June 11.*	15 inches 20 inches	4 (combined species) 1
TROUT and SALMON	First Saturday after April 11 until midnight Labor Day. 12:01 a.m. the day after Labor Day until midnight on the Friday before the first Saturday after April 11	9 inches 15 inches	8 (combined species only 2 of which may be lake trout). Of the entire catch (combined species) only 5 fish total may exceed 15 inches in length. 3 (combined species only 2 of which may be lake trout).
STURGEON	No open season	ENDANGERED SPECIES	
SUNFISH, CRAPPIES, CATFISH, ROCK BASS, SUCKERS, EELS, CARP, WHITE BASS	Open year round	None	50 (combined species)
YELLOW PERCH	Open year-round	8 inches	20
BAIT FISH FISH BAIT	Open year-round	None	50 (combined species)
ALL OTHER SPECIES	Inland regulations apply: See § 61.1		

*It is unlawful to conduct or participate in a fishing tournament (as defined in § 63.40 (relating to seasons for fishing tournaments)) for bass on Lake Erie or Presque Isle Bay during the period from opening day of trout season in April until the first Saturday after June 11.

[Pa.B. Doc. No. 97-1737. Filed for public inspection October 31, 1997, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CHS. 65, 67 AND 69]

Fishing

The Fish and Boat Commission (Commission) by this order amends Chapters 65, 67 and 69 (relating to special fishing regulations; nursery waters; and fishing in Lake Erie and boundary lakes). The Commission is publishing these amendments under the authority of 30 Pa.C.S. (relating to Fish and Boat Code (code)). The amendments deal with fishing.

A. Effective Date

These amendments will go into effect on January 1, 1998.

B. Contact Person

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

rulemaking is available electronically through the Commission's Web site (<http://www.fish.state.pa.us>).

C. Statutory authority

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

D. Purpose and Background

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

E. Summary of Changes

1) Sections 65.1 and 65.7 (relating to selective harvest program; and trophy trout program). The Commission has clarified these regulations to include a specific reference to the time (8 a.m.) that trout season opens each year.

2) Sections 65.24, 67.1, 69.13, 69.14 and 69.15 (relating to miscellaneous special regulations; nursery waters and

exhibition areas; seasons, sizes and creel limits—Lake Erie tributaries; special regulations applicable during the fall season; and miscellaneous special regulations). 3CU has requested the Commission to modify existing steelhead and salmon fishing regulations and to develop new ones for Lake Erie and associated tributary streams. Upon consideration of 3CU's request, the Bureaus of Fisheries and Law Enforcement jointly recommended that the season for salmon and steelhead be extended until the opening day of the regular trout season because steelhead frequent the streams from late summer to mid-April. The Bureaus further recommend that wading be prohibited in Crooked Creek, Peck Run and Orchard Beach Run and that the disturbance of fish in nursery waters be a violation.

A separate special regulation is needed for Conneaut Creek (Erie and Crawford Counties) because of the approved trout water designation. The Bureaus accordingly recommended that fishing in Conneaut Creek be extended from March 1 to midnight the Thursday before the opening day of the regular trout season. The creel limit should be three trout/salmon with a minimum size of 15 inches. Although Conneaut Creek and Turkey Creek are tributaries to Lake Erie, they historically have been treated as inland waters for regulatory purposes rather than as part of the Commission's Lake Erie tributary program.

In Erie and Crawford Counties, additional angling opportunities would be available if special regulations were adopted for Turkey Creek (Erie County); East Branch of Conneaut Creek (Erie County); Temple Run (Erie County); Marsh Run (Erie County); West Branch of Conneaut Creek (Erie and Crawford Counties); Stone Run (Erie and Crawford Counties); Mud Run (Erie and Crawford Counties); East Branch (Erie and Crawford Counties); Middle Branch (Erie and Crawford Counties); and Crazy Run (Crawford County). The Bureaus therefore recommended that the catching of steelhead and salmon should be permitted from 12:01 a.m. the day after Labor Day to midnight the Thursday before the opening day of the regular trout season. The creel limit should be three trout/salmon with a minimum size of 15 inches.

Current regulations applicable to the Lake Erie tributaries (§ 69.13) provide that the extended season closes at midnight on the Friday before opening day of trout season in April. Staff proposed that this wording be changed to midnight of the Thursday before opening day. Traditionally, these streams have been stocked on the Friday before opening day. This has been the practice for at least 15 years. Allowing fishing on the Friday before opening day is inconsistent with the Commission's stocking schedule.

The Commission approved the publication of a notice of proposed rulemaking consistent with staff's recommendations set forth in the Preamble. On final rulemaking, staff recommended that the Commission approve the changes to §§ 65.24, 69.13 and 69.15 as set forth in the notice of proposed rulemaking. Staff also recommended that the Commission approve the changes to § 69.14 except insofar as the changes prohibit wading in Crooked Creek, Peck Run and Orchard Beach Run. Staff did not recommend that the Commission approve the change to § 67.1, which makes it unlawful to disturb fish or other aquatic life in nursery waters or exhibition areas by any means, including wading, throwing stones, rocks or other objects or otherwise agitating the waters. The Commission adopted changes to the regulations consistent with staff's recommendations.

Thereafter, the Commission submitted the final rulemaking package to the Attorney General's office and the Bureau of Legislative and Regulatory Analysis for legal and fiscal review, respectively. Prompted by comments received from the Attorney General's office, the Commission's staff revisited this issue and solicited additional input from the Commission's Bureau of Law Enforcement. Based upon input provided by waterways conservation officers in the Northwest Region, staff recommended to the Commission that it reconsider its prior rulemaking decision and amend § 67.1 to make it unlawful to disturb fish or other aquatic life in nursery waters or exhibition areas by throwing stones, rocks or other objects or otherwise agitating the waters. Staff recommended that any reference to wading be deleted. Staff further recommended that the Commission amend § 69.14 to prohibit wading in Peck Run only and not prohibit wading in Crooked Creek and Orchard Beach Run (which, or portions of which, are designated nursery waters). The intent of these changes is to protect fish that reach the sanctuary of nursery waters and to prevent individuals from driving the fish from these areas. The Commission approved the changes to §§ 67.1 and 69.14, consistent with the staff's recommendations.

Under § 51.5 (relating to correction of regulations), the Commission's staff made a corrective amendment to § 69.13(d) as it pertains to fish bait and bait fish.

F. *Fiscal Impact*

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

G. *Paperwork*

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

H. *Public Involvement*

A notice of proposed rulemaking containing the proposed changes was published at 27 Pa.B. 1468 (March 22, 1997). The only change to attract public comment was the amendment to § 69.14. The Commission received two public comments on this proposed change. Both comments, one from the Board of Directors of the Orchard Beach Park Association and another from two members of the Association, oppose the proposed amendments that prohibits wading in Orchard Beach Run. Copies of both public comments were provided to the Commissioners.

Findings

The Commission finds that:

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

(2) A public comment period was provided and that all comments received were considered.

(3) The adoption of the amendments to the regulations of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

Order

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

(a) The regulations of the Commission, 58 Pa. Code Chapters 65, 67 and 69, are amended by amending §§ 65.1, 65.7, 65.24 and 69.15 to read as set forth in 27 Pa. B. 1468 and by amending §§ 67.1, 69.13 and 69.14 to read as set forth at Annex A.

(b) The Executive Director will submit this order and Annex A to the Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order, 27 Pa. B. 1468 and Annex A and deposit the same with the Legislative Reference Bureau as required by law.

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

PETER A. COLANGELO,
Executive Director

(Editor's Note: See 27 Pa.B. 5605 (November 1, 1997) for a document which amends § 65.24. The amendment to § 65.24 adopted as proposed in this document has been incorporated into the section printed at 27 Pa.B. 5605.)

Fiscal Note: Fiscal Note 48A-65 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 67. NURSERY WATERS

§ 67.1. Nursery waters and exhibition areas.

(a) The Executive Director, with the approval of the Commission, may designate waters as nursery waters or exhibition areas to which the penalties of section 2106 of the code (relating to fishing in hatchery or nursery waters) applies. The designation of waters as nursery waters or exhibition areas shall be effective upon posting of the waters after publication of a notice that the waters have been so designated in the *Pennsylvania Bulletin*.

(b) A person commits a summary offense of the first degree as provided by section 2106 of the code if the person fishes or trespasses with intent to fish in designated nursery waters or exhibition areas.

(c) It is unlawful to disturb fish or other aquatic life in nursery waters or exhibition areas by throwing stones, rocks or other objects or otherwise agitating the waters.

CHAPTER 69. FISHING IN LAKE ERIE AND BOUNDARY LAKES

Subchapter B. SPORT FISHING AND ANGLING

§ 69.13. Seasons, sizes and creel limits—Lake Erie Tributaries

(a) It is unlawful to take, catch, kill or possess fish except during the seasons specified in this section. It is

not a violation of this section if a fish caught out of season from waters where fishing for other species is lawful is immediately returned unharmed to the waters from which it was taken.

(b) It is unlawful to take, catch, kill or possess fish of less than the minimum size specified in this section. It is not a violation of this section if an undersized fish taken from waters where fishing is otherwise lawful is immediately returned unharmed to the waters from which it was taken.

(c) It is unlawful to take, catch or kill more than 1 day's limit of any species of fish as specified in the following chart during 1 calendar day. It is unlawful to possess more than 1 day's limit of any species of fish as specified in the following chart except under the following circumstances:

(1) A person may possess any number of lawfully caught fish at the person's residence.

(2) A person who is engaged in a fishing trip away from home for 2 or more consecutive calendar days may, while transporting fish from the place where caught to his residence, possess a number of fish equal to no more than two times the daily creel limit for that species of fish. In prosecution for violation of this section, it shall be a rebuttable presumption that a person transporting fish from a fishing site caught all of the fish during 1 calendar day.

(3) A fish will not be considered to be caught in violation of this section if it is immediately returned unharmed to the waters from which it was taken.

(4) A fish caught that is not to be counted in the creel limit shall be immediately released unharmed into the water from which taken. Except as otherwise provided in § 53.24 or § 63.40 (relating to tournament and fishing derby permits; and fishing tournament and fishing derbies), a fish placed on a stringer, or confined by any type of container, structure or device, or not returned immediately to the water, will be considered as part of the daily creel or possession limits. Fish returned to the water shall be handled carefully and be returned unharmed to the water from which taken.

(5) Fish may be given to another person, but the fish shall be counted in the donor's creel limit and neither the donor nor the recipient may kill or possess (while in the act of fishing) more than the limit allowed.

(d) Except as provided in §§ 69.14 and 69.15 (relating to special regulations applicable during the salmon and steelhead trout season; and miscellaneous special regulations) and for those waters listed as nursery waters, the following seasons, size and creel limits apply to the tributary streams of Lake Erie in this Commonwealth:

<i>Species</i>	<i>Seasons</i>	<i>Minimum Size</i>	<i>Daily Limit</i>
TROUT and SALMON	8:00 a.m. first Saturday after April 11 until midnight Labor Day.	9 inches	8 (combined species only 2 of which may be lake trout). Of the entire catch (combined species) only 3 fish total may exceed 15 inches in length.

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<i>Species</i>	<i>Seasons</i>	<i>Minimum Size</i>	<i>Daily Limit</i>
	12:01 a.m. the day after Labor Day until midnight Thursday before the opening day of trout season in April.	15 inches	3 (combined species only 2 of which may be lake trout)
SMELT*	12:01 a.m. April 1 to midnight, May 31.	No minimum	No limit
FISH BAIT BAIT FISH	Open year-round (Except approved trout waters where fishing is prohibited from midnight Thursday before the first Saturday after April 11 until 8:00 a.m. on the opening day of trout season).	No minimum	50 (combined species)
BASS Largemouth Bass Small mouth Bass	January 1 to opening day of trout season in April and first Saturday after June 11 until December 31 Opening day of trout season in April until first Saturday after June 11.**	15 inches 20 inches	4 (combined species) 1
ALL OTHER SPECIES	Inland regulations apply except as provided in special regulations (see § 61.1)		

* Smelt may be taken only in that portion of Lake Erie tributaries from the mouth of the stream in a southerly direction to State Highway No. 5, a distance of approximately 1/2 mile. In taking smelt from tributary streams, devices are limited to dip nets or seines not over 20 inches square or in diameter.

** It is unlawful to conduct or participate in a fishing tournament (as defined in § 63.40 (relating to seasons for fishing tournaments)) for bass on lake Erie tributaries during the period from opening day of trout season in April until the first Saturday after June 11.

§ 69.14. Special regulations applicable during the salmon and steelhead trout season.

(a) *Season.* This section applies from 12:01 a.m. the day after Labor Day until midnight the Thursday before the opening day of trout season in April.

(b) *Specific restrictions.* The following specific restrictions apply to streams marked with an "X" during salmon and steelhead trout season described in subsection (a). It is unlawful for a person to fish in violation of these restrictions:

	<i>Fishing permitted, no time restrictions</i>	<i>Fishing permitted except closed from 10 p.m. to 5 a.m.</i>	<i>Fishing permitted, no time restrictions north of Route 5, closed from 10 p.m. to 5 a.m. south of Route 5</i>	<i>Fishing prohibited</i>	<i>Fishing prohibited from 10 p.m. to 5 a.m. in areas of Lake Erie shoreline within 50 yards of mouth of stream</i>	<i>Fishing prohibited in portions designated as nursery waters</i>	<i>Remarks</i>
Conneaut Creek	X						
W. Branch Conneaut Creek	X						
E. Branch Conneaut Creek	X						
Turkey Creek	X						
Raccoon Creek			X				
Crooked Creek			X			X	
Elk Creek			X			X	
Trout Run, including tributary				X	X		Wading prohibited
Walnut Creek			X				

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	<i>Fishing permitted, no time restrictions</i>	<i>Fishing permitted except closed from 10 p.m. to 5 a.m.</i>	<i>Fishing permitted, no time restrictions north of Route 5, closed from 10 p.m. to 5 a.m. south of Route 5</i>	<i>Fishing prohibited</i>	<i>Fishing prohibited from 10 p.m. to 5 a.m. in areas of Lake Erie shoreline within 50 yards of mouth of stream</i>	<i>Fishing prohibited in portions designated as nursery waters</i>	<i>Remarks</i>
Godfrey Run				X	X		Wading Prohibited
Four Mile Creek		X					
Six Mile Creek		X					
Seven Mile Creek		X					
Eight Mile Creek		X					
Twelve Mile Creek		X					
Sixteen Mile Creek		X					
Twenty Mile Creek		X					
Peck Run				X			Wading prohibited
Orchard Beach Run				X			
Cascade Creek		X					
Mill Creek		X					
Lake Erie Shoreline	X						50 yards (east and west) mouth of Trout Run and Godfrey Run—Closed from 10 p.m. to 5 a.m.
All other tributaries				X			

[Pa.B. Doc. No. 97-1738. Filed for public inspection October 31, 1997, 9:00 a.m.]

PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 65]

Fishing

The Fish and Boat Commission (Commission) proposes to amend Chapter 65 (relating to special fishing regulations). The Commission is publishing this proposed regulation under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed regulation deals with fishing.

A. *Effective Date*

This proposed regulation will, if approved on final rulemaking, go into effect on January 1, 1999, or upon publication of an order adopting the regulation, whichever occurs later.

B. *Contact Person*

For further information on the proposed regulation, contact Laurie E. Shepler, Assistant Counsel, (717) 657-4546, P. O. Box 67000, Harrisburg, PA 17106-7000. This proposal is available electronically through the Commission's Web site (<http://www.fish.state.pa.us>).

C. *Statutory Authority*

This proposed regulation is published under the statutory authority of section 2102 of the code (relating to rules and regulations).

D. *Purpose and Background*

The proposed regulation is designed to update, modify and improve Commission regulations pertaining to fishing. The specific purpose of the proposed regulation is described in more detail under the summary of proposal.

E. *Summary of Proposal*

Fishing for panfish in this Commonwealth represents one of the most popular forms of recreational angling. Panfish may include sunfish, yellow perch, crappies, catfish, rock bass, suckers, eels, carp and white bass. The popularity of this broad array of species has been documented in United States Fish and Wildlife surveys which show that, in this Commonwealth, with the exception of trout, anglers spend more time fishing for these species than any other. In 1991, anglers spent at least 8,023,000 days fishing for panfish in this Commonwealth. By comparison, 11,125,000 angler days were directed towards trout and 7,186,000 angler days were directed towards black bass.

In most inland waters in this Commonwealth, harvest of panfish is regulated with a 50-fish combined species creel limit. Size restrictions and seasonal harvest restrictions do not apply. As might be expected, those individual species that comprise the panfish group exhibit different levels of popularity among anglers and different levels of vulnerability to capture by anglers. This proposal is specifically directed to lake populations of bluegill, pumpkinseed and redear sunfish referred to as sunfish; black crappie and white crappie referred to as crappie; and yellow perch.

Lake angler surveys conducted by the Commission (1978-1990) show that 47 % of all fishing time is spent in pursuit of sunfish, crappie and yellow perch, as defined in

this Preamble. The ease with which these species are caught, as described by their high catch rate in creel surveys, contributes to their broad popularity and provides an ideal means by which to introduce youth and others to fishing. Their ease of capture, however, particularly in waters containing more robust populations, may in certain cases, contribute to reduced availability of "desirable size" fish. Desirable size panfish represent the size most anglers like to catch. Carefully crafted harvest restrictions have increased the abundance of larger individuals of various other species within this Commonwealth. For example, black bass populations have improved through the Conservation Lake and Big Bass Programs. Examination of sunfish, crappie and yellow perch size structure data revealed that many panfish populations across the State yield good numbers of desirable size fish; however, some waters were identified where angler harvest was suspected to reduce the abundance of desirable size fish.

The Commission staff's goals for a small group of panfish study lakes are to 1) increase the number of desirable size panfish available to anglers; and 2) increase the number of satisfied anglers targeting panfish. To meet these goals, staff have identified the following objectives that will serve to gauge progress toward goal achievement and ultimately provide a benchmark by which to judge success of this initiative:

1) Increase the number of sunfish over 7 inches and number of crappie and yellow perch over 9 inches available for harvest, as measured in biological assessment catches (example: net catch, electrofishing catch).

2) Increase the number of satisfied anglers targeting sunfish, crappie and yellow perch as measured through angler contact surveys.

3) Increase the number of desirable size panfish harvested, as measured by creel surveys on selected waters.

Minimum length limits and creel limits represent some of the best tools available to reduce angler harvest and increase the number of larger panfish. Minimum length limits have the most utility in fostering an increase in abundance of desirable size panfish sufficient to reach objectives. A reduced creel limit may have less utility initially, but as populations of desirable size fish increase, they will play a more important role.

The Commission therefore proposes to add § 65.11 (relating to panfish enhancement special regulations). This proposed special regulation would impose a 7 inch length limit for sunfish (principally bluegill, pumpkinseed and redear sunfish), a 9 inch length limit for crappie (black and white crappie) and a 9 inch length limit for yellow perch. Any one or all three length regulations might apply to any given lake. The Commission also proposes the following daily creel limits for the waters to be subject to the proposed regulation: 20 for each species group with a length limit and a total creel limit of 50 (combined species).

The Commission's staff have some concerns that anglers may view this proposed regulation as the answer to all problems when it comes to panfish. Thus, some commentary on fisheries biology and angler expectations seems to be in order. Numerous biological and physical elements combine to shape the abundance and size structure of panfish populations, in addition to angler harvest. For example, density of predators, density of

other competing species, quantity of aquatic vegetation (that affords necessary nursery and food producing habitat for panfish), quantity of forage organisms and water quality are a few elements that affect the abundance of desirable size panfish. All of these elements combine to influence the number of young produced, their growth rate and the rate at which they survive to adulthood or desirable size. Survival is influenced by natural loss (for example, predation) and by loss due to angler harvest. This illustrates that angler removals represent just one component that could influence the abundance of desirable size panfish.

Biologists will propose for Commission consideration study waters for inclusion in the program based upon their understanding of these elements and based upon a review of panfish population data throughout the State. In addition, measurable guidelines have been developed to indicate when a panfish population might be reduced in quality due to angler harvest, and where the special regulation might be expected to attain target objectives. It should be known that biologists use other management tools, in addition to special regulations, to enhance panfish abundance each and every day (for example, predator-prey balance is frequently adjusted by stocking a predator fish, and manipulation of over-winter lake water levels is frequently carried out to adjust the quantity of macrophyte habitat available for some panfish.)

Using measurements of vital rates such as growth and mortality, coupled with assumptions relative to production of young, Commission biologists predict that the proposed special regulation applied to selected lakes will, over time, yield an approximate 50 % increase in abundance of sunfish age 3 and older as well as crappie and yellow perch age 4 and older (all desirable size fish). However, it has also been determined that immediately after imposition of the proposed regulation, there will be a reduction in angler harvest, simply because it will take several years for fish to increase in number below the newly established minimum size limit and before the increase will yield measurable quantities of fish above the length limit. An overall measurable increase is expected in about 5 years based upon model computations and past experience with other warmwater species. Increases will only be realized in waters where fishing intensity reduces the abundance of desirable size panfish. That is, the special regulation should not be considered to yield similar effects where abundance of desirable size individuals is below expectations for other biological or physical reasons. For example, restricting harvest at a lake with a stunted panfish population might increase the stunting problem, so care will be used in selecting experimental lakes for inclusion in the program.

The Commission's Fisheries staff feel that the proposed panfish special regulation in selected lakes will: (1) meet

objectives, since computations using measured vital rates indicate that substantive increases in abundance of larger fish will be attained after a number of years; and (2) be well received by anglers since angler opinion surveys demonstrate that those anglers polled favored panfish harvest restrictions similar to those proposed herein.

F. Paperwork

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

G. Fiscal Impact

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

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed regulation to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 60 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically at "regulations.fish.state.pa.us." A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,
Executive Director

Fiscal Note: 48A-73. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart B. FISHING

CHAPTER 65. SPECIAL FISHING REGULATIONS

§ 65.11. Panfish enhancement special regulation.

(a) The Executive Director, with the approval of the Commission, may designate waters as "Panfish Enhancement Special Regulation" waters. The designation shall be effective when the waters are so posted after publication of a notice of designation in the *Pennsylvania Bulletin*.

(b) It is unlawful to fish in designated and posted "Panfish Enhancement Special Regulation" waters except in compliance with the following size and creel limits:

<i>Species</i>	<i>Size</i>	<i>Creel Limit</i>
Sunfish (bluegill, pumpkinseed and redear)	7 inches	20 (combined species)
Crappie (black and white)	9 inches	20 (combined species)
Yellow perch	9 inches	20
Subject to individual creel limits for each species category set forth in this subsection, a 50 fish (combined species—sunfish, crappie and yellow perch) creel limit applies.		
Other species—Inland size and creel limits apply.		

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

GOVERNOR'S OFFICE [4 PA. CODE CH. 1]

Index of Issuances; Directives Management System

The Directives Management System provides comprehensive statements of policy and procedure on matters that affect agencies and employees under the Governor's jurisdiction. This amendment updates the index for all Executive Orders, Management Directives and Manuals issued, amended and rescinded by the Directives Management System after publication of the last Index dated February 18, 1997.

Title 4 of the Pennsylvania Code § 1.2 specifies that:

Issuances from the Governor's Office and from agencies under the Governor's jurisdiction, except proclamations and press releases, that are intended for distribution to two or more agencies are to be issued through the Directives Management System in one of four types of publications:

(1) Numbered Executive Orders, signed by the Governor, announcing broad policies, programs, and responsibilities that are relatively permanent.

(2) Numbered Management Directives announcing detailed policies, programs, responsibilities, and procedures that are relatively permanent. Management Directives are to be signed by the Governor, Lieutenant Governor, Budget Secretary, Secretary of Administration, or the head of a department or independent board, commission, or council under the Governor's jurisdiction.

(3) Numbered Administrative Circulars containing either informational material or instructions that are one-time or temporary in nature. Administrative Circulars are to be signed the same as Management Directives.

(4) Numbered procedural issuances containing detailed information and guidelines for relatively restricted, well-defined operations, or sets of operations. Procedural issuances may be manuals, handbooks, catalogs, guides, or similar publications. Manuals are to be signed the same as Management Directives.

Management Directives and Manuals are numbered in sequence by category (for example, Financial Manage-

ment) and subcategory (for example, Payroll). They should be filed by number, not by date.

Changes to Executive Orders, Management Directives and Manuals (catalogs, handbooks, bulletins, and the like) may be issued in the form of amendments or revisions. Amendments are complete documents incorporating all changes since the last complete issuance. Dots are placed in the margins to show the new or revised text. Revisions are usually pen and ink changes or replacement pages and affect only those parts of an issuance being changed.

Every agency should include in its distribution under each symbol a basic amount for managers and centrally located reference files. Additional copies, depending on the symbol, should be included for action offices, field offices, extra information copies, and bulletin boards. Distribution symbols have the following meanings:

<i>Distribution Symbol</i>	<i>Definition</i>
A	Of limited interest or requires action by only one or a few segments of an agency.
B	Of general interest or requires action by many segments of an agency.
F	Requires action by the personnel office or the main impact is in the field of human resources.
Special	Designed to fit specific needs. Most manuals are in this category.

All changes in distribution requirements and requests for additional copies of all issuances should be referred to 783-5055.

Marginal dots are indicative of documents added, amended or revised since the last issuance of this Index.

This manual supersedes Manual M210.3 dated February 18, 1997, and Revision No. 1 dated April 8, 1997.

THOMAS G. PAESE,
Secretary of Administration

(Editor's Note: This Index of Issuance is published under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code). 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.)

Annex A

TITLE 4. ADMINISTRATION PART I. GOVERNOR'S OFFICE

CHAPTER 1. AGENCY OPERATION AND ORGANIZATION Subchapter A. DIRECTIVES MANAGEMENT SYSTEM

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•305.6	Withholding Payments to Municipalities (Act No. 166 of 1978)	5/1/97	

		Date of Original or Latest Amendment	Current Revisions
2. Management Directives and Manuals.			
305.7	Interest Penalties for Late Payments.....	3/24/95.....	1
•305.8	Commonwealth Bank Accounts and Special Banking Services.....	6/11/97	
•305.9	Use of Forms STD-419/419L, Refund of Expenditures, and STD-420/C420/420L, Transmittal of Revenue, When Unaccompanied by Remittances.....	5/13/97	
305.10	Receipt of Federal Funds by Wire Transfer.....	1/23/89	
•305.11	Depositing Currency and Coin.....	4/21/97	
305.12	Accounting, Reporting, and Cash Management of Federal Grants and Contracts.....	8/31/94.....	1
•305.13	Use of Forms STD-419/419L, Refund of Expenditures, and STD-420/C420/420L, Transmittal of Revenue, When Accompanied by Remittances.....	5/6/97	
305.14	Identifying Payments to Local Governments and Other Subrecipients.....	12/22/93	
305.15	Processing and Distributing Returned Checks.....	8/30/89	
305.16	Lobbying Certification and Disclosure.....	8/6/90	
305.17	Preparation and Use of Form STD-417, Adjustment Memorandum From De- partment of Revenue to Treasury Department.....	10/29/90.....	1
305.18	Obtaining Authority for Electronic Approval of Commonwealth Voucher Trans- mittals.....	8/18/94	
•305.19	Identification of Boards, Commissions, and Councils.....	8/15/97	
Accounting			
310.1	Fiscal Guidelines for Federal Reimbursement of Disaster Related Expenditures.....	1/5/83	
310.3	Encumbering and Lapsing of Appropriations.....	10/16/95.....	1
310.7	Report of Lapse (STD-292).....	9/28/83	
310.8	Postage Due Procedures.....	1/8/87	
310.9	Purpose and Use of Restricted Receipt and Restricted Revenue Accounts.....	11/20/78	
310.10	Collection, Requests for Compromise, and Write-Off of Delinquent Claims.....	8/29/96	
310.11	Payment and Financial Reporting Requirements for Non-Preferred Appropria- tions.....	1/19/82.....	1
310.12	Refunding Erroneously Collected Fees and Charges.....	4/30/82	
310.13	Generally Accepted Accounting Principles (GAAP).....	6/13/95	
310.14	Fixed Asset Accounting and Reporting.....	8/28/86	
310.15	Agency Federal ID Numbers.....	6/7/96	
310.16	Advancement Account Balances.....	8/21/87	
310.17	Accounting for Payments of Federal Funds to Subrecipients.....	6/7/96	
310.18	Reporting of Pending or Threatened Claims.....	7/27/89	
•310.19	Accounting for Disbursements of Funds for Interagency Agreements, Memoran- dums of Understanding, and Notifications of Subgrant; Accounting for the Subgranting of Federal, Federal Matching Funds, or State Funds Between Commonwealth Agencies.....	9/4/97	
310.20	Charging Equipment Expenditures to Federal Programs.....	8/31/94	
310.21	Master Lease Tracking System.....	4/21/95	
310.22	Central Vendor Information System.....	4/30/96	
•310.23	Commonwealth Purchasing Card Program.....	3/24/97.....	1
M310.1	Agency Operated Advancement Accounts.....	11/30/84.....	1 thru 6
•M310.2	Definitions of Major and Minor Objects of Expenditures.....	8/25/93.....	1 thru 7
M310.3	Manual of Accounting.....	7/17/96	
M310.4	Fixed Asset Accounting System.....	5/21/90.....	1
M310.10	Revenue and Receipts Accounting Subsystem.....	8/31/90	
M310.11	Budget Control Subsystem.....	7/15/93	
M310.12	General Ledger Subsystem.....	3/23/89	
M310.13	Project Accounting Subsystem.....	5/7/92	
M310.14	Grant Accounting Subsystem.....	3/12/93	
M310.15	Commitment and Expenditure Control Subsystem.....	8/31/90	
M310.16	ICS Information System (IIS) Terminal Operators Manual.....	8/31/90.....	1
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315.1	Calculation and Payment of Statutory Salaries.....	1/6/97	
315.6	Employees' Requests for Additional State or Federal Income Tax Withholding ...	1/6/81	
315.7	Employee Payroll Deductions for Credit Unions.....	6/1/89.....	1-2-3
315.8	Restitution of Overpayments and Employee-Related Debts Owed the Common- wealth.....	8/29/96	
315.9	Withholding of Delinquent Local Taxes from Employees' Paychecks.....	11/4/96	
315.10	Recording and Reporting of Wage, Overtime, Shift Differential, and Short-Term Leave Without Pay.....	4/1/80	
315.11	Distribution and Retention of Payroll Deduction Authorization Documents.....	4/24/80	

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315.13	Payments of Wages, Salary, Benefits, and Travel Expenses to Survivors of Deceased Employees.....	8/19/96	
•315.14	Charges for State Employees Residing or Subsisting in Commonwealth Facilities	5/29/97	
315.15	Withholding of Pennsylvania Higher Education Assistance Agency Loans from Employee Paychecks	3/21/83	
•315.16	Payment of Annuitant Medical and Hospital Benefits	9/10/97	
315.17	Direct Deposit of Pay Procedures	6/30/87.....	1
315.18	Delivery of Payroll Checks to Employees	11/28/90	
315.19	Check Distribution Codes	9/20/93	
315.20	Taxability of the Use of State-Provided Vehicles	5/6/96.....	1
315.21	Deductions for U.S. Savings Bonds.....	11/7/85	
315.22	Preparation and Filing of Federal Forms 1099 and 1096	1/3/95	
315.23	Processing Employee's Withholding Allowance Certificate (W-4)	2/9/88	
315.25	Pennsylvania Personal Income Tax.....	9/12/88	
315.26	Backup Withholding on Missing and/or Incorrect Taxpayer Identification Numbers.....	1/24/94.....	1
315.27	Recoupment of Conversion Pay Amounts	5/4/92	
•315.28	Taxability of State-Provided Parking	9/12/96.....	1
•M315.1	Municipal Tax Rate Schedules	8/19/96.....	1-2-3

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325.2	Audit Inquiry Relative to Agency Litigation, Claims, and Assessments	2/23/95	
325.3	Performance of Audit Responsibilities	9/14/94	
325.4	Agency Annual Audit Plan	9/20/93	
•325.5	Single Audit Costs—State Level	9/16/97	
325.6	Auditing Computer Based Systems.....	6/12/87	
325.7	Implementation of the Commonwealth's State Level Single Audit	8/31/94	
325.8	Remedies for Recipient Noncompliance with Audit Requirements	3/22/91	
•325.9	Processing Audits of Federal Pass-Through Funds	9/8/97	
325.10	Review of Auditor General, Treasury, and Legislative Budget and Finance Committee Audit Reports.....	8/31/94	

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Equal Employment Opportunity Programs

•410.10	Guidelines for Investigating and Resolving Discrimination Complaints	4/29/97	
•410.11	Commonwealth's Equal Employment, Outreach, and Employment Counseling Program	5/8/97	
•M410.3	Guidelines for Equal Employment Opportunity Plans and Programs	5/8/97	

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505.1	Employee Furlough Policy.....	9/11/96	
505.2	Salaried Complement Management System.....	2/9/82	
505.4	Salaried Complement Control.....	2/18/82.....	1
505.7	Personnel Rules	2/8/96.....	1
505.8	Transmittal of Personnel Action Notifications.....	7/17/90	
505.9	Standard Abbreviations for Use With the Compensation Plan and the Integrated Personnel Payroll System.....	1/13/97	
505.11	Emergency Assignments of Employees During Emergencies.....	9/10/87	
•505.12	Annual List of Employees	4/29/97	
•505.15	Exit Information Program	5/22/97	
505.17	Furlough of Employees on Work-Related Disability Leave	3/31/78.....	1
505.18	Maintenance, Access, and Release of Employee Information.....	8/26/88	
•505.20	Wage Complement Management and Control	7/8/97	
•505.21	Office Hours.....	5/28/97	
505.22	State Employee Assistance Program	6/14/91	
505.23	Employee Recognition Programs	8/26/88	
505.25	Substance Abuse in the Workplace	6/14/91	
•505.26	HIV/AIDS in the Workplace	6/17/97	
505.27	The Worker and Community Right to Know Act (P. L. 734, No. 159).....	8/3/93	
505.28	Family Care Account Program	2/10/97	
505.29	Commercial Driver License Drug and Alcohol Testing Requirements.....	4/25/95	
•M505.2	Personnel Management Review	7/9/97	
M505.3	State Employee Assistance Program	12/2/93	
M505.4	Personnel Records Retention and Disposition Schedule	3/24/93	

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•515.2	Transfer of Employees From One Agency to Another	7/8/97	
515.3	Classified Service Emergency Appointments	5/14/85	
515.4	Seniority Rights of Commonwealth Employees	11/14/79	
515.10	Selection and Appointment to Non-Civil Service Positions	5/4/95	
515.12	Confidential Employees	12/4/96	
•515.15	Identification, Employment, and Education Verification Checks	6/13/97	
515.16	Appointment to Senior Level Positions	5/4/95	
515.17	Computer Systems Intern Program	8/29/89	
515.18	Supplementary Employment	8/31/84	
515.19	Accounting Intern Program	10/7/85	
515.20	Reemployment of Commonwealth Annuitants	2/21/95	
•515.21	Commonwealth School to Work Program	4/21/97	
Classification			
520.3	Unclassified Codes and Titles	11/7/96	
520.4	Position Classification Post-Audits	11/7/96	
520.5	Centralized Classifications Control System	11/7/96	
520.6	Processing of Reclassification Actions	11/7/96	
•520.7	Development and Validation of Classification Standards	4/3/97	
520.8	Pay Action Effective Dates for Changes to Position Classifications and the Classification Plan	11/7/96	
Pay			
525.4	Temporary Assignment in Higher Classification	11/7/96	
525.6	Advances on Salaries or Wages Earned	8/29/96	
525.11	Dual Employment	2/10/97	
525.12	Reinstatement of Discharged Employees	9/21/79	
•525.13	Maintenance of Weighted Salaries	3/26/97	
525.15	Overtime	2/10/97	
•525.16	Physicians and Related Occupations Quality Assurance Program	7/2/97	
525.17	Internal Revenue Service Levies on Wages, Salary, and Other Income or Payments	6/28/91	
M525.2	Commonwealth Pay Plan	8/5/96	
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530.1	Agency Employee Services Coordinators	9/17/96	
530.2	Sick Leave Without Pay, Parental Leave Without Pay, and Family Care Leave Without Pay	1/13/97	
530.3	State Employee Combined Appeal for New Employes and Employes on Inter-Agency Transfers	1/18/96	
530.4	State Paid Benefits While on Sick, Parental, or Family Care Leave Without Pay	3/21/96	
•530.8	Motor Vehicle Financial Responsibility Law	7/22/97	
530.9	Social Security Records	4/23/79	
530.10	Administrative Leave to Compete in International and World Championships	7/23/96	
530.11	Benefit Rights of Permanent and Temporary Employees	8/8/96	
530.14	Payment for Leave	7/15/92	
•530.15	Disability Benefits, Related Pay Status Options, and Retired Employee Health Program (REHP) Effective Dates	7/8/97	
530.17	Partial and Full Day Closings of State Offices	12/28/95	
•530.18	Benefit Rights of Furloughed Employees	2/24/97	
•530.20	State Paid Benefits While on Cyclical Leave Without Pay	7/8/97	
•530.21	Paid Leave for Blood Donation	5/13/97	
530.22	Unemployment Compensation, Noncovered Employment—"Major Nontenured Policymaking or Advisory Positions"	11/20/96	
•530.23	State Employee Combined Appeal	8/18/97	
•530.24	Retired Employee Health Program Eligibility Requirements	5/7/97	
530.26	Benefit Entitlements for Employes on Military Leave	7/19/96	
530.27	Leave Related Policies for Employes Excluded from Earning Leave and Leave Service Credit	2/7/97	
530.28	Pennsylvania Employees Benefit Trust Fund (PEBTF)	2/23/95	
M530.2	Workers' Compensation Insurance/Work-Related Disability Leave Administrative Manual	3/24/76	1-3-4-5
M530.3	Group Life Insurance Program Administrative Manual	9/20/94	1-2

		Date of Original or Latest Amendment	Current Revisions
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•M530.4	Highlights of Employee Benefits	5/97	
M530.7	Leave and Holiday Programs	4/7/95	1-2
M530.9	Unemployment Compensation Insurance	4/7/86 & 2/22/88.....	1
M530.14	Unemployment Compensation and the Supervisor.....	3/82	
M530.15	State Police Health Program/State Police Supplemental Benefits Program Ad- ministrative Manual	10/4/95	
M530.16	Temporary Clerical Pool Agency User Manual	12/94	
M530.17	Temporary Clerical Pool Employee Handbook.....	12/94	
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535.1	Employee Training and Development.....	6/4/84	
535.2	Physicians and Related Occupations Specialty Board Certification Payments ...	1/29/97	
535.3	Out-Service Training.....	1/15/86	
535.4	Use of State Work Program and Public Services Trainee Classes.....	2/16/84	
535.5	Use of Trainee Classes in the Classified Service	9/12/96	
535.6	Commonwealth Management Training Program.....	9/30/86	
535.7	Annual Agency Training Plans.....	7/7/82	
Performance Evaluations			
540.7	Employee Performance Review	8/13/96	
Retirement			
570.1	State Employees' Retirement System, Duties of Agencies	1/26/94.....	1
570.2	Use of Form SERS-147 to Elect Membership in Full Coverage Retirement Group.....	2/22/90	
570.5	Employer Contributions Required on the Purchase of Prior Service	5/20/87	
570.6	Optional Membership in State Employees' Retirement System	4/30/96	
570.7	Credited State Service	11/29/82	
570.8	Reinstatement of Dismissed or Furloughed Employees Into the State Employees' Retirement System	8/10/89	
570.9	Reinstatement Into the State Employees' Retirement System of Employees Fur- loughed or Otherwise Terminated and Reemployed.....	6/29/93	
570.10	Final Average Salary—Part-Time Service, State Employees' Retirement System..	5/22/81	
•570.11	Changes to Retirement and Personnel/Payroll System and Collection of Arrears Balances	3/24/97	
570.12	Refusal of Recall From Furlough—Termination of Interest on Retirement Con- tributions	4/30/96	
570.13	State Employees' Retirement System, Regional Field Offices.....	9/23/92.....	1
570.14	Deferred Compensation Program.....	1/23/89	
570.15	Public Employee Pension Forfeiture Act No. 1978-140.....	10/28/94	
M570.3	State Employees' Retirement System Counselors' Manual	5/4/81.....	1 thru 6
Civil Service			
580.2	Civil Service Availability Survey/Interview Notice.....	7/5/94	
580.6	Monthly Report of Classified Service Employees	8/23/95	
580.8	Classified Service Probationary Periods	10/24/85	
580.10	Rights of Certified Eligibles in the Classified Service.....	5/16/86	
580.11	Documentation of Classified Service Personnel Actions	6/19/86	
580.12	Recruitment for Classified Service Positions	10/15/87	
580.13*	Report of Personnel Transactions for Non-State Employees.....	8/18/87	
580.15	Selective Certification of Classified Service Eligibles	6/26/90	
580.16	Provisional Employment in the Classified Service.....	12/5/86	
580.17	Performance Evaluations to Determine Order of Furlough for Classified Service Employees.....	4/17/95	
580.18	Pennsylvania Residency and United States Citizenship Requirements for the Classified Service	2/14/97	
580.19	Promotion in the Classified Service Without Examination	7/29/93	
580.20	Classified Service Furlough and Reemployment.....	3/1/90	
•580.21	Veterans' Preference on Classified Service Employment Lists	6/5/97	
580.23	Resignation From and Reinstatement to the Classified Service.....	3/12/90	
580.24	Promotion of Employees in Unskilled Positions Into the Classified Service.....	5/28/96	
580.25	Political Activities of Classified Service Employees	9/30/92	
580.26	Transfer or Reassignment of Classified Service Employees.....	2/28/90	

* Special distribution.

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580.27	Limited Appointments to Positions Exempted from the Classified Service Pursuant to Section 3(c)(4), Civil Service Act	2/18/88	
580.28	Reallocation to a Lower Class in the Classified Service	2/27/90	
580.29	Rapid Promotion Examinations in the Classified Service	8/12/85	
580.30	Classified Service Leave Without Pay and Return Rights	3/24/86	
580.31	Classified Service Temporary Appointments	7/18/90	
580.32	Substitute Employment in the Classified Service	12/11/86	
580.33	Reproductions of Documents for Classified Service Personnel Actions	9/14/90	
580.34	Removal of Eligibles for Certification or Appointment in the Classified Service	3/28/95	
580.35	Employees Placed in the Classified Service by Position Reallocation	3/29/88	
580.36	Engineering Intern Program	1/14/94	
•M580.1	Certification of Eligibles for the Classified Service	4/7/97	

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•590.1	Labor Relations	7/8/97	
590.2	Confidential Positions and Employees	1/29/97	
•590.3	Deduction of Union Dues/Fair Share Fees	7/8/97	
•590.5	Guidelines to be Followed During Legal or Illegal Strikes	5/13/97	
590.6	Information Needed to Obtain Injunctions Against Illegal Strikes	4/7/80	
•590.7	Labor Relations—Grievance Administration	7/28/97	
590.8	Classification Grievance Processing	11/7/96	
•M590.2	Digest of Commonwealth Employee Classification Arbitration Cases	8/4/82	1 thru 6

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610.2	Release and Receipt of Surplus State Property	2/23/79	
610.3	Transfer or Sale of Surplus State Property	1/29/81	
610.4	Procedures for Purchasing Goods and Services Not Exceeding \$1,500 Through Advancement Accounts	11/17/83	
610.5	Disposition of Personal Property and Equipment Purchased with GSA Bond Moneys	3/26/90	
610.7	Acquisition of Surplus Federal Personal Property	5/25/78	
610.9	Recovery of Precious Metals	4/14/81	
610.11	Equipment Lease Renewals	9/7/83	
610.12	Renewal of Multiyear Equipment Leases Containing Purchase Options	9/5/84	
610.13	Local Bids and Local Awards for Goods Costing \$1,500 to \$10,000	1/31/96	
610.14	Review of Sole Source Purchase Requisitions for Equipment and Supplies	8/23/85	1
610.15	Master Lease Program	1/3/95	
•M610.1	General Services Commodity Distribution Center Catalog	8/5/94	1
M610.5	Field Purchasing Manual	3/17/94	1 thru 4

Automotive Services

615.1	Temporary Assignment of Commonwealth Automotive Fleet Vehicles	12/2/92	
615.2	Motor Vehicle Liability Insurance and Accident Reporting	6/17/96	
•615.3	Rates and Billing for Motor Vehicles of the Commonwealth Automotive Fleet	6/18/97	
•615.6	License Plates for Commonwealth-Owned Vehicles	6/30/97	
•615.7	Commonwealth Vehicle Invoices	7/3/97	
615.8	Use of State Automobiles	3/26/80	
615.9	Permanent Assignment of Commonwealth Automotive Fleet Vehicles	12/9/92	
615.11	Use and Condition Inspections of Commonwealth-Owned Motor Vehicles	4/21/82	
615.12	Motor Vehicle Authorization List	8/11/83	
615.13	Emission Control Test Program—Commonwealth Automotive Fleet	10/12/90	
•615.14	Repairs and Maintenance, Commonwealth Automotive Fleet	6/25/97	
M615.2	Commonwealth Automotive Credit Card Code List—January 1996	1/17/96	

Commodity Standards

620.1	Coal Sampling and Reporting	9/6/90	
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Buildings, Property, and Real Estate

625.1	Repairs, Alterations, and Improvements to Commonwealth Buildings Under the Direct Supervision of the Department of General Services	4/10/96	
625.2	Inventory of Commonwealth Real Property	6/3/96	
625.3	Moving Employee Household Goods and Commonwealth Property	3/14/96	
625.4	Enforcement of Fire and Panic Regulations	3/27/91	
625.5	Reporting Surplus Real Property	5/6/96	

		Date of Original or Latest Amendment	Current Revisions
2. Management Directives and Manuals.			
625.6	Lease Amendment Exceptions for Leasehold Improvements Costing Less than \$5,000	10/27/86	
625.7	Use of Form STD-291, Request for Lease Action and Budget Approval.....	11/6/85	
625.8	Contracting for Bargaining Unit Work	2/25/94	
•625.9	Agency Funded Construction Projects Exceeding \$25,000.....	6/4/97	
Bonds and Insurance			
630.1	Agency Insurance Coordinators	10/2/87	
630.2	Reporting of Employee Liability Claims	11/8/96	

COMMONWEALTH PROGRAMS

Protection and Safety

720.2	Wage Standards Picketing	2/3/77	
720.3	Guidelines for Reporting Bombs and Bomb Threats	2/26/91	
720.4	Safety and Loss Prevention Program.....	10/2/87	

[Pa.B. Doc. No. 97-1740. Filed for public inspection October 31, 1997, 9:00 a.m.]

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NOTICES

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Conservation and Natural Resources Advisory Council

A meeting of the Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources will be held Monday, November 10, 1997. The meeting will be held at 10 a.m. in Room 105, Lobby Level, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting or agenda items can be directed to Kurt Leitholf at (717) 705-0031.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Glenda Miller directly at (717) 772-9087 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

JOHN C. OLIVER,
Secretary

[Pa.B. Doc. No. 97-1741. Filed for public inspection October 31, 1997, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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

[National Pollution Discharge Elimination System Program (NPDES)]

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

(Part I Permits)

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

Where indicated, the EPA, Region III, Regional Administrator has waived the right to review or object to this proposed permit action under the waiver provision 40 CFR 123.6E.

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

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

The application and related documents, proposed effluent limitations and special conditions, comments received and other information are on file and may be inspected and arrangements made for copying at the office indicated above the application.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at 1 (800) 654-5984.

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

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

PA 0054771. Sewage, **Peter Paul**, 2614 Bean Road, Norristown, PA 19403.

This application is for renewal of an NPDES permit to discharge treated sewage from a single residence sewage treatment facility in Worcester Township, **Montgomery County**. This is an existing discharge to unnamed tributary to Stony Creek.

The receiving stream is classified for the following uses: trout stocking fishery, high quality trout stocking fishery, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001, based on an average flow of .0004 mgd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	10	20
Suspended Solids	10	20
Total Residual Chlorine	monitor/report	monitor/report
Fecal Coliform	200 colonies/100 ml as a geometric average	
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

PA 0052965. Industrial waste, **Rex Heat Treat of PA, Inc.**, P. O. Box 270, Lansdale, PA 19446-0270.

This application is for renewal of an NPDES permit to discharge treated groundwater from the facility in Lansdale Borough, **Montgomery County**. This is an existing discharge to unnamed tributary to West Branch of Neshaminy Creek.

The receiving stream is classified for the following uses: warm water fishery, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 003, based on an average flow of 60,000 gpd are as follows:

<i>Parameter</i>	<i>Average Annual (mg/l)</i>	<i>Average Monthly (mg/l)</i>	<i>Daily Maximum (mg/l)</i>
Tetrachloroethylene		monitor/report	monitor/report
Trichloroethylene		monitor/report	monitor/report
1,1 Dichloroethylene		monitor/report	monitor/report
pH	within limits of 6.0—9.0 standard units at all times		
Vinyl Chloride	not detectable using EPA Method 601		

The EPA waiver is in effect.

Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.

PA 0027693. Sewerage, **Minersville Sewer Authority**, East Sunbury Street, Minersville, PA 17954.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into West Branch of Schuylkill River in Branch Township, **Schuylkill County**.

The receiving stream is classified for the following uses: cold water, aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Pottstown Water Authority located on the Schuylkill River.

The proposed effluent limits for Outfall 001 based on a design flow of 1 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
Fecal Coliform	200/100 ml as a geometric mean		
(5-1 to 9-30)	2,000/100 ml as a geometric mean		
(10-1 to 4-30)	6.0—9.0 standard units at all times		
pH			
Total Residual Chlorine			
(1st month through 36th month)	monitor and report		
(37th month through expiration date)	.96		2.2
Total Copper	monitor and report		
Total Lead	monitor and report		
Total Zinc	monitor and report		

Point Sources 002 to 006 serve as combined sewer relief necessitated by stormwater entering the sewer system and exceeding the hydraulic capacity of the sewers and/or the treatment plant. In accordance with the Department's EPA approved CSO strategy, a special permit requirement is included in Part C of this permit. The permittee shall develop and submit a plan of action and an implementation schedule as provided for in the permit.

The EPA waiver is not in effect.

PA 0061310. Sewerage, **Marian High School**, John Malarkey, Principal, R. R. 4, Box 446, Tamaqua, PA 18252-9789.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into the Little Schuylkill River in Rush Township, **Schuylkill County**.

The receiving stream is classified for the following uses: cold water fishery, aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (PWS) considered during the evaluation is the City of Pottstown Water Authority located in Schuylkill County.

The proposed effluent limits for Outfall 001 based on a design flow of .035 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25.0	50.0
Total Suspended Solids	30.0	60.0
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean	
(10-1 to 4-30)	2,000/100 ml as a geometric mean	
pH	6.0—9.0 standard units at all times	
Total Residual Chlorine (months 1 through 24)	monitor and report	
(months 25 through 60)	1.2	2.8

The EPA waiver is in effect.

PA 0062758. Industrial waste, SIC: 4941, **Municipal Authority of the Borough of Shenandoah**, 26-28 West Lloyd Street, Shenandoah, PA 17976.

This proposed action is for renewal of an NPDES permit to discharge treated wastewater into Lost Creek in West Mahanoy Township, **Schuylkill County**.

The receiving stream is classified for the following uses: cold water fishery, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.128 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Daily Maximum (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
TSS	30	60	
Total Iron	2	4	
Total Aluminum	4	8	
Total Manganese	1	2	
pH	6—9 standard units at all times		

The EPA waiver is in effect.

PA 0043206. Sewerage, **Trail's End Camp, RRSC, Inc.**, 1714 Wantagh Avenue, Wantagh, NY 11793.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into unnamed tributary to Beach Lake in Berlin Township, **Wayne County**.

The receiving stream is classified for the following uses: high quality, cold water fishery, aquatic life, water supply and recreation.

Effluent requirements were evaluated at the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of .03 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
Total Suspended Solids	30	60
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean	
pH	6.0—9.0 standard units at all times	
Total Residual Chlorine (1st month through 24th month)	monitor and report	
(25th month through expiration date)	1.2	2.8

The EPA waiver is in effect.

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

PA 0103292. Sewage, **Hamilton Township Village of Ludlow**, P. O. Box 23, Ludlow, PA 16333-0023.

This application is for renewal of an NPDES Permit to discharge treated sewage to the Unnamed Tributary to Two Mile Creek in Hamilton Township, **McKean County**. This is an existing discharge.

The receiving water is classified for the following uses: high-quality cold water fishery, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Emlenton Water Company on the Allegheny River located at River Mile 90 which is approximately 109.6 miles below point of discharge.

The proposed effluent limits for Outfall 001, based on a design flow of 0.070000 mgd, are:

Parameter	Average Monthly (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅	25	50
Total Suspended Solids	30	60
Ammonia-Nitrogen (5-1 to 10-31)	20	40
Fecal Coliform (10-1 to 4-30)	200/100 ml as a geometric average	
(5-1 to 9-30)	21,000/100 ml as a geometric average	
Total Residual Chlorine	0.5	1.2
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

Applications under the Pennsylvania Clean Streams Law

(Part II Permits)

The following permit applications and requests for plan approval have been received by the Department of Environmental Protection (Department).

Persons objecting on the grounds of public or private interest to the approval of an application or submitted plan may file a written protest with the Department at the address indicated above each permit application or plan. Each written protest should contain the following: name, address and telephone number; identification of the plan or application to which the protest is addressed; and a concise statement in sufficient detail to inform the Department of the exact basis of the protest and the relevant facts upon which it is based. The Department may conduct a fact-finding hearing or an informal conference in response to any given protests. Each writer will be notified in writing of the time and place if a hearing or conference concerning the plan, action or application to which the protest relates is held. To insure consideration by the Department prior to final action on permit applications and proposed plans, initial protests and additions or amendments to protests already filed should be filed within 15 calendar days from the date of this issue of the *Pennsylvania Bulletin*. A copy of each permit application and proposed plan is on file in the office indicated and is open to public inspection.

Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding, should contact the Secretary to the Board at (717) 787-3483. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Industrial waste and sewerage applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

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

2397410. Sewerage. **Robert and Karen Kottyan**, 771 Ridley Creek Road, Media, PA 19063. Construction of a treatment plant to serve Kottyan residence located in Upper Providence Township, **Delaware County**.

1597411. Sewerage. **Michael and Antianette Hughes**, 305 Auburn Drive, Downingtown, PA 19335.

Construction of a treatment plant to serve Hughes residence located in Upper Uwchlan Township, **Chester County**.

0997408. Sewerage. **Daniel and Joan Ball**, 2057 Buck Run Road, Quakertown, PA 18951. Construction and operation of a small flow treatment plant to serve the Ball residence located in East Rockkill Township, **Bucks County**.

2397411. Sewerage. **Delaware County Prison**, P. O. Box 239, Thorton, PA 19373. Construction of preliminary treatment facilities and connection of the sanitary sewer system to the Northeast Sewer Expansion located in Concord Township, **Delaware County**.

Southcentral Regional Office: Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4590.

A. 6797408. Sewage, submitted by **John and Stacy McCarthy**, R. D. 1, Box 1647, New Freedom, PA 17349 in Shrewsbury Township, **York County** to construct a small flow single residence sewage treatment to serve their home which will be located at the intersection of Brose and Cooper Roads was received in the Southcentral Region on October 9, 1997.

A. 0697408. Sewage, submitted by **Maxatawny Township Municipal Authority**, 663 Noble Street, Kutztown, PA 19530 in Maxatawny Township, **Berks County** to construct sanitary sewers to serve the Village of Bowers was received in the Southcentral Region on October 10, 1997.

Northwest Regional Office, Regional Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6942.

WQM Permit No. 6197202. Industrial waste. **Warren County Solid Waste Authority**, Warren County Courthouse, Warren, PA 16365. This project is for the modification of an existing permit in Pleasant Township, **Warren County**.

WQM Permit No. 2597422. Sewage. **VFW Post 740**, 10613 Route 98, Edinboro, PA 16412. This project is for the construction and operation of a sewage treatment facility to serve the VFW Post in Franklin Township, **Erie County**.

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER FROM OIL AND GAS ACTIVITIES

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

PA 0095443. Industrial waste, SIC: 1389, **Hart Chemical Company**, P. O. Box 232, Route 110 West, Creekside, PA 15732.

This application is for issuance of an NPDES permit to discharge treated industrial wastewater and treated sewage to McKee Run in Washington Township, **Indiana County**. This is an existing discharge.

The receiving stream is classified for cold water fish and Statewide list. For the purpose of evaluating effluent requirements for TDS and phenolics, the existing downstream water supply considered during the evaluation is located in Cadogan, PA approximately 42.12 miles downstream of the discharge point.

The proposed discharge limits for Outfall No. 401 are:

<i>Parameter</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow		0.045 mgd	31.25 gpm
Total Iron (mg/l)	3.5		7
Oil and Grease (mg/l)	15		30
TSS (mg/l)	30		60
Acidity (mg/l)	monitor only		
Alkalinity (mg/l)	greater than acidity		
pH	6 to 10.5 at all times		
TDS (mg/l)	monitor only		
Chloride (mg/l)	monitor only		
Barium	10.34	20.68	
Lithium	2.51	5.02	
Osmotic Pressure	597	1,194	

The EPA waiver is in effect.

The proposed discharge limits for Outfall No. 501 are:

<i>Parameter</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow		0.018 mgd	12.5 gpm
Total Iron (mg/l)	3.5		7
Oil and Grease (mg/l)	15		30
TSS (mg/l)	30		60
Acidity (mg/l)	monitor only		
Alkalinity (mg/l)	greater than acidity		
pH	6 to 10.5 at all times		
TDS (mg/l)	monitor only		
Chloride (mg/l)	monitor only		
Barium	7.2	14.4	
Lithium	24.99	49.98	
Osmotic Pressure	4,236	8,472	

The proposed limits for Outfall No. 101 (treated sewage) are:

<i>Parameter</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	0.00007		
CBOD ₅ (mg/l)	25		50
TSS (mg/l)	30		60
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean		
(10-1 to 4-30)	2,000/100 ml as a geometric mean		
Dissolved Oxygen	not less than 5.0 mg/l		
pH	6 to 9 at all times		
CBOD ₅ and TSS (% reduction)	The 30-day average percent removal shall not be less than 85 %		

Outfalls 201, 002, and 003 shall consist solely of uncontaminated stormwater runoff.

The EPA waiver is in effect.

INDIVIDUAL PERMITS (PAS)

NPDES Individual

The following parties have applied for an NPDES permit to discharge stormwater from a proposed construction activity into the surface waters of this Commonwealth. Unless otherwise indicated, on the basis of pre-

liminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to discharge, subject to certain limitations set forth in the permit and special conditions. These proposed determinations are tentative. Limitations are provided in the permit as erosion and sedimentation control measures and facilities which restrict the rate and quantity of sediment discharged.

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the office noted above the application within 30 days from the date of this public notice. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant.

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

The application and related documents, including the erosion and sedimentation control plan for the construction activity, are on file and may be inspected at the office noted above the application.

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

NPDES Permit PAS10L016. Stormwater. **Lewis T. Indof**, 609 Vernon Street, Belle Vernon, PA 15012 has applied to discharge stormwater from a construction activity located in Franklin Township, **Fayette County**, to Virgin Run Lake.

NPDES Permit PAS10L017. Stormwater. **Nullan, Inc. c/o James Filiaggi**, P. O. Box 229, Mt. Braddock, PA 15465 has applied to discharge stormwater from a construction activity located in North Union Township, **Fayette County**, to Jennings Run.

NPDES Permit PAS10L018. Stormwater. **John Hankins**, Walnut Street, Hopwood, PA 15445 has applied to discharge stormwater from a construction activity

located in South Union Township, **Fayette County**, to an unnamed tributary Redstone Creek.

Stormwater Individual

The following parties have applied for NPDES permits to allow the discharge of stormwater from an industrial site into surface waters of this Commonwealth. The Department of Environmental Protection (Department) has made a tentative determination to issue these permits and proposes to issue them subject to effluent limitations and monitoring and reporting requirements.

The EPA, Region III, Regional Administrator has waived the right to review or object to these proposed permit actions under the waiver provision 40 CFR 123.24(d).

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

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

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

Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-2511.

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PAS232204	Texapol Corp. 177 Mikron Rd. Bethlehem, PA 18017	Northampton Co. Bethlehem	Monocacy Crk.	
PAS232205	Harcras Pigments 1525 Wood Ave. Easton, PA 18042	Northampton Co. Easton City	Bushkill Crk.	
PAS232206	James River Corp. 605 Kuebler Rd. Easton, PA 18042	Northampton Co. Forks Twp.	Bushkill Crk.	
PAS322201	Binney & Smith Inc. 1100 Church Lane Easton, PA 18044	Northampton Co. Easton Borough	Unnamed tributary to Bushkill Crk.	
PAS802214	Schwerman Trucking 3190 Daniels Rd. Nazareth, PA 18064	Northampton Co. Nazareth Borough	Tributary to E. Branch of Monocacy Crk.	

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PAS802215	Federal Express Corp. 126 N. Commerce Way Bethlehem, PA 18017	Northampton Co. Hanover Twp.	Monocacy Crk.	
PAS802216	C. C. Eastern Inc. 6955 Chrisphalt Dr. Bath, PA 18014	Northampton Co. E. Allen Twp.	Monocacy Crk.	

SAFE DRINKING WATER

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

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

A. 6397503. Pennsylvania-American Water Company. 800 West Hershey Park Drive, P. O. Box 888, Hershey, PA 17033. Installation of a booster station located in Independence Township, **Washington County**.

Northwest Regional Office, Regional Manager; 230 Chestnut Street, Meadville, PA 16335, (814) 332-6899.

A. 6297501. Public water supply. **Sheffield Municipal Authority**, 20 Leather St., Sheffield, PA 16347. This proposal involves the construction of a 3rd well (Center Street well) in Sheffield Township, **Warren County**.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 1

Acknowledgment of Notices of Intent to Remediate submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 302 and 303 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background or Statewide health standard to remediate a site must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department must provide a brief description of the location of the site, a list of known contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department and shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

For further information concerning the content of a Notice of Intent to Remediate, contact the Department's Regional Office under which the notice appears. If infor-

mation concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

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

Northcentral Regional Office, Environmental Cleanup Program Manager; 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (717) 321-6525.

Abramson Auto Wrecking (Fresh Water Drainage Ditch), College Township, **Centre County**. Blazosky Associates, Inc. on behalf of Fred Abramson, 3149 Nittany Valley Drive, Howard, PA 16841, has submitted an additional Notice of Intent to Remediate sediment contaminated with Mirex, Photomirex and Kepone. The applicant proposes to remediate the sediment in the fresh water drainage ditch to meet the background standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Centre Daily Times* on October 9, 1997.

Southwest Field Office: John J. Matviya, Environmental Cleanup Program Manager; 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-5217.

Pechin Leasing Company, East Bethlehem and Fredericktown Townships, **Washington County**. Pechin Leasing Company, Dunbar, PA and John Conroy, Triline Associates, 506 Valleybrook Road, McMurray, PA 15317 has submitted a Notice of Intent to Remediate soil contaminated with PCBs, lead, solvents, BTEX, PHCs and PAHs. The applicant proposes to remediate the site to meet the Statewide health standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 2

Acknowledgment of Notices of Intent to Remediate submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 304 and 305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an 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, a municipality may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period a municipality may request that the person identified, as the remediator of a site, develop and implement a public involvement plan. Requests to be involved, and comments, should be directed to the remediator of a site. For further information concerning the content of a Notice of Intent to Remediate, contact the Department's Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at 1 (800) 654-5984.

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

Southwest Field Office: John J. Matviya, Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-5217.

Bakerstown Facility (currently leased to **Exxon Company U.S.A.**), Richland Township, **Allegheny County**. Witco Corporation, One American Lane, Greenwich, CT 06831-2559 and Robert Workman, Enviro-Sciences, Inc., 111 Howard Boulevard, Suite 108, Mt. Arlington, NJ 07856 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with PHCs. The applicant proposes to remediate the site to meet a site-specific standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Butler Eagle* and the *Post Gazette* on July 17, 1997.

AIR POLLUTION OPERATING PERMITS

Operating Permit applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Northeast Regional Office, Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (717) 826-2531.

39-318-101: Synthetic Thread Company, Inc. (825 12th Ave., Bethlehem, PA 18016) for the operation of a thread bonding operation with air pollution control by a catalytic oxidizer at the facility in the City of Bethlehem, **Lehigh County**.

45-310-005E: Locust Ridge Quarry (Div. of Haines & Kibblehouse, Inc., P. O. Box 196, Skippack, PA 19474) for

the operation of the main stone crushing plant with water spray controls at the facility in Tobyhanna Township, **Monroe County**.

45-310-016: Locust Ridge Quarry (Div. of Haines & Kibblehouse, Inc., P. O. Box 196, Skippack, PA 19474) for the operation of a stone crushing plant with water spray controls at the facility in Tobyhanna Township, **Monroe County**.

Southcentral Regional Office, Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4587.

01-310-002C: ISP Minerals (P. O. Box O, Blue Ridge Summit, PA 17214) for the operation of a rock crushing plant located at the Charmian Quarry in Hamiltonban Township, **Adams County**. This source is subject to 40 CFR 60, Subpart OOO, Standards of Performance for New Stationary Sources.

01-310-009G: ISP Minerals (P. O. Box O, Blue Ridge Summit, PA 17214) for the operation of an intermediate rock crushing plant located at the Charmian Quarry in Hamiltonban Township, **Adams County**. This source is subject to 40 CFR 60, Subpart OOO, Standards of Performance for New Stationary Sources.

01-310-034B: ISP Minerals (P. O. Box O, Blue Ridge Summit, PA 17214) for the operation of the coloring system No. 4 located at the Charmian Quarry in Hamiltonban Township, **Adams County**.

07-308-003D: Fry Metals, Inc. (4100 Sixth Avenue, Altoona, PA 16602) for a refining and dross treatment operation controlled by a post combustion settling chamber in series with a MAC environmental fabric filter in the City of Altoona, **Blair County**.

22-318-021A: Sherwin-Williams Company (355 Eastern Drive, Harrisburg, PA 17111) for the operation of a powder coatings manufacturing facility in Swatara Township, **Dauphin County**.

36-304-050E: Donsco, Inc. (P. O. Box 2001, Wrightsville, PA 17368-0040) for a shot blast machine and hot saw controlled by a fabric filter at their Mount Joy Facility in Mount Joy Borough, **Lancaster County**.

36-304-059A: Donsco, Inc. (P. O. Box 2001, Wrightsville, PA 17368-0040) for an Ajax electric furnace, Didion Drum and conveyor belt with the emissions controlled by a Wheelabrator fabric filter at their Mount Joy Facility in Mount Joy Borough, **Lancaster County**.

36-304-090: Donsco, Inc. (P. O. Box 2001, Wrightsville, PA 17368-0040) for a sand handling system controlled by a fabric filter at their Mount Joy Facility in Mount Joy Borough, **Lancaster County**.

38-307-031G: CMI-Tech Cast, Inc. (640 South Cherry Street, Myerstown, PA 127067) for the operation of a burn-off oven located in Myerstown Borough, **Lebanon County**.

67-302-123: Yorktowne, Inc./EY, Inc. (P. O. Box 231, Red Lion, PA 17356) for the operation of a wood/gas-fired boiler controlled by a multiclone collector located at 100 Redco Avenue in Red Lion Borough, **York County**.

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

25-306-009B: INMETCO (P. O. Box 720, Ellwood City, PA 16117) for the operation of a sludge/cake dryer at Ellwood City, **Lawrence County**.

37-308-005: Reactive Metals & Alloys Corp. (P. O. Box 366, West Pittsburg, PA 16160) for the operation of

anhydrous rare earth metal chlorides electric dryers and packed scrubber in Taylor Township, **Lawrence County**.

37-308-006: Reactive Metals & Alloys Corp. (P. O. Box 366, West Pittsburg, PA 16160) for the operation of electrolytic cells in Taylor Township, **Lawrence County**.

PA-10-021A: Indspec Chemical Corporation (P. O. Box 307, 133 Main St., Petrolia, PA 16050) for the operation of a formaldehyde storage tank at Petrolia, **Butler County**.

PA-10-281A: II-VI, Incorporated (375 Saxonburg Boulevard, Saxonburg, PA 16056) for the operation of a batch vapor degreaser at Clinton Township, **Butler County**.

PA-10-298B: ESM II, Incorporated (1161 Pittsburgh Rd., Valencia, PA 16059) for the operation of a pulverizing operation at Clinton Township, **Butler County**.

PA-20-130A: Meadville Forging Co. (P. O. Box 459, Meadville, PA 16335) for the operation of a shot blaster at West Mead Township, **Crawford County**.

PA-37-011A: Farmers Cheese, Inc. (R. D. 1, New Wilmington, PA 16142) for the operation of a waste water treatment plant and flare at Wilmington Township, **Lawrence County**.

PA-43-301A: Atlas Resources, Inc. (P. O. Box 611, Moon Township, PA 15108) for the operation of a natural gas compressor and dehydrator at Jackson Center Township, **Mercer County**.

Notice of Intent to Issue Title V Operating Permits

Under 25 Pa. Code § 127.521, notice is given that the Department of Environmental Protection (Department) intends to issue a Title V Operating Permit to the following facilities. These facilities are major facilities subject to the operating permit requirements under Title V of the Federal Clean Air Act and 25 Pa. Code Chapter 127, Subchapters F (relating to operating permit requirements) and G (relating to Title V operating permits).

Copies of the Title V application, proposed permit and other relevant information are available for public inspection and additional information may be obtained by contacting the regional office noted.

Interested persons may submit written comments, suggestions or objections concerning the proposed Title V permit to the regional office within 30 days of publication of this notice. Written comments submitted to the Department during the 30-day public comment period shall include the name, address and telephone number of the persons submitting the comments, along with the reference number of the proposed permit. The commentator should also include a concise statement of any objections to the permit issuance and the relevant facts upon which the objections are based.

The Department reserves the right to hold a public hearing on the proposed action based upon the information received during the public comment period and will provide notice of any scheduled public hearing at least 30 days in advance of the hearing. The hearing notice will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation where the facility is located.

Northeast Regional Office: Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, Attn: Michael Safko, (717) 826-2531.

40-00005: UGI Utilities Inc.—Electric Division, Hanover Industrial Estates (400 Stewart Road, P. O. Box

3200, Wilkes-Barre, PA 18773-3200) for the Hunlock Generating Station in Hunlock Township, **Luzerne County**. The facility's major sources of emissions include Utility Boilers and Anthracite Culm Storage areas which primarily emit sulfur oxides (SOx) and particulate matter (PM). This is a Title V that will include an Acid Rain permit.

40-00025: Sun Company, Inc. (1801 Market St., Philadelphia, PA 19103-1699) for the Kingston Terminal in Edwardsville Borough, **Luzerne County**. The facility's major sources of emissions include Liquid Petroleum Storage Tanks and Loading Racks which primarily emit volatile organic compounds (VOC).

40-00021: Williams Generation Company—Hazleton (Humboldt Industrial Park, R. R. 1, Box 409-D, Hazleton, PA 18201) for the Hazleton Co-Generation Plant in Hazle Township, **Luzerne County**. The facility's major sources of emissions include a Combustion Turbine and a Heat Recovery Steam Generator which primarily emit nitrogen oxides (NOx).

48-00006: Metropolitan Edison Company (P. O. Box 16001, Reading, PA 19640-0001) for the Portland Station in Upper Mt. Bethel Township, **Northampton County**. The facility's major sources of emissions include Utility Boilers and Combustion Turbines which primarily emit nitrogen oxides (NOx), sulfur oxides (SOx) and particulate matter (PM).

39-00019: Buckeye Pipe Line Co. (39000 Hamilton Boulevard, Allentown, PA 18103) for the Macungie Station in Lower Macungie and Upper Milford Townships, **Lehigh County**. The facility's major sources of emissions include Liquid Petroleum Storage Tanks which primarily emit volatile organic compounds (VOC).

PLAN APPROVALS

Plan Approval applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015).

Northeast Regional Office, Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (717) 826-2531.

35-310-024E: Keystone Quarry Inc. (P. O. Box 249, Dunmore, PA 18512) for the modification of a stone crushing operation with air pollution control by watersprays at the facility in Dunmore Borough, **Lackawanna County**.

39-308-002A: Bridesbury Foundry Inc. (Front and Grape Streets, Whitehall, PA 18052) for the modification of foundry operations with air pollution control by baghouses at the facility in Whitehall Township, **Lehigh County**.

40-304-010B: Hazleton Pumps, Inc. (P. O. Box 488, Hazleton, PA 18201) for the modification of sand handling systems with air pollution control by baghouse at the facility in the City of Hazleton, **Luzerne County**.

48-310-031G: Haines & Kibblehouse, Inc. (P. O. Box 196, Skippack, PA 19474) for the construction of a portable stone crushing operation with air pollution control by a waterspray system at the facility in Bethlehem Township, **Northampton County**.

48-318-128: Lift-All East Inc. (2706 Brodhead Road, Bethlehem, PA 18017) for the construction of a paint spray booth with air pollution control by panel filters at the facility in Bethlehem Township, **Northampton County**.

58-301-006A: Susquehanna Humane Society (P. O. Box 485, Montrose, PA 18801) for the modification of a crematory incinerator with air pollution control by a secondary burner at the facility in Bridgewater Township, **Susquehanna County**.

Southcentral Regional Office, Air Quality Program, One Ararat Blvd., Harrisburg, PA 17110, (717) 657-4587.

36-3027: Acorn Press, Inc. (P. O. Box 5319, 500 East Oregon Road, Lancaster, PA 17601) for the installation of a sheetfed printing press in Manheim Township, **Lancaster County**.

67-310-053: York Building Products, Inc. (P. O. Box 1708, York, PA 17405) for the installation of two fabric collectors to control fugitive emissions from an existing primary crushing operation in Jackson Township, **York County**.

Northcentral Regional Office, Air Quality Program, 200 Pine Street, Williamsport, PA 17701, (717) 327-3637.

14-313-030C: Ruetgers-Nease Corporation (201 Struble Road, State College, PA 16801) for the reactivation of a chemical process facility (hydrotropes) in College Township, **Centre County**.

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

PA-25-095B: Lord Corp., Mechanical Products Div. (1635 W. 12th St., Erie, PA 16514) for the construction of an adhesive spray machine to replace an existing water wash adhesive spray booth with two dry filter booths and an interconnected oven in the City of Erie, **Erie County**.

**REASONABLY AVAILABLE CONTROL
TECHNOLOGY
(RACT)**

Operating Permit applications received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations for an Operating Permit to comply with 25 Pa. Code § 129.91 for Reasonable Available Control Technology.

Northcentral Regional Office, Air Quality Program, 200 Pine Street, Williamsport, PA 17701, (717) 327-3637.

OP-41-0011: Brodart Company (500 Arch Street, Williamsport, PA 17705) for a RACT synthetic minor operating permit for a wood furniture finishing facility in Montgomery Borough, **Lycoming County**.

MINING

**APPLICATIONS TO CONDUCT COAL AND
NONCOAL ACTIVITIES
MINING ACTIVITY APPLICATIONS**

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

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

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

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

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

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

Coal Applications Received

11970106. Laurel Land Development, Inc. (P. O. Box 629, Carrolltown, PA 15722), commencement, operation and restoration of bituminous strip-sandstone incidental to coal removal mine in Jackson Township, **Cambria County**, affecting 73.6 acres, receiving stream Bracken Run, South Branch of Blacklick Creek, and Unnamed Tributaries to Hinkston Run (Topographic Drainage only), application received October 8, 1997.

56870106. Permit Renewal, Zubek, Inc. (173 House Coal Road, Berlin, PA 15530), commencement, operation and restoration of bituminous strip mine, valid for reclamation only in Stonycreek Township, **Somerset County**,

affecting 69.8 acres, receiving stream Schrock Run and an unnamed tributary to Schrock Run, application received October 15, 1997.

32910105. Permit Revision, **GLR Mining, Inc.** (P. O. Box 105, Clymer, PA 15728), revision to an existing bituminous strip operation for the restoration of pastureland rather than forestland on the lands of the David G. Mock Estate and Elmer V. and Laura Mae Willard properties, in Canoe Township, **Indiana County**, affecting 52.8 acres, receiving streams unnamed tributary to Brewer Run, received October 15, 1997.

56890109. Permit Revision, **Erickson of Johnstown, Inc.** (P. O. Box 304, Windber, PA 15963), revision to an existing bituminous strip operation to change the postmining land use change from wildlife habitat and forestland to pastureland or land occasionally cut for hay on the Eagleshire Corporation property in Paint Township, **Somerset County**, affecting 80.0 acres, receiving streams unnamed tributary to Weaver Run and Weaver Run, received October 14, 1997.

56880101. Permit Renewal, **Cooney Brothers Coal Company** (Box 246, Cresson, PA 16630), commencement, operation and restoration of bituminous strip mine in Paint Township, **Somerset County**, affecting 191.8 acres, receiving stream Shade Creek and unnamed tributaries to Shade Creek, application received October 16, 1997.

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

63950101T. **Robinson Coal Company** (200 Neville Road, Neville Island, PA 15225). Application received to transfer permit currently issued to Pangersis Coal Company for continued operation and reclamation of an existing surface mining site located in Robinson Township, **Washington County**, affecting 13 acres. Receiving streams unnamed tributaries to Robinson Run, to Robinson Run, to Chartiers Creek, to the Ohio River. Application received October 1, 1997.

65930105T. **Urey Coal Company** (222 Forest Ridge Road, Indiana, PA 15701). Application received to transfer permit currently issued to J & P Fuel Company for an existing surface mining site located in Mt. Pleasant Township, **Westmoreland County**, affecting 137.2 acres. Receiving streams unnamed tributary to Brush Run. Application received August 11, 1997.

26920110R. **Patterson Coal Company** (R. D. 2, Box 335P, Smithfield, PA 15478). Renewal application received for continued operation and reclamation of a bituminous surface mine located in German, Georges and Nicholson Townships, **Fayette County**. Receiving streams South Branch Browns Run and the Jacobs Creek Watershed. Renewal application received October 16, 1997.

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

33970111. **Falls Creek Energy Company, Inc.** (R. D. 6, Box 231, Kittanning, PA 16201), commencement, operation and restoration of a bituminous surface strip operation in McCalmont and Winslow Townships, **Jefferson County** affecting 94.3 acres. Receiving streams Laurel Run and Big Run. Application received October 1, 1997.

16970105. **Doverspike Bros. Coal Company** (R. D. 4, Box 271, Punxsutawney, PA 15767), commencement, operation and restoration of a bituminous surface strip operation in Madison and Porter Townships, **Clarion County** affecting 360.0 acres. Receiving streams unnamed tributaries to Redbank Creek. Application received October 2, 1997.

24970104. **TDK Coal Sales, Inc.** (P. O. Box 627, Clarion, PA 16214), commencement, operation and restoration of a bituminous surface strip and auger operation in Jay Township, **Elk County** affecting 294.5 acres. Receiving streams Wolf Lick Run; unnamed tributaries to Spring Run and Spring Run. Application to include a stream encroachment to construct a haul road across Wolf Lick Run in Jay Township, **Elk County**. Application received October 3, 1997.

10970104. **Ben Hal Mining Company** (389 Irishtown Road, Grove City, PA 16127), commencement, operation and restoration of a bituminous surface strip operation in Venango Township, **Butler County** affecting 130.8 acres. Receiving streams unnamed tributaries to Seaton Creek; unnamed tributaries to Scrubgrass Creek and unnamed tributaries to Little Scrubgrass Creek. Application received October 8, 1997.

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

37970301. **Quality Aggregates, Inc.** (P. O. Box 9347, Neville Island, PA 16225), commencement, operation and restoration of a limestone operation in Slippery Rock Township, **Lawrence County** affecting 11.7 acres. Receiving streams two unnamed tributaries to Slippery Rock Creek. Application received October 2, 1997.

APPLICATIONS RECEIVED UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT

ENCROACHMENTS

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

In addition to permit applications, the Bureau of Dams, Waterways and Wetlands (BDWW) and the Regional Office Soils and Waterways Sections have assumed primary responsibility for processing requests for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)), for projects requiring both a Dam Safety and Encroachments Permit, and a United States Army Corps of Engineers (ACOE) permit. Section 401(a) of the Federal Water Pollution Control Act requires the State to certify that the involved projects will not violate the applicable provision of 33 U.S.C.A. §§ 1301—1303, 1306 and 1307, as well as relevant State requirements. Initial requests for 401 Certification will be published concurrently with the BDWW permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Safety or Encroachment Permit, or the approval of Environmental Assessments must submit comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the Bureau or Field Office indicated as the responsible office.

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

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

E15-555. Encroachment. **PA DOT**, 200 Radnor Chester Rd., St. Davids, PA 19087-5178. To remove an existing dilapidated 2-span bridge and to construct and maintain at the same location a single span, 90-foot long, bridge, having an average underclearance of 9 feet, which will carry SR 0841 across the 100-year floodway of Big Elk Creek (HQ-TSF-MF). The site is located approximately 4,000 feet north of the intersection of SR 0841 and SR 0472 (Bayview, MD-PA Quadrangle N: 20.25 inches; W: 0.2 inch) in Elk Township, **Chester County**. A temporary stream crossing and cofferdams will be constructed at the proposed abutments.

Northeast Regional Office, Regional Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-5485.

E39-339. Encroachment. **Pennsylvania Power and Light Company**, Mail Stop N-4, 2 North Ninth Street, Allentown, PA 18101-1179. To relocate approximately 290 l. f. of Hosensack Creek (CWF) with the construction of approximately 190 l. f. of channel change with work consisting of the construction of a triangular channel, riprap bank stabilization and rock channel deflectors. The project is to protect an existing 138/69 KV line support tower. The project is located on Hosensack Creek approximately 0.6 mile northeast of the intersection of T386 and T387 (East Greenville, PA Quadrangle N: 14.0 inches; W: 0.6 inch) in Lower Milford Township, **Lehigh County** (Philadelphia District, Army Corps of Engineers).

E40-480. Encroachment. **Robert K. Mericle**, 600 Baltimore Drive, Wilkes-Barre, PA 18702. To place fill and/or excavate in 2.16 acres of PFO wetlands for the construction of a stormwater detention basin associated with construction of a commercial warehouse. The project is located on Lot No. 21, Lasley Avenue in the Hanover Industrial Park (Wilkes-Barre West, PA Quadrangle N: 14.5 inches; W: 8.5 inches), in Hanover Township, **Luzerne County** (Baltimore District, U. S. Army Corps of Engineers).

E45-339. Encroachment. **Monroe County Recreation and Park Commission**, 4221 Manor Drive, Stroudsburg, PA 18360-9406. To recreate a portion of the 100-year floodplain of McMichael Creek for the purpose of constructing Monroe County Park including two soccer fields, a gravel access road, gravel parking areas and walking paths. The project is located between S. R. 0033 and McMichael Creek, approximately 0.4 mile northeast of the intersection of S. R. 0033 and S. R. 2010 (Manor Drive) (Saylorsburg, PA Quadrangle N: 14.0 inches; W: 5.3 inches) in Hamilton Township, **Monroe County** (Philadelphia District, Army Corps of Engineers).

E45-340. Encroachment. **Caesar's Paradise Stream, Inc.**, P. O. Box 400, Scotrun, PA 18355. To construct and maintain a 6-inch water intake structure in Devil's Hole Creek (HQ-CWF) for the purpose of withdrawing water for a snow making operation at Caesar's Stream Resort. The project is located on the north side of S. R. 0940, approximately 0.5 mile west of the intersection of S. R. 0940 and S. R. 0390 (Buck Hill Falls, PA Quadrangle N: 0.5 inch; W: 8.1 inches) in Paradise Township, **Monroe County** (Philadelphia District, Army Corps of Engineers).

Southcentral Regional Office, Water Management Program, Soils and Waterways Section, One Ararat Boulevard, Room 126, Harrisburg, PA 17110, (717) 657-4590.

E21-274. Encroachment. **Deluxe Development Corporation**, Donald Meske/Jerry Simpson, P. O. Box 323, 499 W. 3rd Street, Berwick, PA 18603. To fill in a total of 0.32 acre of wetland in order to construct roadways of a

proposed housing development called Westwood Hills located on the north side of Valley Street about 0.6 mile east of its intersection with Salt Road (Harrisburg West, PA Quadrangle N: 10.0 inches; W: 9.5 inches) in East Pennsboro Township, **Cumberland County**.

E36-642. Encroachment. **Seyval Sun**, Spencer Stober, 5 Market Plaza, Reinholds, PA 17569. To construct and maintain an 8-inch sanitary sewer main through about 330 feet of wetlands, and across the Little Muddy Creek and its adjacent wetlands, with about 315 feet of 10-inch sewer main across wetlands for connection to the existing ASALC interceptor sewer line for the Seyval Sun development (Terre Hill, PA Quadrangle N: 20.5 inches; W: 9.25 inches) located in Adamstown Borough, **Lancaster County**.

E67-612. Encroachment. **PECO Energy Company**, David Foss, 1848 Lay Road, Delta, PA 17314. To construct and maintain a low-flow structure consisting of 25 27-inch diameter corrugated metal pipes embedded in a 6-foot thick concrete slab across Rock Run near its mouth at the Susquehanna River. Bridge will provide access between the Peach Bottom Power Station and a proposed storage facility on the plant's parking lot (Holtwood, PA Quadrangle N: 1.2 inches; W: 2.4 inches) in Peach Bottom Township, **York County**.

Northcentral Region, Water Management, Soils and Waterways Section, F. Alan Sever, Chief, 208 West Third St., Suite 101, Williamsport, PA 17701.

E12-104. Encroachment. **Emery R. Hanscom**, 10 Aprian Dr., Rochester, NY 14606. To remove an existing structure and to construct and maintain a 75-inch by 112-inch corrugated metal pipe arch in Plank Road Hollow Run located approximately 2,500 feet northwest on Plank Hollow Road/Oak St. from Portage St. (Emporium, PA Quadrangle N: 2.88 inches; W: 14.50 inches) in Shippen Township, **Cameron County**. Estimated stream disturbance is 22 linear feet; stream classification is CWF.

E14-311. Encroachment. **Walter and Ann Heaton**, R. R. 2, Box 298B, Clearfield, PA 16830. To construct and maintain a single span I-beam/plank bridge having a clear span of 57 feet and an average underclearance of 6 feet across Steel Hollow Run located approximately 600 feet south of the intersection of SR 3021 (Steel Hollow Road) and T-343 (Maurer Lane) (Port Matilda, PA Quadrangle N: 18.8 inches; W: 1.5 inches) in Houston Township, **Centre County**. Estimated stream disturbance is 20 linear feet; stream classification is CWF.

E18-238. Encroachment. **Richard C. Bowman Jr., Supervisor**, Lamar Township, R. R. 1, Box 135-A1, Mill Hall, PA 17751. To remove an existing structure and to construct, operate and maintain a single cell reinforced concrete box culvert to carry T-352 across Duck Run. The box culvert shall be constructed with a clear span of 14 feet, a rise of 3.5 feet and a length of 32 feet. The project is located along the southern right-of-way of SR 0080 approximately 1,000 feet northwest of the intersection of SR 2004 and T-352 (Mill Hall, PA Quadrangle N: 10.6 inches; W: 13.6 inches) in Lamar Township, **Clinton County**. Estimated stream disturbance is 45 feet of waterway with no wetland impact; stream classification is high quality-cold water fishery.

E41-412. Encroachment. **Sherman C. Mittell, President**, South Williamsport Borough, 329 West Southern Ave., South Williamsport, PA 17701. To construct, operate and maintain a single span bridge to carry pedestrian traffic across Hagermans Run. The bridge shall be constructed with a span of 50-feet, an underclearance of

9-foot and minimum width of 4-feet. The project is located along the western right-of-way of SR 0015 approximately 400 feet southeast of the intersection of Hasting St. and Mountain Ave. (Montoursville, PA Quadrangle N: 19 inches; W: 15.9 inches) in South Williamsport Borough, **Lycoming County**. There is no stream disturbance or wetland impact; stream classification is high quality-cold water fishery.

E55-151. Encroachment. **Robert Sankey and James Long**, P. O. Box 164, Creamer, PA 17833-0164. To remove 250 linear feet of silt and vegetation from an unnamed tributary to Middle Creek located south of West Main St. in Kreamer, PA 1,000 feet west of Freeburg Road (Freeburg, PA Quadrangle N: 9.4 inches; W: 13.2 inches) in Middlecreek Township, **Snyder County**. Estimated stream disturbance is 250 feet with no wetland impacts; stream classification is WWF.

Southwest Regional Office, Soils and Waterways Section, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

E30-183. Encroachment. **PA Dept. of Transportation**, Engineering District 12-0, P. O. Box 459, Uniontown, PA 15401. To operate and maintain two 58" x 91" elliptical concrete pipes (invert depressed 1.0 foot) in White Creek (WWF). To maintain 5% rock for bank stabilization along the left upstream bank for a distance of 53.0 feet and to maintain fill in a de minimis area of wetlands less than or equal to 0.05 acre for the purpose of improving stream flow and reducing scour. The project is located along SR 3006 approximately 100 feet north of the West Virginia State line, Wadestown, (W. VA-PA Quadrangle N: 17.6 inches; W: 14.1 inches) in Gilmore Township, **Greene County**.

E63-441. Encroachment. **Pennsylvania Turnpike Commission**, P. O. Box 67676, Harrisburg, PA 17106-7676. To remove existing structures; to construct and maintain an 8-Span Composite Continuous Curved Steel Plate Girder Bridge, with a total span of 1,780 feet and underclearance of 172 feet across Pigeon Creek (WWF); to construct and maintain a Multi-Span Steel Plate Girder Structure with a total span of 1,304 feet and underclearance of 178 feet across a tributary to Pigeon Creek (WWF); to construct and maintain a box culvert with a span of 12 feet and underclearance of 7 feet in a tributary to Pigeon Creek; to construct and maintain an 84-inch diameter culvert in a tributary to Pigeon Creek; and to relocate and maintain three channel relocations in a tributary to Pigeon Creek having a total length of 1,478 feet. The work is being done in conjunction with the construction of the Mon/Fayette Expressway (SR 0043), Construction Section 52E, consisting of a four lane limited access, divided, toll highway. This construction section begins approximately 500 feet west of SR 0481 and ends approximately 1,000 feet west of Hazelkirk Valley Inn Road (Project starts at Monongahela, PA Quadrangle N: 10.0 inches; W: 9.5 inches, the project ends at N: 10.0 inches; W: 13.7 inches) in Carroll Township, **Washington County**.

E65-678. Encroachment. **Douglas A. and Constance Rhome**, R. D. 6, Box 945, Mt. Pleasant, PA 15666. To operate and maintain an existing 4-foot wide walkway bridge having a normal span of 16 feet and an underclearance of 5 feet across Boyer Run and to construct and maintain a bridge having a normal span of 17 feet and an underclearance of 5 feet across said stream just downstream of the existing walkway bridge for the purpose of providing emergency vehicles with access to home. The project is located off of Hecla Road approxi-

mately 2 miles east of its intersection with Route 819 (Mount Pleasant, PA Quadrangle N: 14.5 inches; W: 3.5 inches) in Mount Pleasant Township, **Westmoreland County**.

ENVIRONMENTAL ASSESSMENT

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

Central Office: Bureau of Waterways Engineering, 400 Market Street, 6th Floor, P. O. Box 8554, Harrisburg, PA 17105-8554, (717) 787-8568.

EA59-007C0. Environmental Assessment. **Frank S. Benedict** (130 Wambold Road, Green Lane, PA 18054). To construct and maintain a nonjurisdictional dam across a tributary to South Brook (CWF) for the purpose of recreation located approximately 4,900 feet southwest of the intersection of South Road (T-733) and S. R. 4009 (Potter-Brook, PA-NY Quadrangle N: 20.10 inches; W: 2.75 inches) in Brookfield Township, **Tioga County**.

ACTIONS

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

[National Pollution Discharge Elimination System Program (NPDES)]

DISCHARGE OF CONTROLLED INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

(Part I Permits)

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

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Market Street State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Industrial waste and sewerage applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

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

PA0031739. Amendment No. 1. Sewage. **Great Valley School District**, P. O. Box 617, Devault, PA 19432. Located in East Whiteland Township, **Chester County** into Valley Creek.

PA0054704. Sewage. **Tri-County Respite**, 7 Maple Street, Quakertown, PA 18951. Located in East Rockhill Township, **Bucks County** into unnamed tributary to Tohickon Creek.

PA0052281. Amendment No. 1. Sewage. **Ashland Chemical Company**, 100 North Commerce Drive, Aston, PA 19041. To receiving waters named Drainage Basin of Baldwin Run.

0997406. Sewerage. **Warrington Township**, 852 Easton Road, Warrington, PA 18976. Expansion of existing sewage pump station to serve existing and proposed residential development. The existing Warrington Oaks pump station serves the 155 unit subdivision known as Warrington Oaks.

0996418. Amendment No. 1. Sewerage. **Warrington Township**, 852 Easton Road, Warrington, PA 18976. Relocation and operation of a sewage pump station and force main to serve existing and proposed residential development in Warrington Township.

Southcentral Regional Office: Regional Water Management Program Manager, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4590.

Permit No. 6793412. Amendment No. 97-1. Sewage. **Valley Grange**, R. D. 2, Box 32, Lewisberry, PA 17339. To construct sewage treatment facilities in Warrington Township, **York County**.

NPDES Permit No. PAG053514. Groundwater Cleanup. **Gettysburg Petroleum Marketing, Inc.**, 86 Doremus Avenue, Newark, NJ 07110 is authorized to discharge from a facility located in Middle Paxton Township, **Dauphin County** to the receiving waters named the Susquehanna River.

NPDES Permit No. PA0026972. Sewerage. **Exeter Township, Berks County Authority**, 400 Hanover Street, Birdsboro, PA 19508-9181 is authorized to discharge from a facility located in Exeter Township, **Berks County** to the receiving waters named Schuylkill River.

NPDES Permit No. PA0111350. Sewerage. **Borough of Petersburg**, P. O. Box 6, Petersburg, PA 16669-0006 is authorized to discharge from a facility located in Logan Township, **Huntingdon County** to the receiving waters named Shaver Creek.

Northcentral Regional Office: 208 West Third Street, Suite 101, Grit Building, Williamsport, PA 17701.

Permit No. PA0020699. Sewerage. **Montgomery Water & Sewer Authority**, 35 South Main St., Montgomery, PA 17752-0125. Renewal granted to discharge from a facility located at Montgomery Borough, **Lycoming County**.

Permit No. PA0044661. Sewerage. **Lewisburg Area Joint Sewer Authority**, P. O. Box 305, Lewisburg, PA 17837. Renewal granted to discharge from a facility located in East Buffalo Township, **Union County**.

Permit No. PA0027553. Sewerage. **Pine Creek Municipal Authority**, P. O. Box 608, Avis, PA 17721. Renewal was granted to discharge from a facility located at Pine Creek Township, **Clinton County**.

Permit No. NPDES PA0008575. Industrial waste. **Williamsport Wire Rope Inc.**, P. O. Box 3188, Williamsport, PA 17701. Renewal was granted to discharge contact

and noncontact cooling water to Grafius Run. Location is City of Williamsport, **Lycoming County**.

Permit No. WQM 5974402-A2. Sewerage Amendment. **Hills Creek State Park**, R. R. 4, Box 212, Emporium, PA 15834. Modification to treatment facility by installing a bulkhead in the aeration tank, has been granted. The facility is located in Charleston Township, **Tioga County**.

Permit No. WQM 4197408. Sewerage. **Kevin L. and Colette Richards**, 117 Kendall Avenue, Jersey Shore, PA 17740. Construction of single residence sewage treatment facility has been granted. Facility located at Mifflin Township, **Lycoming County**.

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

NPDES Permit No. PA 0024856. Sewerage. **Taylor Township Sewage Authority**, Route 168, Sewer Plant Road, West Pittsburg, PA 16160-0489 is authorized to discharge from a facility located in Taylor Township, **Lawrence County** to Beaver Creek.

NPDES Permit No. PA 0026697, Amendment No. 1. Sewerage. **Butler Area Sewer Authority**, 100 Littman Road, Butler, PA 16001-3256 is authorized to discharge from a facility located in Butler Township, **Butler County** to Connoquenessing Creek, Butchers Run and Sullivan Run.

NPDES Permit No. PA 0025470. Sewerage. **Vernon Township Sanitary Authority (Fredricksburg Plant)**, 10929 Jackson Avenue, Meadville, PA 16335 is authorized to discharge from a facility located in Vernon Township, **Crawford County** to Cussewago Creek.

NPDES Permit No. PA 0026387. Sewerage. **St. Marys Municipal Authority**, P. O. Box 1994, 808 South Michael Road, St. Marys, PA 15857 is authorized to discharge from a facility located in St. Marys, **Elk County**, Elk Creek.

NPDES Permit No. PA 0025461. Sewerage. **Vernon Township Sanitary Authority (South Watson Run STP)**, 10929 Jackson Avenue, Meadville, PA 16335 is authorized to discharge from a facility located in Vernon Township, **Crawford County** to Watson Run.

WQM Permit No. 4397413. Sewerage, **Jack LaVoie**, SRSTP, 240 Wansack Rd., West Middlesex, PA 16159. Construction of Jack LaVoie SRSTP located in Shenango Township, **Mercer County**.

INDIVIDUAL PERMITS

(PAS)

The following approvals for coverage under NPDES Individual Permit for Discharge of Stormwater from Construction Activities have been issued.

These actions of the Department of Environmental Protection (Department) may be appealed to the Environmental Hearing Board (Board), Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483, by aggrieved persons 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.

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10-G258	Malvern Hills II Partners P. O. Box 3085 West Chester, PA 19381	Malvern Borough Chester County	Schuylkill River

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

<i>NPDES Permit</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream</i>
PAS10A085-1	Penn Center Mgmt. Penn Ctr. W 2 Ste 110 Pittsburgh, PA 15275	Robinson Twp. Allegheny County	Campbells Run
PAS100239	Danbury Farms Inc. 1120 Perry Hwy. Pittsburgh, PA 15237	New Sewickley Twp. Beaver Co.	UNT Big Sewickley Crk. & UNT Brush Run
PAS100240	Harry E. Fisher 166 SW 8th Ave. Boca Raton, FL 33486	Franklin Twp. Beaver Co.	Connoquenessing Crk.
PAS10310	Indiana Univ. of PA Indiana, PA 15701	White Twp. Indiana Co.	Stoney Run
PAS103111	James E. Michny R. R. 3, P. O. Box 130B Barnesboro, PA 15714	Pine Twp. Indiana Co.	Little Yellow Crk.
PAS103109	PA Dept. of Transportation P. O. Box 429 Indiana, PA 15701	E. Mahoning Twp. Indiana Co.	Br. Pickering Run
PAS10W054	PA Turnpike Commission P. O. Box 6767 Harrisburg, PA 17106-7676	Union Twp. Washington Co.	Huston Run & UNT Peters Creek
PAS10W056	Reservation Develop Corp. P. O. Box 395 Meadowlands, PA 15347	S. Strabane Twp. Washington Co.	UNT Chartiers Crk.
PAS10W060	Columbia Gas Transm. Corp. 1700 MacCorkle Ave. SE Charleston, WV 25314	Donegal Twp. Washington Co.	Dutch Fork
PAS10W064	PA Department of Transportation P. O. Box 459 Uniontown, PA 15401	Amwell Twp. Washington Co.	Montgomery Run Ten Mile Creek Boyd Run
PAS10X067	Derry Twp. Municipal Auth. P. O. Box 250 New Derry, PA 15671-0250	Derry Twp. Westmoreland Co.	Miller Run Loyalhanna Crk.
PAS10X071	Adam Eidemiller Inc. 1003 E. Pittsburgh St. Greensburg, PA 15601	Unity Twp. Westmoreland Co.	UNT Four Mile Run
PAS10X077	Tamas S. Tanto R. R. 4, Box 121 Greensburg, PA 15601	Salem Twp. Westmoreland Co.	UNT Crabtree Crk.

**INDIVIDUAL PERMITS
(PAR)**

**Approvals to use NPDES and/or other
General Permits**

The following parties have submitted Notices of Intent (NOIs) for Coverage under (1) General NPDES Permits to discharge wastewater into the surface waters of this

Commonwealth. The approval for coverage under these general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in the general permit; (2) General Permits for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in Pennsylvania. The approval of coverage for land application of sewage sludge or residential septage under these general permits is

subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective general permit. The Department of Environmental Protection approves the following coverages under the specified General Permit.

The EPA Region III Regional Administrator has waived

the right to review or object to this permit action under the waiver provision: 40 CFR 123.24.

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

*List of NPDES and/or other
General Permit Type*

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

General Permit Type—PAG 2

*Facility Location
County and
Municipality*

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Luzerne County Dallas Township	PAR10R126	Gerald J. Wycallis Elementary School Conyngham Avenue Dallas, PA 18612	Toby Creek	Luzerne Co. Conservation District Smith Pond Road P. O. Box 250 Lehman, PA 18627-0250
Fayette County North Union Township	PAR10L033	PA Dept. Environmental Protection Bureau of Abandoned Mine Reclam. P. O. Box 149 Ebensburg, PA 15931	Cove Run	Southwest Region Office 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4315
Fayette County Menallen, Franklin and North Union Townships	PAE10L031	JD & D Enterprises P. O. Box 11 Uniontown, PA 15401	Jennings Run and UNT to Redstone Crk.	Southwest Region Office 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4315
Jefferson County Young Township	PAR103320	Young Township R. D. 1, Box 122 Punxsutawney, PA 15767	Sawmill Run, Elk Run and Mahoning Creek	DEP, Northwest Region Water Management Program Manager 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Jefferson County Young Township and Punxsutawney Borough	PAR103321	BFG Electroplating and Manufacturing Company 705 Cherry St. P. O. Box 1065 Punxsutawney, PA 15767	Mahoning Creek	DEP, Northwest Region Water Management Program Manager 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG 3

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Hilltown Township Bucks County	PAR800066	Waste Management of Indian Valley 400 Progress Drive Telford, PA 18969	Mill Creek	DEP, Southeast Region Water Management 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Bristol Township Bucks County	PAR800083	Waste Management of Delaware Valley—North 1224 Hayes Boulevard Bristol, PA 19007	Magnolia Lake	DEP, Southeast Region Water Management 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Schuylkill County North Manheim Township	PAR122213	Lehigh Valley Dairies, Inc. 880 Allentown Road Lansdale, PA 19446-5298	Unnamed tributary to Schuylkill River	Northeast Regional Office 2 Public Square, Wilkes-Barre, PA 18711-0790 (717) 826-2553
Millcreek Township Erie County	PAR238322	Carlisle Engineered Products Inc. Bundy Park, 1901 Wager Road Erie, PA 16514	Unnamed Tributary to Walnut Creek	DEP Water Management Northwest Region 230 Chestnut St. Meadville, PA 16335 (814) 332-6942

General Permit Type—PAG 4

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Columbia County North Centre Township	PAG044969	Albert E. Strausser, Jr. R. R. 5, Box 496A Bloomsburg, PA 17815	Cabin Run	Northcentral Region Office 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Lycoming County Mifflin Township	PAG044968	Kevin and Collette Richards 117 Kendall Ave. Jersey Shore, PA 17740	Canoe Run	Northcentral Region Office 208 W. Third St. Williamsport, PA 17701 (717) 327-3664

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream or Body of Water</i>	<i>Contact Office and Telephone No.</i>
Cambria County Gallitzin Township	PAG046130	Tony and Sally Wojtarowicz 15125 Kingsway Drive New Berlin, WI 53151	Unnamed tributary to Glenwhite Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Allegheny County Moon Township	PAG046132	Douglas E. Foster 1016 McCoy Road McKees Rocks, PA 15136	Boggs Run tributary	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Shenango Township Mercer County	PAG048462	Jack LaVoie 240 Wansack Rd. West Middlesex, PA 16159	Unnamed tributary to Shenango River	DEP Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335 (814) 332-6942
Greene Township Erie County	PAG048461	Harry L. Evanoff 9324 Thelma Drive Erie, PA 16510-5132	Unnamed tributary to Four Mile Creek	DEP Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335 (814) 332-6942

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan approval granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20).

*Regional Office: Water Management Program Manager,
Southcentral Region, One Ararat Boulevard, Harrisburg,
PA 17110.*

Location: **Antrim Township, Franklin County, P. O. Box 130, Greencastle, PA 17225.** The approved plan provided for expansion of the existing STP to a capacity of 1.2 mgd and expansion of the existing collection system North of Greencastle along Route 11. Additionally, public sewer service will be extended to include the Kauffman and Bowman areas of the Township. An On-lot Disposal System (OLDS) Ordinance will address the remaining nonsewer service areas. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drink- ing Water Act (35 P. S. §§ 721.1—721.17).

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

Permit No. 4697511. Public water supply. **Col-
legeville Trappe Joint Public Works**, Joseph R. Has-
tings, 220 West First Avenue, Trappe, PA 19426. A permit
has been issued granting Collegeville Trappe Joint Public
Works permission to construct a 750,000 gallon storage
tank to replace an existing 200,000 gallon water storage
tank. Replace two 200 gpm water booster pumps. Replace
a 10,000 gallon chlorine contact tank with a 16,000 gallon
chlorine contact tank in Trapper Borough, **Montgomery
County.**

Type of Facility: Public Water Supply System

Consulting Engineer: Entech Engineering, Inc., 4 South
Fourth Street, Reading, PA 19603.

Permit to Construct Issued: October 8, 1997

SOLID AND HAZARDOUS WASTE OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Permits issued under the Solid Waste Management
Act (35 P. S. §§ 6018.101—6018.1003), the Municip-
al Waste Planning, Recycling and Waste Reduc-
tion Act (53 P. S. §§ 4000.101—4000.1904) and regu-
lations to operate solid waste processing or
disposal area or site.**

*Northwest Regional Office: Regional Solid Waste Man-
ager, 230 Chestnut Street, Meadville, PA 16335-3481, (814)
332-6848.*

**Permit No. 100585. Waste Management Disposal
Services of Pennsylvania, Inc.** (Northwest Sanitary

Landfill), 1436 West Sunbury Road, West Sunbury, PA 16061, located in Clay Township, **Butler County**. Major permit modification to redesign disposal cells 6, 7 and 8. Permit modification issued in Regional Office on October 9, 1997.

AIR POLLUTION OPERATING PERMITS

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

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

GP-42-181: Elkhorn Operation Co., Lewis Run (1371 South Ave., Bradford, PA 16701) issued for a gas production facility in Bradford Township, **McKean County**.

GP-61-020: Astor Corp., Petrowax Refining Div., (Hill Street, Emlenton, PA 16373) issued for VOC storage tanks in Emlenton Borough, **Venango County**.

PLAN APPROVALS

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

Northeast Regional Office, Air Quality Program, Two Public Square, Wilkes-Barre, PA 17811-0790, (717) 826-2531.

35-310-031A: Scranton Materials, Inc. (819 Newton Road, Scranton, PA 18504) modification of a stone crushing plant with water spray controls at the facility in Ransom Township, **Lackawanna County**.

39-304-009B: Ransom Industries, Inc. (101 N. Church Street, Macungie, PA 18062) modification of a grinding and cutting operation with air pollution control by a cartridge filter at the facility in Macungie Borough, **Lehigh County**.

39-313-027D: Burrton Medical Corporation (824 12th Ave., P. O. Box 4027, Bethlehem, PA 18018) modification of a sterilizing operation with control by a catalytic oxidizer at the facility in Hanover Township, **Lehigh County**.

45-310-005E: Locust Ridge Quarry (Division of Haines & Kibblehouse, Inc., P. O. Box 196, Skippack, PA 19474) modification of the main stone crushing plant with water spray controls at the facility on Locust Road, Tobyhanna Township, **Monroe County**.

45-310-016: Locust Ridge Quarry (Division of Haines & Kibblehouse, Inc., P. O. Box 196, Skippack, PA 19474) construction of a stone crushing plant with water spray controls at the facility in Tobyhanna Township, **Monroe County**.

52-310-005G: Pike County Concrete Company (HC-8, P. O. Box 8210, Hawley, PA 18428) construction of a stone crushing operation with control by a water spray system at the facility in Blooming Grove Township, **Pike County**.

66-303-006A: Wyoming Sand & Stone Company (R. R. 2, Box 26, Tunkhannock, PA 18657) construction of

a batch asphalt plant with control by a baghouse at the facility in Falls Township, **Wyoming County**.

Southcentral Regional Office, Air Quality Program, One Ararat Boulevard, Harrisburg, PA 17110, (717) 657-4587.

05-2004A: Seton Company (Horton Drive, Saxton, PA 16678) issued October 8, 1997, for the construction of the leather finishing facility in Saxton Borough, **Bedford County**.

28-309-003: Tarco Roofing Materials, Inc. (8650 Molly Pitcher Highway North, Antrim, PA 17225) issued October 8, 1997, for the construction of the asphalt saturated felt facility controlled by a high efficiency air filter and thermal oxidizer in Antrim Township, **Franklin County**. This facility is subject to 40 CFR 60, Subpart UU, Standards of Performance for New Stationary Sources.

36-320-029: The Continental Press, Inc. (520 East Bainbridge Street, Elizabethtown, PA 17022) issued October 9, 1997, for the construction of a six color offset lithographic printing press in Elizabethtown Borough, **Lancaster County**.

Northcentral Regional Office, Air Quality Program, 200 Pine Street, Williamsport, PA 17701, (717) 327-3637.

17-399-015B: Laurel Manufacturing, Inc. (P. O. Box 1047, DuBois, PA 15801) issued September 4, 1997, for the construction of a powdered metal parts sintering furnace (#11) in the City of DuBois, **Clearfield County**.

14-309-026B: Bellefonte Lime Company, Inc. (P. O. Box 448, Bellefonte, PA 16823) issued September 17, 1997, for the construction of a double roll crusher and associated equipment in the lower level lime handling and crushing system at the Pleasant Gap Plant in Spring Township, **Centre County**.

8-318-023D: Rynone Manufacturing Corporation (P. O. Box 128, Sayre, PA 18840) issued September 23, 1997, for the construction of a simulated marble flat panel and vanity top production line (panel line) in Sayre Borough, **Bradford County**.

59-304-007A: Ward Manufacturing, Inc. (P. O. Box 9, Blossburg, PA 16912-0009) issued September 30, 1997, for the construction of a spin blast machine and the installation of an air cleaning device (a cartridge collector) on five spin blast machines at Plant 3 in Blossburg Borough, **Tioga County**.

41-309-004: P Stone, Inc. (P. O. Box 254, Jersey Shore, PA 17740) issued September 30, 1997, for the installation of an air cleaning device (a fabric collector) on an agricultural limestone production facility in Limestone Township, **Lycoming County**.

Plan Approval extensions issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations to construct, modify, reactivate or operate air contaminant sources or air cleaning devices.

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

10-303-007A. IA Construction Corp. (R. D. 2, Box 348, Punxsutawney, PA 15767) for the installation of a batch asphalt plant in Mercer Township, **Butler County**.

24-327-004. Keystone Thermometrics (973 Windfall Rd., St. Marys, PA 15857) for the operation of open top vapor degreasers and cold degreasers in St. Marys, **Elk County**.

**REASONABLY AVAILABLE CONTROL
TECHNOLOGY
(RACT)**

Operating Permits issued under the Air Pollution Control Act (35 P.S. §§ 4001—4015) and regulations for an Operating Permit to comply with 25 Pa. Code § 129.91 for Reasonable Available Control Technology.

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

OP-43-172: Salem Tube Inc. (951 Fourth St., Greenville, PA 16125) issued October 16, 1997, for the operation of VOC and NOx sources in Greenville, **Mercer County**.

MINING

APPROVALS TO CONDUCT COAL AND NONCOAL ACTIVITIES

MINING ACTIVITY ACTIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P.S. §§ 3301—3326); The Clean Streams Law (35 P.S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P.S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 water quality certification. Mining activity permits issued in response to the applications will also address the applicable permitting requirements of the following statutes: the Air Quality Control Act (35 P.S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P.S. §§ 6018.101—6018.1003).

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

Coal Permits Issued

1-02154-56860104-07. Stream Encroachment, **Action Mining, Inc.** (1117 Shaw Mines Road, Meyersdale, PA 15552-7228), is requesting permission to relocate a section of an unnamed tributary to Bear Run. The proposed variance area begins approximately 260 feet upstream of the confluence of the unnamed tributary to Bear Run with Bear Run, and extends upstream from this point approximately 100 feet. Application received August 12, 1997, permit issued October 14, 1997.

11971106. Stream Encroachment, **Ridge Energy Company** (P. O. Box 429, Clymer, PA 15728), is requesting permission to temporarily install and maintain a low water crossing on Fox Run at a point of 10,000 feet upstream from Fox Run's confluence with the West Branch of the Susquehanna River. Application received August 7, 1997. Issued October 17, 1997.

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

26920105R. **Twilight Industries, Division of U.S. Natural Resources, Inc.** (212 State Street, Belle Vernon, PA 15012). Renewal issued for continued operation and reclamation of a bituminous surface mine located in Jefferson Township, **Fayette County**, affecting 157 acres. Receiving streams unnamed tributaries to Wash-

ington Run and unnamed tributaries to Little Redstone Creek. Application received August 19, 1997. Renewal issued October 20, 1997.

65930101R. V. P. Smith Co., Inc. (Box 242, Ligonier, PA 15658). Renewal issued for reclamation only of a bituminous surface mine located in Derry Township, **Westmoreland County**, affecting 45.5 acres. Receiving streams two unnamed tributaries to Loyalhanna Creek. Application received September 12, 1997. Renewal issued October 20, 1997.

Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

40940205C. Northampton Fuel Supply Co., Inc. (P. O. Box 460, Northampton, PA 18067), correction to an existing bank removal operation in Hanover Township, **Luzerne County** affecting 124.0 acres, receiving stream Nanticoke Creek. Correction issued October 17, 1997.

Knox District Office, P. O. Box 669, Knox, PA 16232.
Noncoal Permits Issued

302831-10960301-E-2. Quality Aggregates, Inc. (P. O. Box 9347, Neville Island, PA 15225). Application for a stream encroachment to conduct mining activities within 25 feet of unnamed tributary No. 5 to Slippery Rock Creek for the purposes of support facility construction and maintenance. No mineral extraction may be conducted closer than 50 feet to the stream in Marion Township, **Butler County**. Receiving streams unnamed tributary to Blacks Creek and unnamed tributary to Slippery Rock Creek. Application received April 28, 1997. Permit issued October 7, 1997.

Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

67870301C. York Building Products Co., Inc. (1020 North Hartley Street, York, PA 17404), correction to NPDES Permit No. PA0010235 in West Manchester Township, **York County**, receiving stream Willis Run. Correction issued October 14, 1997.

40970301. Theta Land Corporation (30 North Franklin Street, Wilkes-Barre, PA 18701), commencement, operation and restoration of a quarry operation in Plymouth Township, **Luzerne County**, affecting 10.6 acres, receiving stream none. Permit issued October 17, 1997.

Pottsville District Office, 5 West Laurel Boulevard, Pottsville, PA 17901-2454.

General Small Noncoal Authorizations Granted

58970859. Whittemore Quarries (R. R. 2, Box 99B, New Milford, PA 18834), commencement, operation and restoration of a small bluestone quarry operation in Apolaccon Township, **Susquehanna County** affecting 1.0 acre, receiving stream none. Authorization granted October 16, 1997.

ACTIONS TAKEN UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT ENCROACHMENTS

The Department of Environmental Protection (Department) has taken the following actions on previously received permit applications, requests for Environmental Assessment Approval and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

Persons aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Environmental Hearing Board within 30 days of receipt of written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in braille or on audiotape from the Secretary to the Board, (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Actions on applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and sections 5 and 402 of The Clean Streams Law (35 P. S. §§ 691.5 and 691.402) and notice of final action for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)). (Note: Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description).

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

E09-756. Encroachment Permit. **Hickory Ridge, Inc.**, 541 Germantown Pike, Plymouth Meeting, PA 19462. To construct and maintain 98 linear feet of 54-inch reinforced concrete culvert in and along an unnamed tributary of the Neshaminy Creek (TSF-MF) and to place and maintain fill in wetlands to construct Hickory Ridge Drive. Total wetland impact is approximately 0.95 acre. The site is located approximately 1,500 feet southwest of the intersection of Upper State Road and Bristol Road (Doylestown USGS Quadrangle N: 4.8 inches; W: 8.7 inches) in Warrington Township, **Bucks County**. This permit required the construction of 0.95 acre of replacement wetlands.

Northeast Regional Office, Regional Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (717) 826-5485.

E64-183. Encroachment. **Paul and Geraldine Duplatre**, R. R. 1, Box 91D, Pleasant Mount, PA 18453-9725. To excavate .74 acre of wetlands to construct a pond and to construct and maintain a dry hydrant consisting of an 8-inch intake pipe to be used for fire protection purposes. This project is located along the south side of Township Road T-599, approximately 2,000 feet west of S. R. 4007 (Lake Como, PA Quadrangle N: 5.3 inches; W: 6.1 inches) in Buckingham Township, **Wayne County**. The permittee is required to provide .74 acre of replacement wetlands.

Southcentral Regional Office, Water Management Program, Soils and Waterways Section, One Ararat Boulevard, Room 126, Harrisburg, PA 17110, (717) 657-4590.

E06-495. Encroachment. **Spring Township**, 2800 Shillington Road, Sinking Springs, PA 19608. To remove an existing structure and to construct and maintain a 2.83-foot × 12-foot box culvert in the channel of a tributary to

Cacoosing Creek at a point at Reedy Road (T-392) (Sinking Springs, PA Quadrangle N: 17.5 inches; W: 1.0 inch) in Spring Township, **Berks County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

E07-248. Encroachment. **Robert Black**, Blackcrest Farms, R. R. 3, Box 398, Altoona, PA 16601. To regrade and realign about 1,500 linear feet of stream channel of Sinking Run and approximately 640 linear feet of a tributary to Sinking Run for the purpose of restoring positive drainage to and reducing soil erosion from adjacent croplands located on the south side of SR 1013 at its intersection with Township Route T-484 (Spruce Creek, PA Quadrangle N: 18.2 inches; W: 19.2 inches) in Tyrone Township, **Blair County**. This permit also includes 401 Water Quality Certification.

E07-272. Encroachment. **North Woodbury Township Board of Supervisors**, Randall Huntsman, R. D. 1, Box 462, Martinsburg, PA 16662. To maintain about 95 linear feet of previously installed 42-inch diameter corrugated metal pipe; about 260 linear feet of previously installed 30-inch diameter corrugated metal pipe and to construct and maintain approximately 642 feet of 71-inch by 47-inch corrugated metal arch pipe in an unnamed tributary to Clover Creek and to reconstruct about 400 feet of the channel, 128 feet upstream of the arch pipe inlet and 270 feet downstream of its outlet, as part of a stormwater control project in Fredericksburg (Martinsburg, PA Quadrangle N: 10.3 inches; W: 4.5 inches) in North Woodbury Township, **Blair County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

E22-366. Encroachment. **Susquehanna Township**, Stanley Lawson, 1900 Linglestown Road, Harrisburg, PA 17110. To widen an existing bridge and to construct a bridge having a span of 36 feet and an underclearance of 12.4 feet and to impact 0.12 acre of wetlands across the channel of Paxton Creek at points at Progress Avenue and Interstate Drive (Harrisburg East, PA Quadrangle N: 10.63 inches; W: 14.0 inches) in Susquehanna Township, **Dauphin County**. A contribution to the Wetlands Replacement Fund is being made as mitigation for the wetlands impacted. This permit also includes 401 Water Quality Certification.

E28-245. Encroachment. **Larry Little**, 7985 Tomstown Road, Waynesboro, PA 17268 and **Leroy Benshoff**, 7982 Tomstown Road, Waynesboro, PA 17268. To remove the existing inadequately sized culvert and to construct and maintain a bridge with a 20-foot overall span with an underclearance of 4 feet and placement of 18-inch rock riprap with a length of 33 feet across an unnamed tributary to West Branch Antietam Creek located 1,600 feet northeast of Quincy High School (Waynesboro, PA Quadrangle N: 12.2 inches; W: 9.78 inches) in Quincy Township, **Franklin County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

E36-635. Encroachment. **Conestoga Country Club**, Dick Hopkins, 1950 Stonemill Road, Lancaster, PA 17603. To remove six existing structures, construct and maintain six bridges. Five heavy duty cart bridges having clear spans of 47.8 feet with average underclearances of 11 feet, and one pedestrian bridge having a 39-foot clear span with a 9-foot underclearance across the Little Conestoga Creek at the Conestoga Country Club (Lancaster, PA Quadrangle N: 5.5 inches; W: 15 inches) in Manor Township, **Lancaster County**. This permit was

issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

E36-636. Encroachment. **The Goldenberg Group**, Kenneth Goldenberg, 350 Sentry Parkway, Building 630, Suite 300, Blue Bell, PA 19422. To fill 0.083 acre of wetlands adjacent to the Dillersville Swamp to construct an entrance road from US Rt. 30. North of Steelway Road 0.47 acre of wetlands will be filled for construction of a nonjurisdictional dam for stormwater control. Wetland encroachment for the Red Rose Commons shopping center will be 0.203 acre for a total project impact of 0.673 acre and mitigation for 0.89 acre of new wetlands (Lancaster, PA Quadrangle N: 12.2 inches; W: 9.7 inches) in Lancaster City, **Lancaster County**. This permit also includes 401 Water Quality Certification.

E44-088. Encroachment. **Decatur Township**, Rodney Goss, R. D. 2, Box 1130, McClure, PA 17844. To maintain an existing bridge across Jacks Creek by resetting the stone and repairing the cracks in the stone masonry abutments and placing concrete in the scour areas beneath the abutments and center pier located on Township Road T-737 near the Village of Paintersville (Alfarata, PA Quadrangle N: 4.8 inches; W: 11.1 inches) in Decatur Township, **Mifflin County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

E67-601. Encroachment. **Springfield Township**, E. Lehman, R. R. 2, Box 206, Seven Valleys, PA 17360. To fill a de minimis area of wetlands less than or equal to 0.05 acre to widen the east side of East Springfield Lane (T-399), beginning from a point 1,040 feet to 1,800 feet from its intersection at Ore Road (SR 0214) (Glen Rock, PA Quadrangle N: 18.4 inches; W: 9.2 inches) in Springfield Township, **York County**. This permit also includes 401 Water Quality Certification.

Northcentral Region, Water Management—Soils and Waterways, F. Alan Sever, Chief, 208 West Third St., Williamsport, PA 17701.

E53-299. Encroachment. **Pa. Dept. of Transportation**, P. O. Box 342, Clearfield, PA 16830. To remove the existing structures and to construct and maintain two road crossings that will carry SR 4023, Seg. 120/1857 and Seg. 130/0000 across Elevenmile Creek. The two road crossings shall be constructed with corrugated metal culvert pipes that have a span of 29 inches and rise of 42 inches and a length of 16 feet. The project is located along the eastern right-of-way SR 044 approximately 4,000.0 feet east of the intersection of T-380 and SR 4023 (Oswayo, PA Quadrangle N: 15.5 inches; W: 3.3 inches) in Oswayo Township, **Potter County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

E55-147. Encroachment. **Spring Township Supervisors**, Beaver Springs, PA 17812. To construct and maintain 378 linear feet of a 36-inch diameter culvert with associated concrete headwall and discharge structure in an unnamed tributary to Beaver Creek located approximately 250 feet south of the SR 0522 and SR 0235 intersection (Beaver Springs, PA Quadrangle N: 22.0 inches; W: 11.6 inches) in Spring Township, **Snyder County**.

E59-343. Encroachment. **Westfield Township**, P. O. Box 61, Cowanesque, PA 16918. To extend an existing dike and to maintain the entire dike, about 1,500 feet long, along the Cowanesque River just downstream of the Potterbrook bridge (Potter Brook, PA Quadrangle N: 6.75 inches; W: 13.75 inches) in Westfield Township, **Tioga**

County. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

Northwest Regional Office, Soils and Waterways Section, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6942.

E16-099. Encroachment. **Elk Township Supervisors**, R. R. 2, Box 87, Knox, PA 16232. To remove the existing T-418 (Old Route 322) bridge across Deer Creek and to fill 0.27 acre of wetland for the construction of an extension of Soap Fat Road (T-410) from its intersection with T-418 south to S. R. 322 approximately 1,000 feet west of T-410's current intersection with S. R. 322 (Fryburg, PA Quadrangle N: 1.15 inches; W: 13.3 inches) located in Elk Township, **Clarion County**. This project includes contribution to the Pennsylvania Wetland Replacement Fund for replacement of a total of 0.27 acre of wetland.

E33-182. Encroachment. **Young Township**, 99 North Gilpin Street, Punxsutawney, PA 15767. To remove the existing bridge and to construct and maintain a 16.5-foot wide by 7-foot high corrugated metal arch culvert in Elk Run on T-456 approximately 400 feet east of S. R. 310 in Crawfordtown (Punxsutawney, PA Quadrangle N: 20.8 inches; W: 13.3 inches) located in Young Township, **Jefferson County**.

E33-183. Encroachment. **Jefferson County Commissioners**, Jefferson Place, 155 Main Street, Brookville, PA 15825. To construct and maintain a prestressed concrete adjacent box beam bridge having a clear span of 85 feet and a minimum underclearance of 5 feet across Cathers Run and fill in the 100-year floodplain and a de minimis wetland associated with bridge construction and roadway approach work on T-365 approximately 1.3 miles southwest of S. R. 36 (Cooksburg, PA Quadrangle N: 9.3 inches; W: 11.4 inches) located in Barnett Township, **Jefferson County**.

E37-114. Encroachment. **Plain Grove Township Supervisors**, R. D. 3, Slippery Rock, PA 16057. To remove the existing bridge and to construct and maintain a 13.5-foot wide by 7-foot high steel box culvert in a tributary to Jamison Run on T-543 (Rodgers Road) approximately 700 feet south of S. R. 1020 (Harlansburg, PA Quadrangle N: 10.7 inches; W: 0.1 inch) in Plain Grove Township, **Lawrence County**. This permit was issued under section 105.13(e) Small Projects. This permit also includes 401 Water Quality Certification.

DAM SAFETY

Actions on applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and sections 5 and 402 of The Clean Streams Law (35 P. S. §§ 691.5 and 691.402) and notice of final action for certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

Central Office: Bureau of Waterways Engineering, 400 Market Street, 6th Floor, P. O. Box 8554, Harrisburg, PA 17105-8554, (717) 787-8568.

D67-523. Dam. **Yoe Borough** (150 North Maple Street, Yoe, PA 17313). To construct, operate and maintain a dam (Basin 1) across Mill Creek located in York Township, **York County**.

D67-524. Dam. **Yoe Borough** (150 North Maple Street, Yoe, PA 17313). To construct, operate and maintain a dam (Basin 2) across Mill Creek located in York Township, **York County**.

SPECIAL NOTICES

Planning Grant Awards Under the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101

The Department of Environmental Protection (Department), hereby announces the following grants to counties under the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988 (Act 101). The awards are based upon applications received by the Department in 1996.

Planning grants are awarded to counties for 80% of approved costs for preparing municipal waste management plans as required by Act 101, for carrying out

related studies, surveys, investigations, inquiries, research and analysis, including those related to siting, and for environmental mediation. Grants may be awarded for feasibility studies and project development for municipal waste processing or disposal facilities, except for facilities for the combustion of municipal waste that are not proposed to be operated for the recovery of energy. All grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101, and the availability of funds in the Recycling Fund.

Inquiries regarding the grant offerings should be directed to Sally Lohman, Planning Section, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Division of Waste Minimization and Planning, P. O. Box 8472, Harrisburg, PA 17105-8472.

Act 101 Section 901 Planning Grants Department of Environmental Protection Bureau of Land Recycling and Waste Management

<i>County</i>	<i>Activities</i>	<i>DEP Grant</i>
Southwest Region		
Fayette	Revise the county plan to provide additional sites and change the management system to one that is more sensitive to the market.	\$36,760
Greene	Activities related to public participation and update the designated sites list.	\$4,560
Total		\$41,320

Registered and Certified Emission Reduction Credits

The following emission reduction credits (ERCs) have been approved, registered and certified by the Department of Environmental Protection (Department). ERCs are surplus, permanent, quantified and Federally enforceable emission reductions may be used to offset emission increases of oxides of nitrogen (NOx), volatile organic compounds (VOCs) and the following criteria pollutants: carbon monoxide (CO), lead (Pb), oxides of sulfur (SOx), particulate matter (PM), PM-10 and PM-10 precursors. The certified NOx and VOCs credits shown, expressed in tons per year (tpy), satisfy the applicable requirements in 25 Pa. Code §§ 127.206—127.209.

For additional information concerning this listing of certified ERCs, contact Virendra Trivedi, Bureau of Air Quality, Division of Permits, Department of Environmental Protection, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325.

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs amount (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
Mace Security International, Inc. Source Location: Federal Laboratories County: Indiana Ozone nonattainment status: Moderate Contact Person: Bernie Graney (802) 447-1503	VOCs	22	10/3/2005	Trading
REXAM DSI	VOCs	158.8 tpy may be used with seasonal restriction or 33.61 tpy may be used at any time during the year without seasonal restriction.	Varies from 2/24/2005 through 4/23/2006.	Trading
Source Location: Muhlenberg Township				

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs amount (tpy)</i>	<i>Expiration date</i>	<i>Intended use of ERCs</i>
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County: Berks

Ozone nonattainment status:
Moderate

Contact Person: LeRoy H.
Hinkle

(610) 916-4248

NOx

9.42

11/22/2005

[Pa.B. Doc. No. 97-1742. Filed for public inspection October 31, 1997, 9:00 a.m.]

Availability of Draft Hazardous Waste Facilities Plan

The Environmental Quality Board (Board) and the Department of Environmental Protection will hold one public information meeting and one public hearing regarding the Department of Environmental Protection's draft Hazardous Waste Facilities Plan.

The Hazardous Waste Facilities Plan is required by the Solid Waste Management Act to "...address the present and future needs for the treatment and disposal of hazardous waste in this Commonwealth." Upon the Board's final approval, this version of the Plan will update and replace the Plan adopted by the Board on December 15, 1992. The Plan will be used by the Board in making decisions on Certificates of Public Necessity (CPN) for hazardous waste facilities. The CPN overrides local restrictions including zoning for a hazardous waste facility that has met all permit requirements and meets all review criteria including the extent to which the facility is in compliance with the Plan.

The objective of this Plan is to modify the 1992 Plan as required by the Solid Waste Management Act. The Plan provides information about hazardous waste generation in Pennsylvania, existing facilities available for treatment and disposal, and types of additional facilities needed for the proper management of hazardous waste. It explains pollution prevention and the hazardous waste management hierarchy, and urges hazardous waste generators and owners of facilities to improve upon past technologies in a way that will eliminate or reduce hazardous waste generation and its associated risk. The Plan encourages proper captive management of hazardous waste after all economically feasible source reduction and reclamation technologies are given proper consideration. The Plan states that generators in Pennsylvania have adequate commercial treatment and disposal capacity available. The Plan also states that any recovery facility that meets the regulatory test for legitimate use, reclamation or recovery is necessary.

Public Information Meeting

The Department of Environmental Protection will hold one public information meeting for the purpose of discussing the draft Plan and answering questions. No formal record of questions or comments will be kept at this meeting. The meeting will be held at 7 p.m. as follows:

Thursday, December 4, 1997, The Atherton Hotel, 125 South Atherton Street, State College, PA.

Public Hearing

The Board will hold one public hearing for the purpose of accepting comments on this draft Plan. The hearing will be held at 7 p.m. as follows:

Wednesday, December 10, 1997, The Atherton Hotel, 125 South Atherton Street, State College, PA.

Persons wishing to present testimony at the hearing are asked to contact Kate Coleman at the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-8727, at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony will be limited to 10 minutes for each witness, and three written copies of the oral testimony are requested to be submitted at the hearing. Each organization is requested to designate one witness to present testimony on its behalf.

In lieu of or in addition to presenting oral testimony at the hearings, interested persons may submit written comments, suggestions or objections regarding the draft Plan to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail should be sent to Kate Coleman, 15th floor, Rachel Carson State Office Building, Harrisburg, PA 17105). Comments must be received by December 30, 1997. Comments submitted by facsimile will not be accepted.

Copies of the Draft Plan

Copies of the draft Plan may be obtained from the Bureau of Land Recycling and Waste Management, Division of Waste Minimization and Planning, PO Box 8472, Harrisburg, PA 17105-2063, (717) 787-7382. The draft Plan may also be viewed on the Department's website (www.dep.state.pa.us—choose Public Participation Center, Proposals Open for Comment). Additional information regarding this proposal may be obtained by contacting Tom Hyatt at the above telephone number.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 97-1743. Filed for public inspection October 31, 1997, 9:00 a.m.]

Availability of Technical Guidance

Technical guidance documents are on DEP's World Wide Web site (<http://www.dep.state.pa.us>) at the Public Participation Center. The "June 1997 Inventory" heading is the Governor's List of Non-regulatory Documents. The "Search the Inventory of Technical Guidance Documents" heading is a database of the Inventory. The "Final Documents" heading is the link to a menu of the various DEP bureaus and from there to each bureau's final

technical guidance documents. The "Draft Technical Guidance" heading is the link to DEP's draft technical guidance documents.

DEP will be adding its revised documents to the Web throughout 1997.

Ordering Paper Copies of DEP Technical Guidance

Persons can order a bound paper copy of the latest Inventory or an unbound paper copy of any of the final documents listed on the Inventory by calling DEP at (717) 783-8727.

In addition, bound copies of some of DEP's documents are available as DEP publications. Persons should check with the appropriate bureau for more information about the availability of a particular document as a publication.

Changes to Technical Guidance Documents

Here is the current list of recent changes. Persons who have any questions or comments about a particular document should call the contact person whose name and phone number is listed with each document. Persons who have questions or comments in general should call Jonathan Brightbill at (717) 783-8727.

Final Technical Guidance—Substantive Revision

DEP ID: 560-0700-304 Title: Review of Surface Mine Applications on High Quality Waters Description: Specifies informational needs and evaluation criteria for reviewing social and economic justification for surface mining on High Quality (HQ) Waters. Effective Date: October 1, 1997 Page Length: 12 pages Location: Vol 12, Tab 124 Contact: Dottie Shellehamer at (717) 787-5103

Final Technical Guidance—Minor Revision

DEP ID: 383-2200-108 Title: Guidance for the Review & Approval of an Existing Well Water Source for Use at a Public Water System Description: Directs and supports implementation of permitting activities under the drinking water management programs. Effective Date: March 10, 1995 Page Length: 4 pages Location: Vol 22, Tab 09 Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 383-3000-307 Title: Corrosion Control Treatment—Basic Feasibility Study Description: Applies to all large systems and medium and small water systems that exceed either the lead or copper action level. Effective Date: October 1, 1997 Page Length: 21 pages Location: Vol 21, Tab 04 Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 383-3130-108 Title: New Source Sampling Requirements for Surface Water Sources Description: Directs and supports implementation of new source sampling activities under the drinking water management programs. Effective Date: September 1, 1997 Page Length: 4 pages Location: Vol 22, Tab 11A Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 383-3130-208 Title: Community and Nontransient Noncommunity Water Systems: New Source Sampling Requirements for Groundwater Sources Description: Directs and supports implementation of new source sampling activities under the drinking water management programs. Effective Date: September 1, 1997 Page Length: 4 pages Location: Vol 22, Tab 11B Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 383-3130-308 Title: Transient Noncommunity Water Systems: New Source Sampling Requirements for Groundwater Sources Description: Directs and supports implementation of new source sampling activities under the drinking water management programs. Effective

Date: September 1, 1997 Page Length: 2 pages Location: Vol 22, Tab 11C Contact: Joseph Hoffman at (717) 787-5017

DEP ID: 560-0700-302 Title: Review of Surface Mine Permit Applications by the Pennsylvania Fish and Boat Commission Description: Provides procedure which permits a timely exchange of information between the PFBC and the Department concerning protection of fishery resources and endangered or threatened species. Effective Date: October 28, 1997 Page Length: 2 pages Location: Vol 12, Tab 122 Contact: Dottie Shellehamer at (717) 787-5103

DEP ID: 560-0700-303 Title: Review of Surface Mine Permit Applications by the Pennsylvania Game Commission Description: Provides procedure which permits a timely exchange of information between the PGC and the Department concerning protection of wildlife resources. Effective Date: October 28, 1997 Page Length: 2 pages Location: Vol 12, Tab 123 Contact: Dottie Shellehamer at (717) 787-5103

DEP ID: 562-4100-301 Title: Compliance/Enforcement Procedures Description: Describes the methods to be utilized by the Department for citing violations on mine sites. Effective Date: November 30, 1997 Page Length: 6 pages Location: Vol 12, Tab 13 Contact: Evan Shuster at (717) 787-7846

DEP ID: 562-4100-307 Title: Alternative Enforcement Description: Guidance is to establish a uniform process for initiating alternative enforcement actions to ensure mining industry compliance with appropriate Statutes and Rules and Regulations. Effective Date: November 15, 1997 Page Length: 4 pages Location: Vol 12, Tab 19 Contact: Evan Shuster at (717) 787-7846

DEP ID: 563-2000-609 Title: Roads Associated with Coal Mining Activities Description: This document describes the procedure the Department will use to review mine permit applications concerning roads associated with coal mining activities. Effective Date: October 31, 1997 Page Length: 8 pages Location: Vol 12, Tab 78 Contact: Evan Shuster at (717) 787-7846

DEP ID: 563-2111-101 Title: Noncommercial Exemption from Requirements of the Noncoal SMCRA Description: Outlines the qualifications for a noncommercial exemption from the requirements of the Noncoal Surface Mining Conservation and Reclamation Act. Effective Date: October 30, 1997 Page Length: 6 pages Location: Vol 12, Tab 104 Contact: Evan Shuster at (717) 787-7846

DEP ID: 563-2111-102 Title: Building Construction Exemption from Requirements of the Noncoal SMCRA Description: Outlines the qualifications for a building construction exemption from the requirements of the Noncoal Surface Mining Conservation and Reclamation Act. Effective Date: October 30, 1997 Page Length: 6 pages Location: Vol 12, Tab 105 Contact: Evan Shuster at (717) 787-7846

DEP ID: 563-2111-111 Title: Noncoal Operations Description: This guidance outlines the qualifications to allow scaling or other stabilization of pre-act highwalls without obligating the permittee to bond or reclaim the highwalls. Effective Date: October 30, 1997 Page Length: 3 pages Location: Vol 12, Tab 111 Contact: Evan Shuster at (717) 787-7846

DEP ID: 563-2112-205 Title: Review Guide and Written Findings Description: Establishes administrative procedures for ensuring a complete and uniform review of coal mine permit applications and for developing the written

findings document. Effective Date: October 31, 1997 Page Length: 6 pages Location: Vol 12, Tab 46 Contact: Evan Shuster at (717) 787-7846

DEP ID: 563-2112-218 Title: Permit Transfers Description: Gives requirements for submission and approval of an application for permit transfer from the current permittee to a successor permittee. Effective Date: October 31, 1997 Page Length: 5 pages Location: Vol 12, Tab 56a Contact: Evan Shuster at (717) 787-7846

DEP ID: 563-2112-219 Title: Cumulative Hydrologic Impact Assessments (CHIAs) Description: Outlines procedures for conducting cumulative hydrologic impact assessments (CHIA) in conjunction with proposed coal mining activities. Effective Date: October 31, 1997 Page Length: 6 pages Location: Vol 12, Tab 57 Contact: Evan Shuster at (717) 787-7846

DEP ID: 563-2112-222 Title: Coal Extraction—Oil and Gas Well Barriers Description: Gives requirements for reviewing proposals for coal extraction, by surface mining, within 125 ft. of an oil or gas well. Effective Date: October 15, 1997 Page Length: 8 pages Location: Vol 12, Tab 58 Contact: Evan Shuster at (717) 787-7846

DEP ID: 563-2112-604 Title: Auger Mining Description: Establishes administrative procedures for processing requests for auger mining and provides guidelines for the technical evaluation of auger mining proposals. Effective Date: October 20, 1997 Page Length: 6 pages Location: Vol 12, Tab 73 Contact: Evan Shuster at (717) 787-7846

DEP ID: 563-2112-657 Title: Underground Mining—Delineating Protection Zones for Public Water Supplies Description: Outlines procedures for delineating and protecting zones of influence for public water supply springs and wells. Effective Date: October 15, 1997 Page Length: 11 pages Location: Vol 12, Tab 84 Contact: Evan Shuster at (717) 787-7846

DEP ID: 580-2200-004 Title: Procedures for Processing Requests to Adopt New Items or Methods Under Sections 702 & 1402 of PA Mining Laws Description: Establishes internal procedures to be used by the Department of process request for variances submitted by mine operators. Effective Date: July 17, 1995 Page Length: 5 pages Location: Vol 9, Tab 7 Contact: Matt Bertovich at (412) 439-7304

DEP ID: 580-3000-005 Title: Clarification of Pertinence of Department Statutes Concerning Coal Processing Facilities Description: Clarifies Department's position as to which safety statutes are applicable to which coal processing facilities. Effective Date: July 17, 1995 Page Length: 1 page Location: Vol 9, Tab 4 Contact: Matt Bertovich at (412) 439-7304

Draft Technical Guidance—New Guidance

DEP ID: 391-2000-030 Title: Quality Assurance Work Plan for Unassessed Waters Surveys Description: Standardizes the Department's procedures for conducting studies determining the need for phosphorus controls on streams. Effective Date: June 10, 1997 Page Length: 16 pages Location: TBA Contact: Richard Shertzer at (717) 783-4423

Draft Technical Guidance—Substantive Revision

DEP ID: 383-3301-409 Title: Pennsylvania Drinking Water Information System (PADWIS) Violation and Enforcement User's Manual Description: Procedures to direct and support management of computerized public water system violation and enforcement date under the Safe Drinking Water Program. Effective Date: December

15, 1997 Page Length: 102 pages Location: Vol 23, Tab 04 Contact: Barry Greenawald at (717) 772-4018

Notice of Intent to Rescind

DEP ID: 563-2504-401 Title: Bonding/Repermitting (Special Considerations) Description: Specifically to address repermitting issues at the onset of primacy. No longer required. Anticipate Effective Date: October 15, 1997 Contact: Evan Shuster at (717) 787-7846

JAMES M. SEIF,
Chairperson

[Pa.B. Doc. No. 97-1744. Filed for public inspection October 31, 1997, 9:00 a.m.]

Proposed Revision to the State Implementation Plan; Ozone Attainment Plan; Pittsburgh-Beaver Valley Ozone Nonattainment Area; Public Hearing

The Department of Environmental Protection proposes to submit to the Environmental Protection Agency an attainment plan for ozone for the Pittsburgh-Beaver Valley Ozone Nonattainment Area as an amendment to the Pennsylvania State Implementation Plan (SIP). This area includes Allegheny, Armstrong, Butler, Beaver, Fayette, Washington and Westmoreland Counties.

Since air pollution coming into Pennsylvania substantially interferes with the Commonwealth's ability to attain the health-based air quality standard for ozone, Pennsylvania has filed a petition under section 126 of the Federal Clean Air Act (act) requesting that EPA impose emission limitations on large upwind sources of NO_x emissions. In addition, the Federal Environmental Protection Agency has determined that transport of ozone from mid-west and southern states significantly contributes to nonattainment of the ozone National ambient air quality standards (NAAQS), or interferes with maintenance of the NAAQS, in Pennsylvania and has proposed emission reductions under section 110 of the act to address this transport issue. Final action by EPA is essential to reduce the amount of air pollution entering Pennsylvania.

In addition to proposing reductions in interstate transport, Pennsylvania has adopted local emissions reduction measures. These local emission reduction measures include: (a) nitrogen oxides control on large fossil-fuel fired combustion sources, (b) controls on gasoline pumps to reduce gasoline vapors (Stage II), (c) clean gasoline requirement; and (d) the low enhanced vehicle emission test and repair program with a gas cap pressure test, additional anti-tampering provisions and increased emphasis on repair technician training.

The Department will hold one public hearing to receive comments on the proposed SIP amendment. The public hearing will be held at 1 p.m. on December 2, 1997 at the Department of Environmental Protection's office at 400 Waterfront Drive, Pittsburgh, PA.

Persons wishing to present testimony at the hearing should contact Vicki Walters at (717) 787-9495 or at P. O. Box 8468, Harrisburg, PA 17105 to reserve a time to present testimony. Persons who do not reserve a time to testify will be able to testify after pre-registered witnesses. Each witness must keep oral testimony to 10 minutes. Please submit three written copies of the oral testimony at the hearing. Each organization should designate one witness to present testimony on its behalf.

Persons interested in submitting written comments should send the comments to J. Wick Havens, Chief,

Division of Air Resource Management, P. O. Box 8468, Harrisburg, PA 17105-8468. Written comments must be received by the close of business December 5, 1997. Copies of the proposed revision may be obtained from Mr. Havens at the above address or by telephone at (717) 787-4310 (e-mail: Havens.Wick@A1.dep.state.pa.us). This proposal is also available on the DEP Web site at <http://www.dep.state.pa.us> (choose Public Participation Center/Proposals Open for Comment). The proposal is also available for inspection at the DEP office at 400 Waterfront Drive, Pittsburgh, Pennsylvania (contact Joseph Pezze at (412) 442-4161).

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 Mr. Havens at the above address or telephone number; or for TDD users, the AT&T Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 97-1745. Filed for public inspection October 31, 1997, 9:00 a.m.]

DEPARTMENT OF HEALTH

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, November 7, 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 Chronic 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 the Chronic Renal Disease Program at (717) 787-9772. TDD: (717) 783-6514/ Network TDD: 8-443-6514.

DANIEL F. HOFFMANN,
Secretary

[Pa.B. Doc. No. 97-1747. Filed for public inspection October 31, 1997, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Increases in Allowances for a Community Spouse and Dependent Living with the Spouse when the Other Spouse is Institutionalized and is Eligible for Medical Assistance

The Department of Public Welfare (Department) announces an increase in the community maintenance need allowances for the family of an individual who is aged, blind or disabled, is eligible for Medical Assistance and is institutionalized. The allowances affected are the monthly

standard community spouse maintenance need allowance, the excess monthly shelter standard for the community spouse and the standard monthly family member maintenance allowance for a dependent living with the community spouse.

The Spousal Impoverishment Provisions of the Medicare Catastrophic Coverage Act of 1988 (Section 303(a) of P. L. 100-360) (42 U.S.C.A. § 1396r-5) require the Department to make changes to the allowances on July 1st of each year based on the Federal Poverty Income Guidelines (FPIGs) issued by the Federal Department of Health and Human Services. The current FPIGs were published at 62 FR 10856 on March 10, 1997.

The State requirements are at 55 Pa. Code § 181.452, Posteligibility Determination of Income Available from an MA Eligible Person Toward the Cost of Care. The requirements provide that revisions be published as a notice in the *Pennsylvania Bulletin* and made available upon request at the county assistance offices.

The increases, effective July 1, 1997, are as follows:

Excess Monthly Shelter Standard	\$ 398
Community Spouse Maintenance Allowance	\$1,327
Dependent Living with Community Spouse Allowance	\$1,327

FEATHER O. HOUSTOUN,
Secretary

[Pa.B. Doc. No. 97-1748. Filed for public inspection October 31, 1997, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Holiday Cash For Life Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-1—3761-15), and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Holiday Cash For Life.

2. *Price:* The price of a Pennsylvania Holiday Cash For Life instant lottery game ticket is \$5.00.

3. *Play Symbols:* Each Pennsylvania Holiday Cash For Life instant lottery game ticket will contain one play area featuring a "Lucky #'s" area and a "Your Numbers" area. The play symbols and their captions located in the "Lucky #'s" area and "Your Numbers" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EGT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SNTN), 18 (EGTN), 19 (NINTN) and 20 (TWTY).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the play area are: \$5⁰⁰ (FIVE DOL), \$10⁰⁰ (TEN DOL), \$20\$ (TWENTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$500 (FIV HUN), \$20,000 (TWY THO) and LIFE (\$5,000/MONTH).

5. *Prizes:* The prizes that can be won in this game are \$5, \$10, \$20, \$50, \$100, \$500, \$20,000 and \$5,000 a month for life (\$1.2 million lifetime minimum). The player can win up to ten times on a ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 4,080,000 tickets will be printed for the Pennsylvania Holiday Cash For Life instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets where any one of the "Your Numbers" play symbols matches either of the "Lucky #'s" play symbols and a prize play symbol of LIFE (\$5,000/MONTH) appears under the "Your Numbers" play symbol that matches the "Lucky #'s" play symbol, on a single ticket, shall be entitled to a prize of \$5,000 a month for life (\$1.2 million lifetime minimum) which will be paid by an initial cash payment of \$60,000 plus equal annual payments of \$60,000 over the lifetime of the winner and continuing under the provisions of 61 Pa. Code § 811.16 (relating to prizes payable after death of prize winner) until the \$1.2 million minimum has been paid. If the winner of the Pennsylvania Holiday Cash For Life is younger than 18 years of age, the winner will not begin to receive the prize until the winner reaches 18 years of age. Only one claimant per ticket allowed.

(b) Holders of tickets where any one of the "Your Numbers" play symbols matches either of the "Lucky #'s" play symbols and a prize play symbol of \$20,000 (TWY THO) appears under the "Your Numbers" play symbol that matches the "Lucky #'s" play symbol, on a single ticket, shall be entitled to a prize of \$20,000.

(c) Holders of tickets where any one of the "Your Numbers" play symbols matches either of the "Lucky #'s" play symbols and a prize play symbol of \$500 (FIV HUN) appears under the "Your Numbers" play symbol that matches the "Lucky #'s" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(d) Holders of tickets where any one of the "Your

Numbers" play symbols matches either of the "Lucky #'s" play symbols and a prize play symbol of \$100 (ONE HUN) appears under the "Your Numbers" play symbol that matches the "Lucky #'s" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(e) Holders of tickets where any one of the "Your Numbers" play symbols matches either of the "Lucky #'s" play symbols and a prize play symbol of \$50\$ (FIFTY) appears under the "Your Numbers" play symbol that matches the "Lucky #'s" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(f) Holders of tickets where any one of the "Your Numbers" play symbols matches either of the "Lucky #'s" play symbols and a prize play symbol of \$20\$ (TWENTY) appears under the "Your Numbers" play symbol that matches the "Lucky #'s" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(g) Holders of tickets where any one of the "Your Numbers" play symbols matches either of the "Lucky #'s" play symbols and a prize play symbol of \$10⁰⁰. (TEN DOL) appears under the "Your Numbers" play symbol that matches the "Lucky #'s" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(h) Holders of tickets where any one of the "Your Numbers" play symbols matches either of the "Lucky #'s" play symbols and a prize play symbol of \$5⁰⁰ (FIVE DOL) appears under the "Your Numbers" play symbol that matches the "Lucky #'s" play symbol, on a single ticket, shall be entitled to a prize of \$5.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

Match Any Of Your Numbers To Either Of The Lucky Numbers, Win Prize Shown. If Prize Won Is "Life" Win \$5,000/Month For Life.
Win With Prize(s) Of:

<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 4,080,000 Tickets</i>
\$5	1:3.75	1,088,000
\$5 x 2	1:37.50	108,800
\$10	1:150	27,200
\$5 x 2 + \$10	1:200	20,400
\$5 x 4	1:200	20,400
\$10 x 2	1:300	13,600
\$20	1:300	13,600
\$5 x 10	1:1,500	2,720
\$10 + \$5 x 8	1:3,000	1,360
\$10 x 5	1:4,000	1,020
\$50	1:4,000	1,020
\$10 x 10	1:2,000	2,040
\$20 x 3 + \$10 x 4	1:6,000	680
\$20 x 5	1:12,000	340
\$50 x 2	1:12,000	340
\$100	1:12,000	340
\$50 x 10	1:30,000	136
\$100 x 2 + \$50 x 6	1:30,000	136
\$100 x 4 + \$50 x 2	1:40,000	102
\$100 x 5	1:40,000	102
\$500	1:120,000	34
\$20,000	1:453,333	9
LIFE	1:1,020,000	4

9. *Claiming of Prizes:* For purposes of claiming the \$5,000 a month for life prize under this game, "lifetime" for legal entities shall be defined as 20 years beginning the date the prize is claimed. Only one claimant per ticket is allowed for the \$5,000 a month for life prize.

10. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Holiday Cash For Life instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

11. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Holiday Cash For Life, prize money on winning Pennsylvania Holiday Cash For Life instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Holiday Cash For Life instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

12. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-1—3761-15), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

13. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Holiday Cash For Life or through normal communications methods.

ROBERT A. JUDGE, SR.,
Secretary

[Pa.B. Doc. No. 97-1749. Filed for public inspection October 31, 1997, 9:00 a.m.]

Pennsylvania Home For The Holidays Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-1—3761-15), and the provisions of 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Home For The Holidays.

2. *Price:* The price of a Pennsylvania Home For The Holidays instant lottery game ticket is \$1.00.

3. *Play Symbols:* Each Pennsylvania Home For The Holidays instant lottery game ticket will contain one "Play Area." The play symbols and their captions located in the "Play Area" are: \$1⁰⁰ (ONE DOL), \$2⁰⁰ (TWO DOL), \$5⁰⁰ (FIVE DOL), \$10⁰⁰ (TEN DOL), \$20\$ (TWENTY), \$40\$ (FORTY), \$100 (ONE HUN) and \$500 (FIVE HUN).

4. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$5, \$10, \$20, \$40, \$100 and \$500.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 8,160,000 tickets will be printed for the Pennsylvania Home For The Holidays instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets with three matching play symbols of \$500 (FIVE HUN) in the "Play Area" on a single ticket, shall be entitled to a prize of \$500.

(b) Holders of tickets with three matching play symbols of \$100 (ONE HUN) in the "Play Area" on a single ticket, shall be entitled to a prize of \$100.

(c) Holders of tickets with three matching play symbols of \$40\$ (FORTY) in the "Play Area" on a single ticket, shall be entitled to a prize of \$40.

(d) Holders of tickets with three matching play symbols of \$20\$ (TWENTY) in the "Play Area" on a single ticket, shall be entitled to a prize of \$20.

(e) Holders of tickets with three matching play symbols of \$10⁰⁰ (TEN DOL) in the "Play Area" on a single ticket, shall be entitled to a prize of \$10.

(f) Holders of tickets with three matching play symbols of \$5⁰⁰ (FIVE DOL) in the "Play Area" on a single ticket, shall be entitled to a prize of \$5.

(g) Holders of tickets with three matching play symbols of \$2⁰⁰ (TWO DOL) in the "Play Area" on a single ticket, shall be entitled to a prize of \$2.

(h) Holders of tickets with three matching play symbols of \$1⁰⁰ (ONE DOL) in the "Play Area" on a single ticket, shall be entitled to a prize of \$1.

(i) A prize will be paid only for the highest Pennsylvania Home For The Holidays instant lottery game prize won on the ticket if the ticket meets the criteria established in 61 Pa. Code § 819.213 (relating to ticket validation and requirements).

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

Get	Win	Approximate Odds	Approximate No. of Winners Per 8,160,000 Tickets
3-\$1	\$1	1:6.52	1,251,200
3-\$2	\$2	1:13.64	598,400
3-\$5	\$5	1:50	163,200
3-\$10	\$10	1:300	27,200
3-\$20	\$20	1:300	27,200
3-\$40	\$40	1:1,200	6,800
3-\$100	\$100	1:4,615	1,768
3-\$500	\$500	1:48,000	170

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Home For The Holidays instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

9. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Home For The Holidays, prize money on winning Pennsylvania Home For The Holidays instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Home For The Holidays instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P.S. §§ 3761-1—3761-15), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Home For The Holidays or through normal communications methods.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 97-1750. Filed for public inspection October 31, 1997, 9:00 a.m.]

Pennsylvania Stocking Stuffer '97 Instant Lottery Game

Under the State Lottery Law (72 P.S. §§ 3761-1—3761-15) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Stocking Stuffer '97.

2. *Price:* The price of a Pennsylvania Stocking Stuffer '97 instant lottery game ticket is \$2.00.

3. *Play Symbols:*

(a) Each Pennsylvania Stocking Stuffer '97 instant lottery game ticket will contain three play areas, designated as "Game 1," "Game 2" and "Game 3." Each game has a different game play method and is played separately.

(b) The play symbols and their captions located in the play area for "Game 1" are: Snowman Symbol (SNMAN), Bell Symbol (BELL), Holly Symbol (HOLLY), Horn Symbol (HORN), Candle Symbol (CANDLE), Mitt Symbol (MITT), Deer Symbol (DEER), Tree Symbol (TREE) and Stocking Symbol (STKG).

(c) The play area for "Game 2" will feature one "Lucky Number" area and four "Your Numbers" areas. The play symbols and their captions located in the "Lucky Number" area and "Your Numbers" areas for "Game 2" are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EGT) and 9 (NINE).

(d) The play symbols and their captions located in the play area for "Game 3" are: Snowman Symbol (SNMAN), Bell Symbol (BELL), Holly Symbol (HOLLY), Horn Symbol (HORN), Snowflake Symbol (SNFLK), Candle Symbol (CANDLE), Mitt Symbol (MITT), Deer Symbol (DEER), Tree Symbol (TREE) and Stocking Symbol (STKG).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the play area for "Game 2" are: \$1.⁰⁰ (ONE DOL), \$2.⁰⁰ (TWO DOL), \$4.⁰⁰ (FOUR DOL), \$5.⁰⁰ (FIVE DOL), \$10.⁰⁰ (TEN DOL), \$20\$ (TWENTY), \$50\$ (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN) and \$20,000 (TWY THO). The prize play symbols and their captions located in the play area for "Game 3" are: \$1.⁰⁰ (ONE DOL), \$2.⁰⁰ (TWO DOL), \$4.⁰⁰ (FOUR DOL), \$5.⁰⁰

(FIVE DOL), \$10.⁰⁰ (TEN DOL), \$100 (ONE HUN), \$200 (TWO HUN), \$1,000 (ONE THO) and \$20,000 (TWY THO).

5. *Prizes:* The prize that can be won in "Game 1" is \$5. The prizes that can be won in "Game 2" are \$1, \$2, \$4, \$5, \$10, \$20, \$50, \$100, \$200 and \$20,000. The prizes that can be won in "Game 3" are \$1, \$2, \$4, \$5, \$10, \$100, \$200, \$1,000 and \$20,000. The player can win up to six times on each ticket.

6. *Approximate Number of Tickets Printed For the Game:* Approximately 6,000,000 tickets will be printed for the Pennsylvania Stocking Stuffer '97 instant lottery game.

7. *Determination of Prize Winners:*

(a) Determination of prize winners for "Game 1" is: Holders of tickets with two matching play symbols in the play area for "Game 1," shall be entitled to a prize of \$5.

(b) Determination of prize winners for "Game 2" are:

(1) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$20,000 (TWY THO) appears under the "Your Numbers" play symbol that matches the "Lucky Number" play symbol, on a single ticket, shall be entitled to a prize of \$20,000.

(2) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$200 (TWO HUN) appears under the "Your Numbers" play symbol that matches the "Lucky Number" play symbol, on a single ticket, shall be entitled to a prize of \$200.

(3) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$100 (ONE HUN) appears under the "Your Numbers" play symbol that matches the "Lucky Number" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(4) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$50\$ (FIFTY) appears under the "Your Numbers" play symbol that matches the "Lucky Number" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(5) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$20\$ (TWENTY) appears under the "Your Numbers" play symbol that matches the "Lucky Number" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$10.⁰⁰ (TEN DOL) appears under the "Your Numbers" play symbol that matches the "Lucky Number" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(7) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$5.⁰⁰ (FIVE DOL) appears under the "Your Numbers" play symbol that matches the "Lucky Number" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(8) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$4.⁰⁰ (FOUR DOL) appears under the "Your Numbers" play symbol that

matches the "Lucky Number" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(9) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$2.⁰⁰ (TWO DOL) appears under the "Your Numbers" play symbol that matches the "Lucky Number" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(10) Holders of tickets where any one of the "Your Numbers" play symbols matches the "Lucky Number" play symbol and a prize play symbol of \$1.⁰⁰ (ONE DOL) appears under the "Your Numbers" play symbol that matches the "Lucky Number" play symbol, on a single ticket, shall be entitled to a prize of \$1.

(c) Determination of prize winners for "Game 3" are:

(1) Holders of tickets with three matching Snowflake Symbol (SNFLK) play symbols in the same row, column or diagonal, and a prize play symbol of \$20,000 (TWY THO) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$20,000.

(2) Holders of tickets with three matching Snowflake Symbol (SNFLK) play symbols in the same row, column or diagonal, and a prize play symbol of \$1,000 (ONE THO) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$1,000.

(3) Holders of tickets with three matching Snowflake Symbol (SNFLK) play symbols in the same row, column or diagonal, and a prize play symbol of \$200 (TWO HUN) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$200.

(4) Holders of tickets with three matching Snowflake Symbol (SNFLK) play symbols in the same row, column

or diagonal, and a prize play symbol of \$100 (ONE HUN) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$100.

(5) Holders of tickets with three matching Snowflake Symbol (SNFLK) play symbols in the same row, column or diagonal, and a prize play symbol of \$10.⁰⁰ (TEN DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$10.

(6) Holders of tickets with three matching Snowflake Symbol (SNFLK) play symbols in the same row, column or diagonal, and a prize play symbol of \$5.⁰⁰ (FIVE DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$5.

(7) Holders of tickets with three matching Snowflake Symbol (SNFLK) play symbols in the same row, column or diagonal, and a prize play symbol of \$4.⁰⁰ (FOUR DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$4.

(8) Holders of tickets with three matching Snowflake Symbol (SNFLK) play symbols in the same row, column or diagonal, and a prize play symbol of \$2.⁰⁰ (TWO DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$2.

(9) Holders of tickets with three matching Snowflake Symbol (SNFLK) play symbols in the same row, column or diagonal, and a prize play symbol of \$1.⁰⁰ (ONE DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

<i>Game 1</i>	<i>Get Game 2</i>	<i>Game 3</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 6,000,000 Tickets</i>
	\$1 x 2		\$ 2	1:9.38	640,000
		\$2	\$ 2	1:13.6	4440,000
	\$2	\$2	\$ 4	1:68.18	88,000
	\$1 x 2	\$2	\$ 4	1:34.09	176,000
	\$2 + \$2		\$ 4	1:62.50	96,000
		\$4	\$ 4	1:75	80,000
\$5 (F)			\$ 5	1:75	80,000
\$5 (F)	\$1 x 4	\$1	\$ 10	1:187.50	32,000
	\$2 x 3	\$4	\$ 10	1:500	12,000
	\$1 + \$2 x 2	\$5	\$ 10	1:500	12,000
	\$4 + \$5	\$1	\$ 10	1:500	12,000
	\$10		\$ 10	1:500	12,000
\$5 (F)	\$2 x 2 + \$1 + \$10		\$ 20	1:250	24,000
\$5 (F)	\$10	\$5	\$ 20	1:1,500	4,000
	\$4 x 4	\$4	\$ 20	1:1,500	4,000

<i>Game 1</i>	<i>Get Game 2</i>	<i>Game 3</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 6,000,000 Tickets</i>
	\$4 x 2 + \$5 x 2	\$2	\$ 20	1:1,500	4,000
	\$20		\$ 20	1:1,500	4,000
\$5 (F)	\$20 x 2	\$5	\$ 50	1:6,000	1,000
\$5 (F)	\$10 x 3 + \$5	\$10	\$ 50	1:4,000	1,500
	\$20 x 2	\$10	\$ 50	1:6,000	1,000
	\$50		\$ 50	1:6,000	1,000
	\$100 x 2		\$ 200	1:12,000	500
	\$50 x 2	\$100	\$ 200	1:12,000	500
	\$50 x 4		\$ 200	1:6,000	1,000
		\$200	\$ 200	1:12,000	500
	\$200 x 4	\$200	\$ 1,000	1:60,000	100
		\$1,000	\$ 1,000	1:60,000	100
	\$20,000		\$20,000	1:1,000,000	6
		\$20,000	\$20,000	1:1,000,000	6

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Stocking Stuffer '97 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Stocking Stuffer '97, prize money on winning Pennsylvania Stocking Stuffer '97 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Stocking Stuffer '97 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prizemoney will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-1—3761-15), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Stocking Stuffer '97 or through normal communications methods.

ROBERT A. JUDGE, Sr.,
Secretary

[Pa.B. Doc. No. 97-1751. Filed for public inspection October 31, 1997, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Application for Lease of Right-Of-Way

District 11-0

The Department of Transportation, pursuant to the authority contained in Section 2002(c) of the Administrative Code (71 P. S. § 512(c)) and in 67 Paced 495.4, gives notice that an application to lease highway right-of-way has been submitted to the Department by The Port Authority of Allegheny County, of 2235 Beaver Avenue, Pittsburgh, Pennsylvania seeking to lease highway right-of-way located beneath the Neville Island Bridge (I-79), along Grand Avenue and Hubert Street, Township of Neville, County of Allegheny, PA containing 102,000 sq. ft. ±, for purposes of vehicle parking. Interested persons are invited to submit, within thirty (30) days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to Henry M. Nutbrown, P.E., District Engineer, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, Pennsylvania 15017.

Questions regarding this application or the proposed use may be directed to: Michael Sudar, District Property Manager, 45 Thoms Run Road, Bridgeville, PA 15017, (412) 429-4830.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 97-1752. Filed for public inspection October 31, 1997, 9:00 a.m.]

Application for Lease of Right-Of-Way**District 11-0**

The Department of Transportation, pursuant to the authority contained in Section 2002(c) of the Administrative Code (71 P. S. § 512(c)) and in 67 P.S. 495.4, gives notice that an application to lease highway right-of-way has been submitted to the Department by Protection Services, Inc, of 204 South Main Street, East Pittsburgh, Pennsylvania seeking to lease highway right-of-way located beneath the Braddock Avenue Spur on the westerly side of Main Steet, in the Borough of East Pittsburgh, Allegheny County containing 9,000 sq. ft. ± adjacent to SR 2083, Spur 001, for purpose of a storage area for equipment and material. Interested persons are invited to submit, within thirty (30) days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to Henry M. Nutbrown, P.E., District Engineer, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, Pennsylvania 15017.

Questions regarding this application or the proposed use may be directed to: Michael Sudar, District Property Manager, 45 Thoms Run Road, Bridgeville, PA 15017, (412) 429-4830.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 97-1753. Filed for public inspection October 31, 1997, 9:00 a.m.]

Application for Lease of Right-Of-Way**District 11-0**

The Department of Transportation, pursuant to the authority contained in Section 2002(c) of the Administrative Code (71 P. S. § 512(c)) and in 67 P.S. 495.4, gives notice that an application to lease highway right-of-way has been submitted to the Department by The Port Authority of Allegheny County, of 2235 Beaver Avenue, Pittsburgh, Pennsylvania seeking to lease highway right-of-way located along the westerly side of S.R. 0048 along Jacks Run Road, in the Borough of North Versailles, Allegheny County containing 15,080 sq. ft. ± adjacent to SR 0048, for purposes of vehicle parking. Interested persons are invited to submit, within thirty (30) days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions and/or objections regarding the approval of this application to Henry M. Nutbrown, P.E., District Engineer, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, Pennsylvania 15017.

Questions regarding this application or the proposed use may be directed to: Michael Sudar, District Property Manager, 45 Thoms Run Road, Bridgeville, PA 15017, (412) 429-4830.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 97-1754. Filed for public inspection October 31, 1997, 9:00 a.m.]

Finding**Lancaster County**

Pursuant to the provisions of 71 P. S. Section 2002(b), the Secretary of Transportation makes the following written finding:

The Department of Transportation plans to replace the existing Leaman Place Bridge, which carries SR 30 over AMTRAK rail lines in Paradise Township, Lancaster County. The project consists of the construction of a new bridge with the required minimum vertical clearance of 6.8 meters (22.5 feet) over AMTRAK, improved roadway profile, and roadway widening with the construction of five service roads to provide access to 27 properties in the project area. This project will require the acquisition of right-of-way from the Paradise Township Community Park and the Toll House Property, Esbenshade Property, E. Kreider Property, and the Reynolds Tavern. The Leaman Place Bridge, Toll House Property, Esbenshade Property, E. Kreider Property, and Reynolds Tavern have been determined to be eligible for listing on the National Register of Historic Places. The effect of this project on the Paradise Township Community Park, the Toll House Property, the Esbenshade Property, the E. Kreider Property, the Reynolds Tavern Property, and the Leaman Place Bridge will be mitigated by the following measures to minimize harm to the resources.

1. A bridge recordation package will be prepared to Pennsylvania State Recordation Standards as a permanent record of the Leaman Place Bridge.

2. A Phase III Archaeological Data Recovery will be completed during the construction of this project for the National Register eligible Good Archeological Site (36LA1154). The Department will produce a popularly written, illustrated booklet to summarize the results of the Phase III Archaeological Data Recovery and the significance of the Good Archaeological Site. The Department will distribute this booklet to local schools and libraries. Site 36LA1154 is National Register eligible for the information it contains.

3. The color and texture of the retaining walls to be constructed in front of the E. Kreider Property and the Esbenshade Property will be chosen by the property owners.

4. Restoration and landscaping of the disturbed areas at the Paradise Township Community Park, E. Kreider Property, Esbenshade Property, Reynolds Tavern Property, and the Toll House Property will be completed during construction of this project.

I have considered the environmental, economic, social, and other effects of the proposed project as enumerated in Section 2002 of the Administrative Code, and have concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize such effect.

No adverse environmental effect is likely to result from the replacement of this bridge.

BRADLEY L. MALLORY
Secretary

[Pa.B. Doc. No. 97-1755. Filed for public inspection October 31, 1997, 9:00 a.m.]

Retention of Engineering Firms

**Allegheny County
Project Reference No. 08430AG2132**

The Department of Transportation will retain an engineering firm to provide supplementary construction inspection staff of approximately seven (7) inspectors, under the Department's Inspector-in-Charge, for construction inspection and documentation services for S.R. 0279, Section A41, Allegheny County, Parkway West. This project involves the milling and resurfacing of the Parkway West and selected ramps from a point approximately 3000 feet west of interstate I-79 to the Fort Pitt Tunnel. Also included is the cleaning of existing drainage, and sign structure installation.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an Engineering Agreement based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the 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. Ability to package and present the Letter of Interest in accordance with the "General Requirements and Information" section.
- b. Review of inspectors' resumes with emphasis on construction inspection capabilities and specialized experience in the Maintenance and Protection of traffic, soils, concrete, asphalt paving, drainage and signing.
- c. Understanding of Department's requirements, policies, and specifications.
- d. Past Performance.
- e. Number of NICET certified inspectors in each payroll classification.
- f. Number of available inspectors in each payroll classification.
- g. 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 employees will be reviewed and approved by the Department.

It is anticipated that the supplementary construction inspection staff for this assignment will consist of the following number of inspectors who meet the requirements for the following inspection classifications:

<i>Classification</i>	<i>No. of Inspectors</i>
Transportation Construction Manager 1 (TCM-1) (NICET Highway Construction Level 4 or equivalent)	1 (1)
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	5 (4)
Technical Assistant (TA) (NICET Highway Construction Level 1 or equivalent)	1 (0)

The number(s) in parenthesis above indicate the number of inspectors in each Classification that must meet at least one of the following requirements:

- 1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the Level required for the Inspection Classification.
- 2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
- 3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
- 4. Hold a Bachelor of Science Degree in Civil Engineering or a Bachelor of Science Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.
- 5. Hold an Associate Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum reimbursement per hour of inspection for each Department Payroll Classification for calendar year of 1997:

<i>Payroll Classification</i>	<i>Maximum Straight Time Reimbursement Per Hour of Inspection</i>
(TCM-1)	\$43.61
(TCI)	\$33.44
(TA)	\$22.98

The maximum reimbursement per hour of inspection includes all costs for providing construction inspection services at the project site during the normal work week.

Maximum reimbursement per hour of inspection for subsequent calendar years, if applicable, will be established at the scope of work meeting.

The firm selected may be required to attend a pre-construction conference with the Department and the construction contractor for this project. Under the supervision and direction of the Department, the selected firm will be required to keep records and document the construction work; prepare current and final estimates for payment to the construction contractor; assist the Department in obtaining compliance with the labor standards, safety and accident prevention, and equal opportunity provisions of the contract item; one inspector certified in computer documentation and perform other duties as may be required.

The firm selected will be required to supply the following equipment at no direct cost to the Department:

- 1 Base Radio Station
- 7 Two-way Radios
- 1 Camera (Date Base)

Letters of interest for this project must include a letter, signed by the individuals you propose for the TCM-1 position, giving their approval to use their name in your letter of interest for this specific project.

The maximum number of resumes to be included in the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes</i>
TCM-1	2
TCI	6

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: Mr. Henry Nutbrown, P.E., District Engineer, District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017. Attn: Mr. Richard Curry, P.E.

Any technical questions concerning the requirements for this project should be directed to Mr. Terry McCue, District 11-0, at (412) 429-4926.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

**Washington and Greene Counties
Project Reference No. 08430AG2133**

The Department of Transportation will retain an engineering firm to provide supplementary construction inspection staff of approximately twenty-five (25) inspectors, under the Department's inspector-in-charge, for construction inspection and documentation services on the following eight (8) projects in Washington and Greene Counties, Engineering District 12-0.

1. S. R. 0136, Section 109 in Washington County. This project involves widening and resurfacing of Beau Street in East Washington Boro.
2. S. R. 1045, Section C00 in Washington County. This project involves the bridge replacement of the Enterprise Bridge over Chartiers Creek in South Strabane and Chartiers Townships.
3. S. R. 0070, Section 03R in Greene County. This project involves resurfacing and rehabilitation of interstate 79 in Whiteley Township.
4. S. R. 0079, Section 05R in Greene County. This project involves the resurfacing and rehabilitation of Interstate 79 in Franklin Township.
5. S. R. 0519, Section G01 in Washington County. This project involves the bridge replacement and roadway reconstruction over Little Chartiers Creek in North Strabane Township.
6. S. R. 0519, Section 05R in Washington County. This project involves the resurfacing of Traffic Route 519 from Traffic Route 19 to Interstate I-79.
7. S. R. 1006, Section K00 in Washington County. This project involves the bridge replacement of the Norman Bridge over Peters Creek in Finleyville.
8. S. R. 0019, Section 107 in Washington County. This project involves the widening and resurfacing of Murland Avenue from North Avenue to the Mall in Bullskin Township.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an Engineering Agreement based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the 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. Ability to package and present Letters of Interest in accordance with the "General Requirement and Information" section.
- b. Number of available inspectors in each payroll classification.
- c. Number of NICET certified inspectors in each payroll classification.

- d. Experience and availability of inspectors.
- e. Knowledge and familiarity of Department's specifications, requirements and policies.
- f. Past Performance.

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 Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	21 (13)
Technical Assistant (TA) (NICET Highway Construction Level 1 or equivalent)	4 (0)

The number(s) in parenthesis above indicate the number of inspectors in each Classification that must meet at least one of the following requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the Level required for the Inspection Classification.
2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
4. Hold a Bachelor of Science Degree in Civil Engineering or a Bachelor of Science Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.
5. Hold an Associate Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum reimbursement per hour of inspection for each Department Payroll Classification for calendar year of 1997:

<i>Payroll Classification</i>	<i>Maximum Straight Time Reimbursement Per Hour of Inspection</i>
(TCI)	\$33.44
(TA)	\$22.98

The maximum reimbursement per hour of inspection includes all costs for providing construction inspection services at the project site during the normal work week.

Maximum reimbursement per hour of inspection for subsequent calendar years, if applicable, will be established at the scope of work meeting.

The firm selected may be required to attend a pre-construction conference with the Department and the construction contractor for this project. Under the supervision and direction of the Department, the selected firm will be required to keep records and document the construction work; prepare current and final estimates for payment to the construction contractor; assist the Depart-

ment in obtaining compliance with the labor standards, safety and accident prevention, and equal opportunity provisions of the contract item; and perform other duties as may be required. Firms applying must have qualified personnel capable of climbing structures during painting, rehabilitation, or construction.

The firm selected will be required to supply the following equipment at no direct cost to the Department:

- 1 Nuclear Densometer Gauges/License
- 1 Vehicle for the Transportation of Nuclear Gauges

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen percent (15%) of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information Section after the advertised project(s).

The maximum number of resumes to be included in the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes</i>
TCI	26

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: Mr. Michael H. Dufalla, P.E., District Engineer, District 12-0, P. O. Box 459, North Gallatin Avenue, Extension, Uniontown, PA 15401.

Any technical questions concerning the requirements for this project should be directed to Mr. Anthony M. Dzurko, P.E., District 12-0, at (412) 439-7137.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

**Mercer County
Project Reference No. 08430AG2134**

The Department of Transportation will retain an engineering firm to provide supplementary construction inspection staff of approximately eleven (11) inspectors, under the Department's Inspector-in-Charge, for construction inspection and documentation services for S. R. 0080, Section A00, Mercer County, I-80 restoration between Exits 2 and 3A. This project involves rubblizing, concrete and bituminous paving, bridge construction, superstructure replacement, deck replacement, highway lighting, pavement weather sensor station, signing and pavement markings.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an Engineering Agreement based on the Department's evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the 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. Ability to package and present the Letter of Interest in accordance with the "General Requirements and Information" section.
- b. Previous construction inspection experience.
- c. NICET, or other, certifications/training.

- d. Understanding Department procedures and policies.
- e. Past Performance.
- f. Workload.
- g. Number of available inspectors in each classification.

The qualifications and experience required of the firm's inspectors will be established by the Department, and the qualifications of the firm's proposed employees will be reviewed and approved by the Department.

It is anticipated that the supplementary construction inspection staff for this assignment will consist of the following number of inspectors who meet the requirements for the following inspection classifications:

<i>Classification</i>	<i>No. of Inspectors</i>
Transportation Construction Manager 1 (TCM-1) (NICET Highway Construction Level 4 or equivalent)	1 (1)
Transportation Construction Insp. Super. (TCIS) (NICET Highway Construction Level 3 or equivalent)	3 (2)
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	6 (3)*
Technical Assistant (TA) (NICET Highway Construction Level 1 or equivalent)	1 (0)

*At least one TCI to be a nuclear gage operator.

The number(s) in parenthesis above indicate the number of inspectors in each Classification that must meet at least one of the following requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the Level required for the Inspection Classification.
2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
4. Hold a Bachelor of Science Degree in Civil Engineering or a Bachelor of Science Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.
5. Hold an Associate Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum reimbursement per hour of inspection for each Department Payroll Classification for calendar year of 1997:

<i>Payroll Classification</i>	<i>Maximum Straight Time Reimbursement Per Hour of Inspection</i>
(TCM-1)	\$43.61
(TCIS)	\$38.21
(TCI)	\$33.44
(TA)	\$22.98

The maximum reimbursement per hour of inspection includes all costs for providing construction inspection services at the project site during the normal work week.

Maximum reimbursement per hour of inspection for subsequent calendar years, if applicable, will be established at the scope of work meeting.

The firm selected may be required to attend a pre-construction conference with the Department and the construction contractor for this project. Under the supervision and direction of the Department, the selected firm will be required to keep records and document the construction work; prepare current and final estimates for payment to the construction contractor; assist the Department in obtaining compliance with the labor standards, safety and accident prevention, and equal opportunity provisions of the contract item; and perform other duties as may be required. Firms applying must have qualified personnel capable of climbing structures during painting, rehabilitation, or construction.

The firm selected will be required to supply the following equipment at no direct cost to the Department:

- 1 Nuclear Densometer Gauges/License
- 1 Vehicles for the Transportation of Nuclear Gauges
- 2 Cellular Phones
- 1 Survey equipment (Rod, Level, Tapes, etc.)

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen percent (15%) of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information Section after the advertised project(s).

Letters of interest for this project must include a letter, signed by the individuals you propose for all TCM-1 and TCIS positions, giving their approval to use their name in your letter of interest for this specific project.

The maximum number of resumes to be included in the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes</i>
TCM-1	2
TCIS	4
TCI	7

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: Mr. John Baker, P.E., District Engineer, District 1-0, 1140 Liberty Street, Franklin, PA 16323.

Any technical questions concerning the requirements for this project should be directed to Mr. David W. Ruhlman, P.E., District 1-0, at (814) 437-4311.

Any questions concerning the submittal of the letter of interest can be directed to the Consultant Agreement Division at (717) 783-9309.

**Crawford and Erie Counties
Project Reference No. 08430AG2135**

The Department of Transportation will retain an engineering firm to provide supplementary construction inspection staff of approximately eleven (11) inspectors, under the Department's Inspector-in-Charge, for construction inspection and documentation services for S. R. 0079, Section A04, Crawford and Erie Counties, Interstate Restoration. This project involves 8.5 miles of pavement restoration, bridge rehabilitation and replacement, including update guide rail and pavement markings.

The Department will establish an order of ranking of a minimum of three (3) firms for the purpose of negotiating an Engineering Agreement based on the Department's

evaluation of the acceptable letters of interest received in response to this solicitation. The ranking will be established directly from the 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. Ability to package and present the Letter of Interest in accordance with the "General Requirements and Information" section.
- b. Previous construction inspection experience.
- c. NICET, or other, certifications/training.
- d. Understanding Department procedures and policies.
- e. Past performance.
- f. Workload.
- g. Number of available inspectors in each classification.

The qualifications and experience required of the firm's inspectors will be established by the Department, and the qualifications of the firm's proposed employees will be reviewed and approved by the Department.

It is anticipated that the supplementary construction inspection staff for this assignment will consist of the following number of inspectors who meet the requirements for the following inspection classifications:

<i>Classification</i>	<i>No. of Inspectors</i>
Transportation Construction Manager 1 (TCM-1) (NICET Highway Construction Level 4 or equivalent)	1 (1)
Transportation Construction Insp. Super. (TCIS) (NICET Highway Construction Level 3 or equivalent)	3 (2)
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	6 (3)*
Technical Assistant (TA) (NICET Highway Construction Level 1 or equivalent)	1 (0)

*At least one TCI to be a nuclear gage operator.

The number(s) in parenthesis above indicate the number of inspectors in each Classification that must meet at least one of the following requirements:

- 1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the Level required for the Inspection Classification.
- 2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
- 3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.
- 4. Hold a Bachelor of Science Degree in Civil Engineering or a Bachelor of Science Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

5. Hold an Associate Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum reimbursement per hour of inspection for each Department Payroll Classification for calendar year of 1997:

<i>Payroll Classification</i>	<i>Maximum Straight Time Reimbursement Per Hour of Inspection</i>
(TCM-1)	\$43.61
(TCIS)	\$38.21
(TCI)	\$33.44
(TA)	\$22.98

The maximum reimbursement per hour of inspection includes all costs for providing construction inspection services at the project site during the normal work week.

Maximum reimbursement per hour of inspection for subsequent calendar years, if applicable, will be established at the scope of work meeting.

The firm selected may be required to attend a pre-construction conference with the Department and the construction contractor for this project. Under the supervision and direction of the Department, the selected firm will be required to keep records and document the construction work; prepare current and final estimates for payment to the construction contractor; assist the Department in obtaining compliance with the labor standards, safety and accident prevention, and equal opportunity provisions of the contract item; and perform other duties as may be required. Firms applying must have qualified personnel capable of climbing structures during painting, rehabilitation, or construction.

The firm selected will be required to supply the following equipment at no direct cost to the Department:

- 1 Nuclear Densometer Gauges/License
- 1 Vehicles for the Transportation of Nuclear Gauges
- 2 Cellular Phones
- 1 Survey equipment (Rod, Level, Tapes, etc.)

The goal for Disadvantaged Business Enterprise (DBE) participation in this Agreement shall be fifteen percent (15%) of the total contract price. Additional information concerning DBE participation in this Agreement is contained in the General Requirements and Information Section after the advertised project(s).

Letters of interest for this project must include a letter, signed by the individuals you propose for all TCM-1 and TCIS positions, giving their approval to use their name in your letter of interest for this specific project.

The maximum number of resumes to be included in the letter of interest shall be as follows:

<i>Classification</i>	<i>No. of Resumes</i>
TCM-1	2
TCIS	4
TCI	7

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: Mr. John Baker, P.E., District Engineer, District 1-0, 1140 Liberty Street, Franklin, PA 16323.

Any technical questions concerning the requirements for this project should be directed to Mr. David W. Ruhlman, P.E., District 1-0, at (814) 437-4311.

Any 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 information for each Project Reference Number for which the applicant wishes to be considered.

The first copy of the Letter of Interest and required information must be submitted to Charles W. Allwein, P.E., Chief, Consultant Selection Committee, 7th Floor, Forum Place, 555 Walnut Street, P. O. Box 3060, Harrisburg, Pennsylvania 17105-3060.

Note: The Zip Code for Express Mailing is 17101-1900.

The Letter of Interest and required information must be received within thirteen (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 information 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 corporate which is permitted under the state law to engage in the practice of engineering.

If a Joint Venture responds to a project advertisement, the Department of Transportation will not accept separate Letters of Interest from the Joint Venture constituents. A firm will not be permitted to submit on more than one (1) Joint Venture for the same Project Reference Number. Also a firm that responds to a project as a prime may not be included as a designated subcontractor to another firm that responds as a prime to the project. Multiple responses under any of the foregoing situations will cause the rejection of all responses of the firm or firms involved. The above does not preclude a firm from being set forth as a designated subcontractor to more than one (1) prime responding to the project advertisement.

If a goal for Disadvantaged Business Enterprise (DBE) participation is established for an advertised project, firms expressing interest in the project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Intermodal Surface Transportation Efficiency Act of 1991 and currently certified by the Department of Transportation shall have the maximum opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The Act requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of Disadvantaged Business Enterprise (DBE). The goal for DBE participation shall be as stated in the individual project advertisement. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they were defined prior to the act), WBEs or combinations thereof.

Proposing DBE firms must be certified at the time of submission of the Letter of Interest. If the selected firm

fails to meet the established DBE participation goal, it shall be required to demonstrate its good faith efforts to attain the goal.

Responses are encouraged by small firms, Disadvantaged Business Enterprise (DBE) firms, and other firms who have not previously performed work for the Department of Transportation.

Each Letter of Interest must include the following information and the information *must be* packaged and presented in the following order:

1. Transmittal Letter (Maximum of two (2) 8 1/2" x 11" typed pages, one side)

The subject heading of the transmittal letter must include the project reference number for which the applicant wishes to be considered, the firm's legal name, fictitious name (if applicable), and the firm's federal identification number. If the project advertisement indicated the Department will retain an engineering firm for the project, the applicant must indicate in the body of their transmittal letter the names and Professional Engineer License Number of individuals who are directing heads or employes of the firm who have responsible charge of the firm's engineering activities, and whose names and seals shall be stamped on all plans, specifications, plats, and reports issued by the firm.

2. Project Organization Chart (one 8 1/2" x 11" page, one side)

This Chart must show key staff from the prime and each subconsultant and their area of responsibility.

3. Standard Form 255, "Architect-Engineer and Related Services Questionnaire for Specific Project" (one Form 255 for the project team).

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. Under Item 4 of this form, Column A must include the number of subconsultant personnel and Column B must include the number of prime consultant personnel to be assigned to work on this project reference number. The prime and each subconsultant may include no more than one page each for Items 10 and 11.

If a Disadvantaged 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 DBE 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.

4. Standard Form 254, "Architect-Engineer for Related Services Questionnaire"

A Standard Form 254, not more than one (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, or a Company, unless an acceptable Standard Form 254 for the prime and each subconsultant/subcontractor is on file in both the Bureau of Design and the Engineering District Office or Central Office Bureau identified in the individual project advertisement.

If the Standard Form 254 is not submitted with the Letter of Interest, the transmittal letter shall indicate the dates that the Standard Forms 254 were submitted to the Bureau of Design and appropriate Engineering District/Central Office Bureau.

These Forms shall be assembled with the prime's form first, followed by the form for each subconsultant in the same order as the subconsultants appear in Item 6 of Form 255.

5. Workload Projection Graph (Not required for Construction Inspection Services)

Separate Workload Projection Graphs for the prime and each subconsultant shown in Item 6 of the Form 255 must be included and must indicate the firm's current and anticipated workload compared to the anticipated capacity available for the next two-year time frame. The Workload Projection Graphs must be submitted for the office(s) where the work would be performed and must only include the personnel classifications required for providing the advertised services and work.

6. Authorization Letters (if required)

If the advertisement requires a letter signed by individuals giving their approval to use their names in the Letter of Interest, the letters from proposed prime employes must be first, followed by subconsultant employes, in the same order as shown in Item 6 of Form 255.

7. Registration To Do Business

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. Overhead Rates (one page)

A single page summary must indicate the latest audited overhead rate developed in accordance with Federal Acquisition Regulations (FAR) for the prime consultant and each subconsultant. If a FAR rate is not available, the latest rate available from a Certified Public Account must be indicated. New firms should indicate how long the firm has been in existence and when an audited overhead rate would be available.

9. Additional Information

Additional information, not to exceed ten (10) one sided 8 1/2" x 11" pages or five (5) double sided 8 1/2" x 11" pages may be included at the discretion of the submitting firm.

The assignment of the agreement/contract for the above advertisement(s) will be made to one of the firms who submitted an acceptable Letter of Interest in response to the project advertisement. The assignment will be made based on the Department's evaluation of the firm's qualification and capabilities. The Department reserves the right to reject all letters submitted, to cancel the solicita-

tions requested under this Notice or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 97-1756. Filed for public inspection October 31, 1997, 9:00 a.m.]

ENVIRONMENTAL QUALITY BOARD

Acceptance of Rulemaking Petitions for Study

At the October 21, 1997, meeting of the Environmental Quality Board (EQB), the EQB accepted four rulemaking petitions for further study under 25 Pa. Code Chapter 23 (EQB Policy for Processing Petitions).

Two of the petitions request changes to stream designations. The first, submitted by West Penn Township in Schuylkill County, requests that Lizard Creek be redesignated from Trout Stocking to High Quality Waters. The second, from Fry's Run Residents' Group, asks that Frya Run (locally known as Fry's Run) in Northampton County be upgraded from High Quality—Cold Water Fishes to Exceptional Value—Cold Water Fishes.

The other two petitions were submitted by Advanced Environmental Recycling Corporation and request inclusion of fluorescent and mercury lamps and mercury devices as universal wastes under the Department of Environmental Protection's hazardous waste regulations in Chapter 266.

The Department is currently reviewing these petitions and will forward its report evaluating each one to the EQB. Any changes that are recommended to the existing regulations will be processed as proposed rulemakings with opportunity for public comment.

Copies of the petitions are available from the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, phone (717) 787-4526, e-mail to RegComments@a1.dep.state.pa.us.

JAMES M. SEIF,
Chairperson

[Pa.B. Doc. No. 97-1757. Filed for public inspection October 31, 1997, 9:00 a.m.]

FISH AND BOAT COMMISSION

Additional Restrictions on Fish and Boat Commission Property

The Executive Director of the Fish and Boat Commission (Commission), acting under the authority of 58 Pa. Code § 53.18 (relating to additional restrictions), has established the following additional restrictions for Commission property:

<i>County</i>	<i>Area</i>	<i>Additional Restrictions</i>
Columbia	Briar Creek Lake	The use or possession of beer and alcoholic beverages is prohibited.
York	Goldsboro Access (personal watercraft parking and launch area)	Closed to all use from 10 p.m. to 5 a.m.

PETER A. COLANGELO,
Executive Director

[Pa.B. Doc. No. 97-1758. Filed for public inspection October 31, 1997, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Notice of Filing of Final-Form Rulemakings

The Independent Regulatory Review Commission received, on the dates indicated, the following final-form regulations for review. The regulations will be considered within 30 days of their receipt at a public meeting of the Commission. To obtain the date and time of the meeting, interested parties may contact the office of the Commission at (717) 783-5417. To obtain a copy of the regulation, interested parties should contact the agency promulgating the regulation.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
#16A-481	State Board of Funeral Director Examination Requirements	10/8/97
11-143	Insurance Department Deductible Program	10/20/97
15-371	Department of Revenue Tax Amnesty Program; Further Examination of Books and Records	10/22/97

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 97-1759. Filed for public inspection October 31, 1997, 9:00 a.m.]

INSURANCE DEPARTMENT

Application for Approval to Acquire Additional Shares of Keystone State Life Insurance Company

MC Equities, Inc. has filed an application to acquire all of the issued and outstanding common stock of Keystone State Life Insurance Company, a Pennsylvania domiciled stock life insurance company. The filing was made under the requirements set forth under the Insurance Holding Companies Act (40 P.S. § 991.1402, et seq.). Persons wishing to comment on the acquisition are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue

of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, or by fax to (717) 787-8557.

M. DIANE KOKEN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1760. Filed for public inspection October 31, 1997, 9:00 a.m.]

Application for Approval to Redomesticate to the Commonwealth of Pennsylvania; MedAmerica Insurance Company

MedAmerica Insurance Company, a Maryland stock life insurance company, has submitted a Plan of Redomestication, whereby it proposes to redomesticate from the State of Maryland to the Commonwealth of Pennsylvania. The filing was made under the requirements set forth under the Business Corporation Law of 1988 (15 Pa.C.S. § 1 et seq.). Persons wishing to comment on the redomestication are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120 or by fax to (717) 787-8557.

M. DIANE KOKEN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1761. Filed for public inspection October 31, 1997, 9:00 a.m.]

Continental Insurance Company; Personal Automobile Rate/Rule Filing

On October 14, 1997 the Insurance Department (Department) received from Continental Insurance Company a filing for a rate level change for private passenger automobile insurance.

The company requests an overall 3.5% decrease amounting to \$3,294,021 annually, to be effective January 1, 1998.

Unless formal administrative action is taken prior to December 13, 1997 the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Department's offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

All interested parties are invited to submit written comments, suggestions or objections to Chuck Romberger,

Insurance Department, Bureau of Regulation of Rates and Policies, Room 1311, Strawberry Square, Harrisburg, PA 17120, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1762. Filed for public inspection October 31, 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 Gilliam, Larry; file no. 97-265-35647; TICO Insurance Company; doc. no. PH97-10-019; November 19, 1997, at 3 p.m.;

Appeal of Halliday, Douglas and Elizabeth; file no. 97-303-72089; American Fire and Casualty; doc. no. PI97-10-016; November 25, 1997, at 11 a.m.;

Appeal of McLaughlin, Darlene; file no. 97-223-35231; Allstate Insurance Co.; doc. no. PH97-10-017; November 25, 1997, at 1 p.m.;

Appeal of Mathew, Perumpoikayil; file no. 97-223-35148; State Farm Insurance Company; doc. no. PH97-10-018; Decemner 4, 1997, at 1 p.m.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The representative of the company must bring relevant claims files, documents, photographs, drawings, witnesses and the like necessary to substantiate the case. The insured must bring any evidence which the insured may want to offer at the hearing. The hearing will be held in accordance with the requirements of sections 9 and 10 of the act (40 P. S. §§ 1008.9 and 1008.10) and 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

After the hearing, the Insurance Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The order of the Commissioner is subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Acting Insurance Commissioner

[Pa.B. Doc. No. 97-1763. Filed for public inspection October 31, 1997, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Petitions of ALLTEL Pennsylvania, Inc. and Bentleyville Telephone Company as Rural and Small Incumbent Local Exchange Carriers for Commission Action under Section 251(f)(2) and 253(b) of the Telecommunications Act of 1996; Doc. No. P-00971177

On July 10, 1997, the Pennsylvania Public Utility Commission (Commission) entered a Final Opinion and Order that denied, without prejudice, the Petition of ALLTEL Pennsylvania, Inc. and Bentleyville Telephone Company for relief under Section 251(f)(2) of the Telecommunications Act of 1996 (TA-96). The Petition requested that the Commission provide relief under Section 251(f)(2) of the Telecommunications Act of 1996 (TA-96).

On August 11, 1997, ALLTEL and Bentleyville filed another Petition seeking similar relief. The Commission has determined that publication and comment on these Petitions is appropriate.

Consequently, interested parties must submit comments on the ALLTEL and Bentleyville Petitions within 7 days of publication in the *Pennsylvania Bulletin*. Reply Comments must be submitted within 14 days of publication in the *Pennsylvania Bulletin*.

Copies of the Petition may be obtained from Lisa Higley at (717) 787-1013 in the Office of the Prothonotary at the Commission's offices in Harrisburg. The contact person at the Commission is Joseph K. Witmer, Assistant Counsel, Law Bureau, (717) 787-3663.

JAMES J. MCNULTY,
Acting Secretary

[Pa.B. Doc. No. 97-1764. Filed for public inspection October 31, 1997, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

Property, Excluding Household Goods in Use

The following applications for the authority to transport property, excluding household goods in use, between points in Pennsylvania, have been filed with the Pennsylvania Public Utility Commission. Public comment to these applications may be filed, in writing with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265 on or before November 17, 1997.

- A-00114335 Thomas J. Heffron, t/d/b/a Thomas J. Heffron Trucking
948 Dimmick Street, Dickson City, PA 18519: Gene Goldenziel, Penn Avenue, Scranton, PA 18508
- A-00114336 Pan Construction Company, Inc.
P. O. Box 219, Tatamy, PA 18085: Nancy T. Schneiderman, 60 West Broad Street, Suite 300, Bethlehem, PA 18086
- A-00114345 George Tomei, t/d/b/a Tomei's Towing Service
1369 Island Avenue, McKees Rocks, PA 15136: David M. O'Boyle, 1450 Two Chatham Center, Pittsburgh, PA 15219

- A-00114347 Three I Truck Line, Inc.
P. O. Box 1068, Bettendorf, IA 52722:
Jeff J. Goedken, 2720 First Avenue, N.E.,
P. O. Box 1943, Cedar Rapids, IA 52406-1943
- A-00114348 David Kreinbrook
4623 Garvers Ferry Road, New Kensington, PA 15068: William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383
- A-00114350 Corporate Express Delivery Leasing—Mid Atlantic, Inc.
11 Greenway Plaza, Suite 250, Houston, TX 77046: William P. Parker, 2212 N. W. 50th Suite 163, Oklahoma City, OK 73112
- A-00114351 Corporate Express Delivery Systems—Mid Atlantic, Inc.
11 Greenway Plaza, Suite 250, Houston, TX 77046: William P. Parker, 2212 N. W. 50th Suite 163, Oklahoma City, OK 73112
- A-00114352 Timothy S. Wilson, Sr., t/d/b/a R & T Trucking
57 East Main Street, Apt. #1, Thompsonstown, PA 17094: Daniel F. Clark, R.R. 4, Mifflintown, PA 17059
- A-00114341 Gayle L. Slocum, t/d/b/a Gayle Slocum, Trucking
R.R. 1, Bush Road, Box 25, Pleasant Mount, PA 18453
- A-00114342 George W. Hildebrandt, t/d/h/a G H Trucking
83 Good Spring Road, Asbury, NJ 08802: Jeffrey Curzi, Route 31, Clinton, NJ 08802
- A-00114343 Donald A. Imler
R. D. 1, Box 308, Bradford, PA 15522
- A-00114344 Daniel J. Saam, t/d/b/a Daniel J. Saam Trucking
R. R. 1, Box 229, Pleasant Mount, PA 18453
- A-00114353 Environmental Coordination Services and Recycling, Inc., t/d/b/a ECS&R
3237 US Highway 19, Conchranon, PA 16314
- A-00114354 George F. Martin, Jr.
255 Highland Avenue, Glen Riddle, PA 19037
- A-00114355 Michael Newak and James Verboy, Copartners, t/d/b/a Northeastern Towing & Recovery
332 Main Street, Forest City, PA 18421
- A-00114356 OSC Equipment, Inc.
P. O. Box 1487, Blue Bell, PA 19422-1487: Warren Vogel, 486 Norristown Road, Suite 230, Blue Bell, PA 19422
- A-00114357 G. William Mead, t/d/b/a G W M Enterprises
R. D. 1, Box 164C, Route 706 East, Montrose, PA 18801
- A-00114358 Robert A. Baughman, t/d/b/a R. A. Baughman Trucking
R. D. 1, Box 74-C, James Creek, PA 16657
- A-00114359 CRST, Inc.
P. O. Box 68, Cedar Rapids, IA 52406:
Jeff J. Goedken, P. O. Box 1943, Cedar Rapids, IA 52406-1943

- A-00114360 A-Advantage Truck and Trailer Service of Pittsburgh, Inc.
815 Butler Street, Pittsburgh, PA 15223:
Kenneth R. Miller, 200 Porter Building,
Pittsburgh, PA 15119
- A-00114361 Keystone Bulk Logistics, Inc.
424 2nd Avenue, Duncansville, PA 16693:
Richard R. Wilson, 1126 Eighth Avenue,
Suite 403, Altoona, PA 16602
- A-00113425, Russell Alvey
F. 2 15 Pine Creek Lane, York, Pa 17404:
David H. Radcliff, 3905 North Front
Street, Harrisburg, PA 17110

JAMES J. MCNULTY,
Acting Secretary

[Pa.B. Doc. No. 97-1765. Filed for public inspection October 31, 1997, 9:00 a.m.]

Solicitation of Public Comment on Commission Order Tentatively Adopting the Final Report and Recommendation of the Universal Service Task Force

Doc. No. I-00940035: In Re: Formal Investigation to Examine and Establish Updated Principles and Policies for Telecommunications Services in the Commonwealth: Final Report and Recommendation of the Universal Service Task Force.

On October 15, 1997, the Pennsylvania Public Utility Commission (Commission), entered an Opinion and Order adopting the Joint Motion of Vice-Chairperson Robert K. Bloom and Commissioner David W. Rolka (Order). The Order, by unanimous vote, tentatively adopted the Final Report and Recommendation of the Universal Telephone Service Task Force that had been filed with the Commission on September 29, 1997 (Report).

The Order also concluded that public comment on the Commission's action was necessary and appropriate. Consequently, the Commission is soliciting public comment on its Order and the substantive content of the Report.

Interested parties are hereby given 21 days from the publication of this notice in the *Pennsylvania Bulletin* to submit an original and 15 copies of any comments on the Report and the Order to the Commission. In addition, the results of the recent on-line seminar, coordinated by the Information Renaissance, should be filed with the Commission within the same time period established for the filing of public comments on the Report.

The contact person at the Commission is Joseph K. Witmer, Assistant Counsel, Law Bureau, (717) 787-3663. Comments should be filed at Doc. No. I-00940035. Copies of the Report, the Joint Motion and the Commission's Order tentatively approving the Report are available from Lisa Higley in the Office of the Prothonotary at (717) 787-1013.

JAMES J. MCNULTY,
Acting Secretary

[Pa.B. Doc. No. 97-1766. Filed for public inspection October 31, 1997, 9:00 a.m.]

Solicitation of Public Comment on Petition of Bell Atlantic-Pennsylvania, Inc. (Bell) and Additional Notice of Pending FCC Deadline for Universal Service Purposes

Doc. No. I-00940035: In Re: Formal Investigation to Examine and Establish Updated Principles and Policies for Telecommunications Services in the Commonwealth.

Doc. No. R-00974153: Bell Petition for Designation as an Eligible Telecommunications Carrier for Universal Service Purposes Under Section 214(e) of the Telecommunications Act of 1996 and Sections 54.201—54.207 of the Rules of the Federal Communications Commission.

Supplemental Notice to those Pennsylvania entities contemplating submission of a Petition for Designation as an Eligible Telecommunications Carrier for Universal Service Purposes Under Section 214(e) of the Telecommunications Act of 1996 and Sections 54.201—54.207 of the Rules of the Federal Communications Commission.

In September 1997, Bell Atlantic—Pennsylvania, Inc. (Bell) submitted a Petition (Petition) with the Pennsylvania Public Utility Commission (Commission). Bell seeks, inter alia, designation as an Eligible Telecommunications Carrier (ETC) under section 214(e) of the Federal Telecommunications Act of 1996 (TA-96) and sections 54.201—54.207 of the Rules of the Federal Communications Commission (FCC). The FCC's Notice DA-97-1747, dated August 14, 1997, requires the Commission to designate ETC carriers before January 1, 1998 in order to assure the uninterrupted receipt of Federal monies for universal service purposes to any current recipient.

After a careful review of Bell's request, the Commission has determined that the solicitation of public comment is appropriate. Consequently, the Commission is providing this public notice with an abbreviated deadline for comments and reply comments. The deadline for comments shall be 14 days following publication in the *Pennsylvania Bulletin*. The deadline for the filing of reply comments shall be 21 days following publication in the *Pennsylvania Bulletin*. The abbreviated deadline has been set to facilitate action before the year's end.

Persons or entities submitting comments must file an original and 15 copies of any comment or reply comment with the Office of the Prothonotary in Doc. No. R-00971453. One additional copy must also be submitted for filing in Doc. No. I-0094003.

In addition, the Commission is concerned that several of Pennsylvania's Incumbent Local Exchange Carriers (ILECs) and Competitive Local Exchange Carriers (CLECs) have not submitted a petition for ETC designation as of the publication of this notice. Those entities interested in ETC designation for universal service purposes are hereby notified and reminded that a petition for ETC designation must be submitted, with sufficient time for public notice and Commission review, for action by the Commission before the year's end. Those Pennsylvania ILECs and CLECs interested in ETC designation are further reminded that, as set forth in FCC Notice DA-97-1747 dated August 14, 1997, only eligible telecommunications carriers designated by state commissions under the criteria set forth in section 214(e) will be eligible to receive high cost, low income and most rural health care universal service support after January 1, 1998.

The Commission hereby reminds and encourages those Pennsylvania ILECs and CLECs interested in ETC design-

nation to submit any petition not later than Friday, November 7, 1997. This is necessary so that the Commission can provide the public notice and review necessary before the year's end consistent with FCC Notice DA-97-1747 of August 14, 1997.

The contact person at the Commission is Joseph K. Witmer, Assistant Counsel, Law Bureau at (717) 787-3663. A copy of the Petition may be obtained from Lisa Higley at the Office of the Prothonotary at (717) 787-1013.

JAMES J. MCNULTY,
Acting Secretary

[Pa.B. Doc. No. 97-1767. Filed for public inspection October 31, 1997, 9:00 a.m.]

Water Service Without Hearing

A-210540 F003 and A-210540 F0004. Columbia Water Company. Application of the Columbia Water Company for approval of 1) the Acquisition by Columbia Water Company of substantially all of the water distribution system assets of the Borough of Mountville and the Mountville Borough Authority; 2) the Commencement by the Columbia Water Company of water service to the public in the Borough of Mountville, Lancaster County, Pennsylvania, and 3) the inclusion in the rate base of the Columbia Water Company amounts representing the original cost of the acquired system and an acquisition adjustment for same.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, Harrisburg, with a copy served on the applicant on or before November 17, 1997, under 52 Pa. Code (relating to public utilities).

Applicant: Columbia Water Company

By and Through Counsel: James H. Cawley, Esquire, Jan P. Paden, Esquire, Rhoads and Sinon, LLP, One South Market Square, P. O. Box 1146, Harrisburg, PA 17108-1146.

JAMES J. MCNULTY,
Acting Secretary

[Pa.B. Doc. No. 97-1768. Filed for public inspection October 31, 1997, 9:00 a.m.]

Water Service Without Hearing

A-210069F5000 and S-230061F5000. Lakeside Water Systems, Inc. and Edwin, Inc. Application for approval to 1) Transfer the stock of Lakeside Water Systems, Inc., from Louis DeNaples, Peter Sabia and Joseph Gentile to Gerald G. Gawron, Jerome E. Gawron, Marcella A. Gawron and Mark G. Gawron, and 2) Transfer the Stock of Edwin, Inc., from Louis DeNaples, Peter Savia and Joseph Gentile to Gerald G. Gawron, Jerome E. Gawron, Marcella A. Gawron and Mark G. Gawron.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, Harrisburg,

with a copy served on the applicant on or before November 14, 1997, under 52 Pa. Code (relating to public utilities).

Applicant: Lakeside Water Systems, Inc. and Edwin, Inc.

By and Through Council: Janet L. Miller, Counsel, Malatesta, Hawke and McKeon, 100 North Tenth Street, P. O. Box 1778, Harrisburg, PA 17105.

JAMES J. MCNULTY,
Acting Secretary

[Pa.B. Doc. No. 97-1769. Filed for public inspection October 31, 1997, 9:00 a.m.]

Water Service Without Hearing

A-212370 F0033; A-212370 F0034; A-212370 F0035. Philadelphia Suburban Water Company. Application of Philadelphia Suburban Water Company and its three water subsidiaries, namely Spring Run Water Company, Inc., Friendship Water Company, and Bradford Glen Water Company, for approval of the transfer by merger of all of the property and rights of the Water Company Subsidiaries to Philadelphia Suburban Water Company.

A-212370 F0036; A-212370 F0037; A-212370 F0038. Philadelphia Suburban Water Company. Application of Philadelphia Suburban Water Company for approval to begin to offer, render, furnish or supply water service to the public in additional territory in Chester County, PA, which is the same territory that is certified to three subsidiaries of Philadelphia Suburban Water Company; namely, Spring Run Water Company, Friendship Water Company, and Bradford Glen Water Company.

A-211010 F2000; A-210218 F2000; A212845 F2001. Spring Run Water Company, Inc., Friendship Water Company and Bradford Glen Water Company, Inc. Application of Spring Run Water Company, Inc., Friendship Water Company, and Bradford Glen Water Company, Inc., for approval of the total abandonment of water service in their certificated service territory in Chester County, Pennsylvania, in favor of the service to be provided by their parent company, Philadelphia Suburban Water Company.

These Applications may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, Harrisburg, with a copy served on the Applicants on or before November 17, 1997, under 52 Pa. Code (relating to public utilities).

Applicant: Philadelphia Suburban Water Company

By and Through Counsel: Mark J. Kropilak, Esquire, Vice President and General Counsel, 762 Lancaster Avenue, Bryn Mawr, PA 19010

Applicant: Spring Run Water Company, Friendship Water Company, Bradford Glen Water Company

By and Through Counsel: Michael W. Hassell, Esquire, Morgan, Lewis & Bockius, LLP, One Commerce Square, 417 Walnut Street, Harrisburg, PA 17101-1904

JAMES J. MCNULTY,
Acting Secretary

[Pa.B. Doc. No. 97-1770. Filed for public inspection October 31, 1997, 9:00 a.m.]

TURNPIKE COMMISSION

Request for Bids

The Turnpike Commission is requesting sealed bids for Re-Core Radiators, 1-Year Contract, December 1, 1997 through October 31, 1998. Open Date: November 13, 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. 97-1771. Filed for public inspection October 31, 1997, 9:00 a.m.]

Request for Bids

The Turnpike Commission is requesting sealed bids for Roof Renovation, Blue Mtn. Service Plaza, Cumberland County. Mandatory Site Inspection: November 10, 1997, at 11 a.m. at Blue Mtn. Service Plaza, Milepost 202.5 Westbound. Open Date: November 24, 1997, at 11 a.m.

Bids will be received by the Purchasing Manager not later than the time indicated. Bid proposal Forms and Conditions may be obtained, free of charge, by communicating with the Bid Clerk, Purchasing Dept., (717) 939-9551, Ext. 2830.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 97-1772. Filed for public inspection October 31, 1997, 9:00 a.m.]

Request for Proposals

Sealed Proposals will be received by Jeffrey L. Hess, Purchasing Manager, at the Administration Building, Harrisburg-East Interchange near Highspire, PA (Mailing Address: P. O. Box 67676, Harrisburg, PA 17106-7676) and publicly opened and read at the date and time indicated for the following contract:

Contract No. 86-021-RT58—New Stanton Service Plaza. Rehabilitation, bituminous parking resurfacing and expansion and reconstruction of acceleration and deceleration lanes at Milepost 77.6 Westbound

Bid Opening Date—December 4, 1997, 11 a.m.

Bid Surety—5%

Plans, Specifications and Contract documents will be available and open for public inspection at the Administration Building. Copies may be purchased upon payment of \$60. Do not add sales tax) by check or P. O. Money Order (no cash) to the Turnpike Commission, Attention: Secretary-Treasurer's Office, P. O. Box 67676, Harrisburg, PA, 17106-7676. No refund for plans, specifications and contract documents will be made for any reason.

A Prequalification Certification and Maximum Capacity Rating assigned by the Prequalification Committee of the Department of Transportation is a necessary prerequisite for bidding on this project.

Contact the Purchasing Manager for listing of other locations where plans and specs can be inspected.

JAMES F. MALONE, III,
Chairperson

[Pa.B. Doc. No. 97-1773. Filed for public inspection October 31, 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

GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania State Treasury
 Room G13 Finance Building
 Harrisburg, PA 17120
 717-787-2990
 1-800-252-4700

BARBARA HAFER,
State Treasurer

Online Subscriptions At <http://www.statecontracts.com> 1-800-334-1429 x340

Commodities

1272157 Communication equipment—1 each Flexisign-Pro Vision 5.7V6 for Windows 95; 1 each Roland Cammjet CJ-70 Piezo printer/cutter.

Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

8234500 Computer related equipment—100 each Magstripe card reader w/connector Ref. P/N 506214-001, Model 30-AMMS as manufactured by American Magnetics. Part must be compatible with the Department of Transportation's Automated Fuel System.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

8970380 Construction, mining, excavating and highway maintenance equipment—2 each latest model roller, articulated, double drum, walk behind.

Department: Transportation
Location: Harrisburg, Dauphin County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1392117 Food preparation and serving equipment—1 each dough mixer, horizontal Model No. 600L-2D2 by Magna Mixer or an approved equal.

Department: Corrections
Location: State Correctional Institution, Pittsburgh, Allegheny County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1351217 Medical, dental and vet equipment and supplies—10 each medicine cart—Lionville Series 400 or approved equal dimension/construction, overall dimensions not to exceed 37 1/4" W x 23 1/2" D x 41" H.

Department: Public Welfare
Location: Allentown State Hospital, Allentown, Lehigh County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1320227 Motor vehicles, trailers and cycles—1 each 1998 model heavy duty 4X4 pickup truck; 1 each 1998 model 1/2 ton 4X4 pickup truck; 1998 model heavy duty 4X4 pickup truck.

Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1324227 Motor vehicles, trailers and cycles—1 each 1998 model compact enclosed type 4X4 vehicle Class IV Type 1 with approved options 7 and 8; 1 each 1998 model compact enclosed type 4X4 vehicle, Class IV Type 1 with options 2 and 8.

Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1355157 Motor vehicles, trailers and cycles—1 each latest model cab and chassis with 16' van body and liftgate.

Department: General Services
Location: Harrisburg, Dauphin County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1394077 Paper and printing—250M H105-1 Certification of Birth, a one part continuous fan-fold form utilizing special safety paper, safety inks, safety numbering and high resolution printing.

Department: Health
Location: Harrisburg, Dauphin County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1386117 Steam plant and drying equipment—1 each convection oven/steamer combination, Vulcan-Hart Model No. VC20FEP or an approved equal, electric heated, 20 level, full size.

Department: Corrections
Location: State Correctional Institution Laurel Highlands, Somerset, Somerset County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1402117 Textiles—15,000 yards ticking, ACA Flamex ticking, striped 43" wide, 100% cotton, 7 ounce Type II, Class II in accordance with Federal Spec. DDD-D436E.

Department: Correctional Industries
Location: Dallas, Luzerne County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

1413117 Textiles—6,000 yards quilted lining as per PA Spec L-38 Eff. 8 December 1995—width 60", color Maroon (Pantone Color No. 18-11415 TP).

Department: Correctional Industries
Location: Graterford, Montgomery County, PA
Duration: FY 97/98
Contact: Vendor Services: Fax request to (717) 783-6241 or call (717) 787-2199

SERVICES

Construction—09

081001 027049—Mifflin County, SR 322(B02); 053158—Lehigh County, SR 863(01B); 011158—Crawford County, SR 79(SEW); 091079—Bedford County, SR 61(073); 102141—Butler County, SR 108(202).

Department: Transportation
Location: Districts 1-0, 2-0, 5-0, 9-0, 10-0
Duration: FY 1997-98
Contact: V. C. Shah, (717) 787-5914

AE-5116 Construction of a wooden material storage structure on an existing concrete foundation. FAX (717) 783-7971.

Department: Transportation
Location: Stockpile No. 9, Swatara Township, Dauphin County, PA
Duration: 90 calendar days—proposed bid November 1997
Contact: Tina Chubb, (717) 787-7001

AE-5173 Construction of a wooden material storage structure on existing concrete foundation. FAX (717) 783-7971.

Department: Transportation
Location: Stockpile No. 5, Intersection of U. S. Route 30 and Umbletown Road (T-497), Gap, Lancaster County, PA
Duration: 90 calendar days—proposed bid November 1997
Contact: Tina Chubb, (717) 787-7001

DGS A 207-10 Project title: Reroofing and Air Conditioning Replacement. Brief description: Remove existing built-up roof and insulation and replace with new fully-adhered thermoplastic membrane on tapered insulation. Existing roof-top air conditioning units to be replaced with new ones and miscellaneous ductwork upgrades. General, HVAC and electrical construction. Plans deposit: \$57 per set. Payable to: Brawer & Hauptman Architects. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Brawer & Hauptman, Architects, 20 North Third Street, Philadelphia, PA 19106, (215) 829-0084. Bid date: Wednesday, December 3, 1997 at 1 p.m. Prebid conference Wednesday, November 12, 1997 at 10 a.m. at Troop K Building in the Conference Room. Contact person: Les Brightbill, (717) 783-5484. All contractors who have secured contract documents are invited and urged to attend this prebid conference.

Department: General Services
Location: Troop K, Philadelphia Headquarters, PA State Police, Philadelphia, Philadelphia County, PA
Duration: 90 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS A 251-439 Project title: Roof Replacement. Brief description: Replace approximately 20,380 square feet of existing roofing material with EPDM (fully adhered) membrane, clean and repair all roof drains. Plans deposit: \$25. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Bid date: Wednesday, December 3, 1997 at 11 a.m., (717) 787-3923.

Department: General Services
Location: Pennsylvania Department of Transportation, Maintenance Facility, Mercer, Mercer County, PA
Duration: 120 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

DGS A 251-456 Project title: Roof Replacement. Brief description: Remove existing roofing and insulation. Install new single ply membrane roofing and insulation. Remove and replace up to five per cent (5%) of metal decking as required. Renovate existing ladder and add new ladder at area designated on drawing. General construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, December 3, 1997 at 2 p.m.

Department: General Services
Location: PennDOT Maintenance Building, York, York County, PA
Duration: 120 calendar days from March 16, 1998
Contact: Contract Bidding Unit, (717) 787-6556

DGS A 251-478 Project title: New Vehicle Doors. Brief description: The installation of two 14 foot X 14 foot steel overhead vehicle doors with demolition of two sections of masonry walls. General construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, December 3, 1997 at 2 p.m.

Department: General Services
Location: PennDOT Central Garage, Harrisburg, Dauphin County, PA
Duration: 90 calendar days from March 16, 1998
Contact: Contract Bidding Unit, (717) 787-6556

DGS A 304-3 Project title: Roof Repair—Auditorium and Classrooms. Brief description: Remove existing built-up roofing system, perimeter/wall flashings which contain asbestos and gravel stop system. Install new insulation and single-ply thermoplastic roofing system and new gravel stop system. General construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, December 3, 1997 at 2 p.m.

Department: General Services
Location: Elizabethtown Training Academy, Elizabethtown, Lancaster County, PA
Duration: 100 calendar days from March 16, 1998
Contact: Contract Bidding Unit, (717) 787-6556

DGS A 572-27 Project title: Removal/Installation of Fuel Storage Tank. Brief description: Remove two fuel underground storage tanks and provide one new 3,000 gallon gasoline aboveground storage tank with dispenser and one new 3,000 gallon No. 2 diesel fuel oil underground storage tank including leak detection monitoring and all related accessories. Electrical and underground storage tank construction. Plans deposit: \$25 per set. Payable to: The Commonwealth of Pennsylvania. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: The Department of General Services, Room 107, Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, (717) 787-3923. Bid date: Wednesday, December 3, 1997 at 2 p.m.

Department: General Services
Location: State Correctional Institution, Huntingdon, Huntingdon County, PA
Duration: 120 calendar days from March 16, 1998
Contact: Contract Bidding Unit, (717) 787-6556

DGS 948-41DE1 Project title: Demolition and Debris Removal. Brief description: Providing and installing rock anchors and demolition, removal and disposal of debris. Demolition and disposal. Plans deposit: \$100 per set. Payable to: CRSS Constructors, Inc. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Reliance Reprographics, Inc., P. O. Box 89, Earlington, PA 18918. Attn: Matthew F. Swartz, (215) 723-4500. Bid date: Wednesday, December 10, 1997 at 2 p.m. A mandatory prebid conference has been scheduled for Thursday, November 13, 1997 at 1:30 p.m. in Transportation and Safety Building, Room G-113, Harrisburg, PA. Building walk-through will immediately follow the prebid conference. Contact: Bob Mental or Joan Killian, (717) 233-7505. All contractors who have secured contract documents are invited and urged to attend this prebid conference.

Department: General Services
Location: Transportation and Safety Building, Harrisburg, Dauphin County, PA
Duration: Implode the Tower Area on August 2, 1998; total contract completion on or before October 16, 1998
Contact: Contract Bidding Unit, (717) 787-6556

DGS 961-7 Project title: Installation of Steam Boiler. Brief description: Work includes the installation of gas engine driven chiller, gas fired boilers, power wiring for mechanical equipment, removal of existing absorption chiller and other modifications in accordance with drawings and specifications. Heating, ventilating and air conditioning construction. Plans deposit: \$50 per set. Payable to: Consolidated Engineers & Consultants, Inc. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Consolidated Engineers & Consultants, Inc., 4 East Lancaster Avenue, Paoli, PA 19301, (610) 647-2377. Bid date: Wednesday, November 19, 1997 at 1 p.m. A prebid has been scheduled for subject project on Wednesday, November 5, 1997 at 9 a.m. at Spring City Armory in the Lunch Room on the 2nd Floor, Spring City, Chester, PA. Contact: Fred Dott, (610) 647-2377. All contractors who have secured contract documents are invited and urged to attend.

Department: General Services
Location: Spring City Armory, Spring City, Chester County, PA
Duration: 200 calendar days from March 16, 1998
Contact: Contract Bidding Unit, (717) 787-6556

DGS 1572-8 Project title: Sewage Treatment Plant Improvements. Brief description: Sewage treatment plant improvements using package units. General construction. Plans deposit: \$42 per set. Payable to: Kurtanich Engineers & Associates, Inc. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail requests to: Kurtanich Engineers & Associates, Inc., 6124 East State Street, P. O. Box 1267, Hermitage, PA 16148-4570, (412) 981-4570. Bid date: Wednesday, December 3, 1997 at 11 a.m. A prebid conference has been scheduled for Thursday, November 13, 1997 at 10 a.m. at Mercer State Correctional Facility, Mercer, PA. Contact: Guy Harper, (412) 662-1837. All contractors who have secured contract documents are invited and urged to attend this prebid conference.

Department: General Services
Location: State Correctional Institution, Mercer, Mercer County, PA
Duration: 210 calendar days from date of initial job conference
Contact: Contract Bidding Unit, (717) 787-6556

FDC-003-277 Constructing wall partitions and an upper storage area; and installation of electrical system throughout the building. All work is located near Blain in Western Perry County at a Forest District Maintenance Building.

Department: Conservation and Natural Resources
Location: Toboyne Township, Perry County, PA
Duration: 45 days
Contact: Construction Management Section, (717) 787-5055

T-311 The Board of Lawrence County Commissioners hereby invites sealed written bids for the McCartney Hollow Road Bridge (T-311) replacement project in Perry Township. Bids must be submitted on forms furnished by the County. Bid forms, plans and details are available at the office of Frank B. Taylor Engineering, R. D. 1, Box 93, New Castle, PA 16101, (412) 654-6141.

Department: Lawrence County
Location: Lawrence County Government Center, 430 Court Street, New Castle, PA 16101
Duration: 132 calendar days
Contact: William A. Humphrey, (412) 654-6141

Engineering Services—14

08430AG2132 To provide construction inspection services on S. R. 0279, Section A41, Parkway West in Allegheny County.

Department: Transportation
Location: Engineering District 11-0
Duration: Six (6) months
Contact: Consultant Agreement Division, (717) 783-9309

08430AG2133 To provide supplementary construction inspection staff of approximately 25 inspectors, under the Department's Inspector-In-Charge, for construction inspection and documentation services on eight projects in Washington and Greene Counties, Engineering District 12-0.

Department: Transportation
Location: Engineering District 12-0
Duration: Twelve (12) months
Contact: Consultant Agreement Division, (717) 783-9309

08430AG2134 To provide construction inspection for S. R. 0080—A00, I-80 Restoration, Mercer County.

Department: Transportation
Location: Engineering District 1-0
Duration: Sixteen (16) months
Contact: Consultant Agreement Division, (717) 783-9309

08430AG2135 To provide construction inspection for S. R. 0079—A04, I-79 Restoration, Crawford and Erie Counties.

Department: Transportation
Location: Engineering District 1-0
Duration: Sixteen (16) months
Contact: Consultant Agreement Division, (717) 783-9309

PD-155 Slippery Rock University—Request for Interest: PD-155. Slippery Rock University is interested in engaging a professional to provide architectural and engineering services for the design of a Physical Therapy Classroom Building on campus. The project consists of providing all the necessary services to design a 35,000 square foot building to contain offices, classrooms and laboratories. The construction allocation for the project is \$5.4 million. Interested professionals can obtain the Request for Interest guidelines by contacting J. F. Revesz, Contracts Manager at (412) 738-2026. Proposals from professionals are due on Tuesday, November 25, 1997 at 2 p.m. in the Business Services Office, Old Main. The University encourages responses from small firms, minority firms, women-owned firms and firms which have not previously worked for the System, and will consider joint ventures which will enable these firms to participate in University professional service contracts. Nondiscrimination and Equal Opportunity are policies of the Commonwealth and the State System of Higher Education.

Department: State System of Higher Education
Location: Slippery Rock University of PA, Slippery Rock, Butler County, PA 16057
Duration: 9 months
Contact: J. F. Revesz, Contracts Manager, (412) 738-2255

Food—19

6976 Meat and meat products.

Department: Military and Veterans Affairs
Location: Hollidaysburg Veterans Home, Route 220 at Meadows Intersection, Hollidaysburg, PA 16648
Duration: January 1998
Contact: Becky Clapper, (814) 696-5210

6985 Bread, rolls, and related products (fresh).

Department: Military and Veterans Affairs
Location: Hollidaysburg Veterans Home, Route 220 at Meadows Intersection, Hollidaysburg, PA 16648
Duration: January, February and March, 1998
Contact: Becky Clapper, (814) 696-5210

HVAC—22

Service Purchase Contract No. 332115 Plumbing repair/maintenance at Tyler State Park. Sealed bids will be received in Tyler State Park Office, 101 Swamp Road, Newtown, PA 18940, until 2 p.m. prevailing time on November 28, 1997, and then publicly opened and read. Documents containing all pertinent information must be obtained from the Tyler State Park Office. This contract will expire December 31, 2002.

Department: Conservation and Natural Resources
Location: Tyler State Park, 101 Swamp Road, Newtown, Bucks County, PA 18940-1151
Duration: December 31, 2002
Contact: Park Office, (215) 968-2021

Janitorial Services—23

FM-35 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, semi-annual housecleaning at the discretion of the Station Commander or his designated representative. Detailed work schedule and bid must be obtained from Facility Management Division, (717) 783-5484.

Department: State Police
Location: Facility Management Division, Williamsport Liquor Control Enforcement, 150 Choate Circle, Montoursville, PA 17754
Duration: January 01, 1998 to June 30, 2000
Contact: Deshawn Lewis or Joan Berkoski, (717) 783-5484

JC-36-97 Janitorial services: to be provided on a daily basis, Monday through Friday, except State holidays, after 5 p.m.

Department: Labor and Industry
Location: Pittsburgh East Job Center, 6206 Broad Street, Pittsburgh, Allegheny County, PA 15206-4987
Duration: December 1, 1997 through September 30, 1998
Contact: Donna A. Sallie, Procurement Manager, (717) 787-2560

Medical Services—29

9707 Medical testing for employes in asbestos abatement work.

Department: Public Welfare
Location: Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, PA 18411
Duration: January 01, 1998—June 30, 2000
Contact: Stanley Rygelski, (717) 587-7291

OT-007 The Hiram G. Andrews Center is soliciting bids for occupational therapy services to be performed at the facility. The successful contractor must be able to provide registered occupational therapists and certified occupational therapy assistants qualified to provide rehabilitative occupational therapy services. This is not a contract of employment.

Department: Labor and Industry
Location: Hiram G. Andrews Center, 727 Goucher Street, Johnstown, Cambria County, PA 15905
Duration: July 1, 1998—June 30, 2001 with renewal option not to exceed two 1-year periods
Contact: R. D. Robinson, Purchasing Agent II, (814) 255-8210

RFP 96-07-21 To provide education to primary care physicians regarding genetic counseling services, education to Family Planning Councils regarding genetic risk and genetic counseling services, and a pilot in one of the four family planning clinics to provide genetic education and counseling to patients identified at-risk for a genetic condition.

Department: Health
Location: Statewide by regions
Duration: 2 years
Contact: Jana G. Burdge, (717) 783-8143

RFP 97-07-02 To coordinate comprehensive medical management and psychosocial care to adults with sickle cell disease.

Department: Health
Location: Statewide by region (3)
Duration: 3 years
Contact: Maryann McCarthy, (717) 783-8143

Moving Services—30

2000001-3500 Contractor to provide for the relocation of all warehouse materials, equipment, furniture and racking system from the existing warehouse located at Lot 19, Grayson Road, Harrisburg, to new warehouse located at Parcel 12G-1 (Friendship Industrial Park), Bobali Drive, Swatara Township, Harrisburg, PA. Contractor shall install the existing racking system in the new warehouse. Interested bidders are required to attend the prebid walk-through scheduled for November 17, 1997, at 1:30 p.m. at the PennDOT warehouse, 7253 Grayson Road, Harrisburg, PA 17111.

Department: Transportation
Location: Parcel 12G-1, Bobali Drive, Swatara Township, Harrisburg, PA
Duration: 60 days
Contact: Dennis Kissinger, (717) 783-8782

Property Maintenance—33

Project No. 902 Lawn maintenance.

Department: Military and Veterans Affairs
Location: PAANG, Harrisburg International Airport, Middletown, Dauphin County, PA
Duration: January 1, 1998—September 30, 2000
Contact: Emma Schroff, (717) 861-8518

Project No. 903 Inspect all hangar doors and perform annual maintenance and on-call maintenance.

Department: Military and Veterans Affairs
Location: PA Air National Guard, Willow Grove, PA
Duration: January 1, 1998—September 30, 2000
Contact: Emma Schroff, (717) 861-8518

FM-36 Furnish all equipment, materials and labor for removal of snow, salting and cindering from driveway and parking areas at the Wilkes Barre Liquor Control Enforcement, 1095 Hanover Street, Wilkes Barre, PA 18706. Detailed work schedule and bid must be obtained from Facility Management Division, (717) 783-5484.

Department: State Police
Location: Facility Management Division, Wilkes Barre Liquor Control Enforcement, 1095 Hanover Street, Wilkes Barre, PA 18706
Duration: January 01, 1998 to June 30, 1999
Contact: Deshawn Lewis or Joan Berkoski, (717) 783-5484

FM-37 Furnish all equipment, materials and labor for removal of snow, salting and cindering from driveway and parking areas at the Wyoming Crime Laboratory, 479 Wyoming Avenue, Wyoming, PA 18644. Detailed work schedule and bid must be obtained from Facility Management Division, (717) 783-5484.

Department: State Police
Location: Facility Management Division, Wyoming Crime Laboratory, 479 Wyoming Avenue, Wyoming, PA 18644
Duration: January 01, 1998 to June 30, 1999
Contact: Deshawn Lewis or Joan Berkoski, (717) 783-5484

6500-057 Roof repairs. Supply all labor, materials necessary to repair flashing and EPDM membrane on flat roofs of housing units, administration building and commissary building of the institution.

Department: Corrections
Location: State Correctional Institution at Retreat, R. D. 3, Box 500, Hunlock Creek, PA 18621
Duration: November 1, 1997 through March 31, 1998
Contact: Barbara Swiatek, Purchasing Agent, (717) 735-8754

Real Estate Services—35

22A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Environmental Protection with 5,939 useable square feet of new or existing office space, in New Castle, Lawrence County, PA, with minimum parking for 32 vehicles, within the following boundaries: North: South of Route 208; South: North of Route 422; East: West of Route 208; West: East of Route 18. Preference may be given to industrial redevelopment sites and/or sites which have been the subject of action to remediate an environmental problem. Proposals due: December 8, 1997. Solicitation No.: 92568.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17105
Duration: Indeterminate 1997-98
Contact: Doris Deckman or Cynthia T. Lentz, (717) 787-4394

24A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Public Welfare with 27,799 useable square feet of new or existing office space, in Philadelphia, Philadelphia County, PA, with minimum parking for 50 vehicles, within the following boundaries: North: Buttonwood Street to Delaware River; South: Delaware River; East: Delaware River; West: Schuylkill River to Passunk Avenue to Ritner Street, 20th Street from Ritner Street to Moore Street, Broad Street from Moore to Buttonwood Street. Proposals due: March 9, 1998. Solicitation No.: 92559.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17105
Duration: Indeterminate 1997-98
Contact: Doris Deckman or Cynthia T. Lentz, (717) 787-4394

25A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the PA Board of Probation and Parole with 7,212 useable square feet of new or existing office space, within the Corporate City Limits of Allentown, Lehigh County, PA. Minimum parking for 21 vehicles is required. Proposals due: December 8, 1997. Solicitation No.: 92569.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17105
Duration: Indeterminate 1997-98
Contact: Doris Deckman or Edward P. Meyer, (717) 787-4394

26A Lease Office Space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Department of Public Welfare with 9,349 useable square feet of new or existing office space, in Lock Haven, Clinton County, PA with minimum parking for 20 vehicles, within a 4 mile radius of the City Hall in Lock Haven. In areas where street or public parking is not available, an additional 41 parking spaces are required. Proposals due: March 30, 1998. Solicitation No.: 92556.

Department: General Services
Location: Real Estate, 505 North Office Building, Harrisburg, PA 17105
Duration: Indeterminate 1997-98
Contact: Doris Deckman or Cynthia T. Lentz, (717) 787-4394

Sanitation—36

SP336912 Removal of solid wastes from Leonard Harrison and Colton Point State Parks, Tioga County. Bids will be opened at State Park Regional Office I, R. R. 4, Box 212, Emporium, PA 15834 on November 12, 1997, at 2 p.m. Bid documents may be obtained from Leonard Harrison State Park or State Park Regional Office I.

Department: Conservation and Natural Resources
Location: Leonard Harrison/Colton Point State Parks, R. R. 6, Box 199, Wellsboro, PA 16901
Duration: January 1, 1998—December 31, 2000
Contact: Steve Farrell, Park Manager, (717) 724-3061

Miscellaneous—39

DCNR Site preparation and installation for five strand high tensile electric fencing around the Red Oak Trail Site in the Kooser Division of the Forbes State Forest. The site is located in Jefferson Township, Somerset County and is approximately 6,500 lineal feet perimeter. Prebid inspection will be on November 12, 1997.

Department: Conservation and Natural Resources
Location: Forbes Forest District No. 4, P. O. Box 519, Laughlontown, PA 15655-0519
Duration: Beginning April 6, 1998 through June 30, 1998
Contact: Chris Jones or Ron Langford, (412) 238-9533

ED-008 The Hiram G. Andrews Center is soliciting bids for remedial vocational education and deaf interpreting services. The normal operation hours are Sunday 4 p.m. to 9 p.m.; Monday through Thursday 8 a.m. to 9 p.m.; and Friday 8 a.m. to 4:30 p.m.; other hours as needed. This will not be a contract of employment.

Department: Labor and Industry
Location: Hiram G. Andrews Center, 727 Goucher Street, Johnstown, Cambria County, PA 15905
Duration: July 1, 1998 to June 30, 2001 with renewal option not to exceed two 1-year periods
Contact: R. D. Robinson, Purchasing Agent II, (814) 255-8210

FDC-302-392 Fabricate and install approximately 540 L. F. of galvanized handrail at Blue Knob State Park.

Department: Conservation and Natural Resources
Location: State Parks Region No. 3, Blue Knob State Park, R. R. 1, Box 449, Imler, PA 16655-9407
Duration: Completion time—60 days after Notice to Proceed
Contact: Gene Strick, (814) 733-9123

RFP 98-09 (Campus Wide ID Card and Banking Services). Kutztown University is seeking qualified vendors able to submit proposals for the following items. The first proposal would be for a video imaging ID card production system that will support point-of-sale, privilege verification and activity access services. The second proposal will be for a banking partner to provide debit card services to tie in with Kutztown University's ID card system. Interested professionals should obtain a Request for Proposal package from Barbara Reitz, Director of Purchasing, Kutztown University, Kutztown, PA 19530, (610) 683-4132, FAX (610) 683-4674, e-mail: reitz@kutztown.edu. Requests must be submitted in writing. A preproposal meeting is scheduled for Thursday, November 14 at 2 p.m. in Room 314, Administration Building. Proposal submissions are due on December 1, 1997 by 2 p.m. Late submissions will not be accepted.

Department: State System of Higher Education
Location: Kutztown University, Kutztown, PA 19530
Duration: Indeterminate 1997-98
Contact: Barbara Reitz, (610) 683-4132

[Pa.B. Doc. No. 97-1774. Filed for public inspection October 31, 1997, 9:00 a.m.]

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract #	Awarded On	To	In the Amount Of	Requisition or Contract #	Awarded On	To	In the Amount Of
1170157-01	10/16/97	Saw Sales and Machinery Co.	17,159.00	9130-03	10/27/97	Glassmere Fuel Service, Inc.	207,573.42
8970530-01	10/16/97	Marshall Machinery, Inc.	17,922.00	9130-03	10/27/97	Hunt Oil Products, Inc.	20,559.20
1131227-01	10/16/97	Interior Images	12,581.21	9130-03	10/27/97	Jack Rich, Inc.	24,909.00
5660-01	11/01/97	KIWI Fence Systems, Inc.	175,179.07	9130-03	10/27/97	Klasen Oil Co., Inc.	5,000.00
9150-01	10/28/97	Carlos R. Lefler	76,667.00	9130-03	10/27/97	Luther P. Miller, Inc.	5,000.00
9150-01	10/28/97	American Agip Company, Inc., Minute-man Lubricants Division	151,817.15	9130-03	10/27/97	Montour Oil Service Co.	123,464.13
9150-01	10/28/97	Argus Lubricants	189,007.90	9130-03	10/27/97	Orris Fuel Service	87,102.22
9150-01	10/28/97	PPC Lubricants	3,000.55	9130-03	10/27/97	Petroleum Traders Corp.	1,914,154.77
9150-01	10/28/97	Pennzoil Industrial Lubricants	252,619.12	9130-03	10/27/97	Phoenix Petroleum Co.	2,355.21
7370-01	11/01/97	Resourcenet International	102,719.15	9130-03	10/27/97	Pickelner Fuel Oil Co.	282,280.38
7370-01	11/01/97	Calico Industries, Inc.	21,812.00	9130-03	10/27/97	Pipeline Petroleum, Inc.	89,084.90
7370-01	11/01/97	Interboro Packaging Corp.	86,356.00	9130-03	10/27/97	R. E. Baker & Sons	62,391.28
9130-03	10/27/97	Agway Petroleum Corporation	755,960.11	9130-03	10/27/97	Reed Oil Company	136,712.98
9130-03	10/27/97	Bedford Valley Petroleum Corp.	189,227.83	9130-03	10/27/97	Witter Gas and Oil Co., Inc.	55,288.10
9130-03	10/27/97	BP Oil Company	113,431.38	9150-03 RIP No. 1	10/23/97	Export Fuel	3,890.15
9130-03	10/27/97	Carlos R. Lefler, Inc.	221,480.27	9150-03 RIP No. 1	10/23/97	Montour Oil Service Co.	1,639.00
9130-03	10/27/97	Erie Petroleum, Inc.	65,887.62	9150-03 RIP No. 1	10/23/97	Dryden Oil Co., Inc.	6,270.00
9130-03	10/27/97	Export Fuel Company, Inc.	138,361.17	9150-03 RIP No. 1	10/23/97	Guttman Oil Co.	4,510.00
9130-03	10/27/97	Farm and Home Oil Company	5,000.00	9140-04	10/27/97	Agway Petroleum Corp.	1,205,117.60
				9140-04	10/27/97	Bedford Valley Petroleum Corp.	178,722.70
				9140-04	10/27/97	Butler Petroleum Corp.	747.00
				9140-04	10/27/97	Carlos R. Lefler	1,291,997.90
				9140-04	10/27/97	Erie Petroleum, Inc.	1,212,771.30
				9140-04	10/27/97	Export Fuel Co., Inc.	281,265.80
				9140-04	10/27/97	Farm and Home Oil Co.	63,190.48

STATE CONTRACTS INFORMATION

Requisition or Contract #	Awarded On	To	In the Amount Of
9140-04	10/27/97	Hunt Oil Prod- ucts, Inc.	2,377.20
9140-04	10/27/97	Jack Rich	5,000.00
9140-04	10/27/97	J. J. Powell, Inc.	461,037.00
9140-04	10/27/97	Klasen Oil Co., Inc.	12,989.52
9140-04	10/27/97	Luther P. Miller, Inc.	5,000.00
9140-04	10/27/97	Montour Oil Service Co.	406,185.04
9140-04	10/27/97	Orris Fuel Service	2,261.71
9140-04	10/27/97	Petron Oil Corp.	32,899.95
9140-04	10/27/97	Pickelner Fuel Oil Co.	27,914.24
9140-04	10/27/97	Pipeline Petro- leum, Inc.	230,029.70

Requisition or Contract #	Awarded On	To	In the Amount Of
9140-04	10/27/97	Reed Oil Co.	145,784.86
9140-04	10/27/97	Witter Gas and Oil Co.	20,819.40
6330-01	10/23/97	Standard Fuses Corp.	378,000.00
9120-03	10/23/97	UGI Energy Services, Inc.	315,715.64
9120-03	10/23/97	Delhi Gas Pipeline Corp.	118,339.78
9120-03	10/23/97	Columbia En- ergy Ser- vices	337,673.52

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 97-1775. Filed for public inspection October 31, 1997, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 121 AND 123]

Nitrogen Oxides Allowance Requirements

The Environmental Quality Board (Board) by this order amends Chapters 121 and 123 (relating to general provisions; and standards for contaminants) as set forth in Annex A. The final-form regulations establish a program to limit the emission of nitrogen oxides (NO_x) from fossil-fired combustion units with rated heat input capacity of 250 MMBtu/hour or more and electric generating facilities of 15 megawatts or greater.

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

A. Effective Date

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

B. Contact Persons

For further information, contact J. Wick Havens, Chief, Division of Air Resources Management, Bureau of Air Quality, 12th Floor Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468 (717) 787-4310, or M. Dukes Pepper, Jr., Assistant Counsel, Bureau of Regulatory Counsel, Office of Chief Counsel, 9th Floor Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464 (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). These regulations are available electronically through the Department of Environmental Protection (Department) Web site (<http://www.dep.state.pa.us>).

C. Statutory Authority

This action is being taken under the authority of section 5(a)(1) of the Air Pollution Control Act (35 P. S. § 4005(a)(1)), which grants to the Board the authority to adopt regulations for the prevention, control, reduction and abatement of air pollution.

D. Background and Summary

In the 1990 amendments to the Federal Clean Air Act, Congress recognized that ground level ozone (smog) is a regional problem not confined to state boundaries. Section 184 of the Clean Air Act (42 U.S.C.A. § 7511c), establishes the Northeast Ozone Transport Commission (OTC) to assist in developing recommendations for the control of interstate ozone air pollution.

Ozone is not directly emitted by pollution sources but is created as a result of the chemical reaction of NO_x and volatile organic compounds (VOCs), in the presence of light and heat, to form ozone in the air masses traveling over long distances. Exposure to ozone causes decreased lung capacity, particularly in children and elderly individuals. Decreased lung capacity from ozone exposure can frequently last several hours after the initial exposure. All states in the Northeast Ozone Transport Region, except for Vermont, have, since 1990, experienced levels of ozone during the months of May through September in excess of the National ambient air quality standard.

Because NO_x from large fossil-fired combustion units is a major contributor to regional ozone pollution, the OTC member states, including this Commonwealth, proposed development of a regional approach to address NO_x emissions. Beginning in 1993, the Northeast States for Coordinated Air Use Management (NESCAUM), the Mid-Atlantic Regional Air Management Association (MARAMA) and the United States Environmental Protection Agency (EPA) began working with the OTC to study the feasibility of implementing regional NO_x emission reductions utilizing an emission budget program in the northeast. Regional airshed modeling was used to identify the appropriate level of emission reductions that would contribute to a significant improvement in air quality.

As a result of these evaluations, the OTC proposed two additional phases of NO_x emissions reduction beyond that already achieved by the Reasonably Available Control Technology (RACT) Program. This recommendation was formally adopted by the OTC in a Memorandum of Understanding (OTC MOU) in September of 1994. The OTC states, in the MOU of September 27, 1994, agreed to propose regulations for the control of NO_x emissions in accordance with the following guidelines:

1. The level of NO_x required would be established from a 1990 baseline emissions level.

2. The reduction would vary by location, or zone, and would be implemented in two phases utilizing a regionwide trading program.

3. The reduction would be determined based on the less stringent of the following:

a. By May 1, 1999, the affected facilities in the inner zone shall reduce their combined rate of NO_x emissions by 65%, or emit NO_x at a rate no greater than 0.20 pounds per million Btus.

b. By May 1, 1999, the affected facilities in the outer zone shall reduce the combined rate of NO_x emissions by 55% from baseline, or shall emit NO_x at a rate no greater than 0.20 pounds per million Btu.

c. By May 1, 2003, the affected facilities in the inner and outer zones shall reduce their combined rate of NO_x emissions by 75% from baseline, or shall emit NO_x at a rate no greater than 0.15 pounds per million Btu.

d. By May 1, 2003, the affected facilities in the northern zone shall reduce their combined rate of NO_x emissions by 55% from baseline, or shall emit NO_x at a rate no greater than 0.20 pounds per million Btu.

In this Commonwealth, the counties of Berks, Bucks, Chester, Delaware, Montgomery and Philadelphia are in the inner zone; the remaining counties in this Commonwealth are in the outer zone.

Under section 7.4 of the Air Pollution Control Act (35 P. S. § 4007.4), the control strategies approved by the OTC and by the Commonwealth's representatives set forth in the OTC MOU are commitments by the Department to pursue regulatory actions under state law to implement the control strategies. To provide for the optimal degree of flexibility and to minimize compliance costs, the Department joined with the member states of the OTC to develop a regionwide market-based "cap and trade" program. A "cap and trade" program sets a regulatory limit on mass emissions from a discreet group of sources, allocates allowances to the sources authorizing

emissions up to the regulatory limit, and permits trading of allowances to effect cost efficient compliance with the cap.

To ensure that the OTC states included common elements in the rules implementing the OTC MOU, the states worked through NESCAUM, MARAMA and the EPA to develop a model rule containing the common program elements. In addition to the State and Federal representatives, the NESCAUM, MARAMA NO_x budget task force was joined by an ad hoc committee comprised of representatives from industry, utilities and environmental groups to ensure broad-based participation and consensus in the model rule.

The task force and ad hoc committee recognized that state program consistency is critical to the overall success of the NO_x allowance program. State programs that are substantively identical in key areas will ensure that a ton of emissions reduced in one state is equivalent to a ton reduced in another state. Since states desire to promote cost effective compliance through intrastate and interstate emission trading, this level of consistency is essential to an effective trading program. The NESCAUM/MARAMA Model Rule meets these objectives and represents substantial consensus among the State and Federal governmental representatives and the ad hoc committee members on key regulatory elements of a NO_x allowance program to implement the OTC MOU. The Model Rule applies to fossil-fired combustion units with a rated capacity of 250 MMBtu/hour or more and electric generating facilities of 15 megawatts or greater. Under the program, the OTC MOU emission reductions are applied to a 1990 baseline for NO_x emissions in the ozone transport region to create a "cap" on the emissions budget for each of the two target years: 1999 and 2003. The 1990 baseline was established through extensive work of the OTC, EPA and industry to refine and quality assure the data available on actual NO_x emissions for 1990. The 1990 emissions and budget for the OTC region has been desegregated to a state level and the states are allocating allowances to the facilities in the program. Beginning in 1999, the sum of NO_x emissions from NO_x affected sources during the May 1 through September 30 control period cannot exceed the equivalent number of allowances allocated in the region. An allowance is equal to 1 ton of NO_x emissions. NO_x affected sources must hold allowances for all NO_x emitted during the ozone season months of May through September and NO_x affected sources are allowed to buy, sell or trade allowances as needed.

These final-form regulations are part of the Commonwealth's SIP to meet the reasonable further progress and attainment requirements of the Clean Air Act. In addition, the final-form regulations are proposed as being comparable with and in lieu of implementation of Stage II vapor recovery system requirements throughout the State. As a comparable measure, it will satisfy the requirements under section 184(b)(2) of the Clean Air Act (42 U.S.C.A. § 7511c(b)(2)). A SIP amendment implementing the Stage II comparability provisions will be submitted to the EPA at a later date.

Finally, as part of the "considerations and current assumptions" as outlined in the *Operating Agreements for Stakeholder Deliberations*, Southwestern and Southeastern Pennsylvania Ozone Stakeholder Groups recognized that Phase II of the Northeast Ozone Transport Commission's NO_x MOU would be adopted by the Commonwealth as a NO_x reduction strategy. Therefore, the 55% and 65% reductions in NO_x from utility, IPP and other large industrial boilers (that are subject to Phase II of the NO_x

MOU) have been understood to be one of the precursor reduction options in the attainment strategy modeled for the Pittsburgh-Beaver Valley and Philadelphia Ozone Nonattainment Areas.

The AQTAC has been intimately involved in the allocation of allowances to budgeted sources and the development of both the model rule and these final-form regulations. On July 22, 1997, the AQTAC recommended that the Department proceed with the final-form regulations including the allocation methodology for individual sources.

The amendments establish definitions for the following terms: "account," "account number," "acquiring account," "compliance account," "electric generating facility," "fossil fuel," "fossil fuel fired," "general account," "heat input," "indirect heat exchange combustion unit," "maximum heat input capacity," "NO_x affected source," "NO_x allocation," "NO_x allowance," "NO_x allowance deduction," "NO_x allowance continuous emissions monitoring system (NO_x allowance CEMS)," "NO_x allowance control period," "NO_x allowance curtailment," "NO_x allowance tracking system (NATS)," "NO_x allowance transfer," "NO_x allowance transfer deadline," "NO_x budget," "NO_x budget administrator," "NO_x emissions tracking system (NETS)," "Ozone Transport Commission Memorandum Of Understanding (OTC MOU)" and "replacement source."

These defined terms are used in the substantive provisions contained in Chapter 123.

This rulemaking implements the NO_x MOU in a manner consistent with the NESCAUM/MARAMA Model Rule. The proposal identifies each known facility and each source within the facility subject to the rule along with the allowance allocation for the May 1 through September 30 control period in Appendix A. The rule also describes the process and procedure for transferring allowances between NO_x affected sources in §§ 123.106 and 123.107 (relating to NO_x allowance transfer protocol; and NO_x allowance transfer procedure). The compliance requirements for sources and the remedy in the event the sources fail to comply are described in §§ 123.110 and 123.111 (relating to source compliance requirements; and failure to meet source compliance requirements).

Because this proposal is dependent upon accurate tracking of NO_x emissions, the interstate NO_x Allowance Tracking System (NATS) is established along with procedures for tracking emissions in §§ 123.104 and 123.105 (relating to source authorized account representative requirements; and NATS provisions). The source monitoring, recordkeeping and reporting requirements contained in §§ 123.108, 123.109 and 123.113 (relating to source emissions monitoring requirements; source emissions reporting requirements; and source recordkeeping requirements) detail the methodology that NO_x affected sources must follow to accurately characterize and report NO_x emissions during the control period.

Sections 123.116 and 123.117 (relating to source opt-in provisions; and new NO_x affected source provisions) describe the mechanism for including additional sources in the NO_x allowance program. Section 123.116 describes the procedure for sources to opt into the program and obtain an allowance allocation. Section 123.117 describes the process for both new sources meeting the thresholds for regulation and newly identified sources.

Because the NO_x affected sources are all "major sources" for purposes of the new source review program contained in Chapter 127, Subchapter E (relating to new source review), modifications of these sources that increase their potential to emit above new source review thresholds or the addition of a new source above the new

source review threshold will require both emission reduction credits and NO_x allowances. Section 123.118 (relating to emission reduction credit provisions) describes the relationship between the emission reduction credit provisions and the NO_x allowance program provisions.

Finally, § 123.120 (relating to audit) establishes an audit program to evaluate the effectiveness of the emission reductions achieved under the NO_x allowance program. If the audit identifies problems with the program, the program regulations will be amended to address those problems.

Because some sources may be willing to make reductions in emissions prior to the time the rule becomes finalized, § 123.119 (relating to bonus NO_x allowance awards) allows those sources to receive bonus NO_x allowances. This will encourage early control and increased environmental benefits.

E. Summary of Comments and Responses on the Proposed Rulemaking

The Department received 39 sets of comments on the regulatory proposal. The following discussion summarizes the major issues and the Department's response.

Many commentators raised questions and concerns about both the allocations of allowances to independent power producers in Appendix A and the special provisions for independent power producers contained in § 123.121 (relating to additional requirements for independent power procedures). The Department has incorporated the recommendation of the AQTAC for allocating allowances to independent power producers. In addition, based on the comments received, the Department has deleted the provisions of § 123.121 related to independent power producers. This group of sources are the best controlled NO_x affected units subject to this program and provide additional environmental benefits based on the fuel used to fire these units. The Department does not believe that restricting these units' ability to use allowances is appropriate. The AQTAC recommended that the Department retain § 123.21.

In addition, the Department strongly disagrees with the assertion by a number of commentators that the allocations made to the independent power producers were taken from other sources. No one has a right to emit air pollutants into the outdoor atmosphere. The Department, through these final-form regulations, is establishing emission limitations for NO_x affected sources using a cap and trade program. Allowances made to the sources are a limited authorization to emit NO_x and do not represent a property right.

A number of commentators expressed concern about the monitoring requirements and particularly the differences between the monitoring required under this program and the monitoring required by Chapter 139 (relating to sampling and testing). The Department does not intend to require separate data handling systems or other monitoring duplications for NO_x affected sources in order to meet monitoring provisions. To make this clear, the Department has modified § 123.108 to require compliance with the monitoring provisions of this rule in a manner consistent with Chapter 139. The Department will work with NO_x affected sources to address any data reporting and handling issues that arise.

A number of commentators provided specific information about either the 1990 inventory data or the allowance calculations applicable to the sources. The Department has modified the inventory and allocations as appropriate in Appendix A. In addition, the Department

added additional provisions in § 123.115 (relating to initial NO_x allowance NO_x allocations) to address comments made by Duquesne Light Company related to two of their facilities.

A number of commentators expressed concern about the audit program. Specifically, they were concerned that the Department could modify the allocation and other components of the program without a regulatory amendment. In response to these comments, the Department has revised the audit provisions in § 123.120 to delete the authority to modify the allocations and program requirements without a regulatory change.

Most commentators supported the opt-in provisions in § 123.116. However, some object to the provision concerning the shutdown or curtailment of operations. The Department has retained the opt-in provisions contained in the proposed rule.

A number of commentators suggested that allowances from shutdown NO_x affected sources be made available to new NO_x affected sources. The Department has not implemented that recommendation. The recommendation would be inconsistent with the OTC model rule and would have a negative impact on the market based trading approach. The Department treats shutdown sources for NO_x allowances in the same way as under the new source review program for emission reduction credits.

A number of commentators suggested that the Department follow the OTC model rule procedures for approving bonus allowances. The Department has modified the language in § 123.119 to incorporate the model rule provisions and to make it clear that bonus allowances can only be generated for reductions that go beyond otherwise applicable requirements.

The Department received a number of comments concerning the banking provisions in § 123.110. Many in the utility industry opposed the flow control requirements in the regulation and proposed an alternative mechanism. Comments from environmental groups suggested that the Department establish daily emission caps and limit multi-year banking. They assert that unused allowances created in cool summers could be used to allow emissions in hot summers when ozone exceedances are more likely. They were concerned that the banking provisions and lack of a daily cap seriously undermined the environmental benefits of this rule. The Department has retained the banking provisions and has made a clarifying amendment to § 123.110.

Several commentators objected to the enforcement provisions of the regulations. These final-form regulations provide a great detail of flexibility for sources to comply with the requirements. Consequently, sources operating in a conscientious fashion should not have compliance problems. The enforcement provisions provide a significant deterrent to sources and will enhance the integrity of the program. These enforcement provisions which are consistent with the model rule, have been retained. The AQTAC recommended relaxation of these provisions.

A number of commentators raised questions or concerns about the relationship between NO_x allowances and emission reduction credits. In addition, some commentators asserted that the Department's proposal was too restrictive while others believe that it allowed double counting. The Department has modified § 123.118 to clarify the intent of this section and to make it clear that double counting cannot occur.

The EPA asserted that the economic incentive policy guidelines are applicable to this program. They requested a demonstration that the regulations met these program guidelines. The Department plans to continue working with the EPA to address this issue.

The EPA asked that a formal SIP for Stage II comparability be developed. The Department plans to develop a Stage II comparability SIP submission in the near future.

The Department received a number of comments concerning the discussion in the Preamble to the proposal related to implementation of the program. Some commentators believe the program should not be implemented until similar programs are required in other states; other commentators believe the program should be implemented independent of other state requirements. Implementation of this program is necessary to meet the Department's commitments to ozone attainment in both Philadelphia and Pittsburgh. This regulatory program was one of the core programs recognized by both the Southwest and Southeast Ozone Stakeholder Working Groups as necessary for Pennsylvania to attain the NAAQS for ozone. Consequently, the Department is proposing that these amendments become final upon publication in the *Pennsylvania Bulletin*.

In addition to these major substantive changes, the Department has made a number of clarifying amendments to §§ 121.1, 123.102—123.106 and 123.108—123.119.

F. *Benefits, Cost and Compliance*

Executive Order 1996-1 requires a cost/benefit analysis of the amendments. Overall, the citizens of this Commonwealth will benefit from the amendments because they will provide appropriate protection of air quality both in this Commonwealth and the entire Northeastern United States. In addition to reducing ozone pollution, this program will assist the Commonwealth in meeting its requirements for reasonable further progress and Stage II comparability under the Clean Air Act.

These final-form regulations are expected to result in public health cost savings of \$35—730 million dollars per year from ozone reductions and \$120 million dollars per year resulting from reductions in particulate matter emissions.

Worker health care costs and productivity should yield cost savings, as well as the welfare benefits, and decreased structural deterioration of concrete, paints and metals should also result in benefits.

A control technology cost analysis of the public electric utility industry was conducted by the Department. Over 95% of the affected sources are electric generating utilities. Using the worst case \$42 million per year estimate, the cost of generation is expected to increase by approximately 1.2% using 1995 technology cost data. Recent developments in control technology have demonstrated large cost reductions on the order of 50% for this level of emission reduction since this estimate was completed. The total cost without trading based on 1995 data was \$60 million per year, trading will reduce this by one third to \$42 million per year. Substantiating this estimate, the OTAG completed cost studies in October of 1996 showing that the cost of reducing emissions to a much lower standard, 0.15 lb/mmBTU or by 75%, would cost \$73 million per year. Overall, the rule will have negligible impact on costs in comparison to the normal variations in other costs such as fuel and other operating and maintenance items.

By implementing the required emission reductions through a trading program, cost savings are estimated to be over 30% of what would otherwise be incurred. This level of savings has been realized in similar trading programs implemented by the EPA.

Some of the electric generating facilities and some of the remaining 5% of the nonutility sources which cannot cost effectively control emissions to comply with the rule will be able to comply by acquiring allowances from other sources on the open market, through mechanisms such as trade agreements, contracts and purchases. Allowances will be available both from electric generating companies with which many of these sources are owned or with which they do business and from the interstate market. It is anticipated that the market will provide for the least cost sources to control and minimize costs for all affected sources.

Since most of the affected sources already have the monitoring and reporting systems installed to comply with existing Federal requirements, only small changes will have to be made and reports will be consolidated with those existing requirements. On the whole, increased monitoring costs should be minimal for the majority of affected sources.

A few unmonitored sources may require additional reporting; however, the costs should also be small since the monitoring guidance allows for minimized and streamlined procedures which do not require new equipment. Common desktop personal computer-based spreadsheet software and data entry would be required. Since most sources already maintain this data, reformatting and submission is likely to be the most that is required for these sources.

Compliance Costs

It is expected that a number of Commonwealth facilities will be required to install emission controls to meet the emissions cap established by these final-form regulations. The open market approach which allows trading of emission reductions between sources will encourage the installation of the most cost-effective controls and trading of emission reductions between sources. This open market approach will significantly reduce compliance costs in comparison to a "command and control" approach. In addition to the control costs imposed, some of the sources covered by the program will be required to install additional monitoring equipment to accurately characterize NO_x emissions from the facility.

Compliance Assistance Plan

The Department plans to educate and assist the regulated community and the public with understanding the NO_x budget program.

Paperwork Requirements

This regulatory program will have paperwork impact on the Commonwealth and the regulated entities. In addition to monitoring, recordkeeping and reporting at the source level, the NO_x allowance tracking system and NO_x emissions tracking system require extensive multistate management.

G. *Pollution Prevention*

While this regulatory proposal does not directly include pollution prevention provisions, it may encourage some affected parties to switch from more polluting to less polluting fossil fuel sources.

H. *Sunset Review*

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

I. *Regulatory Review*

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

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

These final-form regulations were deemed approved by the House and Senate Environmental Resources and Energy Committee on October 7, 1997. IRRC met on October 9, 1997, and approved the final-form regulations in accordance with section 5(c) of the Regulatory Review Act.

J. *Findings of the Board*

The Board finds that:

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

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

(3) These final-form regulations do not enlarge the purpose of the proposal published at 27 Pa.B. 1829 (April 12, 1997).

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

K. *Order of the Board*

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

(a) The regulations of the Department, 25 Pa. Code Chapters 121 and 123, are amended by amending § 121.1 and by adding §§ 123.101—123.120 and Appendix A to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

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

(Editor's Note: For a document amending § 121.1, amended in this document, see 27 Pa. B. 5601 (November 1, 1997.) Proposals to amend § 121.1, amended in this document remain outstanding at 27 Pa.B. 1822 (April 12, 1997), 27 Pa.B. 4325 (August 23, 1997) and 27 Pa.B. 4340 (August 23, 1997. The addition of § 123.121, included in the proposal at 27 Pa.B. 1829.)

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 27 Pa.B. 5561 (October 25, 1997.)

Fiscal Note: Fiscal Note 7-314 remains valid for the final adoption of the subject regulations.

Annex A

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

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 121. GENERAL PROVISIONS

§ 121.1. Definitions.

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

* * * * *

Account—The place in the NO_x allowance tracking system where allowances are recorded including allowances held by a NO_x affected source.

Account number—The identification number given by the NO_x budget administrator to an account in which NO_x allowances are held in the NO_x allowance tracking system.

Acquiring account—The party in a NO_x allowance transfer who obtains NO_x allowances through purchase, trade, auction, gift or another lawful means.

* * * * *

Compliance account—The place in the NO_x allowance tracking system where allowances are recorded and held by a NO_x affected source.

* * * * *

Electric generating facility—For the purposes of NO_x allowance requirements, any fossil fuel fired combustion facility of 15 MW or greater electrical generating capacity.

* * * * *

Fossil fuel—Natural gas, petroleum, coal or any form of solid, liquid or gaseous fuel derived from this material.

* * * * *

Fossil fuel fired—The combustion of fossil fuel or, if in combination with any other fuel, fossil fuel comprises 51% or greater of the annual heat input on a Btu basis.

* * * * *

General account—An account in the NATS that is not a compliance account.

* * * * *

Heat input—Heat derived from the combustion of fuel in a NO_x affected source. The term does not include the

heat derived from preheated combustion air, recirculated flue gas or exhaust from another source or combination of sources.

* * * * *

Indirect heat exchange combustion unit—Combustion equipment in which the flame or products of combustion, or both, are separated from any contact with the principal material in the process by metallic or refractory walls, including, but not limited to, steam boilers, vaporizers, melting pots, heat exchangers, column reboilers, fractionating column feed preheaters, reactor feed preheaters, fuel-fired reactors such as steam hydrocarbon reformer heaters and pyrolysis heaters.

* * * * *

Maximum heat input capacity—The maximum steady state heat input under which a source may be operated as determined by its physical design and characteristics. Maximum heat input capacity is expressed in millions of British Thermal Units (MMBtu) per unit of time.

* * * * *

NATS-NO_x Allowance Tracking System—The computerized system used to track the number of NO_x allowances held and used by any person.

NETS-NO_x Emissions Tracking System—The computerized system used to track NO_x emissions from NO_x affected sources.

NO_x affected source—A fossil fuel fired indirect heat exchange combustion unit with a maximum rated heat input capacity of 250 MMBtu/hour or more and all fossil fuel fired electric generating facilities rated at 15 megawatts or greater or any other source that voluntarily opts to become a NO_x affected source.

NO_x allocation—Assignment by the Department of NO_x allowances to a NO_x affected source and recorded by the NO_x budget administrator to a NATS account.

NO_x allowance—The limited authorization to emit 1 ton of NO_x during a specified NO_x allowance control period.

NO_x allowance CEMS-NO_x Allowance Continuous Emissions Monitoring System—For the purposes of the NO_x allowance requirements, an emission monitoring system which continuously measures and records NO_x emissions.

NO_x allowance control period—The period beginning May 1 of each year and ending on September 30 of the same year, inclusive.

NO_x allowance curtailment—For the purposes of NO_x allowance requirements, a reduction in the hours of operation or in the rate of production.

NO_x allowance deduction—The withdrawal of NO_x allowances for permanent retirement by the NO_x budget administrator from a NATS account.

NO_x allowance transfer—The conveyance to another NATS account of one or more NO_x allowances from one person to another by whatever means, including, but not limited to, purchase, trade, auction or gift.

NO_x allowance transfer deadline—The deadline by which NO_x allowances may be submitted for recording in a NO_x affected source's compliance account for purposes of meeting NO_x allowance requirements.

NO_x budget—The total tons of NO_x emissions which may be released from NO_x affected sources as listed in Appendix A.

NO_x budget administrator—The person or agency designated by the Department as the NO_x budget administrator of the NATS and the NETS.

* * * * *

OTC MOU—Ozone Transport Commission Memorandum of Understanding—The memorandum of understanding signed by representatives of ten states and the District of Columbia as members of the Ozone Transport Commission on September 27, 1994.

* * * * *

Replacement source—A new source which is replacing a NO_x affected source where both sources are under common ownership located within this Commonwealth. The NO_x affected source shall be deactivated or permitted only as an emergency standby unit to the replacement source with operation limited to a maximum of 500 hours per year following commencement of operation of the replacement source.

* * * * *

CHAPTER 123. STANDARDS FOR CONTAMINANTS

NO_x ALLOWANCE REQUIREMENTS

§ 123.101. Purpose.

Sections 123.102—123.120 and this section establish a NO_x budget and a NO_x allowance trading program for NO_x affected sources for the purpose of achieving the health based ozone ambient air quality standard.

§ 123.102. Source NO_x allowance requirements and NO_x allowance control period.

(a) The owner or operator of each NO_x affected source shall, by December 31 of each calendar year, hold a quantity of NO_x allowances meeting the requirements of § 123.110(a) (relating to source compliance requirements) in the source's current year NATS account that is equal to or greater than the total NO_x emitted from the source during that year's NO_x allowance control period.

(b) The initial NO_x allowance control period begins on May 1, 1999.

§ 123.103. General NO_x allowance provisions.

(a) NO_x allowances shall be allocated, transferred or used as whole NO_x allowances. To determine the number of whole NO_x allowances, the number of NO_x allowances shall be rounded down for decimals less than 0.50 and rounded up for decimals of 0.50 or greater.

(b) A NO_x allowance does not constitute a security or other form of property.

(c) Allowances may not be used to meet the requirements of this subchapter prior to the year for which they are allocated.

(d) For the purposes of account reconciliation, NO_x allowances allocated for the NO_x allowance control period shall be deducted first, and remaining allowances if not otherwise designated by the source shall be deducted on a first-in, first-out basis.

(e) NO_x allowances may only be used to comply with §§ 123.101, 123.102, 123.104—123.120 and this section (relating to NO_x allowance requirements).

§ 123.104. Source authorized account representative requirements.

(a) The owner or operator of a NO_x affected source shall designate for each source account, one authorized account representative and one alternate. Initial designa-

tions shall be submitted to the Department by December 1, 1997. An authorized account representative may be replaced or, for a new NO_x affected source, designated with the submittal of a new "Account Certificate of Representation."

(b) The "Account Certificate of Representation" shall be signed by the authorized account representative for the NO_x affected source and contain, at a minimum, the following:

(1) Identification of the NO_x affected source by plant name, state and fossil fired indirect heat transfer combustion unit number for which the certification of representation is submitted.

(2) The name, address, telephone and facsimile number of the authorized account representative and the alternate.

(3) A list of owners and operators of the NO_x affected source.

(4) The verbatim statement, "I certify that I, _____, was selected as the Authorized Account Representative (name) by an agreement binding on the owners and operators of the NO_x affected source legally designated as _____." (name of facility)

(c) The alternate authorized account representative shall have the same authority as the authorized account representative. Correspondence from the NO_x budget administrator shall be directed to the authorized account representative.

(d) Only an authorized account representative or the designated alternate may request transfers of NO_x allowances in a NATS account. The authorized account representative shall be responsible for all transactions and reports submitted to the NATS.

(e) Authorized account representative designation or changes become effective upon the logged date of receipt of a complete application by the NO_x budget administrator from the Department. The NO_x budget administrator will acknowledge receipt and the effective date of the changes by written correspondence to the authorized account representative.

§ 123.105. NATS provisions.

(a) The NATS account records shall constitute a NO_x affected source's NO_x allowance holdings.

(b) The transfer, use and deduction of NO_x allowances become effective only after entry in the tracking system account records.

(c) Any person may hold an account in the NATS.

§ 123.106. NO_x allowance transfer protocol.

(a) NO_x allowances may be transferred at any time between January 31 and December 31 in accordance with § 123.107 (relating to NO_x allowance transfer procedures).

(b) NO_x allowances shall be held by the originating account at the time of the transfer request.

(c) A transfer request shall be filed jointly with the NO_x budget administrator and the Department by the person named as the authorized account representative for the originating account.

(d) The transfer is effective as of the date the NO_x budget administrator posts the transfer of the allowances on the NATS.

§ 123.107. NO_x allowance transfer procedures.

NO_x allowances may be transferred under the following conditions:

(1) The transfer request shall be documented on a form, or electronic media, approved by the Department. The following information, at a minimum, shall be provided:

(i) The account number identifying both the originating account and the acquiring account.

(ii) The name and address associated with the owners of the originating account and the acquiring account.

(iii) The identification of the serial numbers for each NO_x allowance being transferred.

(2) The transfer request shall be authorized and certified by the authorized account representative for the originating account. To be considered correctly submitted, the request for transfer shall include the following statement of certification:

"I am authorized to make this submission on behalf of the owners and operators of the NO_x affected source and I hereby certify under the penalty provisions contained in the Air Pollution Control Act, that I have personally examined the foregoing and am familiar with the information contained in this document, and all attachments, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe the information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including possible fines and imprisonment."

The authorized account representative for the originating account shall provide a copy of the transfer request to each owner or operator of the NO_x affected source.

§ 123.108. Source emissions monitoring requirements.

The owner and operator of each NO_x affected source shall comply with the following requirements:

(1) NO_x emissions from each NO_x affected source shall be monitored as specified by this section and in accordance with the procedures contained in the document titled, "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program."

(2) The owner or operator of each NO_x affected source shall submit to the Department and the NO_x budget administrator a monitoring plan in accordance with the procedures outlined in the document titled, "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program."

(3) New and existing unit emission monitoring systems, as required and specified by this section, shall be installed and be operational and shall have met all of the certification testing requirements in accordance with the procedures and deadlines specified in the document titled, "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program" in a manner consistent with Chapter 139 (relating to sampling and testing).

(4) Monitoring systems are subject to initial performance testing and periodic calibration, accuracy testing and quality assurance/quality control testing as specified in the document titled "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program." Notwithstanding this provision, Non-Part 75 Sources which have Department approved NO_x CEMS reporting in accordance with § 139.101 (relating to gen-

eral requirements) in units of pounds of NO_x per hour shall complete the periodic self-audits listed in the quality assurance section of § 139.102(3) (relating to references) at least annually and no sooner than 6 months following the previous periodic self-audit. If practicable, the audit shall be conducted between April 1 and May 31.

(5) During a period when valid data is not being recorded by devices approved for use to demonstrate compliance with this subchapter, missing or invalid data shall be replaced with representative default data in accordance with 40 CFR Part 75 (relating to continuous emission monitoring) and the document titled, "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program." Notwithstanding this provision, Non-Part 75 Sources which have Department approved NO_x CEMS reporting in accordance with § 139.101 in units of pounds of NO_x per hour shall report this data to the NETS and shall continue report submissions as required under Chapter 139 to the Department.

(6) Sources subject to 40 CFR Part 75 shall demonstrate compliance with this section with a certified Part 75 monitoring system.

(i) If the source has a flow monitor certified under Part 75, NO_x in pounds per hour shall be determined using the Part 75 NO_x CEMS and the flow monitor. The NO_x emission rate in pounds per million Btu shall be determined using the procedure in 40 CFR Part 75 Appendix F, Section 3 (relating to procedures for NO_x emission rate). The hourly heat input shall be determined by using the procedures in 40 CFR Part 75 Appendix F, Section 5 (relating to procedures for heat input). NO_x in pounds per hour shall be determined by multiplying the NO_x per million Btu by the Btus per hour.

(ii) If a Part 75 source does not have a certified flow monitor, but does have a certified NO_x CEMS, NO_x emissions in pounds per hour shall be determined by using the NO_x CEMS to determine the NO_x emission rate in pounds per million Btu and the heat input shall be determined by using the procedures in 40 CFR Part 75 Appendix D (relating to optional SO₂ emissions data protocol for gas-fired and oil-fired units). NO_x in pounds per hour shall be determined by multiplying the NO_x per million Btu and Btus per hour.

(iii) If the owner or operator of a source uses the procedures in 40 CFR Part 75, Appendix E (relating to optional NO_x emissions estimation protocol for gas-fired peaking units and oil-fired peaking units) to determine the NO_x emission rate, NO_x emissions in pounds per hour shall be determined by multiplying the NO_x emission rate determined by using the Appendix E procedures times the heat input determined using the procedures in 40 CFR Part 75, Appendix D.

(iv) If the owner or operator of a source uses the procedures in 40 CFR Part 75, Subpart E (relating to alternative monitoring systems) to determine NO_x emission rate, NO_x emissions in pounds per hour shall be determined using the alternative monitoring method approved under 40 CFR Part 75 Subpart E and the procedures contained in the document titled, "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program."

(v) If the source emits to common or multiple stacks, or both, the source shall monitor emissions according to the procedures contained in the document titled, "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program."

(7) Sources not subject to 40 CFR Part 75 and not meeting the requirements of paragraph (11) shall meet the monitoring requirements of this section by:

(i) Preparing and obtaining approval of a monitoring plan as specified in the document titled, "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program."

(ii) Determining NO_x emission rate and heat input using a methodology specified in paragraphs (8) and (9) respectively or determining NO_x concentration and flow using a methodology specified in paragraphs (8) and (9) respectively.

(iii) Calculating NO_x emissions in pounds per hour using the procedure described in paragraph (10).

(8) The owner or operator of a NO_x affected source which is not subject to 40 CFR Part 75, may implement an alternative emission rate monitoring method. The NO_x emission rate in pounds per million Btu or NO_x concentration in ppm shall be determined using one of the following methods:

(i) The owner or operator of a NO_x affected source that has a maximum rated heat input capacity of 250 MMBtu/hr or greater which is not a peaking unit as defined in 40 CFR 72.2 (relating to definitions), which combusts any solid fuel or is required to or has installed a NO_x continuous emissions monitoring system (NO_x CEMS) for the purposes of meeting either the requirements of 40 CFR Part 60 (relating to standards of performance for new stationary sources) or another Department or Federal requirement, shall use that NO_x CEMS to meet the requirements of this section. If the owner or operator of the unit monitors flow according to paragraph (9), the owner or operator may use the NO_x CEMS to measure NO_x in ppm, otherwise the NO_x CEMS shall be used to measure the emission rate in lb/MMBtu. The owner or operator shall install, certify, operate and maintain this monitor in accordance with the "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program." When a NO_x CEMS cannot be used to report data for this program because it does not meet the requirements of the "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program," missing data shall be substituted using the procedures in that document. In addition, the NO_x CEMS shall meet the initial certification requirements contained in the "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program."

(ii) The owner or operator of a source that is not required to have a NO_x CEMS, may request approval from the Department to use any of the following appropriate methodologies to determine the NO_x emission rate:

(A) Boilers or turbines may use the procedures contained in 40 CFR Part 75 Appendix E to measure NO_x emission rate in pounds/MMBtu, consistent with the "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program."

(B) Owners and operators of combustion turbines that are subject to this section and §§ 123.101—123.107 and 123.109—123.120 (relating to NO_x allowance requirements) may also meet the monitoring requirements of this section and §§ 123.101—123.107 and 123.109—123.120 by using default emission factors to determine NO_x emissions in pounds per hour as follows:

(I) For gas-fired turbines, the default emission factor is 0.7 pounds NO_x per MMBtu.

(II) For oil-fired turbines, the default factor is 1.2 pounds NO_x per MMBtu.

(III) Owners and operators of gas turbines or oil-fired turbines may perform testing, consistent with "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program," to determine unit specific maximum potential NO_x emission rates.

(C) Owners and operators of boilers that are subject to this section and §§ 123.101—123.107 and 123.109—123.120 may meet the monitoring requirements of this section and §§ 123.101—123.107 and 123.109—123.120 by using a default emission factor of 2.0 pounds per MMBtu if they burn oil and 1.5 lb/MMBtu if they burn natural gas to determine NO_x emissions in pounds per hour, or may perform testing consistent with the "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program," to determine a unit specific maximum potential emission rate.

(9) The owner or operator of a source which is not subject to 40 CFR Part 75, and not meeting the requirements of paragraph (11), shall determine heat input in MMBtu or flow in standard cubic feet per hour using one of the following methods:

(i) The owner or operator of a source may install and operate a flow monitor according to 40 CFR Part 75.

(A) The owner or operator may either use the flow CEMS to monitor stack flow in standard cubic feet per hour and a NO_x CEMS to monitor NO_x in ppm.

(B) In the alternative, the owner or operator may use the flow CEMS and a diluent CEMS to determine heat input in MMBtu and a NO_x CEMS to monitor NO_x in lbs/MMBtu.

(ii) The owner or operator of a source that does not have a flow CEMS may request approval from the Department to use any of the following methodologies to determine their heat input rate:

(A) The owner or operator of a source may determine heat input using a flow monitor and a diluent monitor meeting 40 CFR Part 75 and the procedures in 40 CFR Part 75, Appendix F Section 5.

(B) The owner or operator of a source that combusts only oil or natural gas may determine heat input using a fuel flow monitor meeting 40 CFR Part 75 Appendix D and the procedures of 40 CFR Part 75, Appendix F Section 5.

(C) The owner or operator of a source that combusts only oil or natural gas which uses a unit specific or generic default NO_x emission rate, may determine heat input by measuring the fuel usage for a specified frequency of longer than an hour. This fuel usage shall then be reported on an hourly basis by apportioning the fuel based on electrical load in accordance with the following formula:

$$\text{Hourly fuel usage} = \frac{\text{Hourly electrical load} \times \text{total fuel usage}}{\text{Total electrical load}}$$

(D) The owner or operator of a source that combusts any fuel other than oil or natural gas, may request permission from the Department to use an alternative method of determining heat input. Alternative methods include:

(I) Conducting fuel sampling and analysis and monitoring fuel usage.

(II) Using boiler efficiency curves and other monitored information such as boiler steam output.

(III) Other methods approved by the Department and which meet the requirements in the "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program."

(E) Alternative methods for determining heat input are subject to both initial and periodic relative accuracy, and quality assurance testing as prescribed by "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program."

(10) If the owner or operator determines NO_x emission rate in pounds per million Btu in accordance with paragraph (6)(iii) and heat input rate in MMBtu per hour in accordance with paragraph (7), the two values shall be multiplied to result in NO_x emissions in pounds per hour. If the owner or operator determines NO_x emissions in ppm and flow in standard cubic feet per hour, the procedures in "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program" may be used to determine NO_x emissions of this rule in pounds per hour. This value shall be reported to the NETS.

(11) Non-Part 75 sources which have Department approved NO_x CEMS reporting in accordance with § 139.101 in units of pounds of NO_x per hour may meet the monitoring requirements of paragraph (7); or shall comply with the following:

(i) Calibration standards used shall be in accordance with both 40 CFR Part 75, Appendix A, Section 5.2 (relating to concentrations) and with § 139.102(3).

(ii) Testing listed in 40 CFR Part 75, Appendix A, Section 6.4 (relating to cycle time/response time test) not already conducted as part of the response time testing in § 139.102(3) shall be conducted.

(iii) Bias testing of the relative accuracy test data in accordance with 40 CFR Part 75, Appendix A, Section 6.5 (relating to relative accuracy and bias tests) shall be conducted. Data from previously conducted relative accuracy testing may be used to meet this requirement.

(iv) Adjustment of data due to failure of bias test (in accordance with 40 CFR Part 75, Appendix A, Section 7.6.5 (relating to bias adjustment) and Appendix B, Section 2.3.3 (relating to bias adjustment factor)) or relative accuracy greater than 10% but less than or equal to 20% (by multiplying the NO_x emissions rate by 1.1), or both, shall be conducted only for reporting to the NO_x budget administrator for purposes of this section.

(v) A Data Acquisition Handling System verification demonstrating that both the missing data procedures and formulas as applicable to this section shall be conducted.

§ 123.109. Source emissions reporting requirements.

(a) The authorized account representative for each NO_x affected source shall submit to the NO_x budget administrator, electronically in a format which meets the requirements of the EPA's Electronic Data Reporting convention, emissions and operations information for each calendar quarter of each year in accordance with the document

titled, "Guidance for Implementation of Emission Monitoring Requirements for the NO_x Budget Program."

(b) Upon permanent shutdown, NO_x affected sources may be exempted from this section after receiving written Department approval of a request filed by the authorized account representative for the NO_x affected source which identifies the source and date of shutdown.

§ 123.110. Source compliance requirements.

(a) Each year from November 1 through December 31, inclusive, the authorized account representative shall request the NO_x budget administrator to deduct, consistent with § 123.107 (relating to NO_x allowance transfer procedures) a designated amount of NO_x allowances by serial number, from the NO_x affected source's compliance account in an amount equivalent to the NO_x emitted from the NO_x affected source during that year's NO_x allowance control period in accordance with the following:

(1) Allowances allocated for the current NO_x control period may be used without restriction.

(2) Allowances allocated for future NO_x control periods may not be used.

(3) NO_x allowances which were allocated for any preceding NO_x allowance control period which were not used (banked) may be used in the current control period even if this may result in an unlimited exceedance of the NO_x budget. Banked allowances shall be deducted against emissions in accordance with a ratio of NO_x allowances to emissions as specified by the NO_x budget administrator as follows:

(i) If the total NO_x allowances remaining in the NATS for all sources for preceding NO_x allowance control periods are less than or equal to 10% of the total NO_x allowances allocated for that NO_x allowance control period, the ratio is 1:1.

(ii) If the total NO_x allowances remaining in the NATS for all sources for preceding NO_x allowance control periods are greater than 10% of the NO_x allowances allocated for that NO_x allowance control period, the ratio is 2:1 for the portion of banked allowances used for compliance from an account which are in excess of the amount calculated by multiplying the total allowances banked in the account times the PFC (progressive flow control).

where

$$\text{PFC} = \frac{0.1 \times \text{NO}_x \text{ allowances allocated for the control period}}{\text{total amount of banked allowances in the NATS}}$$

(b) If, by the December 31 compliance deadline, the authorized account representative either makes no NO_x allowance deduction request, or a NO_x allowance deduction request insufficient to meet the requirements of subsection (a), the NO_x budget administrator may deduct the necessary number of NO_x allowances from the NO_x affected source's compliance account. The NO_x budget administrator shall provide written notice to the authorized account representative that NO_x allowances were deducted from the source's account. If the necessary number of NO_x allowances is available, the source will be in compliance after the NO_x allowance deduction is completed. If there is an insufficient number of NO_x allowances available for NO_x allowance deduction, § 123.111 (relating to failure to meet source compliance requirements) applies.

(c) For each NO_x allowance control period, the authorized account representative for the NO_x affected source shall submit an annual compliance certification to the Department.

(d) The compliance certification shall be submitted no later than the NO_x allowance transfer deadline (December 31) of each year.

(e) The compliance certification shall contain, at a minimum, the following:

(1) An identification of the NO_x affected source, including the name, address, the name of the authorized account representative and the NATS account number.

(2) A statement indicating whether or not emissions data has been submitted to the NETS in accordance with § 123.108 (relating to source emissions monitoring requirements).

(3) A statement indicating whether or not the NO_x affected source held sufficient NO_x allowances, as determined in subsection (a), in its compliance account for the NO_x allowance control period, as of the NO_x allowance transfer deadline, to equal or exceed the NO_x affected source's actual emissions and the emissions reported to the NETS for the NO_x allowance control period.

(4) A statement indicating whether or not the monitoring plan which governs the NO_x affected source was followed when monitoring the actual operation of the NO_x affected source.

(5) A statement indicating that all emissions from the NO_x affected source were accounted for, either through the applicable monitoring or through application of the appropriate missing data procedures.

(6) A statement indicating whether there were any changes in the method of operation of the NO_x affected source or the method of monitoring of the NO_x affected source during the current year.

(f) The Department may verify compliance by whatever means necessary, including one or more of the following:

(1) Inspection of facility operating records.

(2) Obtaining information on NO_x allowance deduction and transfers from the NATS.

(3) Obtaining information on emissions from the NETS.

(4) Testing emission monitoring devices.

(5) Requiring the NO_x affected source to conduct emissions testing in accordance with Chapter 139 (relating to sampling and testing).

§ 123.111. Failure to meet source compliance requirements.

(a) Failure by the NO_x affected source to hold in its compliance account, for a NO_x allowance control period, as of the NO_x allowance transfer deadline, sufficient NO_x allowances equal to or exceeding actual emissions for the NO_x allowance control period as specified under § 123.102 (relating to source allowance requirements and NO_x allowance control period) shall result in NO_x allowance deduction from the NO_x affected source's compliance account at the rate of 3 NO_x allowances for every 1 ton of excess emissions. If sufficient allowances meeting the requirements of § 123.110(a) (relating to source compliance requirements) are not available, the source shall provide other sufficient allowances which shall be deducted prior to the beginning of the next NO_x allowance control period, otherwise the source may not operate during subsequent control periods.

(b) In addition to the NO_x allowance deduction required by subsection (a), the Department may enforce the provisions of this section and §§ 123.101—123.110 and 123.112—123.120 under the act and the Clean Air Act.

(1) For purposes of determining the number of days of violation, any excess emissions for the NO_x allowance control period shall presume that each day in the NO_x allowance control period constitutes a day in violation (153 days) unless the NO_x affected source can demonstrate, to the satisfaction of the Department, that a lesser number of days should be considered.

(2) Each ton of excess emissions is a separate violation.

§ 123.112. Source operating permit provision requirements.

The operating permit required under Chapter 127 (relating to construction, modification, reactivation and operations of sources) shall include a condition requiring compliance with §§ 123.101—123.111, 123.113—123.120 and this section (relating to NO_x allowance requirements). The NATS compliance account number and the authorized account representative shall be listed on the permit.

§ 123.113. Source recordkeeping requirements.

The owner or operator of a NO_x affected source shall maintain for each NO_x affected source and for 5 years, or any other period consistent with the terms of the NO_x affected source's operating permit, the measurements, data, reports and other information required by §§ 123.101—123.112, 123.114—123.120 and this section.

§ 123.114. General NO_x allocation provisions.

(a) NO_x allocations to NO_x affected sources may only be made by the Department.

(b) Except as provided in § 123.116 (relating to source opt-in provisions), for NO_x affected sources identified in Appendix A which shutdown or curtail operations, the source account will continue to receive NO_x allowances for each NO_x allowance control period.

§ 123.115. Initial NO_x allowance NO_x allocations.

(a) The sources contained in Appendix A are subject to the requirements of §§ 123.101—123.114, 123.116—123.120 and this section. These sources are allocated NO_x allowances for the 1999—2002 NO_x allowance control periods as listed in Appendix A. Except as provided in § 123.120 (relating to audit), if no allocation is specified for the NO_x allowance control periods beyond 2002, the current allocations continue indefinitely.

(b) The Washington Power Company and Colver Power Project sources identified in Appendix A shall receive the allocation identified in Appendix A upon operation of the source.

(c) The Department may allocate allowances to Duquesne Light Company's Phillips and Brunot Island facilities. The allowances allocated to these facilities are limited as follows:

(1) The facility shall be fully operational.

(2) The allowances allocated to the facility may only be used by the baseline sources located at that facility, and may not be banked or transferred.

(3) The allocation to Brunot Island source identification numbers 001—012 may not exceed an aggregate 246 allowances for the period May 1—September 30.

(4) The allocation to Phillips Station boilers 1—6 may not exceed an aggregate 1,686 allowances for the period May 1—September 30.

§ 123.116. Source opt-in provisions.

(a) A person who owns, operates, leases or controls a non-NO_x affected source located in this Commonwealth may apply to the Department to opt-in that source to become a NO_x affected source. For replacement sources, all sources to which production may be shifted to shall be opted-in together.

(b) A source which began operations without emission reduction credits transferred from a NO_x affected source may become a NO_x affected source under the following conditions:

(1) Submission of an opt-in application to the Department, including:

(i) Documentation of baseline NO_x allowance control period emissions which shall be the average of the actual emissions for the preceding two consecutive NO_x allowance control periods. The Department may approve selection of an alternative two consecutive NO_x allowance control periods within the 5 years preceding the opt-in application if the preceding two control periods are not representative of normal operations. The baseline may not exceed applicable emission limits.

(ii) Evidence that the requirements of §§ 123.101—123.115, 123.117—123.120 and this section (relating to NO_x allowance requirements) can be complied with, including, submission of an emission monitoring plan, designation of an authorized account representative, and that the source is not on the compliance docket established under section 7.1 of the act (35 P. S. § 4005).

(2) Submission of NO_x allowances established under paragraph (1)(i) or subsection (c) by the Department to the NO_x budget administrator.

(c) A source which began operations with emission reduction credits from a NO_x affected source may become a NO_x affected source by complying with subsection (b)(1). To operate the source, NO_x allowances shall be acquired by the owner or operator from those available in the NATS.

(d) Opt-in sources which opted-in under subsection (b) and which shutdown or curtail operations during any NO_x allowance control period within the 5-calendar years after opting-in shall, prior to January 31 following the shutdown or curtailment, surrender to the Department NO_x allowances for the current NO_x allowance control period equivalent to the difference resulting from the reduction in utilization from the source's baseline operations as established in subsection (b)(1)(i) between the NO_x allowance control period allowance allocation and the emissions reported in accordance with § 123.109 (relating to source emissions reporting requirements). NO_x allocations for future NO_x allocation control periods shall also be surrendered. NO_x allowances which were allocated for any preceding NO_x allowance control period which were not used (banked) may not be surrendered. Surrendered NO_x allowances shall be retired from the NATS and NO_x budget except that upon request by the source owner or operator, the Department may reallocate the NO_x allowances to a qualifying replacement source.

(e) Opt-in sources which remain in operation for 5-calendar years from the date of opt-in shall have a new baseline and allowance allocation set in accordance with the procedure in subsection (b)(1)(i). This baseline may not exceed the opt-in baseline. Thereafter, the source is not subject to this section.

(f) Once electing to opt-in, a source may not revert to a non-NO_x affected source unless it is shut down.

§ 123.117. New NO_x affected source provisions.

(a) NO_x allowances may not be created for new NO_x affected sources. New NO_x affected sources are sources which are not listed in § 123.115 (relating to initial NO_x allowance NO_x allocations). The owner or operator of a new NO_x affected source shall establish a compliance account prior to the commencement of operations and is responsible to acquire any required NO_x allowances from those available in the NATS.

(b) Newly discovered NO_x affected sources not included in Appendix A which operated at any time between May 1 and September 30, 1990, shall comply with §§ 123.101—123.116, 123.118—123.120 and this section (relating to NO_x allowance requirements) within 1-calendar year from the date of discovery. For those sources which notify the Department by April 1, 1998, the Department will petition the OTC to include the emissions in the NO_x MOU Budget and provide NO_x allowances to the source using the historical May 1 to September 30, 1990, emissions reduced as specified in § 123.119(a)(4)(ii) (relating to bonus NO_x allowance awards).

§ 123.118. Emission reduction credit provisions.

(a) NO_x affected sources may create, transfer and use emission reduction credits in accordance with Chapter 127 (relating to construction, modification, reactivation and operation of sources) and this section. ERCs may not be used to satisfy NO_x allowance requirements.

(b) Emission reductions made through overcontrol, curtailment or shutdown for which allowances are banked are not surplus and may not be used to create ERCs.

(c) A NO_x affected source may transfer NO_x ERCs to an NO_x affected source if the new or modified NO_x affected source's ozone season (May 1—September 30) allowable emissions do not exceed the ozone season portion of the baseline emissions which were used to generate the NO_x ERCs.

(d) A NO_x affected source may transfer NO_x ERCs to a non-NO_x affected source under the following conditions:

(1) The non-NO_x affected source's ozone season (May 1—September 30) allowable emissions may not exceed the ozone season portion of the baseline emissions which were used to generate the NO_x ERCs.

(2) The NATS account for NO_x affected sources which generated ERCs transferred to non-NO_x affected sources, including prior to the date of publication in the *Pennsylvania Bulletin*, shall have a corresponding number of allowances retired that reflect the transfer of emissions regulated under §§ 123.101—123.117, 123.119—123.120 and this section (relating to NO_x allowance requirements) to the NO_x nonaffected sources. The amount of annual NO_x allowances deducted shall be equivalent to that portion of the nonaffected source's NO_x control period allowable emissions which were provided for by the NO_x ERCs from the affected source.

(3) Allocations for NO_x allowance control periods following 2002 to the NO_x ERC generating source may not include the allowances identified in paragraph (2).

§ 123.119. Bonus NO_x allowance awards.

(a) The Department will, upon receipt of a complete application by November 1, 1998, award a NO_x affected source with bonus NO_x allowances for certain creditable

emission reductions made during the 1997 and 1998 ozone seasons (May 1—September 30) under the following conditions:

(1) Creditable reductions shall be in excess of the OTC MOU reduction requirements and any applicable emission limits including RACT and maximum achievable control technology.

(2) Bonus allowances shall be calculated separately for the 1997 and 1998 ozone seasons (May 1—September 30).

(3) The actual average ozone season (May 1—September 30) heat input used to calculate the emission reduction may not exceed the average 1995 and 1996 ozone season actual heat input, or if the Department finds that it is more representative of normal operations, the average ozone season (May 1—September 30) actual heat input which occurred during another consecutive 2 years between and including 1991 and 1995.

(4) Bonus NO_x allowances shall be calculated by multiplying the actual 1997 or 1998, as applicable, average ozone season (May 1—September 30) heat input, times the difference between the following:

(i) The after-control emission rate calculated using the average rate occurring during the 1997 or 1998 NO_x allowance control.

(ii) The lower of the source's applicable emission rate for NO_x expressed in pounds of NO_x per MMBtu, or the baseline emission rate established in Appendix A after applying the following reduction, as applicable. The reduction for sources located in the outer zone is 55% or 0.2 lbs/MMBtu whichever is less stringent, and for sources located in the inner zone, 65%, or 0.2 lbs/MMBtu whichever is less stringent. The inner zone includes Berks, Bucks, Chester, Delaware, Montgomery and Philadelphia counties, and the outer zone includes the remaining counties within this Commonwealth.

(5) Applications shall include the information necessary to determine that the reductions meet the requirements of this section.

(b) On or before May 1, 1999, the Department will publish a report in the *Pennsylvania Bulletin* which documents the number of bonus NO_x allowances awarded.

§ 123.120. Audit.

(a) The Department will complete an audit of the program established by §§ 123.101—123.119 and this section (relating to NO_x allowance requirements) prior to May 1, 2002, and at a minimum every 3 years thereafter. The audit shall include the following:

(1) The resulting geographic distribution of emissions as well as the hourly, daily and running average emission totals shall be examined in the context of ozone control requirements. This analysis shall be used in making a determination as to whether the zonal, seasonal and interseasonal trading and banking provisions of the rule require modification to ensure the reductions are as effective as daily emission limits on all sources would be at reducing ozone.

(2) Confirmation of emissions reporting accuracy through validation of NO_x allowance CEMS and data acquisition systems at the NO_x affected source.

(3) If emissions in excess of the NO_x allowances allocated occurred in any NO_x allowance control period, as a result of banking provisions, a determination whether or not the NO_x allowance banking provisions require modification or deletion.

(4) NO_x allowance banking privileges will be examined to determine whether they adversely influenced market availability and price of NO_x allowances or created unfair competitive advantages and if so, recommend amendments to rectify these problems.

(5) An assessment of whether the program is providing the level of emission reductions included in the current SIP.

(b) In addition to the Department audit, the Department may seek a third party audit of the program. The third party audit can be implemented on a state by state basis or can be performed on a region-wide basis under the supervision of the Ozone Transport Commission.

(c) The Department will propose regulation revisions consistent with the audit results within 6 months of the completion of the audit.

Appendix A

<i>County</i>	<i>Facility</i>	<i>Combustion Source Name</i>	<i>Point ID</i>	<i>Allowance</i>	<i>Baseline NO_x lb/MMBtu</i>	<i>Baseline MMBtu</i>
Adams	Met Edison Hamilton		031	4	0.59	18,716
Adams	Met Edison Ortanna		031	3	0.59	13,130
Adams	Metropolitan Edison Company	G. E. N Frame Turbine #1	031	17	0.45	89,908
Adams	Metropolitan Edison Company	G. E. N Frame Turbine #2	032	6	0.45	29,243
Adams	Metropolitan Edison Company	G. E. N Frame Turbine #3	033	14	0.45	74,249
Allegheny	Duquesne Light Company, Cheswick	Boiler	001	2,114	0.61	15,025,580
Armstrong	Penelec—Keystone	Boiler No. 1	031	4,342	0.80	25,149,236
Armstrong	Penelec—Keystone	Boiler No. 2	032	3,446	0.79	22,657,898
Armstrong	West Penn Power Co.	Foster Wheeler	031	1,140	0.95	5,355,101
Armstrong	West Penn Power Co.	Foster Wheeler	032	1,066	1.02	5,007,467
Beaver	AES Beaver Valley Partners, Inc.	Babcock and Wilcox	032	302	0.83	1,747,462
Beaver	AES Beaver Valley Partners, Inc.	Babcock and Wilcox	033	247	0.83	1,431,342
Beaver	AES Beaver Valley Partners, Inc.	Babcock and Wilcox	034	286	0.83	1,655,847
Beaver	AES Beaver Valley Partners, Inc.	Babcock and Wilcox	035	154	0.81	683,951
Beaver	Penn Power Co.—Bruce Mansfield	Boiler Unit 1	031	2,993	0.90	16,618,929
Beaver	Penn Power Co.—Bruce Mansfield	Foster Wheeler Unit No. 2	032	3,866	0.90	21,464,786
Beaver	Penn Power Co.—Bruce Mansfield	Foster Wheeler Unit 3	033	3,504	0.70	19,455,843
Beaver	Zinc Corporation Of America	Coal Boiler 1	034	241	0.80	1,380,627
Beaver	Zinc Corporation Of America	Coal Boiler 2	035	204	0.80	1,168,776
Berks	Metropolitan Edison Co.—Titus	Unit 1	031	202	0.65	1,836,587
Berks	Metropolitan Edison Co.—Titus	Unit 2	032	186	0.68	1,632,072
Berks	Metropolitan Edison Co.—Titus	Unit 3	033	201	0.66	1,805,003
Berks	Metropolitan Edison Co.—Titus	No. 4 Combustion Turbine	034	2	0.44	20,010
Berks	Metropolitan Edison Co.—Titus	No. 5 Combustion Turbine	035	2	0.44	15,484
Blair	Penelec—Williamsburg	No. 11 Boiler—Rily	031	38	0.87	200,874
Bucks	PECO Energy—Croyden	Croyden—Turbine #11	031	11	0.70	42,451
Bucks	PECO Energy—Croyden	Croyden—Turbine #12	032	7	0.70	26,382
Bucks	PECO Energy—Croyden	Croyden—Turbine #21	033	44	0.70	175,640
Bucks	PECO Energy—Croyden	Croyden—Turbine #22	034	20	0.70	81,649
Bucks	PECO Energy—Croyden	Croyden—Turbine #31	035	11	0.70	42,534
Bucks	PECO Energy—Croyden	Croyden—Turbine #32	036	14	0.70	54,905
Bucks	PECO Energy—Croyden	Croyden—Turbine #41	037	8	0.70	30,191
Bucks	PECO Energy—Croyden	Croyden—Turbine #42	038	38	0.70	152,094
Bucks	United States Steel Corp., The	Power House Boiler No. 3	043	63	0.26	655,625
Bucks	United States Steel Corp., The	Power House Boiler No. 4	044	14	0.27	147,330

<i>County</i>	<i>Facility</i>	<i>Combustion Source Name</i>	<i>Point ID</i>	<i>Allowance</i>	<i>Baseline NO_x lb/MMBtu</i>	<i>Baseline MMBtu</i>
Bucks	United States Steel Corp., The	Power House Boiler No. 5	045	73	0.26	756,980
Bucks	United States Steel Corp., The	Power House Boiler No. 6	046	84	0.26	871,810
Cambria	Cambria CoGen Company	A Boiler	031	200	0.24	2,003,177
Cambria	Cambria CoGen Company	B Boiler	032	212	0.23	2,116,233
Cambria	Colver Power Project			411	0.20	4,112,640
Cambria	Ebensburg Power Company	CFB Boiler		206	0.08	2,058,858
Carbon	Panther Creek Energy Facility	Boiler 1		119	0.12	1,592,491
Carbon	Panther Creek Energy Facility	Boiler 2		117	0.12	1,555,673
Chester	PECO Energy—Cromby	Boiler No 1	031	247	0.82	1,660,770
Chester	PECO Energy—Cromby	Boiler No 2	032	187	0.28	1,257,120
Clarion	Piney Creek Project	CFB Boiler		122	0.18	1,217,989
Clearfield	Penelec—Shawville	Babcock Wilcox Boiler	031	981	1.22	3,737,976
Clearfield	Penelec—Shawville	Babcock Wilcox Boiler	032	947	1.21	3,624,416
Clearfield	Penelec—Shawville	Combustion Engineering	033	852	0.86	4,558,942
Clearfield	Penelec-Shawville	Combustion Engineering	034	693	0.87	3,697,889
Clinton	International Paper Co.	1 Riley Stoker Vo-Sp	033	145	0.55	1,220,703
Clinton	International Paper Co.	2 Riley Stoker Vo-Sp	034	145	0.55	1,218,878
Clinton	PP&L—Lock Hanve	CT 1			0.49	14,818
Columbia	Penelec—Benton		002	1	2.33	2,661
Columbia	Penelec—Benton		003	1	2.93	2,330
Cumberland	Metropolitan Edison Company	G.E. N Frame Turbine	031	9	0.45	46,665
Cumberland	Metropolitan Edison Company	G.E. N Frame Turbine #1	032	11	0.45	55,480
Cumberland	PP&L-West Shore	CT 1		3	0.49	12,402
Cumberland	PP&L-West Shore	CT 2		3	0.49	13,231
Dauphin	PP&L-Harrisburg	CT 1		4	0.49	16,282
Dauphin	PP&L-Harrisburg	CT 2		4	0.49	15,884
Dauphin	PP&L-Harrisburg	CT 3		4	0.49	15,446
Dauphin	PP&L-Harrisburg	CT 4		4	0.49	15,386
Delaware	BP Oil, Inc.	7 Boiler	032	35	0.37	331,917
Delaware	BP Oil, Inc.	8 Boiler	033	56	0.48	535,337
Delaware	BP Oil, Inc.		038	187	0.55	1,789,455
Delaware	PECO Energy-Eddystone	No. 1 Boiler	031	663	0.54	5,571,014
Delaware	PECO Energy-Eddystone	No. 2 Boiler	032	432	0.55	3,629,294
Delaware	PECO Energy-Eddystone	No. 3 Boiler	033	257	0.28	2,153,713
Delaware	PECO Energy-Eddystone	No. 10 Gas Turbine	037	1	0.49	9,464
Delaware	PECO Energy-Eddystone	No. 20 Gas Turbine	038	1	0.48	7,560
Delaware	PECO Energy-Eddystone	No. 30 Gas Turbine	039	2	0.48	19,502
Delaware	PECO Energy-Eddystone	No. 40 Gas Turbine	040	1	0.49	9,450
Delaware	PECO Energy-Eddystone	No. 4 Boiler	041	249	0.28	2,089,539
Delaware	Kimberly-Clark	Boiler No. 9	034	12	0.52	264,600
Delaware	Kimberly-Clark	10 Culm Cogen. Fbc Plant	035	85	0.08	1,602,169
Delaware	Sun Refining & Marketing		089	86	0.09	1,211,002
Delaware	Sun Refining & Marketing		090	145	0.08	4,927,837
Elk	Penntech Papers, Inc.	B&W Model Pm106 Boiler #6	038	0	0.00	0
Elk	Penntech Papers, Inc.	B&W #81 Boiler	040	103	0.83	570,989
Elk	Penntech Papers, Inc.	B&W #82 Boiler	041	109	0.83	603,471
Erie	General Electric Co.	B&W Boiler No. 2	032	26	1.01	587,180
Erie	International Paper Company	Coal Fired Boiler No. 21	037	68	0.58	321,958
Erie	Norcon Power Partners	Turbine 1	001	50	0.07	1,483,488
Erie	Norcon Power Partners	Turbine 2	002	50	0.07	1,483,488
Erie	Penelec-Front Street	Erie City Iron Works No. 7	031	5	0.92	38,964
Erie	Penelec—Front Street	Erie City Iron Works No. 8	032	5	0.90	39,881

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<i>County</i>	<i>Facility</i>	<i>Combustion Source Name</i>	<i>Point ID</i>	<i>Allowance</i>	<i>Baseline NO_x lb/MMBtu</i>	<i>Baseline MMBtu</i>
Erie	Penelec—Front Street	Comb. Eng. Boiler No. 9	033	134	0.57	1,033,388
Erie	Penelec—Front Street	Comb. Eng. Boiler No. 10	034	134	0.57	1,033,528
Greene	West Penn Power—Hatfield's Ferry	Babcock & Wilcox	031	3,978	1.04	15,502,912
Greene	West Penn Power—Hatfield's Ferry	Babcock & Wilcox	032	3,703	1.04	14,429,251
Greene	West Penn Power—Hatfield's Ferry	Babcock & Wilcox	033	2,160	1.04	8,416,290
Indiana	Penelec—Conemaugh	Boiler No. 1	031	3,295	0.76	20,130,686
Indiana	Penelec—Conemaugh	Boiler No. 2	032	4,197	0.76	25,543,024
Indiana	Penelec—Homer City	Boiler No. 1-Foster Wheelr	031	3,167	1.20	11,325,278
Indiana	Penelec—Homer City	Boiler No. 2-Foster Wheelr	032	3,987	1.20	15,382,211
Indiana	Penelec—Homer City	Boiler No. 3-B&W	033	2,931	0.62	21,951,003
Indiana	Penelec—Seward	Boiler No. 12 (B&W)	032	145	0.84	849,307
Indiana	Penelec—Seward	Boiler No. 14 (B&W)	033	146	0.83	809,011
Indiana	Penelec—Seward	Boiler No. 15 (Comb. Eng.)	931	673	0.75	4,155,275
Lackawanna	Archbald Power Corporation	Cogen		82	0.05	818,013
Lancaster	PP&L—Holtwood	Unit 17 Foster Wheeler	934	807	1.20	3,116,786
Lawrence	Penn Power Co.—New Castle	Foster Wheeler	031	108	0.91	553,994
Lawrence	Penn Power Co.—New Castle	B.W. Boiler	032	97	0.91	498,559
Lawrence	Penn Power Co.—New Castle	Babcock And Wilcox	033	185	0.91	947,292
Lawrence	Penn Power Co.—New Castle	Babcock And Wilcox	034	339	0.91	1,737,996
Lawrence	Penn Power Co.—New Castle	Babcock And Wilcox	035	622	0.91	3,183,091
Lehigh	PP&L—Allentown	CT 1		2	0.49	10,329
Lehigh	PP&L—Allentown	CT 2		3	0.49	13,752
Lehigh	PP&L—Allentown	CT 3		3	0.49	14,215
Lehigh	PP&L—Allentown	CT 4		3	0.49	12,745
Lycoming	PP&L—Williamsport	CT 1		3	0.49	14,633
Lycoming	PP&L—Williamsport	CT 2		3	0.49	14,083
Luzerne	Continental Energy Associates	Turbine		269	0.13	2,687,577
Luzerne	Continental Energy Associates	HRSO		129	0.20	1,288,248
Luzerne	UGI Corp.—Hunlock Power	Foster Wheeler	031	375	0.95	1,821,127
Luzerne	PP&L—Jenkins	CT 1		3	0.49	12,942
Luzerne	PP&L—Jenkins	CT 2		2	0.49	6,885
Luzerne	PP&L—Harwood	CT 1		3	0.49	14,194
Luzerne	PP&L—Harwood	CT 2		3	0.49	14,049
Monroe	Met Edison Shawnee		031	3	0.59	15,285
Montgomery	Merck Sharp & Dohme	Cogen II Gas Turbine	039	79	0.16	1,028,875
Montour	PP&L—Montour	Montour No. 1	031	3,576	0.85	17,029,683
Montour	PP&L—Montour	Montour No. 2	032	4,706	1.07	22,409,322
Montour	PP&L—Montour	Aux. Start-Up Boiler No. 1	033	9	0.17	44,436
Montour	PP&L—Montour	Aux. Start-Up Boiler No. 2	034	7	0.17	34,076
Northampton	Bethlehem Steel Corp.	Boiler 1 Boiler House 2	041	90	0.23	Confidential
Northampton	Bethlehem Steel Corp.	Boiler 2 Boiler House 2	042	90	0.23	Confidential
Northampton	Bethlehem Steel Corp.	Boiler 3 Boiler House 2	067	91	0.23	Confidential
Northampton	Met Edison Co.—Portland	Unit No. 1	031	463	0.59	3,593,611
Northampton	Met Edison Co.—Portland	Unit No. 2	032	658	0.66	4,578,297
Northampton	Met Edison Co.—Portland	Combustion Turbine No. 3	033	1	0.53	9,795
Northampton	Met Edison Co.—Portland	Combustion Turbine No. 4	034	6	0.53	40,931

<i>County</i>	<i>Facility</i>	<i>Combustion Source Name</i>	<i>Point ID</i>	<i>Allowance</i>	<i>Baseline NO_x lb/MMBtu</i>	<i>Baseline MMBtu</i>
Northampton	Northampton Generating Company	Boiler	001	210	0.10	4,208,112
Northampton	PP&L—Martins Creek	Foster-Wheeler Unit No. 1	031	493	1.01	3,329,831
Northampton	PP&L—Martins Creek	Foster-Wheeler Unit No. 2	032	461	0.91	3,112,136
Northampton	PP&L—Martins Creek	C-E Unit No. 3	033	837	0.51	5,652,924
Northampton	PP&L—Martins Creek	C-E Unit No. 4	034	741	0.51	5,003,663
Northampton	PP&L—Martins Creek	No. 4b Auxiliary Boiler	036	0	0.17	2,394
Northampton	PP&L—Martins Creek	Combustion Turbine No. 1	037	3	0.02	206,640
Northampton	PP&L—Martins Creek	Combustion Turbine No. 2	038	3	0.02	206,640
Northampton	PP&L—Martins Creek	Combustion Turbine No. 3	039	3	0.02	206,640
Northampton	PP&L—Martins Creek	Combustion Turbine No. 4	040	3	0.02	206,640
Northumberland	Foster Wheeler Mt. Carmel Cogen	Cogen	031	196	0.10	1,814,911
Philadelphia	PECO Energy		037	28	0.60	117,455
Philadelphia	PECO Energy		038	37	0.60	156,375
Philadelphia	PECO Energy—Delaware		013	111	0.45	918,037
Philadelphia	PECO Energy—Delaware		014	129	0.45	1,066,091
Philadelphia	PECO Energy—Delaware		015	1	0.67	7,089
Philadelphia	PECO Energy—Delaware		016	1	0.67	9,452
Philadelphia	PECO Energy—Delaware		017	1	0.67	11,259
Philadelphia	PECO Energy—Delaware		018	2	0.67	15,012
Philadelphia	PECO Energy—Schuylkill		003	174	0.28	1,459,923
Philadelphia	PECO Energy—Schuylkill		007	1	0.67	9,285
Philadelphia	PECO Energy—Schuylkill		008	0	0.67	1,946
Philadelphia	Trigen Energy Co—Sansom		001	31	0.45	318,459
Philadelphia	Trigen Energy Co—Sansom		002	27	0.45	280,748
Philadelphia	Trigen Energy Co—Sansom		003	12	0.45	126,824
Philadelphia	Trigen Energy Co—Sansom		004	15	0.45	155,123
Philadelphia	Trigen Energy Co—Schuylkill		001	0	0.28	511,191
Philadelphia	Trigen Energy Co—Schuylkill		002	0	0.28	228,162
Philadelphia	Trigen Energy Co—Schuylkill		005	0	0.45	248,138
Philadelphia	U.S. Naval Base		098	1	0.14	14,294
Philadelphia	U.S. Naval Base		099	1	0.14	1,960
Philadelphia	Grays Ferry Project	Combustion Turbine		126		
Philadelphia	Grays Ferry Project	Heat Recovery Steam Gen		21		
Philadelphia	Grays Ferry Project	Boiler 25		80		
Schuylkill	Gilberton Power Company	Boiler		335	0.17	3,352,372
Schuylkill	Northeastern Power Company	CFB Boiler		202	0.06	2,022,148
Schuylkill	Northeastern Power Company	Aux Boiler		0	0.27	1,396
Schuylkill	Schuylkill Energy Resources	Boiler	031	350	0.20	4,349,117
Schuylkill	Westwood Energy Properties	Boiler		135	0.17	1,351,408
Schuylkill	Wheelabrator Frackville Energy Co	Boiler		205	0.14	2,046,694
Schuylkill	PP&L—Fishback	CT 1		2	0.49	8,272
Schuylkill	PP&L—Fishback	CT 2		2	0.49	7,217
Snyder	PP&L—Sunbury	Sunbury SES Unit 1a	031	295	0.98	1,455,641
Snyder	PP&L—Sunbury	Sunbury SES Unit 1b	032	295	0.98	1,455,641
Snyder	PP&L—Sunbury	Sunbury SES Unit 2a	033	295	0.83	1,455,641
Snyder	PP&L—Sunbury	Sunbury SES Boiler 2b	034	295	0.83	1,455,641

RULES AND REGULATIONS

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<i>County</i>	<i>Facility</i>	<i>Combustion Source Name</i>	<i>Point ID</i>	<i>Allowance</i>	<i>Baseline NO_x lb/MMBtu</i>	<i>Baseline MMBtu</i>
Snyder	PP&L—Sunbury	Sunbury SES Unit No. 3	035	681	0.93	3,363,299
Snyder	PP&L—Sunbury	Sunbury SES Unit No. 4	036	824	0.99	4,070,181
Snyder	PP&L—Sunbury	Diesel Generator 1	037	0	3.39	709
Snyder	PP&L—Sunbury	Diesel Generator 2	038	0	3.23	806
Snyder	PP&L—Sunbury	Combustion Turbine 1	039	3	0.49	14,581
Snyder	PP&L—Sunbury	Combustion Turbine 2	040	3	0.49	14,581
Tioga	Penelec—Tioga		031	3	0.48	30,267
Venango	Scrubgrass Power Plant	Unit 1	031	182	0.14	1,816,817
Venango	Scrubgrass Power Plant	Unit 2	032	179	0.15	1,790,997
Warren	Penelec—Warren	Boiler No. 1	031	76	0.62	569,825
Warren	Penelec—Warren	Boiler No. 2	032	73	0.64	546,534
Warren	Penelec—Warren	Boiler No. 3	033	77	0.61	572,007
Warren	Penelec—Warren	Boiler No. 4	034	80	0.61	596,377
Warren	Penelec—Warren		001	10	0.69	77,943
Washington	Duquesne Light Co.—Elrama	No. 1 Boiler	031	334	0.87	1,116,538
Washington	Duquesne Light Co.—Elrama	No. 2 Boiler	032	333	0.90	1,114,175
Washington	Duquesne Light Co.—Elrama	No. 3 Boiler	033	446	0.87	1,490,615
Washington	Duquesne Light Co.—Elrama	No. 4 Boiler	034	1,016	0.89	3,398,150
Washington	McGraw—Edison Co.	Foster-Wheeler	032	0	0.00	0
Washington	Washington Power Co.	Boiler 1		155	0.15	2,068,438
Washington	Washington Power Co.	Boiler 2		155	0.15	2,068,438
Washington	West Penn Power Co.—Mitchell	Combustion Eng Coal Unit	034	931	0.72	5,968,482
Wayne	Penelec—Wayne		031	11	0.84	62,736
Wyoming	Procter & Gamble Paper Products Co.	Westinghouse 251B10	035	246	0.68	1,654,800
York	Glatfelter, P.H. Co.	Number 4 Power Boiler	034	127	0.80	978,985
York	Glatfelter, P.H. Co.	Number 1 Power Boiler	035	85	0.80	653,626
York	Glatfelter, P.H. Co.	Number 5 Power Boiler	036	232	0.29	1,780,350
York	Met Edison Tolna		031	4	0.59	20,492
York	Met Edison Tolna		032	4	0.59	19,306
York	PP&L—Brunner Island	Brunner Island 2	032	1,474	0.69	9,319,539
York	PP&L—Brunner Island	Brunner Island Unit 1	931	1,294	0.67	8,178,891
York	PP&L—Brunner Island	Brunner Island Unit 3	933	2,913	0.78	18,411,970
York	Solar Turbines, Inc.	Turbine 1	031	33	0.19	355,420
York	Solar Turbines, Inc.	Turbine 2	032	33	0.19	355,248
York	Solar Turbines, Inc.	Turbine 3	033	33	0.19	357,626
York	Solar Turbines, Inc.	Turbine 4	034	33	0.19	360,280
York	Solar Turbines, Inc.	Turbine 5	035	33	0.19	357,488
York	Solar Turbines, Inc.	Turbine 6	036	32	0.19	351,077

[Pa.B. Doc. No. 97-1776. Filed for public inspection October 31, 1997, 9:00 a.m.]

PROPOSED RULEMAKING

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 216, 218, 221, 223, 227 AND 228]

Radiological Health

The Environmental Quality Board (Board) proposes to amend Chapters 216, 218, 221, 223, 227 and 228. The proposed amendments update the standards for the safe use of radiation-producing machines.

This proposal was adopted by the Board at its meeting of August 19, 1997.

A. *Effective Date*

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

B. *Contact Persons*

For further information, the contact persons are Stuart R. Levin, Chief, Division of Radiation Control, Bureau of Radiation Protection, 13th Floor, Rachel Carson State Office Building, P. O. Box 8469, Harrisburg, PA 17105-8469, (717) 787-3720; and Marylou Barton, Assistant Counsel, Bureau of Regulatory Counsel, RCSOB, 9th Floor, 400 Market Street, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060.

C. *Statutory Authority*

These amendments are proposed under the authority of the following statutes:

Sections 301 and 302 of the Radiation Protection Act (act) (35 P. S. §§ 7110.301 and 7110.302), which, respectively, direct the Department to develop and conduct comprehensive programs for the registration, licensing, control, management, regulation and inspection of radiation sources and radiation source users, and delegates to the Board the power to adopt the regulations of the Department of Environmental Protection (Department) to implement the act.

Section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which authorizes and directs the Board to adopt regulations necessary for the proper performance of the work of the Department.

D. *Background and Purpose*

In 1987, the Board substantially updated its radiological health regulations to provide for compatibility with other states. These updates were published at 17 Pa.B. 5235 (December 19, 1987). Technological advances in the use of X-ray and accelerator equipment and the need to establish and maintain radiation protection standards at least as stringent as the Federal standards provide the basis for these revisions to the existing radiological health regulations.

The present regulations in these chapters were written in 1982-1983, prior to their effective date of December 19, 1987. In the meantime, certain advances have occurred, principally in the medical profession, which existing regulations do not address. These are new modalities for diagnosis and treatment now which did not exist when the existing regulations were being written and promulgated. Particle accelerators, particularly for use in med-

ical applications, have undergone changes in design and function which were only beginning to emerge when the existing regulations were formulated.

The proposed amendments are based on the current Parts B, F, H and I of the 1995 version of the Suggested State Regulations for Control of Radiation (SSR) which was published by the Conference of Radiation Control Program Directors (CRCPD). Federal and State regulations for radiation sources and radiation source users are based on the SSR. Included in the SSR are amendments to Food and Drug Administration regulations.

The purpose of these proposed amendments is to bring existing regulations up-to-date by offering better protection to the employes and patients (for medical diagnosis and treatment applications) and to address health and safety concerns, including the reduction in unnecessary radiation exposure to patients and employes/operators. Department regional staff have encountered difficulties in adapting existing regulations to new technologies and modalities, especially in the diagnostic and therapeutic application of radiation in medicine, some of which relate not only to the machines and equipment used in generating ionizing radiation, but also in the safety of the personnel working with this equipment and in the safety of patients undergoing medical diagnosis and treatment. One of the goals of the Department is the reduction toward elimination of unnecessary radiation exposure, and the intent of the revisions in the regulations is to close some regulatory gaps and work toward achieving this goal.

As required by section 301(c)(14) of the act, the Department provided the Radiation Protection Advisory Committee (Committee) with an opportunity to review the proposed amendments and to advise the Department prior to submittal to the Board. The proposal was provided to the Committee for review on October 24, 1996, December 12, 1996, and March 20, 1997. The Committee provided oral and written comments at each meeting.

In response to the Committee members' comments, the Department revised the proposed amendments during the meetings.

E. *Summary of Regulatory Requirements*

The proposed amendments revise current radiation protection regulations to reflect the current technological advancements in radiation equipment design. A description of the proposed amendments is provided as follows:

Chapter 216. Registration of Radiation-Producing Machines.

Section 216.2(c)—(e) is proposed to be added to address the certificates of registration which are sent to registrants after they have properly completed their registration form and remitted the correct registration fee to the Department.

Section 216.4 is proposed to be renamed from "Re-registration" to "Renewal of certificate of registration." Subsection (a) is proposed to be revised to allow the Department to combine the renewal and fee processes into one form. The Department and registrant would realize a cost and resource savings by eliminating one mailing.

A new § 216.4a is proposed to be added to clarify the requirements for terminating the use of X-ray equipment. A registrant will be required to: (1) terminate use of

radiation-producing machines; (2) properly transfer or dispose of radiation-producing machines; (3) submit a record of disposal of each radiation-producing machine to the Department; (4) remit any outstanding registration fees owed to the Department; and (5) request termination of the certificate of registration in writing to the Department.

Chapter 218. Fees.

Section 218.1(b)(1) is proposed to be rewritten for clarification to state that the fee chapter applies to a person who is required to register a radiation-producing machine.

Section 218.11(b) is proposed to be revised to allow the Department to combine the registration renewal and the annual invoice into one form. The current system of separate forms for renewal of registration and an invoice is too cumbersome, expensive and time consuming for both the registrant and the Department.

Section 218.11(d) contains a proposed change of the payment time from 15 to 30 days to make it consistent with Chapter 216.

Chapter 221. X-Rays in the Healing Arts.

In general, the diagnostic X-ray sections of Chapter 221 are proposed to be rearranged and updated as necessary. The updated portions are based on the SSR. A new heading for CT machines is an expansion of the current § 221.62 (relating to computerized tomography).

In § 221.2 (relating to definitions), some definitions are proposed to be added and some deleted to maintain similarity with the SSR's. The added definitions are: "AAPM," "ACR," "dental panoramic system," "filtration," "fluoroscopic system," "intensifying screen," "intraoral dental radiography," "kV," "kVp," "licensed practitioner of the healing arts," "mA," "mAs," "mR," "mobile X-ray system," "patient," "peak tube potential," "portable radiation system," "positive beam limitation," "protective barrier," "qualified expert," "registrant," "SID," "serial radiography" and "timer."

Definitions that are proposed to be deleted are: "assembler," "attenuation block," "beam monitoring system," "cooling curve," "filter," "gonad shield," "irradiation," "kilowatt second (kWs)" and "source receptor distance (SID)."

Section 221.11 (relating to registrant responsibilities) is proposed to be amended as follows: subsection (a)(2) is proposed to be added to allow the Department to require registrants to comply with the Department of State's professional licensing requirements; subsection (a)(3) is proposed to be added to allow the Department to require registrants to comply with the Department of Health's requirements for auxiliary personnel using X-ray equipment; subsection (c) is proposed to be amended to include the information needed on the X-ray technique chart; subsection (k) is proposed to be added to require the use of compatible film and intensifying screen combinations; and, subsection (l) is proposed to be added to require a registrant to have a quality assurance program.

Section 221.15 (relating to use of X-rays in research on humans) contains new proposed regulations on the use of X-rays in research on humans. Registrants are exempted from the requirements of this section if the research is conducted, funded, supported or regulated by a Federal agency which has implemented the Federal policy for the protection of human subjects.

Section 221.21 (relating to diagnostic equipment requirements) is proposed to be updated to include the reference to 21 CFR 1020.33 (relating to computed tomography equipment).

Section 221.21, 221.28—221.30 and 221.32a—221.44a are derived from the current §§ 2221.22—221.56.

Sections 221.29 and 221.30 (relating to kilovoltage accuracy; and exposure reproducibility) are proposed to be added.

Sections 221.31—221.49 and 221.51—221.56, 221.61, 221.62, 221.71—221.76 and 221.81—221.102 are proposed to be deleted.

Proposed § 221.38a (relating to entrance exposure rate) is added to update the entrance exposure rates for fluoroscopes with and without a high level control. The new section is derived from current § 221.33 (relating to entrance exposure rate limits) has no limit when the high level control is activated. The proposed amendment will limit the output to 20 R per minute when the high level control is activated and also limit all image intensified fluoroscopes to 10 R per minute.

The current version of § 221.62 (relating to computerized tomography) is proposed to be replaced by a new heading, "Computed Tomography X-ray Systems" found in §§ 221.201—221.205. The current regulation pertaining to computerized tomography addresses only the location of the control panel, auxiliary support for the patient and visual indication of X-ray production at the control panel. The proposed amendments were developed to improve the quality of computed tomography (CT) imaging while minimizing the radiation dose to the patient. The proposed regulations are based on the SSR, 21 CFR 1020.33 (relating to computed tomography (CT) equipment) and the Department's CT study.

Proposed § 221.201 (relating to definitions) is a new section of definitions specifically for the CT regulation. The new definitions are: "CT—computed tomography," "CTDI—computed tomography dose index," "CS—contrast scale," "CT conditions of operation," "CT number," "elemental area," "gantry," "lux," "MSAD—multiple scan average dose," "multiple tomogram system," "noise," "nominal tomographic section thickness," "performance phantom," "picture element," "pixel," "reference plane," "scan," "scan increment," "scan sequence," "scan time," "sensitivity profile," "single tomogram system," "technique factors," "tomogram," "tomographic plane" and "tomographic section."

The entire heading containing requirements for therapeutic X-ray and electron beam systems with energies of 1 MeV and above was deleted because it was superseded by the new requirements in Chapter 228 (relating to radiation safety requirements for particle accelerators).

Proposed § 221.202 (relating to equipment requirements) includes subsections concerning termination of exposure, tomographic plane indication and alignment, status indicators and control switches, indication of CT conditions of operation, extraneous radiation, beam quality and additional requirements applicable to CT X-ray systems containing a gantry manufactured after September 3, 1985.

Proposed § 221.203 (relating to design requirements) contains requirements for oral communication between the patient and operator and viewing systems.

Proposed § 221.204 (relating to radiation measurements and performance evaluations) contains the requirements for radiation measurements and performance evaluations.

Proposed § 221.205 (relating to operating procedures) contains two subsections. Subsection (a) requires that certain information be available at the control panel such as instructions on using CT phantoms. Subsection (b) limits the use of the CT if measurements or performance evaluations exceed tolerances established by the facility's qualified expert.

Chapter 223. Veterinary Medicine.

Proposed § 223.7 (relating to structural shielding) is the current § 223.12 with the cross reference to § 219.21 (relating to radiation protection programs) corrected to § 219.51 (relating to radiation dose limits for individual members of the public).

Proposed § 223.8 (relating to operating procedures) has been renumbered from § 223.13 and clarifies the wording of the current § 223.13 but does not change the intent. Subsection (d) requires that all exposures be ordered by a veterinarian.

The heading of § 223.11 is proposed to be amended to read "Radiographic equipment."

Section 223.11(a)(2) is proposed to be added so that the veterinarians will not have to refer to Chapter 221 (relating to X-rays in the healing arts).

Section 223.11(b)(2) and (3) were poorly written and were vague about what was required. These proposed amendments clarify the requirement for proper collimation.

The proposed amendments to § 223.11(d)(1) and (2) expand on timer requirements and require X-ray timers to be accurate.

The proposed amendment to § 223.11(e) adds a new requirement taken in part from the SSR. It requires that the X-ray output from an X-ray unit be consistent. This will prevent repeat exposures due to X-ray equipment with an inconsistent output.

The proposed amendment to § 223.11(f) states a tube stand is now only required when it would not interfere with the procedure. This would allow the veterinarian to hold the tube head when this would be more efficient and when the X-ray unit would be in danger of destruction from the moving and kicking by large animals.

Proposed § 223.11(g) is from the SSR and is also found in the regulations of other states. This requirement is met by newer X-ray equipment.

The proposed § 223.12a is a modification of the current § 223.11(g) fluoroscopic equipment requirements. This modification is a relaxation of the current regulations since it exempts veterinary fluoroscopes from the entrance exposure rate requirements and addresses only the health and safety of the operators.

A new proposed § 223.13a (relating to therapeutic systems) is a modification of the current § 223.11(g) (equipment used for therapeutic purposes). This is a relaxation of the current regulations, since it exempts the therapeutic systems from calibration and spot check requirements.

Chapter 227. Radiation Safety Requirements for Analytical X-Ray Equipment, X-Ray Gauging Equipment and Electron Microscopes.

Chapter 227 is proposed to be rearranged for clarity and some of the wording was also modified. Current §§ 227.11 and 227.12 were combined into the proposed §§ 227.11a and 221.12a (relating to equipment require-

ments; and area requirements). Current § 227.13 became the proposed § 227.13a (relating to operating requirements).

Proposed § 227.11a(h) has been added to provide regulation for vacuum spectroscopy. Vacuum spectrographs will be exempted from §§ 227.12a and 227.13a, but shall meet the requirements of § 227.14 (relating to personnel procedures).

Proposed § 227.13a(c) and (d) are additions to the current regulations to provide compatibility with the SSR.

Chapter 228. Radiation Safety Requirements for Particle Accelerators.

Definitions are proposed to be added to § 228.2 (relating to definitions) as a result of the expansion of the regulations concerning accelerators in the healing arts. The additional definitions are: "applicator," "beam-limiting device," "beam scattering filter," "central axis of the beam," "dose monitoring system," "dose monitor unit," "existing equipment," "field flattening filter," "field size," "filter," "isocenter," "leakage radiation," "moving beam therapy," "new equipment," "normal treatment distance," "phantom," "primary dose monitoring system," "qualified expert," "radiation detector," "radiation head," "secondary dose monitoring system," "shadow tray," "spot check," "stationary beam therapy," "subsystem," "target," "tube housing assembly," "useful beam" and "wedge filter."

A proposed new heading titled, "administrative controls," was adapted from §§ 221.11 and 221.12 and placed in this chapter.

A proposed new heading titled, "notification and licensing procedures," was added to allow the Department to license particle accelerators. Sections 228.21a, 228.22a, 228.23a, 228.24a, 228.25a and 228.26a were adapted from §§ 217.51—217.57 (relating to specific licenses-general conditions) which relate to the licensing of radioactive material.

The current heading, "General Radiation Safety Requirements," is proposed to be renumbered from §§ 228.21—228.26 to §§ 228.31a, 228.32a, 228.33a and 228.34a—228.39. A new § 228.36(c) is proposed to be added to inform the licensee or registrant what is required for and exempted from the calibration of an independent radiation monitor. Proposed § 228.39 (relating to records) is added to clarify the recordkeeping requirements.

The heading, "Radiation Safety Requirements for Industrial and Research Accelerators" is proposed to be renumbered from §§ 228.31—228.34 to §§ 228.41a, 228.42, 228.43 and 228.44. Proposed § 228.45 (relating to portable or mobile accelerators) is added to cover portable and mobile particle accelerators.

The proposed heading, "Radiation Safety Requirements for Accelerators Used in the Healing Arts," is expanded by adapting the appropriate sections from Chapter 221, titled, Therapeutic X-ray and Electron Beam Systems With Energies of 1 Mev And Above." These proposed sections are numbered §§ 228.61—228.76. Section 221.41 is proposed to be deleted.

F. Benefits, Costs and Compliance

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

Benefits

As set forth in this proposal, users of radiation-producing machines will be required to comply with

radiation protection standards that will not only protect operators of the machines but will also protect the general public.

Compliance Costs

Compliance costs are expected to be minimal. The Department has been implementing many of the proposed requirements by recommendation. No financial assistance is believed to be necessary.

Compliance Assistance Plan

Compliance assistance is available to existing holders of a registration of radiation-producing machines and equipment. These range from small X-ray facilities such as dentists, podiatrists, veterinarians, and the like, to large institutions such as colleges and universities, medical centers and industrial complexes, all of which the Department presently regulates and inspects. The Department will issue technical guidance to registrants as recommended by the Committee.

Paperwork Requirements

The proposed amendments will not significantly change paperwork requirements.

G. *Sunset Review*

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

H. *Regulatory Review Act*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 16, 1997, the Department submitted a copy of the proposed amendments to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department. A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed amendments, it will notify the Department within 10 days of the close of the Committees' comment period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review, by the Department, the Governor and the General Assembly before final publication of the regulations.

I. *Public Comments*

Written comments—Interested persons are invited to submit comments, suggestions or objections regarding the proposed amendments to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. Comments, suggestions or objections must be received by the Board by December 30, 1997. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must be received by December 30, 1997. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the final-form regulations will be considered.

Electronic comments—Comments may be submitted electronically to the Board at RegComments@A1.dep.

state.pa.us and must also be received by the Board by December 30, 1997. A subject heading of the proposal and a return name and address must be included in each transmission. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

JAMES M. SEIF,
Chairperson

Fiscal Note: 7-329. No fiscal impact; (8) recommends adoption.

Annex A

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

Subpart D. ENVIRONMENTAL HEALTH AND SAFETY

ARTICLE V. RADIOLOGICAL HEALTH

CHAPTER 216. REGISTRATION OF RADIATION-PRODUCING MACHINES

§ 216.2. Registration.

* * * * *

(c) A certificate of registration will be issued to a person whose registration becomes valid under subsection (b).

(d) A registrant shall have the currently valid certificate of registration available for inspection by the Department.

(e) A certificate of registration issued under this chapter may not be transferred, assigned or in any manner disposed of, either voluntarily or involuntarily, to any person without the written approval of the Department.

§ 216.4. [Re-registration] Renewal of certificate of registration

(a) The Department will send [a] an application for renewal [form] of the certificate of registration to the registrant at least 2 months prior to the expiration date [of the existing registration] on the certificate of registration. The application for renewal will include references to the fee due under § 218.11 (relating to annual registration and license fees). [The registrant shall return the completed renewal form within 30 days after receipt of the renewal form.]

(b) [The renewal becomes valid upon receipt of the properly completed form and the fee required under Chapter 218 (relating to fees)] An applicant for renewal of a registration shall submit a signed application and the fee required under § 218.11 prior to the expiration date of the certificate of registration.

(c) The renewal becomes valid upon receipt of the properly completed application and the fee required under Chapter 218 (relating to fees).

§ 216.4a. Expiration and termination of certificates of registration.

(a) A certificate of registration expires on the date specified on the certificate of registration.

Expiration of the certificate of registration does not relieve the registrant from the requirements of this article.

(b) When a registrant decides to terminate all activities involving radiation-producing machines under the certificate of registration, the registrant shall notify the Department immediately, in writing, and request termination of the certificate of registration. This notification and request for termination of the certificate of registration shall be in accordance with subsection (c).

(c) If a registrant does not submit a renewal for a certificate of registration under § 216.4 (relating to renewal of certificate of registration), the registrant shall, on or before the expiration date specified in the certificate of registration, do the following:

- (1) Terminate use of all radiation-producing machines.
- (2) Properly transfer or dispose of all radiation-producing machines.
- (3) Submit a record of disposal of each radiation-producing machine to the Department.
- (4) Remit any outstanding registration fees owed to the Department.
- (5) Request termination of the certificate of registration in writing to the Department.

CHAPTER 218. FEES
GENERAL

§ 218.1. Purpose and scope.

* * * * *

(b) Except as otherwise specifically provided, this chapter applies to a person who:

(1) [Has filed a registration] Is required to register or renew registration for radiation-producing machines [required] under Chapter 216 (relating to registration of radiation-producing machines).

* * * * *

PAYMENT OF FEES

§ 218.11. Annual registration and license fees.

* * * * *

(b) [Upon receipt of a] A registrant filing an initial registration under § 216.2 (relating to registration) or [re-registration form, the Department will issue] an application for renewal of a certificate of registration under § 216.4 (relating to renewal of certificate of registration) shall remit the appropriate fee [invoice] calculated by using the [registered] information on the registration or application form and the fee schedule in subsection (a). Fees for any initial registration under § 216.2 are payable [within 15 days after receipt of a fee invoice] upon the filing of the registration. Fees for the renewal of a certificate of registration are payable upon the submission of an application for a renewal of a certificate of registration. If the number of tubes increases after [a] an initial registration or [re-registration form] after an application for renewal has been filed with the Department, no additional fee is required until the time of the next registration. Likewise,

if the number of tubes decreases during the year, no refund will be made for that year.

* * * * *

(d) An initial application for a license shall be accompanied by a check payable to the Department [of Environmental Resources] in accordance with the fee schedule in subsection (c). Thereafter, the Department will issue an annual fee invoice based on the fee schedule in subsection (c). Fees are payable within [15] 30 days after receipt of a fee invoice.

* * * * *

CHAPTER 221. X-RAYS IN THE HEALING ARTS
GENERAL

§ 221.2. Definitions.

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

AAPM—American Association of Physicists in Medicine.

ACR—American College of Radiology.

* * * * *

[*Assembler*—A person who assembles, replaces or installs one or more components into an x-ray system or subsystem.

Attenuation block—A block or stack of type 1100 aluminum alloy—the nominal chemical composition of type 1100 aluminum alloy is 99% minimum aluminum, .12% copper—or other materials having equivalent attenuation, having a thickness of 3.8 centimeters and a width and a length not less than 15 centimeters.]

* * * * *

[*Beam monitoring system*—A system designed to detect and measure the radiation present in the useful beam.]

* * * * *

[*Cooling curve*—The graphical relationship between heat units stored and cooling time.]

* * * * *

Dental panoramic system—A device intended to produce a radiographic image of the entire dental arch on one film.

* * * * *

[*Filter*] *Filtration*—* * *

* * * * *

Fluoroscopic system—(See fluoroscopic imaging assembly).

* * * * *

[*General purpose radiographic x-ray system*—A radiographic x-ray system which, by design, is not limited to radiographic examination of specific anatomical regions.

Gonad shield] *Gonads*—[A protective barrier for] The testes or ovaries.

* * * * *

Intensifying screen—A fluorescent screen which transforms incident X-ray photons into a visible image.

Intraoral dental radiography—A modality of dental radiography in which the image receptor is placed inside a patient's oral cavity.

$$(A)kWs = (X)kV \times (Y)mA \times (Z)s \times \frac{kWs}{10^3kV \times mA \times s} = \frac{XYZ kWs}{10^3}$$

Licensed practitioner of the healing arts—An individual licensed by the Commonwealth to practice the healing arts, which for the purposes of this article shall be limited to medicine, surgery, dentistry, osteopathy, podiatry and chiropractic.

- mA**—Milliampere
- mA s**—Milliampere second
- mR**—Milliroentgen

Mobile X-ray system—(See X-ray equipment)

Patient—An individual subjected to healing arts examination, diagnosis or treatment.

Peak tube potential—The maximum value of the potential difference across the X-ray tube during an exposure.

Portable radiation system—(See X-ray equipment)

Positive beam limitation—The automatic or semi-automatic adjustment of an X-ray beam to the size of the selected image receptor, whereby an X-ray exposure cannot be made without an adjustment.

Protective barrier—A barrier of radiation absorbing material used to reduce radiation exposure. The term includes the following types:

- (i) **Primary protective barrier**—Material used to reduce radiation exposure from the useful beam.
- (ii) **Secondary protective barrier**—Material used to reduce exposure from stray, leaked or scattered radiation.

Qualified expert—An individual having the knowledge and training to measure ionizing radiation, to evaluate safety techniques and to advise regarding radiation protection needs—for example, individuals certified in the appropriate field by the American Board of Radiology, the American Board of Health Physics or the American Board of Medical Physics, or those having equivalent qualifications. With reference to the calibration or radiation therapy equipment, an individual having, in addition to these qualifications, training and experience in the clinical applications of radiation physics to

[**Irradiation**—The exposure of matter to ionizing radiation.]

- kV**—Kilovolts
- kVp**—Peak tube potential (See Kilovolts peak).

[**Kilowatt second (kWs)**—The term is equivalent to 10³. kV. mA s, or

radiation therapy—for example, individuals certified in therapeutic radiological physics or X-ray and radium physics by the American Board of Radiology, Radiation Oncology Physics by the American Board of Medical Physics or those having equivalent qualifications.

Registrant—A person who is legally obligated to register with the Department under this article and the act.

SID—Source-image receptor distance—The distance from the source to the center of the input surface of the image receptor.

Serial radiography—Radiographic images produced in regular sequence.

[**Source-image receptor distance (SID)**—The distance from the source to the center of the input surface of the image receptor.]

Technique factors—[The conditions of operation specified as follows] The following conditions of operation:

- (ii) For field emission equipment rated for pulsed operation, peak tube potential in kV, [and] number of [x-ray] X-ray pulses and either tube current or product of tube current and time.

Therapeutic [x-ray or electron] X-ray system—* * *

Timer—An electronic device which is capable of measuring an X-ray exposure.

X-ray equipment—An [x-ray] X-ray system, subsystem or component thereof. Types of [x-ray] X-ray equipment are as follows:

- (iii) **Stationary [x-ray] X-ray equipment**—X-ray equipment which is installed in a fixed location or vehicle.

ADMINISTRATIVE CONTROLS

§ 221.11. Registrant responsibilities.

(a) [No person may operate or permit the operation of radiation-producing machines unless the machines and installation meet the applicable requirements of this article.] The registrant is responsible for directing the operation of X-ray systems under his administrative control and shall do the following:

(1) Assure that the requirements of this article are met in the operation of the X-ray systems.

(2) Permit only auxiliary personnel who have met the applicable requirements of 49 Pa. Code Part I, Subpart A (relating to professional and occupational affairs) to operate X-ray systems for diagnostic or therapeutic purposes.

(3) Permit only auxiliary personnel employed by a health care facility regulated by the Department of Health, the Department of Public Welfare or the Federal government to operate X-ray systems for diagnostic or therapeutic purposes in accordance with written job descriptions and employe qualifications.

(b) An individual who operates [the x-ray] an X-ray [systems] system shall be [adequately] instructed adequately in the safe operating procedures and be competent in the safe use of the equipment. The instructions shall include, but not be limited to, items included in Appendix A (relating to determination of competence).

(c) A chart, which specifies the techniques for examinations performed with the system, shall be provided in the vicinity of [the] each diagnostic [x-ray] X-ray system's control panel. This chart shall include information pertinent to the particular examination, such as:

(1) The patient's body part and anatomical size, or body part thickness, or age (for pediatrics), versus technique factors to be utilized.

(2) The type and size of the film or film-screen combination.

(3) The type of grid, if any.

(4) The type and location of placement of patient shielding—for example, gonad, and the like.

(5) For mammography, indication of kVp/target/filter combination.

* * * * *

(e) Except for patients who cannot be moved out of the room, only the staff and ancillary personnel required for the medical procedure or training shall be in the room during the radiographic exposure. The following apply for individuals other than the patient being examined:

(1) Individuals shall be positioned so that no part of the body will be struck by the useful beam unless protected by at least 0.5 millimeter lead equivalent [shielding] material. The lead equivalent material is to be determined at 60 kV.

(2) [Staff and ancillary personnel] All persons required for the medical procedure shall be protected from the scatter radiation by protective aprons or whole protective barriers of at least 0.25 millimeter lead equivalent.

(3) [Other patients not being radiographed] A patient who cannot be removed from the room shall be protected from the scatter radiation by protective barriers of at least 0.25 millimeter lead equivalent material or shall be so positioned that the patient is not in the direct line of the useful beam and the nearest portion of the body is at least 2 meters from both the tube head and the nearest edge of the image receptor.

(f) During diagnostic procedures in which the gonads are in the useful beam, gonad shielding of [not less than .25] at least 0.5 millimeter lead equivalent shall be used for patients except for cases in which this would interfere with the diagnostic procedure.

(g) An individual may not be exposed to the useful beam except for healing arts purposes or under § 221.15 (relating to use of X-rays in research on humans). An exposure shall be authorized by a licensed practitioner of the healing arts. This provision specifically prohibits deliberate exposure for the following purposes:

(1) Exposure of an individual for training, demonstration or other nonhealing arts purposes [unless there are also healing arts requirements and proper prescription has been provided].

(2) Exposure of an individual for the purpose of healing arts screening except as [approved] authorized by the Department. When requesting [approved] authorization, the registrant shall submit the information as outlined in § 221.13 (relating to information to be submitted by persons proposing to conduct healing arts screening). [If information submitted to the Department becomes invalid or outdated, the registrant shall immediately notify the Department.]

(h) If a patient or film requires auxiliary support during a radiation exposure the following apply:

* * * * *

(3) [No] An individual may not be used routinely to hold film or patients.

(4) For intraoral dental radiography, neither the tube housing nor the cone shall be held during an exposure.

* * * * *

(k) The screen and film system used shall be spectrally compatible and evaluated with respect to screen condition to assure proper system speed. Film cassettes without intensifying screens may not be used for any routine diagnostic radiological imaging, with the exception of veterinary radiography and standard intraoral dental radiography film packets.

(l) The registrant shall have a quality assurance program. This quality assurance program shall be in accordance with guidelines promulgated by the ACR, the AAPM or another accredited organization.

§ 221.12. [Information and maintenance record] Records, maintenance and associated information.

* * * * *

§ 221.13. Information to be submitted by persons proposing to conduct healing arts screening.

A person requesting that the Department approve a healing arts screening program shall submit the following information and evaluation. If information submitted

to the Department becomes invalid or outdated, the registrant shall immediately notify the Department.

(1) [Name] The name and address of the applicant and, [where] if applicable, the names and addresses of agents within this Commonwealth.

* * * * *

(6) An evaluation by a qualified expert of the [x-ray] X-ray systems to be used in the screening program. The evaluation [by the qualified expert] shall show that the systems [do] satisfy all requirements of this article. The evaluation shall include a measurement of patient exposures from the X-ray examinations to be performed.

* * * * *

(14) This section does not apply to operations conducted by registrants under 21 CFR Part 900 (relating to mammography).

§ 221.15. Use of X-rays in research on humans.

(a) Registrants conducting research using X-rays involving human subjects are exempted from this section if the research is conducted, funded, supported or regulated by a Federal agency which has implemented the Federal policy for the protection of human subjects.

(b) A research protocol regarding the use of X-rays in research on humans shall be authorized by a committee consisting of at least three persons. One of the committee members shall be knowledgeable in radiation effects on humans.

(c) All proposed subjects or their legal representative shall sign a statement acknowledging that they have been informed of their anticipated radiation exposure and possible consequences arising from this exposure.

(d) A person requesting that the Department approve a program using X-rays for research on humans shall submit, in writing, the following information and evaluation to the Department. If information submitted to the Department becomes invalid or outdated, the registrant shall immediately notify, in writing, the Department.

(1) The name and address of the applicant and, if applicable, the names and addresses of agents within this Commonwealth.

(2) A description of the population to be examined in the research program, age, sex, physical condition and other appropriate information.

(3) An evaluation of known alternate methods not involving ionizing radiation which could achieve the goals of the research program and why these methods are not used in preference to the X-ray examinations.

(4) An evaluation by a qualified expert of the X-ray system to be used in the research program. This evaluation shall show that the system satisfies the requirements of this article. The evaluation shall include a projected measurement of individual and cumulative patient exposures from the X-ray examinations to be performed.

(5) A description of the diagnostic X-ray quality control program.

(6) A copy of the chart which specifies the information for the X-ray examination procedures to be used.

(7) The qualifications of all individuals who will be operating the X-ray system.

(8) The qualifications of the physician who will be supervising the operators of the x-ray systems. The extent of supervision and the method of work performance evaluation shall be specified.

(9) The name and address of the individual who will interpret the radiographs.

(10) A copy of the research protocol authorized by the committee established under subsection (b).

DIAGNOSTIC INSTALLATIONS GENERAL REQUIREMENTS

§ 221.21. Diagnostic equipment requirements.

[Diagnostic x-ray equipment and its use shall satisfy the applicable requirements of Subchapter A.] Diagnostic systems incorporating one or more certified components shall comply with 21 CFR 1020.30 [, 1020.31 and 1020.32 (relating to diagnostic x-ray systems and their major components; radiographic equipment; and fluoroscopic equipment)]—1020.33.

§ 221.28. Technique indicators.

(a) The technique factors for radiographic systems shall be indicated before exposure except for units utilizing automatic exposure controls, in which case the [pre-set factors may] maximum mAs shall be indicated.

(b) The requirement of subsection (a) may be met by permanent markings on equipment having fixed technique factors. Indication of technique factors shall be visible from the operator's position except in the case of spot films made by a fluoroscopist.

§ 221.29. Kilovoltage accuracy.

Discrepancies of more than 10% between set—indicated—and measured kV values shall be investigated by a qualified expert or service engineer and appropriate action taken.

§ 221.30. Exposure reproducibility.

The coefficient of variation of exposure reproducibility may not exceed 0.10 when technique factors are held constant. This requirement shall be deemed to have been met when four exposures are made. This requirement applies when either manual techniques or automatic exposure control is used.

(Editor's Note: As part of this proposal, the Board is proposing to delete the existing text of §§ 221.31—221.49, 221.51—221.56, 221.61, 221.62, 221.71—221.76 and 221.81—221.102, which appears at 25 Pa. Code pages 221-30—221-58, serial pages (123698)—(123726).)

§§ 221.31—221.49. (Reserved.)

§§ 221.51—221.56. (Reserved.)

§ 221.61. (Reserved.)

§ 221.62. (Reserved.)

§§ 221.71—221.76. (Reserved.)

§§ 221.81—221.102. (Reserved.)

§ 221.31a. Locks.

All position locking, holding and centering devices on X-ray systems shall function as intended.

§ 221.32a. A beam limitation.

(a) The useful beam shall be limited to the area of clinical interest.

(b) The beam limiting device shall do one of the following:

(1) Indicate numerically the field size in the plane of the image receptor to which it is adjusted to within 2% of the SID.

(2) Provide for visually defining the perimeter of the X-ray field except for systems designed for one image receptor size. The total misalignment of the edges of the visually defined field with the respective edges of the X-ray field may not exceed 2% of the distance from the source to the center of the visually defined field when the surface upon which it appears is perpendicular to the axis of the X-ray beam.

(c) A means shall be provided for stepless (continuous) adjustment of the size of the X-ray field except for systems which use removable fixed operation beam limiting devices.

(d) A means shall be provided to:

(1) Indicate when the axis of the X-ray beam is perpendicular to the plane of the image receptor.

(2) Align the center of the X-ray field with respect to the center of the image receptor to within 2% of the SID.

(3) Indicate the SID to within 2%.

(e) X-ray systems designed for use with an intraoral image receptor shall be provided with means to limit SSD to not less than either of the following:

(1) Eighteen centimeters if operable above 50 kVp.

(2) Ten centimeters if not operable above 50 kVp.

(f) Indication of field size dimensions and SIDS shall be specified so that aperture adjustments result in X-ray field dimensions in the plane of the image receptor which correspond to those indicated by the beam-limiting device to within 2% of the SID when the beam axis is indicated to be perpendicular to the plane of the image receptor.

(g) Radiographic systems designed for use with an intraoral image receptor shall be provided with a means to limit the X-ray beam so that if the minimum SSD is:

(1) Eighteen centimeters or more, the X-ray field at the minimum SSD shall be containable in a circle having a diameter of no more than 7 centimeters.

(2) Less than 18 centimeters, the X-ray field at the minimum SSD shall be containable in a circle having a diameter of no more than 6 centimeters.

(h) When positive beam limitation is used, the following conditions shall be met:

(1) The radiation beam may not be larger than the size of the image receptor being used.

(2) The positive beam limitation device shall allow the operator to further reduce the size of the radiation field.

(i) Mobile or portable radiographic systems shall be provided with a means to limit the source-to-skin distance to at least 30 centimeters.

(j) Radiographic equipment designed for one or more image receptor sizes at a fixed SID shall be provided with a means to accomplish one of the following:

(1) Limit the field at the plane of the image receptor to dimensions no greater than those of the image receptor and align the center of the X-ray field with the center of the image receptor to within 2% of the SID.

(2) The X-ray field shall be sized and aligned so that at the plane of the image receptor, it does not extend beyond the edge of the image receptor by more than 2% of the SID.

§ 221.33a. Radiation from capacitor energy storage equipment in standby status.

Radiation emitted from an X-ray tube when the exposure switch or timer is not activated may not exceed a rate of 2 milliroentgens (0.516 $\mu\text{C}/\text{kg}$) per hour at 5 centimeters from an accessible surface of the diagnostic source assembly, with the beam-limiting device fully open.

§ 221.34a. Radiation exposure control.

(a) *Radiation exposure control.* Radiation exposure shall be possible only through intentional switch actuation by the operator. The radiation exposure control switch and associated circuitry shall preclude unintended actuation not initiated by the operator.

(b) *Visual indication and audible signal.* A means shall be provided for visual indication observable from the operator's protected position whenever X-rays are produced. In addition, a signal audible to the operator shall indicate that the exposure has terminated.

(c) *Termination of exposure.* A means shall be provided to terminate the exposure at a preset time interval, preset product of current and time, a preset number of pulses or a preset radiation exposure to the image receptor. Except for dental panoramic systems, termination of an exposure shall cause automatic resetting of the time to its initial setting or to "zero."

(d) *Manual exposure control.* An X-ray control shall be incorporated into each X-ray system which allows the operator to terminate an exposure at any time except for one or more of the following:

(1) Exposure of 1/2 second or less.

(2) During serial radiography in which cases means shall be provided to permit completion of any single exposure of the series in process.

(e) *Automatic exposure control.*

(1) Indication shall be made on the control panel when this mode of operation is selected.

(i) A means shall be provided to terminate irradiation at an appropriate exposure for the projection if the automatic exposure control fails to terminate irradiation.

(ii) A visible signal shall indicate when an exposure has been terminated at the limits required by

subparagraph (i), and manual resetting shall be required before further automatically timed exposures can be made.

(2) For X-ray systems operating in automatic exposure control mode, and which lack engineered safeguards that prevent exposure in the event of either a malfunction or a mispositioned X-ray beam with respect to film cassette sensors, the back-up or default mAs shall be set by the operator to an appropriate maximum value for the projection.

(3) X-ray systems utilizing automatic exposure control, in which the back-up mAs values are preset and cannot be selected by the operator, shall prominently indicate the preset mAs value on the console, along with an appropriate warning notice to the operator.

(f) *Exposure control location*

(1) Stationary X-ray systems shall have X-ray controls permanently mounted in a protected area and situated so that the operator is required to remain in that protected area during the entire exposure.

(2) For mobile and portable X-ray systems the exposure switch shall be arranged so that the operator can stand at least 2 meters from the patient and from the tube head and away from the direction of the useful X-ray beam.

FLUOROSCOPIC X-RAY SYSTEMS

§ 221.35a. Fluoroscopic X-ray systems.

Fluoroscopic X-ray systems shall use an image intensifier and in addition to the requirements of §§ 221.1—221.34a, shall meet the requirements of §§ 221.36a—221.38a (relating to limitation of useful beam of fluoroscopic equipment; activation of fluoroscopic tube; and entrance exposure rate).

§ 221.36a. Limitation of useful beam of fluoroscopic equipment.

(a) The fluoroscopic imaging assembly shall be provided with a primary protective barrier which intercepts the entire cross section of the useful beam at any source-to-image receptor distance.

(b) The X-ray tube used for fluoroscopy may not produce X-rays unless a barrier is in position to intercept the useful beam and the imaging device is in place and operable.

(c) A means shall be provided for stepless (continuous) adjustment of the field size.

(d) The minimum field size at the greatest source to image receptor distance shall be equal to or less than 25 square centimeters.

(e) Equipment may not be operated at a source to skin distance less than 30 centimeters or as required under 21 CFR 1020.32 (relating to fluoroscopic equipment).

(f) The width of the X-ray field in the plane of the image receptor may not exceed that of the visible area of the image receptor by more than 3% of the source to image receptor distance. The sum of the excess length and the excess width may not be greater than 4% of the source to image receptor distance.

(g) For rectangular X-ray fields used with a circular image receptor, the error in alignment shall be determined along the length and width dimensions

of the X-ray field which passes through the center of the visible area of the image receptor.

(h) Compliance with subsections (a)—(g) shall be determined with the beam axis perpendicular to the plane of the image receptor.

(i) Spot-film devices shall meet the following additional requirements:

(1) A means shall be provided between the source and the patient for adjustment of the X-ray field size to the size of the portion of film which has been selected on the spot-film selector.

(2) The adjustments shall be automatically accomplished except when the X-ray field size in the plane of the film is smaller than that of the film.

(3) The total misalignment of the edges of the X-ray field with the respective edges of the selected portion of the image receptor along the length or width dimensions of the X-ray field in the plane of the image receptor may not exceed 3% of the source-to image receptor when adjusted for full coverage of the selected portion of the image receptor.

(4) The sum, without regard to sign, of the misalignment along any 2 orthogonal dimensions, may not exceed 4% of the source to image receptor distance.

(j) The center of the X-ray field in the plane of the film shall be aligned with the center of the film within 2% of the source to image receptor distance.

§ 221.37a. Activation of fluoroscopic tube.

X-ray production in the fluoroscopic mode shall be controlled by a device which requires continuous pressure by the fluoroscopist for the entire time of the exposure (dead-man switch). When recording serial fluoroscopic images, the fluoroscopist shall be able to terminate X-ray exposures at any time, but means may be provided to permit completion of any single exposure of the series in process.

§ 221.38a. Entrance exposure rate.

(a) *Fluoroscopic systems without high level control.* The exposure rate may not exceed 10 roentgens (2.58 mC/kg) per minute except during recording of fluoroscopic images.

(b) *Fluoroscopic systems with high level control.*

(1) When the high level control is activated, the maximum exposure rate shall be 20 roentgens (5.16 mC/kg) per minute.

(2) When the high level control is not activated, the maximum exposure rate shall be 10 roentgens (2.58 mC/kg) per minute.

(3) Special means of activation of high level controls are required. The high level control shall only be operable when continuous manual activation is provided by the operator.

(4) There shall be an indication to the fluoroscopist that the high level control is being used.

(c) *Frequency of output measurements.* Output measurements required by this section shall be made annually and after maintenance that could affect the output of the machine.

(d) *Compliance requirements.* Compliance with subsections (a)—(c) shall be determined as follows:

(1) If the source is below the table, the exposure rate shall be expressed for the center of the useful beam 1 centimeter above the tabletop or cradle with the image intensifier 30 centimeters above the tabletop or cradle.

(2) If the source is above the table, the exposure rate shall be measured at 30 centimeters above the tabletop with the end of the beam-limiting device or spacer positioned as closely as possible to the point of measurement.

(3) In a c-arm type of fluoroscope, the exposure rate shall be measured at 30 centimeters from the input surface of the fluoroscopic imaging assembly with the source at its closest possible position of operation.

(4) The tube potential and current shall be set to give the maximum exposure possible from the X-ray system. For systems with automatic exposure control, at least 3 millimeters of lead shall be placed between the measuring device and image receptor.

(5) The measurement shall be made at the center of the useful beam.

§ 221.39a. Barrier transmitted radiation rate limits.

The protective barrier may not transmit more than 2 milliroentgens (.516 $\mu\text{mC/kg}$) per hour at 10 centimeters from an accessible surface of the fluoroscopic imaging assembly for each roentgen per minute of entrance exposure rate.

§ 221.40a. Indication of tube voltage and current.

During fluoroscopy and cinefluorography, the voltage and the current shall be continuously indicated.

§ 221.41a. Source-skin distance.

The source to skin distance may not be less than 30 centimeters.

§ 221.42a. Fluoroscopic timer.

A cumulative timing device activated by the fluoroscope switch shall be provided. It shall indicate the passage of a predetermined period of irradiation either by an audible signal or by temporary or permanent interruption of the irradiation when the increment of exposure time exceeds a predetermined limit not exceeding 5 minutes.

§ 221.43a. Control of scattered radiation.

(a) Fluoroscopic table designs when combined with normal operating procedures shall be of a type so no unprotected part of the staff or an ancillary individual's whole body is exposed to unattenuated scattered radiation which originates from under the table. The attenuation required may be not less than .25 millimeter lead equivalent.

(b) Equipment configuration when combined with normal operating procedures shall be of a type so no portion of the staff or an ancillary individual's whole body, except the extremities, is exposed to the unattenuated scattered radiation emanating from above the table top unless one of the following criteria is met:

(1) The individual is at least 120 centimeters from the center of the useful beam.

(2) The radiation has passed through not less than .25 millimeter lead equivalent material—for example, drapes, Bucky-slot cover, sliding or folding panel or self supporting curtains—in addition to lead equivalency provided by the protective apron referred to in § 221.11(e) (relating to registrant responsibilities).

§ 221.44a. Mobile fluoroscopes.

In addition to the other requirements of §§ 221.35a—221.43a, mobile fluoroscopes shall provide image intensification.

(*Editor's Note:* Sections 221.201—221.205 are new. They have been printed in regular type to enhance readability.)

COMPUTED TOMOGRAPHY X-RAY SYSTEMS

§ 221.201. Definitions.

In addition to the definitions in §§ 215.2 and 221.2 (relating to definitions), the following words and terms when used in this section and §§ 221.202—221.205 (relating to computed tomography 2-ray systems), have the following meanings, unless the context clearly indicates otherwise:

CS—Contrast scale—The change in the linear attenuation coefficient per CT number relative to water; that is:

$$CS = (U_x - U_w) / ((CT)_x - (CT)_w)$$

Where:

U_x = Linear attenuation coefficient of the material of interest

U_w = Linear attenuation coefficient of water

$(CT)_x$ = CT number of the material of interest

$(CT)_w$ = CT number of water

CT—Computed tomography—The production of a tomogram by the acquisition and computer processing of X-ray transmission data.

CTDI—Computed tomography dose index—The integral of the dose profile along a line perpendicular to the tomographic plane divided by the product of the nominal tomographic section thickness and the number of tomograms produced in a single scan.

CT conditions of operation—The selectable parameters governing the operation of a CT X-ray system including, but not limited to, nominal tomographic section thickness, filtration and the technique factors as defined in this chapter.

CT number—The number used to represent the X-ray attenuation associated with each elemental area of the CT image.

Elemental area—The smallest area within a tomogram for which the X-ray attenuation properties of a body are depicted.

Gantry—The tube housing assemblies, beam-limiting devices, detectors, transformers, if applicable, and the supporting structures and frames which hold these components.

Lux—A unit illumination equivalent to 1 lumen per square centimeter or .0929 foot-candles.

MSAD—Multiple scan average dose—The calculated average dose to the tissue within each slice in a series

utilizing an ion chamber. The MSAD is calculated using the following equation:

$$\text{MSAD} = (F \times K \times L \times E) / (T \times N)$$

Where

F = Factor to convert exposure in air to absorbed dose in lucite in RADS/mR

K = Calibration factor to account for the ion chamber's response and volume.

L = Effective length of ion chamber in millimeters (mm)

E = Exposure reading in milliroentgen (mR)

T = Nominal slice thickness in millimeters (mm) and

N = Number of slices per scan

Multiple tomogram system—A computed tomography X-ray system which obtains X-ray transmission data simultaneously during a single scan to produce more than one tomogram.

Noise—The standard deviation of the fluctuations in the CT number expressed as a percentage of the attenuation coefficient of water. Its estimate (S_n) is calculated using the following expression:

$$S_n = 100 \times CS \times S/U_w$$

Where:

CS = Contrast scale

U_w = Linear attenuation coefficient of water.

S = estimated standard deviation of the CT number of picture elements in a specified area of the CT image.

Nominal tomographic section thickness—The full-width at half-maximum of the sensitivity profile taken at the center of the cross-sectional volume over which X-ray transmission data are collected.

Performance phantom—A phantom which has a capability of providing an indication of contrast scale, noise, nominal tomographic section thickness, the resolution capability of the CT system for low and high contrast objects, and measuring the mean CT number for water or other reference materials.

Picture element—See elemental area.

Pixel—See elemental area.

Reference plane—A plane which is at a known fixed distance—which could be zero—to the tomographic plane and parallel to it.

Scan—The complete process of collecting X-ray transmission data for the production of a tomogram. Data may be collected simultaneously during a single scan for the production of one or more tomograms.

Scan increment—The amount of relative displacement of the patient with respect to the CT X-ray system between successive scans measured along the direction of the displacement.

Scan sequence—A preselected set of two or more scans performed consecutively under preselected CT conditions of operation.

Scan time—The period of time between the beginning and end of X-ray transmission data accumulation for a single scan.

Sensitivity profile—The relative response of the CT X-ray system as a function of position along a line perpendicular to the tomographic plane.

Single tomogram system—A CT X-ray system which obtains X-ray transmission data during a scan to produce a single tomogram.

Technique factors—The conditions of operation, specified as follows:

(i) For CT equipment designed for pulsed operations, peak tube potential, scan time in seconds, X-ray pulse width in seconds, and the number of X-ray pulses per second or per mAs.

(ii) For CT equipment not designed for pulsed operation, peak tube potential, and either tube current and scan time in seconds or the product of tube current and exposure time in mAs.

Tomogram—The depiction of the X-ray attenuation properties of a section through a body.

Tomographic plane—The geometric plane which is identified as corresponding to the output tomogram.

Tomographic section—The volume of an object whose X-ray attenuation properties are imaged in a tomogram.

§ 221.202. Equipment requirements

(a) *Termination of exposure.* The operator shall be able to terminate the X-ray exposure at any time during a scan, or series of scans under X-ray system control, of greater than 0.5 second duration. Termination of the X-ray exposure shall necessitate resetting of the conditions of operation prior to initiation of another scan.

(b) *Tomographic plane indication and alignment.*

(1) For any single tomogram system, a means shall be provided to permit visual determination of the tomographic plane or a reference plane offset from the tomographic plane.

(2) For any multiple tomogram system, a means shall be provided to permit visual determination of the location of a reference plane. This reference plane may be offset from the location of the tomographic plane.

(c) *Status indicators and control switches.*

(1) The CT X-ray control and gantry shall provide visual indication whenever X-rays are produced and, if applicable, whether the shutter is open or closed.

(2) A signal, audible to the operator, shall indicate that the exposure has terminated.

(3) The emergency buttons or switches shall be clearly labeled as to their function.

(4) Each individual scan or series of scans shall require initiation by the operator.

(d) *Indication of CT conditions of operation.* The CT X-ray system shall be designed so that the CT conditions of operation to be used during a scan or a scan sequence are indicated prior to the initiation of a scan or a scan sequence. On equipment having all or some of these conditions of operation at fixed values, this requirement may be met by permanent markings. Indication of CT conditions of operation shall be visible from any position from which scan initiation is possible.

(e) *Leakage radiation.* The leakage radiation from the diagnostic source assembly measured at a distance of 1 meter in any direction from the source may not exceed 100 milliroentgens (25.8 $\mu\text{C}/\text{kg}$) in 1 hour when the X-ray tube is operated at its leakage technique factors. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(f) *Beam quality.* The total filtration (inherent plus added) shall be at least 3.5 millimeters aluminum equivalent. This requirement will be considered to have been met if it can be demonstrated that the half value layer of the primary beam is not less than 4.60 millimeters of aluminum equivalent at 120 kVp.

(g) *Additional requirements applicable to CT X-ray systems containing a gantry manufactured after September 3, 1985.*

(1) The total error in the indicated location of the tomographic plane or reference plane by the light field or laser indicator may not exceed 3 millimeters.

(2) If the X-ray production period is less than 0.5 second, the indication of X-ray production shall be actuated for at least 0.5 second. Indicators at or near the gantry shall be discernible from any point external to the patient opening where insertion of any part of the human body into the primary beam is possible.

(3) The CT X-ray system shall be normalized to water.

(4) The CT number for water for a region of interest not exceeding 100 square millimeters shall be 0 ± 10.0 CT number units. The facility's performance phantom shall be utilized, with the technique factors specified by the qualified expert, to confirm compliance.

(5) With the performance phantom, the mean CT number of water of one group of pixels may not differ from the mean CT number of water of a second group of pixels equal size within the same image by more than the manufacturer's published specifications.

(6) The noise, utilizing the facility's performance phantom, may not exceed the manufacturer's published specifications.

(7) The total error in the indicated slice thickness may not exceed 2.0 millimeters.

(8) A distance of at least 100 millimeters measured in a CT image shall agree with the actual distance to within $\pm 5\%$.

(9) Premature termination of the X-ray exposure by the operator shall necessitate resetting the CT conditions of operation prior to the initiation of another scan.

§ 221.203. Facility design requirements.

(a) *Oral communication.* Provision shall be made for oral communication between the patient and the operator at the control panel.

(b) *Viewing systems.*

(1) A means shall be provided to permit continuous observation of the patient during irradiation and shall be located so that the operator can observe the patient from the control panel.

(2) If the primary viewing system is by electronic means, an alternate viewing system, which may be electronic, shall be available for use in the event of failure of the primary viewing system.

§ 221.204. Radiation measurements and performance evaluations.

(a) *Radiation measurements.*

(1) The CTDI or MSAD along the two axes specified in subsection (b)(2)(ii) shall be measured. The CT dosimetry phantom shall be oriented so that the measurement point 1.0 centimeter from the outer surface and within the phantom is in the same angular position within the gantry as the point of maximum surface exposure identified.

The CT conditions of operation shall be reproducible and correspond to typical values used by the registrant.

(2) CT dosimetry phantoms shall be used in determining the radiation output of a CT X-ray system. The phantoms shall meet the definition for a CT dosimetry phantom under 21 CFR 1020.33(b)(6) (relating to computed tomography (CT) equipment).

(i) The phantoms shall be specifically designed for CT dosimetry and deemed appropriate by the facility's qualified expert and the Department.

(ii) CT dosimetry phantoms shall provide a means for the placement of dosimeters along the axis of rotation and along a line parallel to the axis of rotation 1.0 centimeter from the outer surface and within the phantom. The means for the placement of dosimeters or alignment devices at other locations may be provided.

(iii) Any effects on the doses measured due to the removal of phantom material to accommodate dosimeters shall be accounted for through appropriate corrections to the reported data or included in the statement of maximum deviation for the values obtained using the phantom.

(iv) Dose measurements shall be performed with the CT dosimetry phantom placed on the patient couch or support device without additional attenuation materials present.

(3) In addition to the items in subsection (b), the following items shall be evaluated during an interval not exceeding 12 months or after any major component repair or change which in the opinion of the qualified expert may effect the performance of the CT unit:

(i) HVL (half value layer) determination at the most commonly used kVp.

(ii) CTDI or MSAD as specified in § 221.201 (relating to definitions) for commonly used techniques.

(iii) Tomographic plane indication (light/laser alignment).

(iv) Slice thickness as specified in § 221.202(g)(7) (relating to equipment requirements).

(v) Distance readout calibration.

(4) The measurement of the radiation output of a CT X-ray system shall be performed with a dosimetry system that has calibration traceable to National Institute of Standards and Technology. The calibration of the system shall be in accordance with an established calibration protocol. The calibration protocol published by the AAPM is accepted as an established protocol. Other protocols which are equivalent will be accepted, but the user shall submit that protocol to the Department for concurrence that the protocol is equivalent.

(5) An mR/mAs value shall be determined at least annually for the head and body.

(6) Procedures and results shall be maintained for 5 years and be available for review by the Department.

(b) *Performance evaluations.*

(1) Written performance evaluation procedures shall be developed by a qualified expert. These procedures shall be available for review by the Department.

(2) The performance evaluation procedures shall include at least the following using the facility's performance phantom:

(i) Noise.

- (ii) Contrast scale.
- (iii) Spatial resolution (low and high contrast).
- (iv) Mean CT number for water.
- (v) Acceptable tolerances.

(3) The performance evaluation shall be performed at intervals not to exceed 3 months by the qualified expert or an individual designated by the qualified expert.

(4) The qualified expert need not be present during the performance evaluation, but shall be informed within 15 days of any problems or unacceptable deviations.

(5) Performance evaluations shall include acquisition of images obtained with the performance phantom using the same processing mode and CT conditions of operation as are used to perform the measurements required by subsection (a).

(6) Records of the performance evaluations shall be maintained for inspection by the Department for at least 5 years.

§ 221.205. Operating procedures.

(a) Information shall be available at the control panel regarding the operation and performance evaluations of the system. The information shall include the following:

(1) The dates of the latest radiation measurements and performance evaluation and the location within the facility where the results of those tests may be obtained.

(2) Instructions on the use of the CT phantoms including a schedule of performance evaluations appropriate for the system, allowable variations for the indicated parameters and the results of at least the most recent performance evaluation conducted on the system.

(3) The distance in millimeters between the tomographic plane and the reference plane if the reference plane is utilized.

(4) A current technique chart available at the control panel which specifies for each routine examination the CT conditions of operation and the number of scans per examination.

(b) If the radiation measurements and performance evaluation of the CT X-ray system indicates that a system operating parameter has exceeded a tolerance established by the qualified expert, use of the CT X-ray system on patients shall be limited to those uses permitted by established written instructions of the qualified expert.

APPENDIX A

DETERMINATION OF COMPETENCE

The following are areas in which an individual shall have expertise for the competent operation of diagnostic X-ray equipment:

(1) *Familiarization with equipment.*

- (1) Identification of controls.
- (2) Function of each control.
- (3) How to use a technique chart.

(2) *Radiation protection.*

- (i) Collimation.
- (ii) Filtration.

(iii) Gonad shielding and other patient protection devices if used.

(iv) Restriction of X-ray tube radiation to image receptor.

(v) Personnel protection.

(vi) Grids.

(vii) Proper use of personnel dosimetry, if required.

(viii) Understanding units of radiation.

(3) *Film processing.*

(i) Film speed as related to patient exposure.

(ii) Film processing parameters.

(iii) Quality assurance program.

(iv) Identification of film artifacts and corrective actions, if necessary.

(v) Identification of adequate film exposure on the resultant radiograph, and corrective actions, if necessary.

(4) *Procedures.*

(i) Knowledge of anatomy and physiology.

(ii) Knowledge of positioning and radiographic demonstration of the requested anatomy with corrective actions, if necessary.

(5) *Emergency procedures.* Termination of exposure in event of automatic timing device failure.

(6) *Continuing education.* Continuing education annually to include radiation protection.

(Editor's Note: Sections 223.7 and 223.8 are new. They have been printed in regular type to enhance readability.)

CHAPTER 223. VETERINARY MEDICINE

GENERAL PROVISIONS

§ 223.7. Structural shielding.

Facilities regularly used for diagnostic or therapeutic veterinary X-ray procedures shall have protective barriers sufficient to assure compliance with § 219.51 (relating to radiation dose limits for individual members of the public).

§ 223.8. Operating procedures.

(a) Individuals, whose presence is not necessary to conduct the X-ray procedures, shall be located in a shielded area or at least 5 meters from the primary X-ray beam and X-ray tubehead.

(b) Mechanical supporting or restraining devices shall be used during X-ray procedures to hold the animal patient or films in position, when the technique permits.

(c) All individuals whose presence is necessary to conduct X-ray procedures and who are not located behind protective barriers or at least 5 meters from the X-ray tubehead and primary X-ray beam shall be protected with appropriate shielding devices such as lead aprons and gloves, and be positioned so that no part of their body except hands and forearms will be exposed to the primary beam. Appropriate shielding devices shall have a lead equivalent at least 0.5 millimeters of lead.

(d) All X-ray exposures shall be ordered by a veterinarian.

[X-RAYS] X-RAY EQUIPMENT

§ 223.11. [Equipment] Radiographic equipment.

(a) *Leakage radiation.*

(1) The leakage radiation from the [diagnostic source assembly] tube housing assembly with a beam-limiting device attached measured at a distance of 1 meter in any direction from the source may not

exceed 100 milliroentgens (25.8 $\mu\text{C}/\text{kg}$) in 1 hour when the [X-ray] X-ray tube is operated at its [leakage] maximum technique factors. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(2) The radiation emitted by a component other than the tube housing assembly with a beam-limiting device attached may not exceed 2 milliroentgens (0.516 $\mu\text{C}/\text{kg}$) in 1 hour at 5 centimeters from an accessible surface of the component when it is operated in an assembled X-ray system under conditions for which it was designed. Compliance shall be determined by measurements averaged over an area of 100 square centimeters with no linear dimension greater than 20 centimeters.

(b) [Collimators capable of restricting the useful beam to the area of clinical interest shall be provided and shall provide the same degree of protection as is required in subsection (a).] X-ray beam restriction.

(1) The primary X-ray beam shall be restricted to the area of clinical interest and equal to or smaller than the image receptor.

(2) Collimating devices capable of limiting the primary beam to the appropriate image receptor to within 2% of the source to image distance shall be provided and used. They shall provide the same degree of protection as is required in subsection (a)(1) for a diagnostic source assembly.

(3) A means shall be provided to align the center of the X-ray field to the center of the image receptor to within 2% of the source to image distance.

(c) X-ray beam filtration. * * *

(d) [A device shall be provided to terminate the exposure after a preset time or exposure.] Exposure control devices.

(1) An exposure control device shall be provided to terminate the exposure after a preset time interval, preset product of current and time, a preset number of pulses or a preset radiation exposure to the image receptor. Termination of an exposure shall cause automatic resetting of the timer to its initial setting or to zero. It may not be possible to initiate an exposure with the exposure control device in the zero or off position, if either position is available, unless equipped for current adjustment.

(2) A means shall be provided to initiate the radiation exposure by a deliberate action on the part of the operator such as the depression of a switch. The switch shall be of the dead man type.

(e) [An x-ray control shall have a dead-man type exposure switch and shall be located behind a protective barrier or arranged so that the operator may stand at least 2 meters from the animal and from the tube head.] The coefficient of variation for exposure may not exceed 0.10 when all technique factors are held constant. This requirement shall be deemed to have been met if, when 4 exposures are made at identical technique factors, the value of the average exposure (A) is greater than or equal to 5 times the maximum exposure (E(MAX)) minus the minimum exposure (E(MIN)).

(f) [Portable] Veterinary portable [x-ray] tube heads] X-ray units shall be supported by a tube stand when the technique permits unless the unit is designed to be hand held during X-ray procedures.

(g) [Fluoroscopic equipment shall satisfy the requirements of §§ 221.31–221.40 (relating to fluoroscopic x-ray systems).] The x-ray control shall provide indication of the production of x-rays that is observable from the operator's position. The technique factors that are set prior to the exposure shall be indicated on the x-ray control and shall be visible to the operator from the operator's position.

[(h) Equipment used for therapeutic purposes shall satisfy the requirements of §§ 221.71–221.76 and 221.81–221.102 (relating to therapeutic x-ray systems with energies less than 1 meV; and therapeutic x-ray and electron beam systems with energies of 1 meV and above).]

§ 223.12. [Structural shielding] (Reserved).

[Facilities regularly used for veterinary x-ray procedures shall have protective barriers sufficient to assure compliance with § 219.21 (relating to radiation protection programs).]

§ 223.12a. Fluoroscopic equipment.

(a) The fluoroscopic imaging assembly shall be provided with a primary protective barrier that intercepts the entire cross section of the primary beam at the maximum source to image receptor distance.

(b) The X-ray tube used for fluoroscopy may not produce X-rays unless the primary barrier is in position to intercept the entire primary beam.

(c) X-ray production in the fluoroscopic mode shall be controlled by a dead-man switch for the duration of any exposure. When recording serial fluoroscopic images, the fluoroscopist shall be able to terminate the X-ray exposures at any time. A means may be provided to permit completion of a single exposure of the series in process.

(d) The protective barrier may not transmit more than 2 milliroentgens (.516 $\mu\text{C}/\text{kg}$) per hour at 10 centimeters from an accessible surface of the fluoroscopic imaging assembly for each roentgen per minute of entrance exposure rate.

(e) During fluoroscopy and cinefluorography, the voltage and the current shall be continuously indicated.

(f) A cumulative timing device activated by the fluoroscope switch shall be provided. It shall indicate the passage of a predetermined period of irradiation either by an audible signal or by temporary or permanent interruption of the irradiation when the increment of exposure time exceeds a predetermined limit not exceeding 5 minutes.

(g) Fluoroscopic table designs when combined with normal operating procedures shall be of a type that no unprotected part of the staff or an ancillary individual's whole body is exposed to unattenuated scattered radiation which originates from under the table. The attenuation required may be not less than 0.25 millimeter lead equivalent.

(h) Equipment configuration when combined with normal operating procedures shall be of a type

that no portion of the staff or an ancillary individual's whole body, except the extremities, is exposed to the unattenuated scattered radiation emanating from above the tabletop unless one of the following criteria is met:

(1) The individual is at least 120 centimeters from the center of the primary beam.

(2) The radiation has passed through not less than 0.25 millimeter of lead equivalent material—for example, drapes, bucky-slot cover, sliding or folding panel or self-supporting curtains—in addition to the lead equivalency provided by the protective apron referred to in § 223.8(b)(1) (relating to operating procedures).

(i) In addition to the other requirements of this section, mobile fluoroscopes shall have image intensification.

§ 223.13. [Operating procedures] (Reserved).

[(a) The operator shall stand well away from the useful beam and the animal during radiographic exposures.

(b) Individuals, other than those whose presence is necessary to conduct the x-ray procedures, shall be outside the x-ray room or, for field procedures, shall stand at least 5 meters away from the x-ray tube and from the animal.

(c) In an application in which the operator and other assisting individual are not located behind a protective barrier, a protective apron having a lead equivalent of at least .5 millimeter shall be worn by individuals during exposures.

(d) Whenever possible, restraining, supporting or positioning devices for the animal or film shall be used for radiation exposures.

(e) No individual may be regularly employed to hold or support animals or hold film or the x-ray tube head during radiation exposures. Occupationally exposed individuals may not perform this service except in cases in which no other method is available. An individual holding or supporting an animal or film during radiation exposure shall wear protective gloves and apron having a lead equivalent of not less than .5 millimeter and shall be positioned so that no part of that individual's body will be struck by the useful beam. The exposure of an occupationally exposed individual used for this purpose shall be monitored.]

§ 223.13a. Therapeutic systems.

(a) When the tube is operated at its maximum technique factors, the leakage radiation may not exceed any of the following:

(1) One hundred milliroentgens (25.8 $\mu\text{C/kg}$) per hour at 5 centimeters from the surface of the tube housing assembly for contact therapy systems.

(2) One roentgen (.258 mC/kg) per hour at 1 meter from the source for 0-500 kVp systems.

(3) One-tenth percent of the exposure rate of the primary beam at 1 meter from the source for 501-999 kVp systems.

(b) Beam limiting devices used for limiting the primary beam shall provide at least the same protection as required by the tube housing assembly.

(c) Therapeutic X-ray systems shall be secured to prevent unauthorized use whenever the system is unattended.

(d) Interlocks shall be provided so that, when a door of the treatment room is opened, either the machine will shut off automatically or the radiation level within the room will be reduced to an average of not more than 2 milliroentgens (0.16 $\mu\text{C/kg}$) per hour and a maximum of 10 milliroentgens (2.58 $\mu\text{C/kg}$) per hour at a distance of 1 meter in any direction from the target; or interlocks will energize a conspicuous visible or audible alarm signal so that the individual entering and the operator are made aware of the entry. After a shut-off or reduction in output, it shall be possible to restore the machine to full operation only from the control panel.

(e) Interlocks, on-off beam control mechanisms, and safety and warning devices shall be checked and appropriately serviced at least once in a calendar year.

(f) Treatment room entrances shall be provided with warning lights, which will indicate when the primary beam is on, in a readily observable position near the outside of access doors.

(g) All exposure factors shall be displayed on the control panel.

(h) Provision shall be made to permit continuous observation of the animal patient from the control panel during irradiation.

(i) A registrant may not permit an individual to operate a therapeutic X-ray system until the individual has received a copy of, and instruction in, the operating procedures for the system and has demonstrated understanding of the operating procedures and competence in the use of the system.

**CHAPTER 227. RADIATION SAFETY
REQUIREMENTS FOR ANALYTICAL X-RAY
EQUIPMENT, X-RAY GAUGING EQUIPMENT AND
ELECTRON MICROSCOPES
ANALYTICAL X-RAY EQUIPMENT**

§ 227.11. [Warnings] (Reserved).

[(a) An analytical X-ray machine shall be labeled with a readily discernible sign bearing the radiation symbol and one of the following groups of words:

(1) "Caution—High Intensity X-Ray Beam," or words containing a similar warning, on the X-ray source housing and "Caution Radiation—This Equipment Produces Radiation when Energized," or words containing a similar warning, near any switch that energizes an X-ray tube if the radiation source is an X-ray tube.

(2) "Caution—Radioactive Material," or words containing a similar warning, on the source housing if the radiation source is a radionuclide.

(b) An easily visible warning light, located immediately adjacent to the tube head or port and labeled with the words "X-Ray On," or words containing a similar warning, shall be provided and shall be one of the following:

(1) Illuminated only when the X-ray tube is energized.

(2) Illuminated only when the shutter is open, in the case of a radioactive source.

(c) Open beam configurations shall have easily identified devices located near one of the following:

(1) The radiation source housing that gives a clear, visible indication of the X-ray tube status (on-off) if the primary beam is controlled in this manner.

(2) Each port on the radiation source housing that gives a clear indication of the shutter status (open-closed) if the primary beam is controlled in this manner.

(d) Warning lights and devices on equipment manufactured and installed after December 19, 1987, shall have fail-safe characteristics.]

§ 227.11a Equipment requirements.

(a) Open-beam configurations shall have a device which either prevents the entry of any portion of an individual's body into the primary X-ray beam path, or causes the beam to be terminated or interrupted upon entry into the path. A registrant may apply to the Department for an exemption from the requirement of a safety device. The application for an exemption shall include the following:

(1) A description of the various safety devices that have been evaluated.

(2) The reason each of these devices cannot be used.

(3) A description of the alternative methods that will be employed to minimize the possibility of an accidental exposure, including procedures to assure that operators and others in the area will be informed of the absence of safety devices.

(b) Open-beam configurations shall be provided with a readily discernible indication of one or both of the following:

(1) X-ray tube status (on-off) located near the radiation source housing, if the primary beam is controlled in this manner.

(2) Shutter status (open-closed) located near each port on the radiation source housing, if the primary beam is controlled in this manner.

(c) Warning devices shall be labeled so that their purpose is easily identified. In addition, equipment manufactured after December 17, 1987, shall have fail-safe characteristics.

(d) An easily visible warning light located immediately adjacent to the tube head or port and labeled with the words "X-ray on," or words containing a similar warning, shall be provided and shall be illuminated when:

(1) The X-ray tube is energized.

(2) In the case of a radioactive source, the shutter is open.

(e) Unused ports on radiation source housings shall be secured in the closed position in a manner which will prevent casual opening.

(f) All analytical X-ray equipment shall be labeled with a readily discernible sign bearing the radiation symbol and one of the following:

(1) "Caution—High Intensity X-ray Beam" or words having a similar intent on the X-ray source

housing; and "Caution Radiation—This Equipment Produces Radiation When Energized," or words having a similar intent, near any switch that energizes an X-ray tube if the radiation source is an X-ray tube.

(2) "Caution—Radioactive Material," or words having a similar intent, on the source housing if the radiation source is a radionuclide.

(g) On equipment with an open-beam configuration manufactured and installed after December 19, 1987, each port on the radiation source housing shall be equipped with a shutter that cannot be opened unless a collimator or coupling has been connected to the port.

(h) Equipment exclusively designed and exclusively used for vacuum spectroscopy where the tube housing and sample chamber is located behind all external surfaces of the unit shall be exempt from the requirements of this section, §§ 227.12a and 227.13a (relating to area requirements; and operating requirements), but shall meet the requirements of § 227.14 (relating to personnel procedures) and the following:

(1) The unit shall be designed so that when the unit is operating at the maximum kilovoltage and current ratings, the leakage radiation will not be in excess of 0.5 milliroentgens (.129 $\mu\text{C}/\text{kg}$) per hour at a distance of 4 centimeters from any external surface.

(2) Radiation surveys using appropriate radiation survey equipment shall be performed on the analytical X-ray unit upon installation, after moving the unit to a new location, and after maintenance or repair requiring the disassembly or removal of a local component or radiation shielding.

(3) Safety and warning devices shall be tested for proper operation at least annually. If the test reveals that a safety or warning device is not working properly, the unit may not be operated until the warning device is repaired or replaced.

(4) Records of all tests and surveys sufficient to show compliance with subsection (h) shall be maintained and kept available for inspection by the Department for 5 years.

(5) A sign bearing the radiation symbol and the words "Caution Radiation—This Equipment Produces Radiation When Energized," or words of similar intent shall be placed next to any switch or device that activates the X-ray tube.

(6) A sign bearing the radiation symbol and the words "Caution—Radiation," or words of similar intent shall be placed next to the opening of the sample chamber.

§ 227.12. [Safety devices and requirements] (Reserved).

[(a) Unused ports on radiation source housings shall be secured in the closed position in a manner which will prevent accidental opening.

(b) On equipment with an open-beam configuration manufactured and installed after December 19, 1987, each port on the radiation source housing shall be equipped with a shutter that cannot be opened unless a collimator or coupling has been connected to the port.

(c) Open-beam configurations shall have a device which either prevents the entry of any portion of an individual's body into the primary X-ray beam path, or causes the beam to be terminated or interrupted upon entry into the path. A registrant may apply to the Department for an exemption from the requirement of a safety device. The application shall include the following:

(1) A description of the various safety devices that have been evaluated.

(2) The reason each of these devices cannot be used.

(3) A description of the alternative methods that will be employed to minimize the possibility of an accidental exposure, including procedures to assure that operators and others in the area will be informed of the absence of safety devices.]

§ 227.12a. Area requirements.

(a) The source housing construction shall be of a type that when all the shutters are closed and the source is in any possible operating mode, the leakage radiation will not be in excess of 2.5 milliroentgens (.645 $\mu\text{C}/\text{kg}$) per hour at a distance of 5 centimeters from the housing surface.

(b) The X-ray generator shall have a protective cabinet constructed so that the leakage radiation will not be in excess of 0.5 milliroentgen (.129 $\mu\text{C}/\text{kg}$) per hour at a distance of 5 centimeters from the housing surface.

(c) The local components of an analytical X-ray system shall be located and arranged and shall include sufficient shielding or access control so that no radiation levels exist in any area surrounding the local component group which could result in a dose to an individual present therein in excess of the limits given in § 219.51 (relating to dose limits for individual members of the public). For systems utilizing X-ray tubes, these requirements shall be met at any specified tube rating.

(d) To show compliance with subsections (a)—(c), the registrant or licensee shall perform radiation surveys:

(1) Upon installation of the equipment and at least every 12 months thereafter.

(2) Following any change in the initial arrangement, number or type of local components in the system.

(3) Following any maintenance requiring the disassembly or removal of a local component in the system.

(4) During the performance of maintenance and alignment procedures if the procedures require the presence of a primary X-ray beam when any local component in the system is disassembled or removed.

(5) At any time a visual inspection of the local components in the system reveals an abnormal condition.

(6) Whenever personnel monitoring devices show a significant increase in radiation exposure over the previous monitoring period or the readings are approaching the radiation dose limits.

(7) Whenever the machine is operated in a manner other than the routine manner specified in § 227.13a (relating to operating requirements).

(e) The registrant or licensee shall test and inspect all safety and warning devices at least annually to insure their proper operation. If a safety or warning device is found to be malfunctioning, the machine shall be removed from service until repairs to the malfunctioning device are completed.

(f) Records of surveys and tests sufficient to show compliance with this chapter shall be maintained for 5 years and kept available for inspection by the Department.

(g) The equipment used to conduct the surveys and tests required in this chapter shall be adequate to measure the radiation produced by the radiation source.

§ 227.13. [Radiation levels, surveys and tests] (Reserved).

[(a) The source housing construction shall be such that when all the shutters are closed and the source is in any possible operating mode, the leakage radiation will not be in excess of 2.5 milliroentgens (0.645 $\mu\text{C}/\text{kg}$) per hour at a distance of 5 centimeters from the housing surface.

(b) The X-ray generator shall have a protective cabinet constructed so that the leakage radiation will not be in excess of .5 milliroentgen (129 nC/kg) per hour at a distance of 5 cm. from the cabinet surface.

(c) The analytical X-ray system shall have its local components and shielding or access control arranged so that in the area surrounding the local component group, the radiation dose to an individual will not be in excess of the limits given in § 219.51 (relating to dose limits to individual members of the public). For systems utilizing X-ray tubes, these requirements shall be satisfied for the maximum tube rating.

(d) To show compliance with subsections (a)—(c), the registrant or licensee shall perform radiation surveys upon installation of the equipment, and at least once every 12 months thereafter. In addition, to show compliance with subsection (c), the registrant or licensee shall perform radiation surveys:

(1) Following a change in the initial arrangement, number or type of local components in the system.

(2) Following maintenance requiring the disassembly or removal of a local component in the system.

(3) During the performance of maintenance and alignment procedures if the procedures require the presence of a primary X-ray beam when a local component in the system is disassembled or removed.

(4) When a visual inspection of the local components in the system reveals an abnormal condition.

(5) When the machine is operated in a manner other than the routine manner specified § 227.15(a) (relating to operating requirements).

(e) The registrant or licensee shall test and inspect all safety and warning devices at least annually to insure their proper operation. If a safety or

warning device is found to be nonfunctional, the machine shall be removed from service until repairs to the nonfunctioning device are completed.

(f) Records of surveys and tests sufficient to show compliance with this chapter shall be maintained and kept available for inspection by the Department.

(g) The equipment used to conduct the surveys and tests required in this chapter shall be adequate to measure the radiation produced by the radiation source.]

§ 227.13a. Operating requirements.

(a) Operating procedures shall be written and available to all analytical X-ray equipment operators. These procedures shall include instructions for sample insertion and manipulation, equipment alignment, routine maintenance and data recording procedures which are related to radiation safety. An individual may not operate analytical X-ray equipment in a manner other than that specified in the operating procedures unless the individual has obtained written approval from the radiation safety officer.

(b) An individual may not bypass or otherwise circumvent a safety device unless the individual has obtained the prior written approval of the radiation safety officer. The radiation safety officer may grant the permission only if the following exist:

(1) The radiation safety officer establishes administrative controls and procedures to assure the radiation safety of individuals working around the system.

(2) The period for the bypass of the safety device is not more than 30 days unless written permission is obtained from the Department for a longer period.

(3) A readily discernible sign bearing the words "Safety Device Not Working," or words containing a similar warning, is placed on the radiation source housing.

(c) Except as specified in subsection (b), an operation involving removal of covers, shielding materials or tube housings or modifications to shutters, collimators or beam stops may not be performed without ascertaining that the tube is off and will remain off until safe conditions have been restored. The main switch, rather than interlocks, shall be used for routine shutdown in preparation for repairs.

(d) Radioactive source housings shall be opened for source replacement, leak testing or other maintenance or repair procedures only by individuals authorized to specifically conduct the procedures under a license issued by the NRC, the Department or an agreement state.

§ 227.14. Personnel requirements.

(a) [The registrant or licensee may not permit an individual to] An individual may not operate or maintain analytical X-ray equipment unless the individual has received instruction in and demonstrated competence as to:

* * * * *

(2) Significance of the various radiation warning and safety devices incorporated into the equipment, or the reasons they have not been installed on certain pieces of equipment, and the extra precautions necessary if the devices are absent or bypassed.

* * * * *

(4) Symptoms of acute localized radiation [injury] exposure.

* * * * *

§ 227.15. [Operating requirements] (Reserved).

[(a) Written operating procedures shall be available to analytical x-ray equipment operators. These procedures shall include instructions for sample insertion and manipulation, equipment alignment, routine maintenance and data recording procedures which are related to radiation safety. No individual may operate analytical x-ray equipment in a manner other than that specified in the procedures unless the individual has obtained written approval from the radiation safety officer.

(b) No individual may bypass or otherwise circumvent a safety device unless the individual has obtained the written approval of the radiation safety officer. The radiation safety officer shall grant the permission only if the following exist:

(1) The radiation safety officer establishes administrative controls and procedures to assure the radiation safety of individuals working around the system.

(2) The period for the bypass of the safety device is no more than 30 days unless permission is obtained from the Department for a longer period.

(3) A readily discernible sign bearing the words "Safety Device Not Working" or words containing a similar warning, is placed on the radiation source housing.]

ELECTRON MICROSCOPES

§ 227.33. Personnel requirements.

[No] A registrant [shall] may not permit an individual to operate or conduct maintenance upon any electron microscope until the individual has received a copy of [and], instruction in, and demonstrated an understanding of, the operating procedures necessary to insure radiation safety.

CHAPTER 228. RADIATION SAFETY REQUIREMENTS FOR PARTICLE ACCELERATORS

GENERAL PROVISIONS

§ 228.2. Definitions.

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

* * * * *

Applicator—A structure which determines the extent of the treatment field at a given distance from the virtual source.

Beam-limiting device—A device providing a means to restrict the dimensions of the X-ray field.

Beam scattering filter—A filter used to scatter a beam of electrons.

Central axis of the beam—A line passing through the virtual source and the center of the plane figure formed by the edge of the first beam limiting device.

Dose monitoring system—A system of devices for the detection, measurement and display of quantities of radiation.

Dose monitor unit—A unit response from the dose monitoring system from which the absorbed dose can be calculated.

Existing equipment—Systems manufactured on or before the effective date of adoption of this proposal.

Field flattening filter—A filter used to provide dose uniformity over the area of a useful beam of X-rays at a specified depth.

Field size—The configuration of the radiation field along the major axes of an area in a plane perpendicular to the specified direction of the beam of incident radiation at the normal treatment distance and defined by the intersection of the major axes and the 50% isodose line.

Filter—Material placed in the useful beam to absorb the less penetrating radiation.

Isocenter—A fixed point in space located at the center of the smallest sphere through which the central axes of the beams pass.

Leakage radiation—Radiation emanating from the source assembly except for the following:

- (i) The useful beam.
- (ii) Radiation produced when the exposure switch or timer is not activated.

Moving beam therapy—Radiation therapy with relative displacement of the useful beam and the patient during irradiation.

New equipment—Systems manufactured after January 1, 1985.

Normal treatment distance—For isocentric equipment, the isocenter; for nonisocentric equipment, the target to patient skin distance along the central axis as specified by the manufacturer.

Phantom—A volume of material behaving in a manner similar to tissue with respect to the attenuation and scattering of radiation.

Primary dose monitoring system—A system which will monitor the useful beam during irradiation and which will terminate irradiation when a preselected number of dose monitor units have been attained.

Qualified expert—An individual having the knowledge and training to measure ionizing radiation, to evaluate safety techniques and to advise regarding radiation protection needs. For example, individuals certified in the appropriate field by the American Board of Radiology, or the American Board of Health Physics, or the American Board of Medical Physics, or those having equivalent qualifications. With reference to the calibration of radiation therapy equipment, an individual having, in addition to the preceding qualifications, training and experience in the clinical applications of radiation physics to radiation therapy, for example, individuals certified in therapeutic radiological physics or X-ray and radium physics by the American

Board of Radiology, or radiation oncology physics by the American Board of Medical Physics, or those having equivalent qualifications.

Radiation detector—A device which provides a signal or other indication suitable for measuring one or more quantities of incident radiation.

Radiation head—The structure from which the useful beam emerges.

Secondary dose monitoring system—A system which will terminate irradiation in the event of failure of the primary dose monitoring system.

Shadow tray—A device attached to the radiation head to support auxiliary beam limiting material.

Spot check—A procedure to assure that a previous calibration continues to be valid.

Stationary beam therapy—Radiation therapy without relative displacement of the useful beam and the patient during irradiation.

Subsystem—A combination of two or more components of an accelerator.

Target—The part of a radiation source which intercepts a beam of accelerated particles with subsequent emission of other radiation.

Tube housing assembly—The term includes high-voltage or filament transformers, or both, and other appropriate elements when contained within the tube housing.

Useful beam—The radiation which passes through the tube housing port and the aperture of the beam-limiting device when the exposure switch or timer is activated.

Wedge filter—An added filter effecting continuous progressive attenuation on all or part of the useful beam.

§ 228.3. Sale and installation.

A person may not sell or install an accelerator that does not meet the provisions of this article.

[NOTIFICATION PROCEDURES] ADMINISTRATIVE CONTROLS

§ 228.11. [Notification requirements] (Reserved).

[(a) A person who intends to purchase, construct or acquire an accelerator shall notify the Department of this intent within 30 days after the initial order is issued to obtain any or all parts of the accelerator.

(b) In addition to the notification in subsection (a), a person who intends to install an accelerator shall notify the Department within 30 days after the initial construction or installation begins.]

§ 228.11a. Registrant responsibilities.

(a) A person may not operate or permit the operation of an accelerator unless the accelerator and installation meet the applicable requirements of this article.

(b) Written safety procedures and rules shall be available at a facility, including restrictions of the operating technique required for the safe operation of the particular accelerator. The operator shall be able to demonstrate familiarity with the rules.

(c) An individual may not be exposed to the useful beam except for healing arts purposes. An exposure shall be authorized by a licensed practitioner of the healing arts.

(d) Exposure of a personnel monitoring device to deceptively indicate a dose delivered to an individual is prohibited.

§ 228.12. Information and maintenance record and associated information.

The registrant or licensee shall maintain records of surveys, calibrations, maintenance, machine malfunctions and modifications performed on the accelerators, including the names of persons who performed the services. The registrant or licensee shall keep these records for inspection by the Department for 5 years.

[GENERAL RADIATION SAFETY REQUIREMENTS] NOTIFICATION AND LICENSING PROCEDURES

§ 228.21. [Limitations] (Reserved).

[(a) No registrant may permit an individual to act as an operator of an accelerator until the individual:

(1) Has been instructed in radiation safety and shall have demonstrated an understanding thereof.

(2) Has received copies of and instruction in this chapter and Chapters 219 and 220 (relating to standards for protection against radiation; and notices, instructions and reports to workers; inspections), pertinent registration conditions and the registrant's operating and emergency procedures and shall have demonstrated understanding thereof.

(3) Has demonstrated competence to use the accelerator, related equipment and survey instruments which will be employed in that individual's assignment.

(b) The radiation safety officer shall have the authority to terminate operations at an accelerator facility if the action is deemed necessary to minimize danger to health and safety or property.]

§ 228.21a. Notification and license requirements.

(a) A person who intends to purchase, construct or acquire an accelerator shall notify the Department of this intent by filing an application for a specific license within 30 days after the initial order is issued to obtain any or all parts of the accelerator. The application shall be filed in duplicate on a form prescribed by the Department. The application shall contain pertinent information to permit the Department to evaluate the requirements specified in this chapter.

(b) In addition to the notification in subsection (a), a person who intends to install an accelerator shall notify the Department within 30 days after the initial construction or installation begins.

(c) Except as provided in subsection (d), no person may operate a particle accelerator after _____ (Editor's Note: Blank refers to effective date of adoption of the proposed rulemaking.), without having obtained a license from the Department.

(d) A registrant possessing an accelerator before _____ (Editor's Note: Blank refers to effective date of

adoption of the proposed rulemaking.), may continue to operate the accelerator provided in application for a license is filed in duplicate with the Department within 90 days of the adoption of the proposed rulemaking.

(e) The Department may, after the filing of an original application, and before the expiration of the license, require further information to enable the Department to determine whether the application will be granted or denied or whether a license will be modified or revoked.

(f) The application shall be signed by the applicant or licensee or an individual authorized by the applicant or licensee.

§ 228.22. [Shielding and safety design requirements] (Reserved).

[(a) The registrant shall consult a qualified expert for the design of accelerator installation and shall have the expert perform a radiation survey prior to the first use of the accelerator and when changes are made in shielding operations, equipment or occupancy of adjacent areas. The expert shall report the findings of these surveys in writing to the registrant and a copy of this report shall be available for inspection by the Department. The registrant shall comply with limitations indicated by the survey.

(b) An accelerator facility shall have primary and secondary protective barriers that are necessary to assure compliance with § 219.51 (relating to dose limits for individual members of the public).]

§ 228.22a. Issuance of specific licenses.

(a) Upon determination that an application meets the requirements of the act and this article, the Department will issue a specific license authorizing the proposed activity and containing conditions and limitations as it deems appropriate or necessary.

(b) After the issuance of the license, the Department may, by appropriate regulations or order, incorporate additional requirements and conditions with respect to the licensee's receipt, possession, use and transfer of the accelerator subject to this chapter as it deems appropriate or necessary in order to:

(1) Minimize danger to public health and safety or property.

(2) Prevent loss or theft of material subject to this chapter.

§ 228.23. [Particle accelerator controls and interlock systems] (Reserved).

[(a) Instrumentation, readouts and controls on the accelerator control console shall be clearly identified and easily discernible.

(b) Entrances into a target room or high radiation areas shall have interlocks that meet the requirements of §§ 219.91 and 219.154 (relating control of access to high radiation areas; and posting of high radiation areas).

(c) When an interlock system has been tripped, it shall only be possible to resume operation of the

accelerator by manually resetting controls at the interlock position, and lastly at the main control console.

(d) Safety interlocks shall be fail-safe, that is, designed so that a defect or component failure in the interlock system prevents operation of the accelerator.

(e) A scram button or other emergency power cutoff switch shall be located and easily identifiable in all high radiation areas. The cutoff switch shall include a manual reset so that the accelerator cannot be restarted from the accelerator control console without resetting the cutoff switch.]

§ 228.23a. Expiration and termination of a license.

(a) Except as provided in § 228.24a (relating to renewal of licenses), and subject to subsection (d)(5)(ii), a specific license expires at the end of the specified day, in the month and year stated in the license.

(b) A licensee shall notify the Department in writing when the licensee decides to permanently discontinue activities involving the accelerator authorized under the license and request termination of the license. The notification and request for termination shall include the reports and information specified in subsection (d)(3)—(5). The licensee is subject to subsections (d) and (e), as applicable.

(c) At least 30 days before the expiration date specified in a specific license, the licensee shall do one of the following:

(1) Submit an application for license renewal under § 228.24a.

(2) Notify the Department in writing if the licensee decides not to renew the license.

(d) If the licensee does not submit an application for license renewal under § 228.24a on or before the expiration date specified in the license, the licensee shall:

(1) Terminate the use of the accelerator.

(2) Properly dispose of incidental radioactive material generated by the operation of the accelerator.

(3) Submit a completed Department form ER-BRP-314, "Certificate of Disposition of Materials," describing the disposition of materials in paragraph (2).

(4) Submit a radiation survey report to confirm the absence of radioactive materials or establish the levels of residual radioactive contamination unless the Department determines a radiation survey report is not necessary. This report shall include:

(i) The levels of beta and gamma radiation (in units of microrems or microsieverts, or in microrads or micrograys per hour) at 1 centimeter and gamma radiation at 1 meter from surfaces, levels of removable and fixed alpha, beta and gamma contamination on surfaces (in becquerels or microcuries per 100 square centimeters), and concentrations of contamination in soils (in units of picocuries or becquerels per gram) or in water (in units of picocuries or becquerels per liter) where soil and water concentrations are reported.

(ii) The survey instrumentation used to perform these surveys.

(5) Proceed with one of the following:

(i) Submit a certification that no detectable radioactive contamination was found if no residual contamination attributable to activities conducted under the license is detected. If the information submitted under this section is adequate, the Department will notify the licensee in writing that the license is terminated.

(ii) Continue the license in effect beyond the expiration date. If necessary, with respect to possession of residual radioactive material present as contamination if detectable levels of residual radioactive contamination attributable to activities conducted under the license are found, until the Department notifies the licensee in writing that the license is terminated. During this time, the licensee shall comply with the requirements of subsection (e), in addition to the information submitted under paragraphs (3) and (4) and this paragraph, if the licensee shall submit a plan for decontamination, if necessary.

(e) A licensee who possesses residual radioactive material under subsection (d)(5)(ii) following the expiration date specified in the license, shall:

(1) Limit activities involving radioactive materials to those activities which are solely related to decontamination and other activities related to preparation for release for unrestricted use.

(2) Continue to control entry to restricted areas until the restricted areas are suitable for release for unrestricted use and until the Department notifies the licensee in writing that the license is terminated.

§ 228.24. [Operating procedures] (Reserved).

[(a) Particle accelerators, when not in operation, shall be secured to prevent unauthorized use.

(b) No interlock may be used to turn off the accelerator beam except in an emergency.

(c) A safety and warning device, including interlocks, shall be checked at least every 3 months for proper functioning and shall be repaired as necessary. Results of these checks and repairs shall be maintained at the accelerator facility for inspection by the Department.

(d) In the event of a malfunction of a safety or warning device, the accelerator may not be operated unless appropriate interim precautions are instituted to provide equivalent protection.

(e) If it is necessary to bypass intentionally a safety interlock system or component thereof, the action shall be:

(1) Authorized in writing by the radiation safety officer.

(2) Recorded in a permanent log and a notice posted at the accelerator control console.

(3) Terminated as soon as possible.

(f) A copy of the current operating and the emergency procedures shall be maintained in the accelerator control console area.]

§ 228.24a. Renewal of licenses.

(a) An application for renewal of a specific license shall be filed under § 228.21a (relating to notification and license regulations).

(b) If a renewal application is filed prior to 30 days before the expiration of a license, the existing license does not expire until definitive notice has been given by the Department of its action on the renewal application. This subsection also applies to new license applications incorporating other licenses.

§ 228.25. [Radiation monitoring requirements] (Reserved).

[(a) An accelerator facility shall have appropriate portable monitoring equipment which is operable and has been calibrated for the appropriate radiations being produced at the facility. The equipment shall be tested for proper operation each day it is used and calibrated at least annually and after each servicing or repair.

(b) In addition to the requirements of §§ 219.91 and 219.154 (relating control of access to high radiation areas; and posting of high radiation areas), an independent radiation monitoring system shall be provided so that the individuals entering or present become aware of the existence of the hazard. Area monitors shall be calibrated at least annually and after each servicing or repair.]

§ 228.25a. Amendment of license at the request of the licensee.

A licensee shall file an application for an amendment under § 228.21 (relating to notification and license requirements). The application shall specify the requested amendment and the reason for the amendment.

§ 228.26. [Production of radioactive material] (Reserved).

[(a) Radioactive material produced incidental to the operation of a particle accelerator shall be subject to § 217.48 (relating to a general license for incidental radioactive material produced by a particle accelerator).

(b) Radioactive material intentionally produced by bombarding nonradioactive material with the accelerator beam shall require a specific license under §§ 217.51—217.57 (relating to specific licenses—general conditions).]

§ 228.26a. Department action on applications to renew and amend.

In considering an application by a licensee to renew or amend a license, the Department will apply criteria in the act and this article.

GENERAL RADIATION SAFETY REQUIREMENTS
[FOR INDUSTRIAL AND RESEARCH
ACCELERATORS]

§ 228.31. [Warning devices] (Reserved).

[(a) A location designated as a high radiation area and an entrance to the location shall be equipped with easily observable warning lights that operate when, and only when, radiation is being produced.

(b) A high radiation area shall meet the requirements of § 219.43 (Reserved).]

§ 228.31a. Limitations

(a) The facility shall operate within the terms and conditions of the license issued for the operation of the accelerator.

(b) A licensee or registrant may not permit an individual to act as an operator of an accelerator until the individual:

(1) Has been instructed in radiation safety and has demonstrated an understanding thereof.

(2) Has received copies of and instruction in this chapter and Chapters 219 and 220 (relating to standards for protection against radiation; and notices, instructions and reports to workers; inspections), pertinent registration and license conditions and the registrant's or licensee's operating and emergency procedures and demonstrated understanding thereof.

(3) Has demonstrated competence to use the accelerator, related equipment and survey instruments which will be utilized in that individual's assignment.

(c) The radiation safety officer shall have the authority to restrict or terminate operations at an accelerator facility if the action is necessary to minimize danger to health and safety, property or the environment.

§ 228.32. [Circuit diagrams] (Reserved).

[Electrical circuit diagrams of the accelerator and the associated safety, warning and interlock systems shall be kept current and maintained for inspection by the Department and shall be available to the operator at an accelerator facility.]

§ 228.32a. Shielding and safety design requirements.

(a) The registrant or licensee shall consult a qualified expert for the shielding design of accelerator installation and shall have the expert perform a radiation survey prior to the first use of the accelerator and when changes are made in shielding operations, equipment or occupancy of adjacent areas. The expert shall report the findings of these surveys in writing to the registrant or licensee and a copy of this report shall be kept for 5 years and be available for inspection by the Department. The registrant or licensee shall comply with any limitations indicated by the survey.

(b) An accelerator facility shall have primary and secondary protective barriers that are necessary to assure compliance with § 219.51 (relating to dose limits for individual members of the public).

§ 228.33. [Radiation surveys] (Reserved).

[(a) When applicable, periodic surveys shall be made to determine the amount of airborne radioactivity present in areas of airborne hazards.

(b) When applicable, periodic smear surveys shall be made to determine the amount of contamination in target and other pertinent areas.

(c) Area surveys shall be made in accordance with the written procedures established by a qualified expert or the radiation safety officer of the accelerator facility.

(d) Records of surveys shall be kept current and on file at an accelerator facility.]

§ 228.33a. Facility and shielding requirements.

In addition to the requirements in Chapter 219 (relating to standards for protection against radiation), the following are required:

(1) The control panel shall be located outside the treatment or irradiation room.

(2) For accelerators not used in the healing arts, provision shall be made to permit continuous observation of the material being irradiated and any transfer or conveyance of material within the irradiation room.

(3) For accelerators used in the healing arts, provision shall be made to permit continuous observation of and communication with the patient during irradiation.

(4) Windows, mirror systems or closed-circuit television viewing screens used for observing the patient or the material being irradiated shall be located so that the operator can maintain direct surveillance over both the control panel and the patient or the material being irradiated.

(5) If the surveillance conducted under paragraph (4) is provided solely by electronic means, and if a malfunction of this surveillance equipment occurs, irradiation activities shall cease until repair of that surveillance equipment is performed and the equipment is found to be functioning normally.

(6) Irradiation or treatment room entrances shall be provided with warning lights, which will indicate when the useful beam is on in a readily observable position near the outside of access doors.

(7) Interlocks shall be provided so that entrance or access doors are closed before irradiation or treatment can be initiated or continued.

(8) For accelerators used to irradiate materials by means of a transfer or conveyance system, a means shall be provided which either terminates the irradiation or prevents entry if an individual attempts access to the irradiation room.

§ 228.34. [Ventilation systems] (Reserved).

[(a) A registrant shall control the concentration of radioactive material in air to meet the requirements of § 219.31 (relating to occupational dose limits for adults).

(b) A registrant may not vent, release or otherwise discharge airborne radioactive material to an unrestricted area which does not meet the requirements of § 219.51 (relating to dose limits to individual members of the public). Every reasonable effort shall be made to maintain releases of radioactive material to uncontrolled areas as far below these limits as practicable.]

§ 228.34a. Accelerator controls and interlock systems.

(a) Instrumentation, readouts and controls on the accelerator control console shall be clearly identified and easily discernible.

(b) Entrances into a target room or high radiation areas shall have interlocks that meet the requirements of §§ 219.91 and 219.154 (relating to control of access to high radiation areas; and posting of high radiation areas). If the radiation beam is interrupted by a door opening, it shall be possible to reinitiate the radiation exposure only by closing the door first and then by manual action at the control panel.

(c) When an interlock system has been tripped, it shall only be possible to resume operation of the accelerator by manually resetting controls at the interlock position, and lastly at the main control console.

(d) Safety interlocks shall be fail-safe, that is, designed so that a defect or component failure in the interlock system prevents operation of the accelerator.

(e) A scram button or other emergency power cutoff switch shall be located and easily identifiable in all high radiation areas. The cutoff switch shall include a manual reset so that the accelerator cannot be restarted from the accelerator control console without resetting the cutoff switch.

§ 228.35. Operating procedures.

(a) Accelerators, when not in operation, shall be secured to prevent unauthorized use.

(b) An interlock may not be used to turn off the accelerator beam except in an emergency.

(c) Each safety and warning device, including interlocks, shall be checked at least every 3 months for proper functioning and shall be repaired as necessary. Results of these checks and records of repairs shall be maintained for 5 years at the accelerator facility for inspection by the Department.

(d) In the event of a malfunction of a safety or warning device, the accelerator may not be operated unless appropriate interim precautions are instituted to provide equivalent protection.

(e) If it is necessary to bypass intentionally a safety interlock system or component thereof, the action shall be the following:

(1) Authorized in writing by the radiation safety officer.

(2) Recorded in a permanent log and a notice posted at the accelerator operator's position.

(3) Terminated as soon as possible.

(f) A copy of the current operating and the emergency procedures shall be maintained in the accelerator operator area.

(g) For accelerators used in the healing arts, operating procedures shall meet the following requirements:

(1) No individual other than the patient is in the treatment room during treatment of a patient.

(2) If a patient must be held in position during treatment, mechanical supporting or restraining devices shall be used.

(3) The system may not be used in the administration of radiation therapy unless the requirements of this chapter have been met.

(4) Misadministrations, as defined in § 215.2 (relating to definitions), shall be reported as required under § 219.228 (relating to reports of misadministrations).

(5) Only auxiliary personnel who have met the applicable requirements of 49 Pa. Code Part I, Subpart A (relating to professional and occupational affairs) shall be permitted to operate accelerators for therapeutic purposes.

(6) Only auxiliary personnel employed by a health care facility regulated by the Department of Health, the Department of Public Welfare or the Federal government shall be permitted to operate accelerator systems for therapeutic purposes in accordance with written job descriptions and employment qualifications.

(7) An individual who operates an accelerator system shall be instructed adequately in the safe operating procedures and be competent in the safe use of the equipment. The instructions shall include, but not be limited to, items included in Appendix A (relating to determination of competence).

§ 228.36. Radiation monitoring requirements.

(a) An accelerator facility shall have appropriate survey equipment which is operable and has been calibrated for the appropriate radiations being produced at the facility. The equipment shall be tested for proper operation each day it is used and calibrated at least annually and after each servicing or repair.

(b) In addition to the requirements of §§ 219.91 and 219.154 (relating control of access to high radiation areas; and posting of high radiation areas), an independent radiation monitoring system shall be provided so that the individuals entering or present become aware of the existence of the hazard. Independent radiation monitors shall be calibrated at least annually and after each servicing or repair.

(c) The calibration of the independent radiation monitoring system described in subsection (b) shall verify the response of the instrument to radiation fields of different intensity, and does not require complete accuracy with respect to radiation energy if the accelerator produces radiations greater than 3.0 MEV.

§ 228.37. Production of radioactive material.

(a) A registrant or licensee who produces radioactive material incidental to the operation of an accelerator shall comply with the general license requirements of § 217.48 (relating to a general license for incidental radioactive material produced by an accelerator).

(b) A registrant or licensee possessing radioactive material intentionally produced by bombarding nonradioactive material with the accelerator beam shall comply with the specific license requirements of §§ 217.51—217.57 (relating to specific licenses—general conditions).

§ 228.38. Surveys.

(a) A facility shall have a survey made by, or under the direction of, a qualified expert as defined under § 221.2 (relating to definitions). A survey shall also be done after a change in the facility or

equipment, including a relocation of the equipment within the irradiation or treatment room.

(b) The qualified expert shall report the survey results in writing to the individual in charge of the facility and a copy of the report shall be maintained by the registrant or licensee for 5 years for inspection by the Department. The facility shall be operated in compliance with limitations indicated by the survey.

(c) The report of the survey results shall include:

(1) The date of the measurements.

(2) The reason the survey is required.

(3) The manufacturer's name, model number and serial number of the therapeutic radiation machine accelerator.

(4) The instrument used to measure radiation levels.

(5) A plan of the areas surrounding the treatment room that were surveyed.

(6) The measured dose rate at several points in each area expressed in microsieverts or millirems per hour

(7) The calculated maximum level of radiation over a period of 1 week for each restricted and unrestricted area.

(8) The signature of the individual who conducted or is responsible for conducting the survey.

(d) Safety and warning devices and safety interlocks shall be checked annually and serviced as necessary.

(e) If the survey required by subsection (a) indicates that an individual in an unrestricted area may be exposed to levels of radiation greater than those permitted by § 219.31 or § 219.51 (relating to occupational dose limits for adults; and dose limits for members of the general public), the registrant or licensee shall do the following:

(1) Either equip the unit with beam direction interlocks or add additional radiation shielding to ensure compliance with Chapter 219 (relating to standards for protection against radiation).

(2) Perform the survey required by subsection (a) again.

(3) Prepare and submit the report required by subsection (a). The report shall also include:

(i) The results of the initial survey.

(ii) A description of the modification made to comply with this section

(iii) The results of the second survey.

§ 228.39. Records.

In addition to the requirements of §§ 219.201—219.211 (relating to records), the licensee or registrant shall maintain records of the tests and safety and warning devices described in § 228.35; the surveys described in §§ 228.32a and 228.37; and the radiation monitoring equipment calibrations and repairs of that equipment under § 228.36 (relating to radiation monitoring requirements).

RADIATION SAFETY REQUIREMENTS FOR [ACCELERATORS USED IN THE HEALING ARTS] INDUSTRIAL AND RESEARCH ACCELERATORS

§ 228.41. [Applicable regulations] (Reserved).

[The requirements of §§ 221.81—221.102 (relating to therapeutic systems with energies of 1 MeV and above) shall apply to medical facilities using accelerators with an energy of 1 MeV and above.]

§ 228.41a. Warning devices.

(a) A location designated as a high radiation area and an entrance to the location shall be equipped with easily observable warning lights that operate only when radiation is being produced.

(b) A high radiation area shall meet the requirements of § 219.91 (relating to control of access to high radiation areas).

§ 228.42. Circuit diagrams.

Electrical circuit diagrams of the accelerator and the associated safety, warning and interlock systems shall be kept current and maintained for 5 years for inspection by the Department and shall be available to the operator at an accelerator facility.

§ 228.43. Radiation surveys.

(a) Periodic surveys shall be made to determine the amount of airborne radioactivity present in areas of airborne hazards.

(b) Periodic smear surveys shall be made to determine the amount of contamination in target and other pertinent areas.

(c) Area surveys shall be made in accordance with the written procedures established by a qualified expert or the radiation safety officer of the accelerator facility.

(d) Records of surveys shall be kept current and on file at an accelerator facility. Records of surveys shall be maintained as described in Chapter 219, Subchapter L (relating to records).

§ 228.44. Ventilation systems.

(a) A registrant or licensee shall control the concentration of radioactive material in air to meet the requirements of § 219.34 (relating to determination of internal exposure).

(b) A registrant or licensee may not vent, release or otherwise discharge airborne radioactive material to an unrestricted area which does not meet the requirements of § 219.51 (relating to dose limits for individual members of the public). Every reasonable effort shall be made to maintain releases of radioactive material to uncontrolled areas as far below these limits as practicable. Compliance with this section shall be demonstrated as described in § 219.52 (relating to compliance with dose limits for individual members of the public).

§ 228.45. Portable or mobile accelerators.

Portable or mobile accelerators used for industrial radiography or research shall comply with Chapter 225 (relating to radiation safety requirements for industrial radiographic operations)

RADIATION SAFETY REQUIREMENTS FOR ACCELERATORS USED IN THE HEALING ARTS

§ 228.61. Leakage radiation to the patient area.

(a) New equipment shall meet the following requirements:

(1) For operating conditions producing maximum leakage radiation, the dose due to leakage radiation, including X-rays, electrons and neutrons, at any point on a circle of 2 meters radius centered on and perpendicular to the central axis of the beam at the isocenter or normal treatment distance and outside the maximum useful beam size, may not exceed 0.1% of the maximum dose of the unattenuated useful beam measured at the point of intersection of the central axis of the beam and the plane surface. Measurements, excluding those for neutrons, shall be averaged over an area up to but not exceeding 100 square centimeters at the position specified. Measurements of the portion of the leakage radiation dose contributed by neutrons shall be averaged over an area up to but not exceeding 200 square centimeters.

(2) For each system, the registrant or licensee shall determine or obtain from the manufacturer the leakage radiation existing at the positions specified in paragraph (1) for the specified operating conditions. The registrant or licensee shall maintain records for 5 years on leakage radiation measurements for inspection by the Department.

(b) Existing equipment shall meet the following requirements:

(1) For operating conditions producing maximum leakage radiation, the absorbed dose due to leakage radiation, including neutrons, at any point on a circle of 2 meters radius centered on and perpendicular to the central axis of the beam 1 meter from the virtual source, may not exceed 0.1% of the maximum absorbed dose of the unattenuated useful beam measured at the point of intersection of the central axis of the beam and the surface of the circular plane. Measurements shall be averaged over an area up to but not exceeding 100 square centimeters at the positions specified.

(2) For each system, the registrant or licensee shall have available the leakage radiation data existing at the positions specified in paragraph (1) for the specified operating conditions, the registrant or licensee shall maintain records on radiation leakage for 5 years for inspection by the Department.

§ 228.62. Leakage radiation outside the patient area for new equipment.

(a) The absorbed dose due to leakage radiation except in the area specified in § 228.61(a)(1) (relating to leakage radiation to the patient area) when measured at any point 1 meter from the path of the charged particles, before the charged particles strikes the target or window, may not exceed 0.1% for X-ray leakage nor 0.5% for neutron leakage of the maximum absorbed dose of the unattenuated useful beam measured at the point of intersection of the central axis of the beam and the circular plane specified in § 228.61(a)(1).

(b) The registrant or licensee shall determine or obtain from the manufacturer, the actual leakage radiation existing at the positions specified in sub-

section (a) for specified operating conditions. Radiation measurements, including neutrons, shall be averaged over an area up to but not exceeding 200 square centimeters.

§ 228.63. Beam limiting devices.

Adjustable or interchangeable beam limiting devices shall be provided and the devices may transmit no more than 5% of the useful beam at the normal treatment distance. The neutron component of the useful beam may not be included to comply with this requirement.

§ 228.64. Filters.

(a) A filter which is removable from the system shall be clearly identified. Documentation shall contain a description of the filter which includes a drawing showing dimensions and noting materials of construction. For wedge filters, the wedge factor and the wedge angle shall appear on the wedge or wedge tray.

(b) For new equipment which utilizes a system of wedge filters, interchangeable field flattening filters or interchangeable beam scattering filters the following apply:

(1) Irradiation may not be possible until a selection of a filter has been made at the control panel.

(2) An interlock system shall be provided to prevent irradiation if the filter selected is not in the correct position.

(3) An interlock shall be provided to prevent irradiation if a filter selection operation carried out in the treatment room does not agree with the filter selection operation carried out at the control panel.

§ 228.65. Beam quality.

The registrant or licensee shall determine that the following beam quality requirements are met:

(1) The absorbed dose resulting from X-rays in a useful electron beam at a point on the central axis of the beam 10 centimeters greater than the practical range of the electrons may not exceed the values in Table I. Linear interpolation shall be used for values not stated.

TABLE I

<i>Maximum Energy of Electron Beam in MeV</i>	<i>X-ray Absorbed Dose as a Fraction of Maximum Absorbed Dose</i>
1	0.03
15	0.05
35	0.10
50	0.20

(2) Compliance with subsection (a) shall be determined using:

(i) A measurement within a phantom with the incident surface of the phantom at the normal treatment distance and normal to the central axis of the beam.

(ii) The largest field size available which does not exceed 15 by 15 centimeters.

(iii) A phantom whose cross-sectional dimensions exceed the measurement radiation field by at least 5 centimeters and whose depth is sufficient to perform the required measurement.

(3) The registrant or licensee shall determine, or obtain from the manufacturer, the maximum percentage absorbed dose due to stray neutrons in the useful beam for specified operating conditions.

§ 228.66. Beam monitors.

(a) Therapy systems shall be provided with radiation detectors in the radiation head.

(b) New equipment shall be provided with at least two radiation detectors incorporated into two separate dose monitoring systems.

(c) Existing equipment shall be provided with at least one radiation detector incorporated into a primary dose monitoring system.

(d) The detector in a dose monitoring system shall be:

(1) Permanently installed and interlocked to prevent incorrect positioning.

(2) Part of a dose monitoring system that provides readings in dose monitor units which can be used to calculate the absorbed dose at a reference point in the treatment volume.

(3) Capable of independently monitoring and controlling the useful beam.

(e) For new equipment, the design of dose monitoring systems shall assure that:

(1) The malfunctioning of one system does not affect the correct functioning of the second system.

(2) The failure of an element common to both systems which could affect the correct function of both systems terminates irradiation.

(f) A dose monitoring system shall have a legible display at the control panel. For new equipment, a display shall:

(1) Maintain a reading until intentionally reset to zero.

(2) Have only one scale and no scale multiplying factors.

(3) Utilize a design so that increasing dose is displayed by increasing numbers and that the absorbed dose may be accurately determined under all conditions of use.

(4) Provide that, in the event of a power failure, the dose monitoring information required in this subsection displayed at the control panel at the time of failure shall be retrievable.

§ 228.67. Beam symmetry.

(a) In new equipment inherently capable of producing useful beams with asymmetry exceeding 5%, at least four different parts of the radiation beam shall be monitored before the beam passes through the beam limiting device.

(b) If the difference in dose rates between two of the different parts required in subsection (a) exceeds 10%, the irradiation shall be terminated.

§ 228.68. Selection and display of dose monitor units.

(a) Irradiation may not be possible until a selection of a number of dose monitor units has been made at the control panel.

(b) The preselected number of dose monitor units shall be displayed at the control panel until reset manually to zero before subsequent treatment can be initiated.

§ 228.69. Termination of irradiation by the dose monitoring system or systems.

(a) A dose monitoring system shall be capable of independently terminating irradiation.

(b) A primary system shall terminate irradiation when the preselected number of dose monitor units has been detected by the system.

(c) A secondary dose monitoring system shall terminate irradiation when either 110% of the preselected number of dose monitor units 10 dose monitor units (whichever is greater) has been detected by the secondary dose monitoring system.

(d) For new equipment, an indicator on the control panel shall show which dose monitoring system has terminated irradiation.

§ 228.70. Interruption and termination switches.

The operator shall be able to interrupt or terminate irradiation and equipment movement at any time from the control panel. Following an interruption, the operator shall be able to resume irradiation without reselection of operating conditions.

§ 228.71. Timer.

(a) The control panel shall have a timer that is graduated in minutes and fractions of minutes or seconds. The timer shall have a preset time selector and an elapsed time indicator.

(b) The timer shall be cumulative and activated only during irradiation and shall retain its reading after irradiation is interrupted or terminated.

(c) The timer shall terminate irradiation when a preselected time has elapsed if the dose monitoring systems fail to do so.

§ 228.72. Selection of radiation type.

Equipment capable of both X-ray therapy and electron therapy shall meet the following additional requirements:

(1) Irradiation may not be possible until a selection of radiation type and appropriate energy has been made and displayed at the control panel.

(2) An interlock system shall be provided to insure that the equipment can emit only the radiation type which has been selected.

(3) An interlock system shall be provided to prevent irradiation if selected operations carried out in the treatment room do not agree with the selected operations carried out at the control panel.

(4) An interlock system shall be provided to prevent:

(i) Irradiation with X-rays except to obtain a port film when electron applicators are fitted.

(ii) Irradiation with electrons when accessories specific for X-ray therapy are fitted.

(5) For new equipment, a system shall be provided to terminate irradiation if the energy of the electrons striking either the X-ray target or electron window deviates by more than +20% or ± 3 Mev, whichever is smaller, from the selected nominal energy.

§ 228.73. Selection of stationary beam therapy or moving beam therapy.

Equipment capable of both stationary beam therapy and moving beam therapy shall meet the following additional requirements:

(1) Irradiation may not be possible until a selection of stationary beam therapy or moving beam therapy has been made at the control panel.

(2) An interlock system shall be provided to insure that the equipment can operate only in the mode which has been selected.

(3) An interlock system shall be provided to prevent irradiation if any selected operations carried out in the treatment rooms do not agree with the selected operations carried out at the control panel.

(4) The mode of operation shall be displayed at the control panel.

(5) An interlock system shall be provided to terminate irradiation if one of the following occurs:

(i) Movement of the gantry during stationary beam therapy.

(ii) Movement of the gantry stops during moving beam therapy unless the stoppage is a preplanned function.

(6) An interlock system shall be provided to terminate irradiation if the number of dose monitor units delivered along an arc differs by more than 10% from the selected value. Termination of irradiation shall be as required by § 228.70 (relating to interruption and termination switches).

§ 228.74. Absorbed dose rate.

New equipment shall have a system that provides information from which the absorbed dose rate at a reference point in the treatment volume can be calculated. The radiation detectors specified in § 228.66 (relating to beam monitors) may form part of this system. The dose monitor unit rate shall be displayed at the control panel.

§ 228.75. Calibrations.

(a) The calibration of systems subject to this subchapter shall be performed in accordance with an established calibration protocol. The calibration protocol published by the American Association of Physicists in Medicine is accepted as an established protocol. Other protocols which are equivalent will be accepted, but the user shall submit that protocol to the Department for concurrence that the protocol is equivalent. The calibration shall be performed as follows:

(1) Before the system is first used for irradiation of a patient and, at time intervals which do not exceed 1 year.

(2) After a change which alters the calibration, spatial distribution or other characteristics of the therapy beam.

(b) The calibration shall be performed by, or under the direct supervision of, a qualified expert.

(c) Calibration radiation measurements required by subsection (a) shall be performed using a dosimetry system meeting the following specifications:

(1) The system has an exposure calibration factor appropriate to the beam energy measured and traceable to a National standard.

(2) The system has been calibrated within the previous 2 years and after servicing that may have affected its calibration.

(3) The system has been calibrated so that an uncertainty can be stated for the radiation quantities monitored by the system.

(4) The system has had constancy checks performed on the system as specified by a qualified expert.

(d) Calibrations made under this section shall be made so that the dose at a reference point in soft tissue may be calculated as accurately as possible but with an uncertainty of no greater than 5%.

(e) The calibration of the therapy beam shall include, but is not limited to, the following determinations:

(1) Verification that the equipment is operating in compliance with the design specifications concerning the light localizer, the side light and backpointer alignment with the isocenter when applicable, variation in the axis of rotation for the table, gantry and beam limiting device (collimator) system.

(2) The absorbed dose rate at various depths (depth dose) and beam profile measured in water and the beam flatness and symmetry for the range of field sizes used, for each beam energy.

(3) The uniformity of the radiation field and a dependency upon the direction of the useful beam.

(4) Verification of depth-dose data and isodose curves applicable to the specific machine.

(5) Verification of the applicability of transmission factors of accessories such as wedges, shadow trays, compensators and their effects on electron buildup.

(6) The dose per monitor unit, end effect, linearity and dose rate dependence of the dose monitor systems.

(7) For photon beams, the congruence of the light field and the radiation field.

(8) For electron beams, the determination of the virtual source distance for each electron energy and beam restriction device.

(f) Records of calibration measurements under subsection (a) and dosimetry system calibrations under subsection (c) shall be preserved for 5 years.

(g) A copy of the latest calibration performed under subsection (a) shall be available at the facility.

§ 228.76. Spot checks.

Spot checks shall be performed on systems subject to this subchapter during full calibrations and thereafter once in each calendar month. The spot checks shall meet the following requirements:

(1) The procedures shall be in writing and shall have been developed by a qualified expert.

(2) If a qualified expert does not perform the spot check measurements, the results of the spot check

measurements shall be reviewed by a qualified expert within 15 days of the completion of the spot check.

(3) The measurements taken during spot checks shall demonstrate the degree of consistency of the operating characteristics which can affect the radiation output of the system or the radiation delivered to a patient during a therapy procedure.

(4) The spot-check procedures shall specify the acceptable tolerance for each parameter measured in the spot check when compared to the value for that parameter determined in the full calibration.

(5) If a spot check indicates a change in the operating characteristics of a system, as specified in the qualified expert's spot-check procedures, the system shall be recalibrated as required in § 228.75 (relating to calibrations).

(6) Records of spot-check measurements performed under this section shall be maintained by the registrant for a period of 5 years after completion of the spot-check measurements and necessary corrective actions.

(7) Spot check measurements shall be performed using a dosimetry system that has been calibrated in accordance with § 228.75(c). Alternatively, a dosimetry system used solely for spot check measurements may be calibrated by direct intercomparison with a system that has been calibrated in accordance with § 228.75(c). This alternative calibration method shall have been performed within the previous year and after a servicing that may have affected the system calibration.

APPENDIX A

Determination of Competence

The following are areas in which an individual shall have expertise for the competent operation of radiation therapy equipment, the administration of radiation therapy treatment and determination of treatment portals.

(1) *Familiarization with equipment.*

- (i) Identification of controls.
- (ii) Function of each control.

(2) *Radiation protection.*

- (i) Personnel protection.
- (ii) Use of shielding blocks.
- (iii) Understanding of dose units.
- (iv) Grids.

(3) *Film processing.*

(i) Able to produce quality films for use by a physician.

- (ii) Knowledge of portal film exposure factors.
- (iii) Film processing parameters.

(4) *Procedures.*

- (i) Knowledge of anatomy and physiology.
- (ii) Knowledge of patient immobilization devices to allow treatment with minimal patient movement.

(iii) Able to position patient to allow for treatment of desired area.

(5) *Emergency procedures.*

(i) Termination of treatment in event of machine primary and secondary and dose monitoring system failure.

(ii) Termination of treatment in the event of patient movement during treatment.

(6) *Continuing education.* Continuing education annually to include radiation protection

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