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PENNSYLVANIA BULLETIN

Volume 30

Number 47

Saturday, November 18, 2000 • Harrisburg, Pa.

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Quality Regulations and page 6111 for the
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Water Quality Toxics Management
Strategy Statement of Policy

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

No. 312, November 2000

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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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List of Pa. Code Chapters Affected

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PENNSYLVANIA BULLETIN

Volume 30
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Number 47

Part II

This part contains the
Environmental Quality Board's
Water Quality Regulations and the
Department of Environmental Protection's
Water Quality Toxics Management
Strategy Statement of Policy

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GENERAL ASSEMBLY COMMISSION ON SENTENCING

Meeting Notice

The Commission on Sentencing announces the following public meeting, to be held at The Union League of Philadelphia, 140 South Broad Street, Philadelphia, PA 19102 in the McMichael Room:

Wednesday, December 6, 2000 Quarterly Commission meeting 9 a.m.

MARK H. BERGSTROM,
Executive Director

[Pa.B. Doc. No. 00-1970. Filed for public inspection November 17, 2000, 9:00 a.m.]

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

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

Amendment of Section 11 of the Pennsylvania Continuing Legal Education Board Regulations; No. 255; Supreme Court Rules Doc. No. 1

Order

Per Curiam:

And Now, this 1st day of November, 2000, Section 11 of the Pennsylvania Continuing Legal Education Board Regulation is amended as follows.

To the extent that notice of proposed rulemaking would be required by Pa.R.J.A. No. 103, the amendment of the rule is hereby found to be required in the interest of efficient administration.

This Order shall be processed in accordance with Pa.R.J.A. No. 103 (b) and shall be effective November 1, 2000.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT CHAPTER 82. CONTINUING LEGAL EDUCATION Subchapter B. CONTINUING LEGAL EDUCATION BOARD REGULATIONS

Section 11: Accreditation of Accredited Continuing Legal Education Providers.

* * * * *

(h) The provider shall have available a financial hardship policy for attorneys who wish to attend its courses, but for whom the cost of such courses would be a financial hardship. Upon request by the Board, the provider must produce the detailed financial hardship policy. The policy may be in the form of scholarships, waivers of course fees, reduced fees, or discounts.

[Pa.B. Doc. No. 00-1971. Filed for public inspection November 17, 2000, 9:00 a.m.]

Title 255—LOCAL COURT RULES

LEHIGH COUNTY

Administrative Order Amending the Rules of Civil Procedure; No. 2000-J-31

Order

Now, this 17th day of October, 2000, *It Is Ordered* that the following Rules of Civil Procedure for the Court of

Common Pleas of Lehigh County are hereby adopted and promulgated to become effective thirty (30) days after publication of the rules in the *Pennsylvania Bulletin*; and that the present Lehigh County Rules of Civil Procedure (with the exception of the present Leh.R.C.P. 1915.1 through 1920.55 which were adopted by Administrative Order dated July 11, 2000) are revoked, effective at the same time.

The Court Administrator of Lehigh County is directed to:

1. File seven (7) certified copies of this Order with the Administrative Office of Pennsylvania Courts.
2. File two (2) certified copies and one disk copy with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.
3. File one (1) certified copy with the Pennsylvania Civil Procedural Rules Committee.
4. File one (1) copy with the Clerk of Courts of the Lehigh County Court of Common Pleas.
5. Forward one (1) copy for publication in the *Lehigh County Law Journal*.

By the Court

JAMES KNOLL GARDNER,
President Judge

RULES OF CIVIL PROCEDURE

COURT OF COMMON PLEAS OF LEHIGH COUNTY

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RULES OF CIVIL PROCEDURE

COURT OF COMMON PLEAS OF LEHIGH COUNTY

Rule 51. Title and Citation of Rules.

All civil rules of procedure adopted by the Court of Common Pleas of Lehigh County shall be cited as Lehigh Rules of Civil Procedure (“Leh.R.C.P.”)

Rule 52. Effective Dates of Rules.

(a) A rule or amendment to a rule shall become effective upon the date specified by the court in adopting or amending such rule.

(b) If no effective date is specified, the rule or amendment to the rule shall become effective on the first day of July or January following the thirtieth day after its adoption, whichever is earlier.

Rule 76. Definitions.

Unless the context clearly indicates otherwise, the words and phrases used in any rule adopted by the Court of Common Pleas of Lehigh County shall be given the same meaning as is given said words and phrases by the Pennsylvania Rules of Civil Procedure with the following exceptions and additions: (1) “The court”, which shall mean the Court of Common Pleas of Lehigh County; (2) “rule”, which shall mean any rule of court adopted by the Court of Common Pleas of Lehigh County; (3) “clerk of courts” shall mean the clerk of courts, civil division; and (4) “except as otherwise provided”, which shall mean except as provided by statute, by the Pennsylvania Rules of Civil Procedure, or by specific local court rule.

Rule 100. Admission to the Bar of this Court.

(a) The clerk of courts shall keep and maintain a roll consisting of attorneys who have been admitted to the Bar of the Court of Common Pleas of Lehigh County in accordance with the requirements hereinafter set forth.

(b) Admission to the bar of this court shall be by petition of the applicant, presented by a member of this bar, which petition shall show that the applicant (1) has been admitted to the Bar of the Commonwealth of Pennsylvania; and (2) is a person of good moral character.

(c) Nothing contained in this rule shall prevent any attorney who is in good standing as a member of the Bar of the Commonwealth of Pennsylvania from practicing in this court.

Rule 101. Principles of Interpretation.

The principles of interpretation and rules of construction embodied in Pa.R.C.P. 102 to 153 inclusive shall apply to these rules, with the substitution in each case of the words “Court of Common Pleas of Lehigh County” for the words “Supreme Court.”

Rule 105. Bonds and Surety.

(a) When a bond with approved security is required, the surety shall be a certified surety company in accordance with a list thereof filed in the office of the clerk of courts, or in lieu thereof at least one responsible surety or a deposit of cash.

(b) When a bond with individual surety is offered for approval, the bond shall not be approved until such individual or individuals shall qualify under oath on a form provided by the clerk of courts.

(c) No attorney or other person officially connected with or concerned with the business of the court shall become bail or surety or post bond for any person in any proceeding, except with prior written approval of the court.

(d) Where cash is deposited in lieu of approved surety, the party required to post bond shall execute his personal bond in appropriate form stating the terms and conditions under which such cash deposit is made; provided, however, that this rule shall have no application to the posting of cash bail in criminal cases.

(e) Except in the cases of appeals from proceedings before the minor judiciary, any party filing a bond shall immediately serve a copy thereof upon the adverse party or his attorney.

(f) In all cases the form of the bond and the surety thereon shall be subject to review by the court upon the filing of a petition stating specifically the objections thereto, together with notice to the adverse party or his attorney in accordance with Leh.R.C.P. 206.1.

Rule 205.1. Size of Paper.

No paper or other document may be filed with the court on any paper other than paper approximately 8 1/2" by 11" in size.

Rule 205.2. Court Records.*(a) Records. Filing. Docket Entries.*

(1) The clerk of courts shall be responsible for maintaining systems for the filing of documents and shall make appropriate entries in dockets maintained for that purpose. Documents filed shall be endorsed with the day and exact time of filing, which endorsement, in the absence of fraud, accident or mistake, shall be conclusive evidence of such date and time of filing.

(2) The entry of a full or partial satisfaction and of the discontinuance, settlement, or termination of an action may be made by the clerk of courts upon praecipe of a party, the attorney of record for the party, or a duly authorized agent of the party, and such entry shall be attested by the clerk of courts.

(3) Except as set forth in this rule, no person other than the clerk of courts or a duly appointed and sworn deputy clerk shall be permitted to make any entry on the court dockets.

(4) Documents submitted to the clerk of courts for filing shall contain the name, address, telephone number, fax number, and supreme court identification number of the attorney filing the document, a correct caption of the proceedings, including the names of the parties, the nature of the document, the term and number of the proceedings, the division of the court, and the name of the assigned judge, if any.

(b) Removal of Court Records.

(1) Except as hereinafter provided, no record, exhibit or document shall be taken from the office of the clerk of courts without a written order signed by one of the judges of the court and requiring the return of such record, exhibit or document within a specified time; provided, however, that under no circumstances shall a bond or recognizance be removed while the same continues in force and effect. In cases where the court authorizes the removal of records, exhibits or documents, the clerk of courts shall take a written receipt for the records, exhibits or documents removed and shall cause the same to be filed with the record papers in the case, which receipt shall be canceled upon return of the records, exhibits or documents removed.

(2) In cases pending in this court or in proceedings held before duly authorized officers of the court, the clerk of courts may deliver record papers or dockets to an appropriate officer of the court, which delivery shall be noted in the records of the clerk of courts.

Rule 206.1. Motions and Petitions.*(a) General Rule.*

All requests for relief ancillary to a pending action shall be in the form of a written motion or petition, in accordance with the provisions of this rule, except the following: (1) requests for continuance, which shall utilize the preprinted "Application for Continuance" forms available in the court administrator's office; (2) motions for post-trial relief, which are governed by Pa.R.C.P. 227.1; and (3) motions during the course of a trial, which may be made orally.

Comment: Generally, a motion is a request for relief based upon undisputed facts of record, whereas a petition

is a request for relief that avers facts not of record. However, this distinction is not observed uniformly in the Pennsylvania Rules of Civil Procedure. The Pennsylvania rules often describe requests for relief as motions even though the requests are of a type often based on factual averments not of record. See, e.g., Pa.R.C.P. 213, 234.4, 238, 430, 1021, 1075, 1531, 1035.1, 1701, 4008, and 4012. The Pennsylvania rules also refer to certain requests as petitions even though they are necessarily based on facts of record. See, e.g., Pa.R.C.P. 1080 and 2958. Where the Pennsylvania rules depart from the general distinction between motions and petitions noted above, the designations in the Pennsylvania rules should be followed. Otherwise a request for relief shall be identified as either a motion or a petition, depending on whether it is based on undisputed facts of record.

(b) Contents and Form.

(1) All motions and petitions shall contain the following: (i) the caption of the case; (ii) a title stating exactly what relief is being sought, by whom, and against whom it is being sought; (iii) the material facts that constitute the grounds for said relief; (iv) an identification of any statute or procedural rule relied upon to justify the relief requested; (v) the name, address, telephone number, fax number, and supreme court identification number of counsel for the movant or petitioner; (vi) the names and addresses of all adverse parties and their counsel of record, if any; and (vii) the name of the judge, if any, to whom the case has been assigned.

(2) A motion or petition shall be divided into paragraphs numbered consecutively. Each paragraph shall contain as far as practicable only one material allegation.

(3) A motion or petition relating to discovery must aver (i) that counsel for the movant or petitioner has conferred with opposing counsel and all unrepresented parties with respect to each matter set forth in the motion or petition and has made a good faith effort to resolve the parties' differences, but has been unable to do so; or (ii) that counsel has made a good faith effort to confer, but has been unable to do so.

(4) A motion or petition shall be accompanied by a form of order that, if approved by the court, would grant the relief sought by the movant or petitioner.

(5) An uncontested motion or petition shall be accompanied by a certification of counsel that the motion or petition is uncontested.

(c) Answers to Motions and Petitions.

(1) Each party against whom relief is sought shall file an answer to the motion or petition seeking such relief within twenty (20) days from the date of service upon such party, unless (i) a different response time is established in a rule to show cause or by special order of court, (ii) the motion is for summary judgment, in which case the respondent has thirty (30) days within which to respond, or (iii) the request is a petition to withdraw as counsel, in which case the respondent has ten (10) days within which to respond.

(2) If a timely answer is not filed, all averments of fact in the motion or petition may be deemed admitted for the purpose of adjudicating the motion or petition, and the court shall enter an appropriate order.

(3) All answers shall contain the following: (i) the caption of the case; (ii) a title identifying the party filing the answer and the motion or petition to which it is responding; (iii) a statement of the material facts that constitute the defense to the motion or petition; (iv) an

identification of any statute or procedural rule relied upon in defense of the motion or petition; (v) the name, address, telephone number, fax number, and supreme court identification number of counsel for the respondent; and (vi) the name of the judge, if any, to whom the case has been assigned.

(4) An answer shall be divided into paragraphs, numbered consecutively, corresponding to the numbered paragraphs of the motion or petition. The answer shall admit, deny, or (where appropriate) demand proof of each averment in the motion or petition. The answer may also aver additional facts or legal reasons for denying or limiting the relief requested; if so, the movant or petitioner need not file a reply to these additional averments unless a reply is specifically ordered by the court.

(5) An answer shall be accompanied by a form of order which, if approved by the court, would deny or limit the relief sought by the motion or petition.

(d) *Signature and Verification.*

(1) All motions and petitions and all answers thereto shall be signed by counsel for the party submitting the same; or if the party is unrepresented, by such party.

(2) A motion or petition or an answer thereto containing an allegation of fact that does not appear of record shall be verified.

(e) *Notice to Respond.*

(1) Unless a response deadline is established in a rule to show cause, a motion or petition shall be accompanied by or endorsed with a notice indicating the time within which an answer must be filed.

(2) In the case of a petition to withdraw as counsel, the petition shall be accompanied by a withdrawal notice in substantially the following form:

WITHDRAWAL NOTICE

TO: Client
RE: Caption of Case File Number

You are hereby notified that the undersigned has filed Petition to Withdrawn as counsel in this case. A copy of the petition is attached to this notice.

If you object to this request, you must object in writing within ten (10) days to:

Honorable _____
Lehigh County Courthouse
455 Hamilton Street
Allentown, PA 18101-1614

If no written objection is received within ten (10) days, the Petition may be granted.

Please be advised that your case is scheduled for the following.

Date Name and address of Attorney

State I. D. Number

Telephone Number

CERTIFICATION OF SERVICE

I, _____, Attorney for _____ do hereby certify that the following are all of the known addresses of my client(s).

and that a copy of the Motion and this Notice have been mailed to each address and to all counsel of record by first class mail on _____.

Date Signature of Attorney

(f) *Briefs.*

(1) All motions or petitions and all answers thereto shall be accompanied by a supporting brief containing a concise statement of the legal contentions and authorities relied upon in support of or in opposition to the motion or petition; provided, however, that briefs are not required for the following: (i) motions to extend time deadlines; (ii) motions certified as uncontested or accompanied by a stipulation of all counsel and unrepresented parties; (iii) motions to compel compliance with discovery requests; and (iv) petitions to withdraw as counsel.

(2) If a movant or petitioner has not filed a supporting brief where required, the non-moving party need not do so, and the court may consider the movant or petitioner to have abandoned his/her request for relief.

(g) *Filing Procedure.*

The original of all motions, petitions and answers, along with the supporting briefs, shall be filed with the clerk of courts. A complete copy of the same, along with the original of the proposed form of order, shall be delivered to the court administrator's office for transmittal to the assigned judge.

Comment: Counsel need not forward an additional copy of these documents to the assigned judge, since the judge will receive the copy delivered to the court administrator's office.

(h) *Service and Certification of Service.*

(1) Immediately after filing a motion, petition, rule to show cause or answer, the party filing the same shall serve a complete copy upon all other counsel of record and all unrepresented parties, in accordance with Pa.R.C.P. 440 (relating to service of legal papers other than original process).

(2) Within five (5) days of the filing of a motion, petition, rule to show cause or answer, the party filing the same shall file a certification of service, certifying that proper service has been made.

(3) The court in its discretion may strike, dismiss or deny any motion, petition or answer for failure to comply with the service and certification requirements of this rule.

(4) A petition to withdraw as counsel shall be served upon the petitioner's client as well as upon all counsel of record and all unrepresented parties.

(i) *Procedure after Filing.*

(1) A rule to show cause in substantially the form prescribed in Pa.R.C.P. 206.5 shall be issued by the court if (i) the relief sought by the petition is the opening of a default judgment or a judgment of non pros, or (ii) the court, upon its own motion or the request of a party, determines that the issuance of a rule to show cause as to the particular motion or petition will serve the interests

of justice. Where a rule to show cause is issued, the procedure after issuance of the rule shall be in accordance with Pa.R.C.P. 206.7.

Comment: The court has not adopted the optional provision in Pa.R.C.P. 206.6 for issuance of a rule to show cause as of course in all cases.

(2) At the discretion of the assigned judge, the rule to show cause may establish a deadline for completion of depositions on disputed issues of fact, or the rule may provide for an evidentiary hearing on such issues. At the discretion of the assigned judge, the rule may also provide a date and time for oral argument on contested legal issues.

(3) If a rule to show cause is not issued, the procedure for disposition of the motion or petition shall be as follows:

i. If there are no disputed issues of fact, the assigned judge may enter an order adjudicating the matter upon the motion or petition papers and briefs.

ii. If it appears that there are disputed issues of fact, the assigned judge shall direct the parties to complete depositions on these disputed factual issues within a specified time frame, or shall schedule an evidentiary hearing on these issues.

iii. The assigned judge may also schedule oral argument on the motion or petition, at his/her discretion.

(4) Upon disposition of the motion or petition, the clerk of courts shall promptly serve a copy of the order granting or denying relief upon all counsel of record and any unrepresented parties.

(j) *Expedited Procedure.*

(1) In lieu of the filing procedure set forth in subparagraph (g) of this rule, certain motions and petitions may be presented in open court to the judge assigned to the case at this judge's individual motion court. Those motions that may be presented under this expedited procedure are (i) emergency motions or petitions and (ii) those motions or petitions that do not require a supporting brief, as described in subparagraph (f) of this rule.

(2) In the case of emergency motions and petitions, the original motion or petition shall be filed with the clerk of courts and a certified copy of the same delivered to the court administrator's office, which shall determine the availability of the judge assigned to the case, if any. If the judge assigned to the case is not available, or if no judge has been assigned, the court administrator's office shall refer the matter to another judge for scheduling and disposition.

(3) In the case of non-emergency motions and petitions, if no judge has been assigned to the case, the original motion or petition shall be presented to the motions judge at a daily session of miscellaneous motion court.

(4) Whenever possible, the movant or petitioner shall give all counsel of record and all unrepresented parties not less than five (5) days advance written notice of the date, time and place of the intended presentation of the motion or petition, together with a complete copy of the motion or petition. If the movant or petitioner is unable to comply with this notice requirement because of an emergency, the movant or petitioner shall make a good faith effort to notify all opposing counsel of record and all unrepresented parties as soon as possible of the intended presentation of the motion or petition, and shall describe those efforts in the motion or petition. This notice requirement may be waived with the consent of all inter-

ested parties, or it may be waived or modified by the court in emergency situations.

(5) If the movant or petitioner seeks an order staying proceedings, granting immediate substantive relief, or requiring an answer in less than twenty (20) days, the request will not be granted unless (i) it appears from the motion or petition that reasonable notice, under the circumstances, has been given to all parties in interest of the date, time, and place of the request; or (ii) the request has been agreed to by all parties in interest; or (iii) the court in its discretion determines that there are extraordinary circumstances justifying the request.

Rule 210. Form of Briefs.

(a) Each brief shall contain (1) a history of the case, (2) a statement of the pertinent facts, (3) a statement of the questions involved, and (4) the argument, and shall also include a cover sheet containing the caption, the names of the parties and the name, address and telephone number of each parties' respective counsel.

(b) The statement of questions involved shall be so drawn that the court may quickly determine all the legal questions requiring determination.

(c) The argument shall be divided into as many parts as there are questions involved. Opinions of an appellate court of this or another jurisdiction shall be cited to the official reports of the Pennsylvania appellate courts and to the national reporter system, if published therein.

Rule 211. Oral Arguments.

(a) Any party requesting oral argument on any matter filed with the court shall so indicate, either by court-approved format or, if none, by written request on the filed document. Failure to request oral argument in this manner shall be deemed a waiver thereof.

(b) Any party who has failed to file a brief in accordance with applicable rules of court shall be denied oral argument.

(c) The court may require oral argument in any matter, notwithstanding anything to the contrary contained in this rule.

Rule 212.1. Trial Dates, Discovery Deadlines, Pre-trial Statements.

(a) The requirements of Pa.R.C.P. 212.1 and 212.2 shall apply to civil actions to be tried non-jury and to equity actions.

(b) Notwithstanding the requirements of Pa.R.C.P. 212.1(b), in the event a pre-trial conference is scheduled, a pre-trial statement shall be filed by all parties, and a copy delivered to chambers of the assigned judge, not later than five (5) days prior to the pre-trial conference.

Rule 212.2. Content of Pre-trial Statement.

Pursuant to Pa.R.C.P. 212.2(a)(7), the pre-trial statement required by Pa.R.C.P. 212.2 shall also include the following information:

- (a) the estimated length of trial;
- (b) a statement of reasons to support a request for view, if desired;
- (c) any scheduling problems;
- (d) any special evidentiary issues;
- (e) a realistic settlement demand or offer.

Rule 212.3. Pre-Trial and Pre-Trial Settlement Conferences.

(a) In any action, i.e. jury, non-jury, equity and arbitration appeals, the court on its own motion, or upon praecipe or written request of any party, may direct the attorneys for the parties to appear for a pre-trial conference or settlement conference. The assigned judge shall determine the procedures for any pre-trial or pre-trial settlement conference. Notice of such conferences shall be given to all counsel or unrepresented parties by the court.

(b) Failure to participate in such conference(s), or to provide the required pre-trial statement, will justify the imposition of sanctions, including fines, reimbursement of reasonable attorney fees, and/or dismissal of the case or the entry of judgment against the offending party.

(c) Only counsel fully familiar with the case and authorized by their clients to discuss settlement candidly shall appear at pre-trial and pre-trial settlement conferences. If an attorney does not have complete settlement authority, the party or person with full settlement authority shall accompany the attorney to the conference or shall be immediately available by telephone during the conference. Counsel shall be prepared to discuss all phases of the case and are required to bring the relevant portions of their files. Failure of counsel to appear or to state his or her position candidly or to bring all essential materials may result in the imposition of sanctions against the attorney or the client.

(d) If a settlement conference is to be scheduled in a non-jury or equity case, at the time the court schedules the settlement conference on its motion, the court may assign the case to a judge, other than the assigned judge, for the purpose of holding the settlement conference. If the settlement conference is scheduled pursuant to the filing of a praecipe or written request filed by any party, the movant may also request the assignment of the case to a judge other than the assigned judge for the purpose of holding a settlement conference. Once the settlement conference is concluded, the case will then be returned to the assigned judge.

(e) In aid of settlement, the trial judge may order a summary trial to be held in accordance with such rules and procedures he/she deems appropriate.

Rule 212.4. Lawyer Mediation Program.

Settlement conferences in civil cases may be conducted through a court supervised "Lawyer Mediation Program."

(a) Appointment of Mediators.

Lawyer mediators shall be selected at the sole discretion of the judges of the civil division.

(b) Assignment of Cases for Mediation.

(1) The judge to whom a civil case has been assigned may in his or her discretion, assign a case to a lawyer mediator to conduct a settlement conference.

(2) Any litigant involved in a pending civil action can request that the case be submitted to a lawyer mediator to conduct a settlement conference; however, the assignment of the case to a lawyer mediator is at the sole discretion of the trial judge. All such requests must be made on written motion submitted in accordance with rules of this court governing motions practice. In the event a case has not been listed for trial, no motion for the appointment of a lawyer mediator to conduct a settlement conference will be considered by the court except on stipulation of all parties to the action.

(3) The lawyer mediator assigned to conduct the settlement conference shall be determined at the sole discretion of the trial judge.

(c) Duties.

It shall be the responsibility of the lawyer mediator to conduct settlement conference(s) in the case to which he or she is assigned.

(d) Notice.

(1) When the trial judge assigns a case to a lawyer mediator to conduct a settlement conference, the parties will be notified by the court administrator's office of the identity and business address of the lawyer mediator. Upon notification of the appointment of the lawyer mediator it shall be the responsibility of each attorney of record to promptly contact the lawyer mediator and advise him/her of dates on which the attorney is available to attend a settlement conference. The date for the settlement conference shall be selected by the lawyer mediator based upon availability of all counsel of record. Settlement conferences conducted by the lawyer mediator will be held at a location determined by the lawyer mediator.

(2) In the event a case is assigned to a lawyer mediator for settlement conference, at least seven (7) days prior to the conference, counsel shall provide the lawyer mediator with the following information:

i. A copy of all pre-trial conference statements previously filed by that party.

ii. A copy of all expert reports (relating to liability as well as damages) in the possession of that party and which the party intends to use at the time of trial;

iii. While it is not necessary that a complete set of all medical records be provided to the lawyer mediator in advance of the pre-trial conference, any party to the action may in their discretion provide relevant portions thereof which may be of assistance to the lawyer mediator in conducting the conference and making recommendations;

iv. Any other information that counsel deems important for the proper evaluation of the case including, but not limited to, any "settlement brochure", photographs, digests of relevant depositions, etc.

(e) Settlement Conferences.

(1) Only trial counsel shall appear at any settlement conference held before a lawyer mediator.

(2) Trial counsel for each and every party to the action shall appear at the date, time and location set for settlement conference, which conference shall continue until adjourned by the lawyer mediator.

(3) Trial counsel shall have their respective clients available by telephone at the time of the conference in order to actively pursue settlement.

(4) No ex parte communications shall take place between the lawyer mediator and counsel for the litigants without consent of all parties to the litigation. Where a case is to be tried by jury, all offers/demands of settlement will be communicated to the trial judge unless counsel specifically request that the offers or demands not be divulged. Where a case is to be tried non-jury, demands/offers of settlement will not be communicated to the judge.

(5) Within five (5) days following each settlement conference, the lawyer mediator shall submit to the court administrator's office a written report in the format approved by the court provided to the lawyer mediator by

the civil court coordinator at the time of appointment, which report shall identify the parties to the litigation, their counsel, whether any attorney failed to appear, offers/demands of settlement (except as provided in (e) (4) above), recommendations of the lawyer mediator, whether the case settled and/or the possibility of settlement, and whether additional involvement of the lawyer mediator is necessary to effectuate settlement.

(f) *Failure to Act in Good Faith.*

Failure to abide by these rules or to refuse to act in good faith with regard to settlement conferences may result in sanctions by the court.

Rule 220. Jury Size in Civil Trials.

(a) Except as provided in subdivision (b), juries in civil cases may, at the discretion of the trial judge, consist of as few as eight members. Trials in such cases shall continue so long as at least six jurors remain in service. If the number of jurors falls below six, a mistrial shall be declared upon prompt application therefor by any party then of record.

(b) When a jury trial has been demanded pursuant to Pa.R.C.P. 1007.1, a trial by a jury consisting of twelve members may be had if written demand therefor is filed with the court on any pleading or as a part of the original pre-trial statement. Such demand may appear on the pre-trial memorandum form under the heading "miscellaneous."

(c) Regardless of jury size, each party shall be entitled as a matter of right to four peremptory challenges, except that in cases involving multiple plaintiffs and/or multiple defendants, the trial court shall, in its discretion, determine the number of peremptory challenges available to each of the parties then of record.

Rule 223. Conduct of Jury Trial.

(a) The entire examination or cross-examination of a witness shall be conducted, and objections made and argued, by the attorney commencing the same.

(b) Offers of proof shall be made at side bar, out of the hearing of the jury and out of the hearing of the witness.

Rule 225. Opening and Closing Statements.

Except as otherwise directed by the trial judge, one attorney for each party or group of parties having the burden of proof shall address the jury at the conclusion of the evidence, after which the attorney for each adverse party or group of parties shall sum up. One attorney for each party or group of parties having the burden of proof shall then be allowed to address the jury in rebuttal.

Rule 226. Points for Charge.

(a) Unless otherwise permitted by the trial judge for cause shown, requested points for charge shall be limited to those relevant points set forth in the Pennsylvania Suggested Standard Civil Jury Instructions plus ten (10) additional points for charge.

(b) The points for charge requested from the Pennsylvania Suggested Standard Civil Jury Instructions shall be listed only by section number and not set forth verbatim.

Rule 227.1. Motion for Post-Trial Relief.

(a) All post-trial motions shall be filed with the clerk of courts in accordance with Pa.R.C.P. 227.1, together with a request designating that portion of the record to be transcribed. A copy of the items filed, along with a proposed order for transcription, shall also be delivered to the trial judge, the court administrator, the court re-

porter, and every other party to the action and a certificate of such service shall be filed of record.

(b) All post-trial motions must specify the grounds relied upon as provided by Pa.R.C.P. 227.1(b)(2).

(c) Unless otherwise ordered by the trial court, a brief in support of post-trial motions shall be filed within thirty (30) days following receipt of the transcript or, if no request for transcript has been made by either party, within thirty (30) days of the date of the filing of that party's post-trial motion.

(d) Unless otherwise provided by the trial court, briefs in opposition to post-trial motions shall be filed within twenty (20) days from the date of the filing of the movant's brief.

(e) A copy of briefs filed in support of, or in opposition to, post-trial motions shall be served upon the trial judge, and every other party to the action. A certificate of such service shall accompany all briefs filed hereunder.

Rule 227.3. Transcript of Testimony.

(a) Any objections to the request designating the portion of the record to be transcribed, filed pursuant to Pa.R.C.P. 227.3, shall likewise be served upon the trial judge, the court administrator's office, and the court reporter and every other party to the action and a certificate of such service shall be filed of record.

(b) The party requesting a transcript of the record or any portion thereof in a motion for post-trial relief shall pay the cost thereof. Where any other party files an objection requesting that an additional portion of the record be transcribed, the trial judge, in the absence of agreement by the parties, shall in his/her discretion and to the extent this matter is not covered in the Pennsylvania Rules of Judicial Administration 5000.1 et. seq., assign the cost of such additional transcribing to any or all parties or to the county.

Rule 229.2. Termination of Inactive Civil Cases.

(a) The clerk of courts shall prepare for call on the first Monday of October of each year or on such other date as the court by special order may direct a list containing all civil matters in which no steps or proceedings have been taken for two (2) years or more prior thereto and shall give notice thereof to counsel of record and to those parties for whom no appearance has been entered as required by Pa.R.J.A. No. 1901(c). If no compelling reason for delay in prosecution of the matter is shown at the call of the list, the court may issue an order dismissing such civil matter.

Rule 260. Money Paid Into Court.

(a) Where it is appropriate that money be paid into court, the court on petition of any party or on its own motion may direct the same to be done. A petition for the payment of money into court shall set forth the reasons for requesting such action and the exact amount to be paid. Notice of the presentation of such a petition shall be given in the manner set forth in these rules.

(b) The clerk of courts shall have custody of all money paid into court and shall deposit such funds in an escrow account to the credit of the court in a bank or banks in which deposits are insured by the Federal Deposit Insurance Corporation. Upon motion of a person who appears from the record to be prima facie interested in money paid into court, the court may authorize the clerk of courts to invest the fund in such manner and upon such terms as the court may direct.

(c) Money paid into court may not be withdrawn or paid out except upon written order of court.

Comment: This rule does not apply to cash bail or to payment of advanced costs such as masters' fees.

Rule 270. Appeals From Zoning Hearing Boards.

(a) *Form of Caption.*

The caption of an appeal from a decision of a zoning hearing board shall contain a reference to the name of the municipality and shall be in the following form:

John Doe, Appellant,
vs.

Zoning Hearing Board
(Insert full name of municipality.)

(b) *Additional Testimony.*

In the event that a party desires to present additional evidence, a motion indicating the reasons therefor shall be presented to the court within twenty (20) days after filing of the appeal.

(c) *Supersedeas.*

An appeal from a decision of a zoning hearing board shall not act as a supersedeas without special order of court. An application for a supersedeas shall be in motion or petition form, as may be appropriate, and due notice of its presentation shall be given in accordance with these rules to the municipality or its solicitor and to the parties adversely interested in the case who have entered an appearance or to their attorneys of record.

Rule 275. Land Use Appeals.

The procedure for hearing and deciding appeals from decisions of municipal governing bodies with respect to land use matters shall be the same as for zoning hearing board appeals, except that the case may be placed on a hearing list if there are disputed questions of fact pertinent to the appeal.

Rule 290. Eminent Domain.

(a) The initial petition presented to the court in any eminent domain proceeding shall cite the statute under which the petition is filed.

(b) Viewers shall be sworn to discharge the duties of their appointment as viewers with impartiality and fidelity according to the best of their learning and ability, upon their initial appointment to the board of view, and thereafter need not be sworn in any proceeding referred to them.

(c) A hearing shall be held at the time fixed by the viewers, and the witnesses shall be directed by the viewers or by the attorneys to appear at a time certain.

(d) Stenographic records of hearings will not be made except in unusual cases where, for good cause shown, the court has ordered the testimony to be taken stenographically or electronically.

Rule 430. Service by Publication.

The Lehigh Law Journal shall be the legal periodical for the publication of all notices.

Rule 1007. Commencement of Action—Track Assignment.

(a) Every complaint or other document initiating a civil action, except a praecipe for a writ of summons, shall be accompanied by an information and track assignment request form in a format approved by this court. The court administrator's office shall notify opposing counsel

or unrepresented parties of the judge assignment and track assignment. Within ten (10) days of service of said notice any party objecting to the track assignment shall notify the court administrator's office and all other counsel and unrepresented parties of the objection. Failure to resolve the track assignment conflict after preliminary conference between counsel, unrepresented parties, and the court administrator's office, will result in the conflict being referred to the assigned judge for disposition.

(b) The caseload management for each track, including discovery deadlines and anticipated disposition dates, will be determined by the court.

Rule 1012. Appearances.

(a) The first pleading filed by any party in a case shall have endorsed thereon an address in the commonwealth at which all papers and notices thereafter may be served upon that party. The first pleading filed by an attorney on behalf of a party shall constitute the attorney's entry of appearance for that party, and shall have endorsed thereon the attorney's supreme court identification number and an address in the commonwealth at which all papers and notices thereafter may be served upon said attorney on behalf of that party. Subsequent filings by other counsel on behalf of that party shall not have the effect of an entry of appearance unless a praecipe for appearance is filed with the clerk of courts.

(b) A change of address of an attorney of record may only be accomplished by filing a written request with the clerk of courts, directing that the clerk's attorney file be updated to reflect the attorney's change of address. The request must be on the attorney's letterhead, shall be signed by the attorney, and shall contain the attorney's full name, Supreme Court identification number and new address. When a law firm changes its address, each attorney employed by said firm shall comply with this procedure.

Rule 1018.1. Notice to Defend.

The following shall be designated in the notice to defend contained in a complaint filed by a plaintiff and a complaint filed by a defendant against an additional defendant as the organization from whom legal referral can be obtained, as required by Pa.R.C.P. 1018.1:

Bar Association of Lehigh County
Lawyer Referral Service
1114 Walnut Street
Allentown, Pennsylvania 18102
Telephone No. 610-433-7094

Rule 1021. Claim for Relief—Accounting.

If the court orders a party to account under Pa.R.C.P. 1021, the procedure shall be governed by Leh.R.C.P. 1530.

Rule 1028. Preliminary Objections.

(a) Preliminary objections shall be filed with the clerk of courts, served upon the adverse parties or their counsel, and a time-stamped copy thereof shall be delivered to the court administrator's office for delivery to the assigned judge.

(b) Preliminary objections must be accompanied by a brief in support thereof unless factual issues are raised, in which case the procedure set forth in (d) shall be followed. Failure to file a brief may result in automatic dismissal of the preliminary objections.

(c) Within twenty (20) days after service of the preliminary objections, the adverse parties or their counsel shall file an amended pleading or a responsive brief with the clerk of courts, serve same upon the opposing parties or

counsel, and deliver a copy to the court administrator's office for delivery to the assigned judge.

(d) Preliminary Objections raising factual issues

(1) Preliminary objections which asserts facts not otherwise of record, including but not limited to, an objection under Pa.R.C.P. 1028(a)(1), (5), or (6) shall be endorsed with a notice to plead pursuant to Pa.R.C.P. 1361. A time-stamped copy thereof shall be delivered to the court administrator's office.

(2) Any response thereto shall be filed with the clerk of courts, and a time-stamped copy delivered to the court administrator's office. If an answer is filed and served, the moving party or any other party wishing to do so, shall supplement the record with the necessary facts by affidavit or deposition within sixty (60) days from the filing of the answer, unless a hearing is required by the court.

(3) Within fourteen (14) days from the completion of the supplementation of the record, whether by the adverse party's failure to file an answer to the preliminary objections or by affidavit, deposition, or hearing the moving party shall file a brief in accordance with these rules. The opposing party shall file its brief within fourteen (14) days thereafter.

Rule 1034. Judgment on the Pleadings.

A motion for judgment on the pleadings shall set forth the reasons upon which it is based, and shall be filed and answered in conformity with Lehigh R.C.P. 206.1.

Rule 1035. Motion for Summary Judgment.

A motion for summary judgment shall be filed and argued as generally set forth in Lehigh R.C.P. 206.1.

Rule 1037. Judgment by Default.

(a) Where a rule to show cause has been obtained or a demand made or a notice to plead given under any applicable court rule or statute, the neglect of which entitles a party to a judgment, the clerk of courts shall enter such judgment upon praecipe by the party not in default, which praecipe shall set forth all the facts substantiating the present right to said judgment and include a certification as to the addresses of the parties. Assessment of damages shall be in accordance with Pa.R.C.P. 1037.

(b) A petition to open or strike off a judgment shall not operate to stay proceedings unless the court, in its discretion, grants a stay of proceedings. As a condition of such stay, the court may require the posting of security, whether or not execution has issued.

Rule 1037.1. Liability for Costs.

(a) Liability to the clerk of courts, sheriff, or other official for costs shall rest primarily on the party or attorney incurring such costs, and such primary liability shall continue until the costs are paid, notwithstanding any award of costs allowed by rule of law or order of court.

(b) No case shall be marked "settled" or "discontinued" unless and until all record costs have been paid in full.

Rule 1037.2. Bill of Costs. Taxation.

(a) A bill of costs for attendance of witnesses, service of subpoenas, and other expenses recoverable according to law or rule of court must be filed in the office of the clerk of courts, as may be appropriate, within ten (10) days after the trial, continuance or failure to reach the case, and a copy thereof shall be forthwith served upon all

adverse parties or their attorneys. In equity hearings and trials without jury where an adjudication or decision is delayed by the court, a bill of costs will be deemed timely if filed within ten (10) days after entry of the adjudication or decision on the docket.

(b) Bills of costs shall bear the correct caption of the action and must contain the names of witnesses, the days of attendance, the number of miles traveled by each witness, and sufficient information to support all items of expense for which recovery is sought. The bill of costs shall be verified by the party or counsel of record, who shall state under oath, that the expenses listed are accurate and correct and that the witnesses listed were actually present in court on the days alleged and that in the opinion of the deponent their testimony was material.

(c) A party upon whom a bill of costs has been served may, within ten (10) days, file exceptions thereto and demand that the same be taxed by the clerk of courts. Other items of cost may be taxed in the same manner. The clerk of courts shall thereupon fix a time and place for hearing, which hearing shall be not later than thirty (30) days after demand therefor. Each party shall be given at least ten (10) days notice of the hearing. Prior payment of costs shall not constitute a waiver of the rights conferred by this rule.

(d) Either party may appeal from the decision of the clerk of courts to the court within ten (10) days after notice of the decision. The appeal shall contain a specification of the items to which exception is taken and the reasons in support thereof and shall be accompanied by a praecipe placing the matter on the next available argument list. Copies of the appeal papers shall be served upon the adverse parties or their attorneys.

(e) Execution on a judgment will not be stayed pending proceedings to tax the costs or during an appeal therefrom unless the court shall so order, but any sum or sums collected on execution which represent items of costs which are then in dispute shall be paid to the clerk of courts, as may be appropriate, to be held pending the final outcome of the proceedings to tax such costs.

Rule 1054. Specific Averments—Action in Ejectment.

If the action in ejectment is commenced by filing a praecipe for a writ of summons, there shall be filed with the praecipe a copy of the description of the land for insertion in the writ.

Rule 1081. Concealment of Property; Examination of Defendant—Action of Replevin.

Where a petition is presented to the court for examination of a defendant pursuant to Pa.R.C.P. 1081, the court may order the taking of the testimony by oral examination or written interrogatories as prescribed by the rules relating to Depositions and Discovery, Pa.R.C.P. 4001, et. seq. The clerk of courts shall issue as of course a subpoena to testify.

COMPULSORY ARBITRATION

Rule 1301. Compulsory Arbitration—Scope.

(a) All civil actions which are subject to compulsory arbitration under the Judicial Code, in which the amount in controversy, exclusive of interest and costs, is Fifty Thousand (\$50,000.00) Dollars or less, shall be submitted to compulsory arbitration.

Comment: Actions in ejectment, unless involving title to real property, are subject to compulsory arbitration.

(b) The amount in controversy shall be the largest amount claimed in any single count of the pleadings by any party.

(c) The court, upon the written motion of any party, or upon its own motion, may require that a case for which a trial is demanded be first submitted to compulsory arbitration pursuant to these rules.

Rule 1302. Compulsory Arbitration—Arbitrators.

(a) Each attorney who is a member of the bar of this court, who maintains his or her principal office within Lehigh County, Pennsylvania, and who expresses a willingness to serve, shall be eligible for inclusion on the list of arbitrators.

(b) Each attorney who satisfies the requirements of Rule 1302(a) may submit his or her name to the court administrator who shall, with the approval of the administrative judge-civil division, assign said attorneys to various permanent arbitration panels. The composition of the panels may be changed from time to time as may be deemed appropriate by the court administrator, with the approval of the administrative judge-civil division.

(c) Each panel so comprised shall consist of five (5) attorneys, three (3) of whom shall be the assigned arbitrators, and two (2) of whom shall be substitutes. The chairperson of each panel shall have been actively engaged in the practice of law in this court for at least three (3) years. Should a substitution of an assigned arbitrator be necessary, he or she shall arrange for one of the two substitutes to be present at the arbitration. Should neither of the two substitutes of the panel be able to sit, the assigned arbitrator may arrange for a substitute from a list of court-approved permanent substitute arbitrators. A panel member who cannot sit and who has made the proper arrangements for a substitute shall notify, in writing, the other panel members and counsel for all parties or the parties themselves if unrepresented by counsel. In addition, a copy of this writing shall be mailed to the court administrator.

(d) Each arbitrator will be compensated such rate as may be set by the court from time to time by administrative order.

Rule 1302.1. List of Arbitrators.

(a) The court administrator shall prepare and maintain a permanent roster of available arbitrators which shall be designated "List of Arbitrators" and shall contain the names of all attorneys who have met the qualifications set forth in Lehigh County Proc. 1302(a), supra, together with the date of admission to the bar of this court.

(b) The court administrator shall prepare and maintain a permanent roster of available chairpersons of boards of arbitrators which shall be designated "List of Chairpersons of Boards of Arbitrators" and shall contain the names of all attorneys who have met the qualifications of Lehigh County Proc. 1302(b), supra.

(c) Both of the lists mentioned in (a) and (b) above shall be organized in chronological order according to the date on which each attorney has become eligible for inclusion therein with the attorney having the earliest date of eligibility listed first. In the event two or more attorneys have become eligible on the same date, they shall be listed in alphabetical order.

(d) As each attorney listed on the "List of Arbitrators" completes three (3) years of active practice in this court, the name shall be added to the "List of Chairpersons of Boards of Arbitrators" and the date of the listing noted behind the name.

(e) An attorney whose name is contained on either or both of the lists above-mentioned may resign from either or both lists by letter addressed to the court administrator, whereupon the court administrator shall note the resignation and date thereof on the appropriate list or lists behind the attorney's name.

(f) The court administrator shall also note all deletions from the aforementioned lists whether by death, removal of principal office from Lehigh County, cessation of active practice in this court, suspension from practice or disbarment and the date thereof.

Rule 1302.2. Special Lists.

The court may from time to time establish special lists of arbitrators who by virtue of seniority and experience in specific fields of the law are particularly qualified to serve as arbitrators in particular types of cases as for example, medical and legal malpractice cases, products liability cases and construction contract cases.

Rule 1302.3. Composition of Boards of Arbitrators.

(a) Each board of arbitrators shall be composed of one attorney from the "List of Chairpersons of Boards of Arbitrators" and two attorneys from the "List of Arbitrators".

(b) Substitutions shall be made from the appropriate list or lists by the court administrator.

(c) Appointments to boards of arbitrators shall be made by the court administrator in the order in which the names appear on the respective lists.

(d) If an appointed arbitrator cannot serve at the time and place designated, the attorney shall, unless prevented by matters beyond his or her control, notify the court administrator at least five (5) days in advance of the date upon which the hearing has been scheduled. That attorney shall then be appointed an arbitrator at the first opportunity thereafter. If any arbitrator fails to give notice as aforesaid or simply fails to appear at a scheduled arbitration, his or her name shall be passed over and that attorney shall not receive another appointment until his or her name reappears for appointment in due course. If any arbitrator is guilty of such a failing a second time, the attorney's name shall be removed from the appropriate list or lists and he or she shall not thereafter serve as an arbitrator until reinstated upon application to the court.

Rule 1302.4. Notification of Appointment of Arbitrators.

The court administrator shall mail a copy of the appointment of a board of arbitrators to each arbitrator appointed, each attorney of record and in the event a party is not represented by an attorney to such party at his last known address by regular mail and file of record proof of such notice.

Rule 1302.5. Compensation of Arbitrators.

(a) For the first hearing, the arbitrators shall receive compensation as set by administrative order of this court.

(b) Where more than one hearing becomes necessary, additional compensation may be allowed at the discretion of the court upon petition and cause shown by the chairperson on behalf of all of the members of the board. Such a petition shall be presented to the administrative judge of the civil division of the court.

(c) No compensation shall be allowed when settlement occurs prior to the hearing, when counsel and the arbitrators report for a hearing and a settlement is announced

or when no testimony is received at the hearing. In such cases, however, that panel of arbitrators shall be assigned another case at the first opportunity.

Rule 1303. Hearing.

(a) Arbitrations will be held on the date and at the time and place prescribed by the court administrator.

(b) The court administrator shall notify all attorneys of record of the date, time and place of the hearing by mail. If a party is not represented by counsel of record, that party shall be given notice by regular mail addressed to the party's last known address. The court administrator shall file of record proof of notice as aforesaid. Notice shall be given to the parties or their attorneys of record at least thirty (30) days prior to the scheduled hearing.

The court administrator shall, by regular mail, also notify all arbitrators assigned to an arbitration panel of the dates on which the arbitration panel is assigned to hear arbitration cases and the location of the arbitration hearings.

In addition, prior to the scheduled arbitration date, the court administrator shall, by mail, send all of the arbitrators assigned to the arbitration panel a list containing the names of the cases to be heard, the names of the parties and the names of all counsel for the parties. In the event any of the arbitrators believes that he/she has a conflict of interest in connection with hearing any particular case, the arbitrator shall immediately notify the court administrator in writing that the arbitrator believes there is a conflict of interest and the reasons therefore, with a copy to all counsel or unrepresented parties involved in the particular case.

(c) On the date of the arbitration hearing, all counsel should check in with the representative of the court administrator's office located at the site of the arbitration. Cases in which all parties have checked in and have indicated they are ready to proceed will be assigned to a panel for hearing, by the representative of the court administrator's office after consultation with the panel chairman. All cases on the list are intended to be reached, and all counsel should be prepared to commence their case at the time they are directed to report for the arbitration.

(d) In the event that the panels of arbitrators are unable to reach all of the cases scheduled for arbitration on a particular day, the arbitration hearing for those cases that are not reached shall be continued by the court administrator's office to the morning of the next available date for arbitrations generally. In the event that an arbitration hearing has been commenced but is not concluded on the day scheduled for the arbitration hearing, the arbitration hearing shall be continued to the morning of the next available date that the same members of the arbitration panel which commenced hearing the case are scheduled and available to hear arbitration cases.

(e) The written notice provided for above shall include the following statement:

"This matter will be heard by a board of arbitrators at the time, date and place specified but, if one or more of the parties is not present at the hearing, the matter may be heard at the same time and date before a judge of the court without the absent party or parties. There is no right to a trial de novo on appeal from a decision entered by a judge."

Rule 1303.1. Continuances.

(a) Any application for a continuance of a scheduled arbitration hearing shall be presented on the approved

continuance request form to the administrative judge, civil division, or his designee, at least five (5) days prior to the arbitration date. The continuance request must be on a form approved by the court, and shall contain all of the reasons for the request for continuance. Amplification of reasons, by letter or in person, will not be considered by the court. The application for continuance will not be considered unless it contains the position of opposing counsel, either by signature of the opposing counsel or by verification of the counsel presenting the request for continuance. Good cause shall be required for continuance of an arbitration hearing. The filing of a pre-trial motion after a case has been scheduled for arbitration will not result in an automatic continuance of the arbitration hearing.

(b) If the application for continuance of a scheduled arbitration hearing is granted, the court administrator shall select and set a date certain for the arbitration hearing to be held. Counsel may select a date certain for the continuance of the arbitration hearing from a list of available dates provided by the court administrator's office, provided that all counsel agree to said date. A selection of a date certain certifies to the court that the date has been cleared with opposing counsel and the court administrator. Continuances will not be granted from a date certain selected by counsel.

(c) If an application for continuance is not made at least five (5) days prior to the arbitration hearing, then a continuance shall only be granted by the court for good cause which was not apparent five (5) days prior to the date set for the arbitration hearing.

Rule 1303.2. Scheduling of Arbitration Hearing: Notice.

(a) A matter subject to compulsory arbitration shall be listed for hearing by (1) praecipe of any party when the pleadings are closed or the time for filing pleadings has ended, and there are not any outstanding motions requiring disposition by the court, or by (2) the court administrator under circumstances hereafter described.

(b) By Praecipe of Any Party

A party may, following compliance with the discovery notice herein required, request that a matter be scheduled for arbitration by using forms provided by the clerk of courts, civil division for such purpose.

(1) A party shall not praecipe a case for arbitration until the party has served upon opposing counsel and any unrepresented parties a notice of intent to request arbitration. Within twenty (20) days after the date of the notice, a party desiring any additional discovery shall notify other counsel and unrepresented parties of the scope and nature of such additional discovery. Discovery must be completed within 120 days from the giving of notice to pursue additional discovery.

(2) If no discovery request is sent within twenty (20) days after the date of the notice of intent to arbitrate, a party may praecipe the case for arbitration.

(3) If a discovery request is made, a party may praecipe the case for arbitration upon completion of discovery or the expiration of 120 days from the giving of the notice to pursue discovery, whichever comes first, unless the time for discovery is extended by the court.

(4) A party shall not be required to serve notice of intent to request arbitration if the matter has been pending for a period one (1) year or more.

(5) Notwithstanding the foregoing, discovery in cases involving district justice appeals shall be completed within sixty (60) days from the filing of the appeal.

(c) As Set by the Court Administrator

The court administrator may schedule matters for arbitration under the following circumstances:

(1) All matters that are appeals from a district justice decision may be scheduled for arbitration hearing sixty (60) days after the appeal is taken, unless there are outstanding pleadings, motions, petitions, or other matters that require court disposition. The parties to a district justice appeal shall file pleadings and complete discovery within sixty (60) days of the date of the appeal.

(2) All other matters which are subject to compulsory arbitration may be scheduled for arbitration hearing no later than one (1) year after the commencement of the action, unless there are outstanding motions, petitions, or other matters that require court disposition. The parties to an action which is subject to compulsory arbitration shall file all pleadings and complete all discovery within one (1) year of the date of the commencement of the action, unless the time for completion of discovery has been extended by the court upon motion of any party.

(d) In the event one or more parties do not appear for the scheduled arbitration, the remaining parties may consent to having the judge assigned to monitor the case hear the matter on the same date as the scheduled arbitration hearing. It shall be discretionary with the judge whether to hear the case as requested.

(e) The filing of dispositive motions within thirty (30) days of the scheduled arbitration hearing shall not be grounds for continuance of the hearing unless good cause is shown.

Rule 1304. Conduct of Hearing, General.

(a) The board of arbitrators shall have no power to allow amendment of pleadings, allow the addition or substitution of parties or rule on preliminary objections, motions for judgment on the pleadings or motions for summary judgment.

(b) Procedural rules described in Pa.R.C.P. 1304 shall apply to the conduct of arbitration hearings.

(c) Parties may present agreements on awards to be entered by the arbitrators orally on the date of hearing, or in writing prior thereto.

(d) If it appears at the arbitration hearing that any defendant has not been properly served, judgment shall be entered for that defendant.

(e) If it appears at the arbitration hearing that a complaint has not been filed, judgment shall be entered for the defendant.

(f) If it appears at the arbitration hearing that a defendant has appealed a district justice judgment, and has not served a rule to file a complaint upon the plaintiff, an award shall be entered in favor of the plaintiff.

Rule 1305. Conduct of Hearing, Evidence.

(a) Initially all rulings on objections to evidence or on other issues which arise during the hearing shall be made by the chairperson of the board of arbitrators, and such rulings shall be final unless one of the other arbitrators disagrees with the same. In the latter instance, the arbitrators shall consult and vote, and the final ruling shall be that of the majority.

(b) Following the hearing, the chairperson of the board of arbitration may release to the respective parties the exhibits introduced.

(c) Evidentiary rules described in Pa.R.C.P. 1305 shall apply to the conduct of arbitration hearings.

Rule 1306. Award—Delay Damages.

(a) Arbitrators may consider the subject of damages for delay pursuant to Pa.R.C.P. 238 after a decision had been reached on the merits and has been entered on the award form.

(b) After the amount of the award has been so entered, the board shall make a determination as to damages for delay in accordance with Pa.R.C.P. 238 by accepting a sealed envelope containing a stipulation setting forth whether an offer was made in writing and if so, the amount as well as the date of the offer.

(c) If damages for delay under Pa.R.C.P. 238 are awarded, the amount thereof shall be added to the principal amount awarded, but shall be separately stated on the award.

Rule 1307. Costs.

Witness fees and costs shall conform to fees and costs pertaining to civil actions in the Court of Common Pleas of Lehigh County.

Rule 1308. Appeals from Arbitration.

All appeals from arbitration must be timely filed with the clerk of courts accompanied by a check in the amount of \$600.00 or 50% of the amount in controversy, whichever is less. A copy of the appeal shall be provided contemporaneously by appellant to the court administrator's office.

Rule 1507. Action in Equity. Notice by Publication.

When notice by publication is given under Pa.R.C.P. 1507, the advertisement shall contain the caption of the action, a statement that an action in equity has been commenced by the named plaintiff against the named defendant concerning the subject matter briefly described, and a statement that the named person, if the name is known, or all persons interested in the subject matter, are required to appear in the action or a default decree may be entered which will affect their interests.

Rule 1521. Action in Equity. Indexing of Decree.

Decrees, nisi or final, shall also be entered on the ejection and miscellaneous index of the court.

Rule 1530. Action in Equity. Accounting.

(a) When the court has entered a final order directing one party to account to another, the party directed to account shall state the account and file a written statement thereof in the office of the clerk of courts within thirty (30) days after notice of the entry of said order of court, unless the court shall for cause shown allow a longer time.

(b) The statement of account shall be signed and verified by the accountant, and it shall contain the following:

(1) The dates and sources of all items of debit;

(2) The dates and descriptions of all items of credit, including the names of all persons to whom disbursements were made and the purposes thereof;

(3) A recapitulation showing the total debits, the total credits, and the balance remaining.

(c) Upon filing the account, the accountant shall forthwith serve a copy thereof upon all other parties in the same manner in which a pleading may be served under Pa.R.C.P. 440.

(d) Upon the filing of exceptions, the court may refer the exceptions to an auditor that the court may appoint or may direct that the exceptions be disposed of by placing same on an argument or hearing list.

(e) If the party directed to file an account shall fail to do so within thirty (30) days or such longer period as the court may fix, the court may, on petition of any other party, find that the party directed to file an account is in contempt of court, and/or appoint an auditor to state the account upon the basis of such evidence as may be submitted to the auditor.

(f) If an auditor is appointed pursuant to subparagraph (d) or (e) of this rule, the following procedures shall govern:

(1) The auditor shall give two weeks notice in writing to the parties or their attorneys of record of the time and place fixed for hearing the matter.

(2) Testimony taken by the auditor at the hearing shall be recorded stenographically. The notes of the testimony shall not be transcribed unless exceptions are filed to the auditor's report.

(3) Within forty-five days after the conclusion of the hearing the auditor shall file a written report which insofar as it is practicable shall contain (i) a history of the proceedings before the auditor, (ii) findings of fact, numbered consecutively, (iii) a concise discussion of the evidence presented and the legal issues involved, (iv) conclusions of law, numbered consecutively, and (v) a statement of the account.

(4) Upon filing of the report the auditor shall serve a copy of the same on the parties in accordance with Pa.R.C.P. 440.

(5) Exceptions to the report of the auditor may be filed by any party within twenty (20) days after service of the auditor's report. If timely exceptions are filed, the court shall schedule and hear argument on same and shall enter such order or judgment as may be appropriate. If timely exceptions are not filed, the court shall enter judgment for the amount, if any, determined by the auditor to be due.

(6) The court shall determine the compensation and reimbursement for expenses to be allowed the auditor and stenographer, and shall direct that such items be taxed in whole or in part against the fund available for distribution or against any party or parties to the action as may be just and equitable in the circumstances. Upon the appointment of an auditor the moving party shall promptly deposit with the clerk of courts the sum of \$250.00 for the compensation and expenses of the auditor and stenographer, and the moving party shall deposit such additional sums for such purpose as the court may from time to time direct. Any sum so deposited which is not required for such purposes shall be refunded to the moving party upon the entry of the final order or decree.

Rule 1534. Action in Equity. Accounting by Fiduciaries.

(a) When a receiver, assignee or other fiduciary files an account, notice shall be given of the intention to apply for confirmation thereof not less than twenty (20) days in advance of such application. Such application may be made pursuant to Lehigh R.C.P. 206.1.

(b) Notice to all parties in interest shall be given by certified mail unless the court otherwise directs and proof of service shall be filed with the application for confirmation.

Rule 2039. Settlement, Compromise and Discontinuance of all Non-Death Action Cases in Which Minors Have an Interest.

(a) All actions in which a minor has an interest, except wrongful death and survival actions governed by Lehigh R.C.P. 2206, shall not be settled, compromised, or discontinued until entry of a decree in the civil division or orphans' court division of this court as hereinafter provided, upon petition in accordance with this rule.

(b) If suit has been instituted in the civil division of this court, all petitions for settlement, compromise or discontinuance of a minor's action shall be handled by the administrative judge of the orphans' court division, unless the civil judge assigned to the case directs otherwise.

(c) If no suit has been instituted and if the minor is a Lehigh County resident, all petitions for settlement, or compromise of a minor's claim shall be handled by the administrative judge of the orphans' court division.

(d) Contents of Petitions

(1) Regarding non-structured settlements:

i. the minor's name, date of birth and where and with whom s/he currently resides;

ii. the names and addresses of both of the minor's parents;

iii. delineation of the factual circumstances of the case; i.e. date of accident/injury, how it occurred; identification of defendants, etc.

iv. the nature and extent of the minor's injuries; the current diagnosis of and prognosis for the minor's condition.

v. the gross amount of the settlement and whether or not it represents policy limits.

vi. if the settlement amount proposed to the minor is a portion of a gross figure allocated among others injured in the same accident (even if adults) the names of those persons, their relationship to the minor, the nature and extent of their injuries and the amount of their proposed recoveries.

vii. the total amount of medical costs incurred and how paid.

viii. the nature and amount of any subrogation or Department of Public Welfare lien proposed to be paid from the settlement proceeds.

ix. the amounts of the proposed legal fee and of costs proposed to be paid to counsel from the settlement proceeds.

x. explanation of and justification for any amount proposed to be paid from the settlement proceeds to a parent or parents of the minor.

xi. whether or not it is anticipated that a judicial determination of capacity will be necessary when the minor attains majority.

xii. the name and address of a bank or credit union doing business in Lehigh County where amounts payable during minority will be placed in an interest-bearing savings account, money-market account, or certificate of deposit entitled in the minor's name alone; or the name and date of appointment of a corporate guardian of the estate who will administer the minor's funds.

xiii. whether or not non-disclosure of the terms is a condition of the settlement; and if so, a request that the petition and decree be sealed.

(2) Regarding structured settlements:

i. All of the information required by subsection (1) of this section (d) that is factually applicable except the gross settlement figure, which shall not appear in the petition; and

ii. the name of the company issuing the annuity that will fund the structure together with its rating by 2 of the following: A.M. Best Company; Standard & Poor; Moody; or Duff & Phelps.

iii. the same information as in subsection (ii) above, regarding any guarantors of the structure.

iv. the duration for which the future payments are guaranteed, and the names and relationship to the minor of the contingent beneficiaries of the guaranteed payments.

v. that the right to alter the contingent beneficiary designation (in the manner prescribed by the issuer) is reserved to the minor upon attainment of majority.

vi. the amount, if any, of cash presently payable to the minor.

(e) Exhibits to Petitions for Approval of Settlement (Structured and Non-Structured)

(1) An itemization of costs to be reimbursed (including orphans' court filing fees to be incurred by compliance with section (g) of this rule and regarding Filing of Petitions and Decrees).

(2) A copy of contingency fee agreement.

(3) Written evidence of Department of Public Welfare or any other subrogation lien proposed to be paid from the settlement proceeds.

(4) A medical report or opinion that contains a description of injury, course of treatment, recovery and prognosis.

(5) Consent and joinder of a parent and natural guardian of the minor who is not a petitioner; or, proof of service of a copy of the petition upon such parent.

(6) A copy of the release.

(f) Disposition of Petitions: In all cases whether or not suit has been instituted.

(1) Submission

A copy of the petition, with exhibits shall be submitted (by mail, telefax or hand delivery) to the orphans' court counsel. After review, the orphans' court counsel will contact counsel for petitioner to schedule a date for presentation. The petition shall not be filed prior to presentation to the court.

(2) Presentation

Formal presentation is required in all cases unless excused by the court. Attendance at presentation is required of the minor and both parents unless the non-appearing parent:

i. is a co-petitioner; or

ii. has signed a consent and joinder to petition; or

iii. has been served with a copy of the petition and notice of its presentation; or

iv. is unable to be located after efforts deemed satisfactory to the court.

(3) Accompanying Documents

The petition, in addition to the requisite exhibits, shall, when submitted, be accompanied by:

i. a proposed decree which:

- approves the settlement as set forth in the petition;
- directs that the petitioner's counsel deposit proceeds payable during minority to an interest-bearing restricted account in the minor's name, at a federally insured bank or credit union doing business in Lehigh County.

- directs the distribution of future payments, if any, due under terms of an annuity contract.

- names the contingent beneficiaries of guaranteed payments, reserving the right to alter the designation to the minor upon attainment of majority.

- directs that a time-stamped copy of the decree filed in the civil division be filed with the clerk of orphans' court division to establish a separate orphans' court file and number.

- provides for the filing of affidavits of deposit, affidavits of payment, and/or affidavits of purchase with the clerk of the orphans' court division under the orphans' court caption and number.

- authorizes plaintiff's counsel to mark the civil docket, if any, settled, discontinued and ended.

ii. if non-disclosure of terms is a condition of settlement, a separate confidentiality order.

iii. if the settlement is structured, a letter from counsel disclosing the gross settlement figure and cost of the annuity funding the structure.

(g) Filing of Petitions and Decrees

(1) In all cases where suit has been instituted, upon entry of a decree after formal presentation, counsel for petitioner shall:

i. file the original decree, petition and exhibits with the clerk of courts; and

ii. file as many time-stamped copies of the decree as there are minor recipients of settlement proceeds (structured or non-structured) with the clerk of the orphans' court division in order to obtain a separate orphans' court file number for each minor; and

iii. obtain from the clerk of the orphans' court division as many separate affidavits of deposit as there are minors receiving cash payments during minority; and

iv. file with the clerk of the orphans' court division a separate affidavit of deposit evidencing establishment of a restricted account for each minor recipient of current settlement proceeds under the orphans' court caption and file number; and/or

v. file with the clerk of the orphans' court division a sworn acknowledgment by an authorized official of the issuer that an annuity contract was purchased to provide the payments set forth in the decree approving a structured settlement.

(2) In all cases where no suit was instituted and the minor is a Lehigh County resident, upon entry of a decree after formal presentation, counsel for petitioner shall:

i. file a separate original decree, petition and exhibits regarding each minor, with the clerk of the orphans' court division; and

ii. obtain from the clerk of the orphans' court division an affidavit of deposit for each such separate set of pleadings filed per (i) above; and

iii. file with the clerk of the orphans' court division, a separate affidavit of deposit evidencing establishment of a separate restricted account for each minor recipient of

current settlement proceeds and a certification of compliance with order establishing restricted account; and/or

iv. file with the clerk of the orphans' court division, a sworn acknowledgment by an authorized official of the issuer that an annuity contract was purchased to provide the payments set forth in the decree approving a structured settlement.

Rule 2064. Compromise, Settlement, Discontinuance, or Distribution—Incapacitated Persons.

The procedure upon the presentation of a petition under Pa.R.C.P. 2064 shall be as prescribed by Lehigh R.C.P. 2039.

Rule 2205. Proof of Service.

Proof of service shall be as provided by Pa.R.C.P. 405(c).

Rule 2206. Petitions for Approval of Settlement, Compromise, Discontinuance and Judgement in Wrongful Death and/or Survival Actions; Allocation of Proceeds; Notice to the Department of Revenue; Contents and Disposition of the Petition; Filing of Decrees.

(a) All wrongful death actions in which a minor or incapacitated person has an interest shall not be settled, compromised, or discontinued until entry of a decree by the civil division or orphans' court division of this court as hereinafter provided, upon petition in accordance with this rule.

(b) No survival action may be settled, compromised, or discontinued without judicial approval pursuant to petition as hereinafter provided.

(c) If suit has been instituted, all such petitions shall be handled by the judge of the civil division to whom the case has been assigned. If no such assignment has been made, the petition shall be handled or referred as the administrative judge of the civil division shall direct.

(d) If no suit has been instituted, all such petitions shall be handled by the administrative judge of the orphans' court division.

(e) Contents of Petition

Any such petition shall contain the following information:

1. Delineation of the factual circumstances of the case, i.e., date of the accident/injury, how it occurred, and identification of the defendant(s).

2. Type of injury suffered together with some medical documentation to advise the court of the extent and effect of the injuries.

3. How long the decedent lived after the accident.

4. What portion of the settlement proceeds are to be attributed to wrongful death and what portion to the survival action, together with supporting facts (e.g.; pain and suffering; pecuniary loss etc.)

5. A list of any unpaid creditors of the decedent, and how they will be paid.

6. Whether the decedent died testate or intestate, and a list of the intestate heirs, including adult children, and whether the decedent's children are also children of the surviving spouse.

7. Whether the decedent's intestate heirs are the same as his or her testate heirs and, if not, a list of the testate heirs and their relationship to decedent.

8. To what extent the surviving spouse's \$30,000.00 intestate share threshold has been satisfied excluding settlement proceeds.

9. Whether or not decedent's parent(s) or spouse has forfeited his or her intestate share pursuant to 20 Pa.C.S. § 2106.

10. The date of the birth of any intestate heir who is a minor.

11. The facts establishing pecuniary loss suffered by adult children claiming a share of wrongful death proceeds; or an averment that an adult child is not claiming any interest in wrongful death proceeds.

12. The date of appointment and name of the guardian of the estate of any heir who has been adjudged incapacitated.

13. If the settlement is structured, the information required by Lehigh R.C.P. 2039(d)(2) (regarding compromise of minor's actions).

(f) Exhibits to Petitions

The petition shall have attached to it as exhibits, the following items:

(1) An itemization of the costs to be reimbursed (including orphans' court filing fees to be incurred if copies of the order will need to be filed in orphans' court division as required by section (i) of this rule regarding Filing of Final Decrees).

(2) A copy of the contingency fee agreement signed by clients and counsel.

(3) Birth certificate for any beneficiary who is a minor.

(4) Consents and joinders of an adult child not claiming a portion of wrongful death proceeds, or proof of service of petition and proposed decree upon them.

(5) Guardian's certificate evidencing the appointment of a guardian of the estate of a distributee who is a minor or an incapacitated person.

(6) Regarding non-Lehigh County estates:

i. a short certificate that is not more than sixty (60) days old evidencing petitioner's appointment as personal representative.

ii. a copy of the inventory of the decedent's estate.

iii. a copy of decedent's will.

iv. notices of claims against the estate filed of record.

(7) Written evidence of Department of Public Welfare or any other subrogation liens proposed to be paid from settlement proceeds.

(8) Written response from the Office of Chief Counsel on behalf of the Department of Revenue approving or disapproving the proposed allocation of proceeds between the wrongful death and survival actions.

(9) A copy of the release.

(g) Disposition of Petitions: In all cases, whether or not suit has been instituted

(1) Submission (uncontested allocation)

If the petition has been approved by the Department of Revenue, or if no response has been received within 20 days of service of a copy of the petition upon the Department through the office of chief counsel, a photocopy of the petition, proposed decree and exhibits shall be submitted (by mail, telefax, or hand delivery) to the orphans' court counsel with a notation as to the civil

division judge, if any, to whom the case is assigned. After review, the orphans' court counsel will request counsel for petitioner to submit the original pleadings (together with as many photocopies of the decree as there are counsel of record) for transmittal to the appropriate civil division or orphans' court division judge for action. The petition shall not be filed prior to submission as provided herein.

(2) Accompanying Documents

The petition, in addition to the requisite exhibits, shall be accompanied by:

i. a proposed decree, which:

- apportions the proceeds, fees, and costs between the wrongful death action and the survival action;
- directs that the share of a minor be deposited to a restricted, interest-bearing, account in a federally insured bank or credit union doing business in Lehigh County;
- directs that the share of an adjudicated incapacitated person be awarded to the guardian of his/her estate;
- directs the personal representative to promptly file a supplemental inventory and inheritance tax return that both reflect receipt of survival action proceeds with the register of wills of the county of decedent's domicile.

ii. if non-disclosure of terms is a condition of settlement, a separate confidentiality order.

iii. if the settlement is structured, a letter from counsel disclosing the gross settlement figure and the cost of the annuity funding the structure.

(3) Presentation (uncontested allocation)

Unless requested by counsel or required by the court, no hearing will be held, nor formal presentation required, where the petition for approval and allocation is uncontested by any party in interest or by the Department of Revenue. Counsel for petitioner will be contacted when a decree is entered at which time counsel shall file the pleadings in accordance with section (i) of this rule (regarding Filing of Final Decrees).

(h) Contested Allocations of Proceeds

(1) Submission of Petition and Rule

In all cases, whether or not suit has been instituted, if the petition has not been approved by the Department of Revenue and a hearing is needed on the issue of allocation of proceeds, the original petition and exhibits shall be submitted to the orphans' court counsel (as per subsection (1) of section (g) above) by mail or hand delivery together with a proposed decree (as per subsection (2) of section (g) above) and with a rule returnable which establishes a hearing date and directs service.

(2) Filing of Petition and Rule

i. Civil division—if suit has been commenced, the rule, petition, and proposed decree shall be filed with the clerk of courts-civil division.

ii. Orphans' court division—if no suit has been commenced, the rule, petition, and proposed decree shall be filed with the clerk of the orphans' court division.

(3) Service of rule, petition and proposed decree

i. The Department of Revenue—the rule, petition, and proposed decree shall be served by certified mail, return-receipt requested upon the office of chief counsel, Pennsylvania Department of Revenue at least 10 days prior to the date for hearing on allocation set by the rule returnable.

ii. Defendants—Counsel for defendants, or unrepresented defendants shall be served with the rule, petition, and proposed decree by ordinary, first class mail at least 10 days prior to the date for hearing on allocation set by the rule returnable.

(4) Entry of Decree

After hearing on the issue of allocation of proceeds, the court shall issue a decree approving settlement and directing distribution of proceeds, which shall be filed by counsel for the petitioner in accordance with section (i) of this rule (regarding Filing of Final Decrees).

(i) Filing of Final Decrees

(1) In all cases where suit has been instituted, upon entry of a decree by the court, counsel for petitioner shall:

i. file the original decree and petition plus exhibits (if not previously filed per section (h) above) with the clerk of courts - civil division; and

ii. if the decedent's estate was raised in Lehigh County, file, pursuant to 20 Pa.C.S.A. § 3323 (b) (3), a time-stamped copy of the decree with the clerk of orphans' court division. (If there are minor and/or incapacitated distributees, see subsection (2) of this section (i), below).

(2) In all cases where there are minor or incapacitated distributees and the decedent's estate was raised in Lehigh County, upon entry of a decree by the court, counsel for petitioners shall:

i. file with the clerk of orphans' court division, a time-stamped copy of the signed decree, or if no civil suit was instituted, the original petition with exhibits and decree under the caption and file number of the decedent's estate; and

ii. obtain from the clerk of the orphans' court division, as many separate affidavits of deposit as there are minor distributees and/or as many guardian's inventory forms as there are incapacitated distributees whose guardians were appointed in Lehigh County; and

iii. file with the clerk of the orphans' court division, a separate affidavit of deposit evidencing establishment of a restricted account in the name of each minor distributee, using the caption and file number of the decedent's estate with each minor's name as a parenthetical reference; and/or

iv. file with the clerk of the orphans' court division a supplemental guardian's inventory disclosing receipt of settlement proceeds on behalf of each ward adjudicated incapacitated in Lehigh County, using the guardianship caption and file number; each such inventory to be accompanied by a copy of the decree directing distribution.

(3) In all cases where there are minor distributees (resident or non-resident) and/or incapacitated distributees (whose guardian was appointed in Lehigh County) and the decedent's estate was not raised in Lehigh County, upon entry of a decree by the court, counsel for petitioner shall:

i. file with the clerk of the orphans' court division as many clocked copies of the signed decree as there are minor distributees to obtain a separate orphans' court "M" file number for each minor; and

ii. obtain from the clerk of the orphans' court division, as many separate affidavits of deposit as there are minor distributees and/or as many guardian's inventory forms as there are incapacitated distributees whose guardians were appointed in Lehigh County; and

iii. file with the clerk of the orphans' court division a separate affidavit of deposit evidencing establishment of a restricted account for each minor distributee, using the minor's name as caption and the newly-assigned orphans' court "M" file number; and/or

iv. file with the clerk of the orphans' court division a supplemental guardian's inventory disclosing receipt of settlement proceeds on behalf of each ward adjudicated incapacitated in Lehigh County; each such inventory to be accompanied by copy of the decree directing distribution.

Rule 3110. Execution Against Contents of Safe Deposit Box.

Publication shall be as provided in Pa.R.C.P. 430(b).

Rule 3121. Stay of Execution.

(a) No stay of execution shall be granted under Pa.R.C.P. 3121(b) except on petition (without a rule) setting forth the grounds therefor, with notice, including a copy of the said petition, at least twenty-four (24) hours prior to the presentation thereof, said notice to set forth the time and place where the intended application is to be made; provided, however, that where manual seizure of personal property by the sheriff is imminent, the court may entertain a petition to stay execution in such manner and with such notice as it, in its discretion, may require.

(b) A petition for a stay of execution based upon misdescription of property shall contain a corrected description of the property which thereafter shall be conclusive upon the petitioner.

(c) If the petition for stay of execution is not prosecuted with diligence, the petition may be dismissed on motion of an opposing party.

(d) The allowance of a stay of execution involving perishable property under levy shall be conditioned upon the petitioner filing approved security for the full value of the property.

(e) Allowance of every stay of execution against real estate may also be conditioned upon the petitioner paying the advertising costs incurred in addition to the filing of a bond. If the petitioner is a lessee, the stay shall be conditioned upon payment for use and occupancy pending the stay.

Rule 3128. Notice of Sale—Personal Property.

In addition to the notice requirements of Pa.R.C.P. 3128(a), notice of sale of personal property shall be given by the sheriff sending a copy of the handbill to the defendant by regular mail addressed to the last known address at least six days prior to sale.

Rule 3129.2. Notice of Sale—Real Property.

The brief description of the property required to be set forth pursuant to Pa.R.C.P. 3129.2(b)(1) need not include the metes and bounds description set forth in the last recorded deed as long as the description sets forth the location of the property by street address and reference to tax map, block and lot number.

Rule 3136. Distribution of Proceeds.

(a) The sheriff shall, by regular mail addressed to their last known addresses, promptly send to all parties in interest a copy of the schedule of distribution stating the date on which it was filed.

(b) Any party filing exceptions shall mail copies of their exceptions to all parties in interest and serve an original and a copy of said exceptions on the sheriff.

Rule 3252. Writ of Execution. Money Judgment.

The office to be named in the notice shall be that designated by the court under Leh.R.C.P. 1018.1.

Rule 3256. Praecipe for Writ. Mortgage Foreclosure.

The praecipe for the writ of execution in an action of mortgage foreclosure shall have attached to it a description of the subject property.

Rule 4007.2. Depositions—Distant Witnesses.

(a) A motion to obtain leave of court to take depositions by oral examination, where such leave is required, shall follow the procedure set forth in Leh.R.C.P. 206.1 and shall contain the following:

- (1) the name of the proposed witness;
- (2) the time and place of the proposed deposition and the name of the officer before whom the depositions will be taken;
- (3) the scope and purpose of the questioning;
- (4) the reasons relied upon to support the request for oral examination; and
- (5) a request for a subpoena or subpoena duces tecum, if necessary.

Rule 4008. Depositions by Oral Examination.

Unless leave of court is obtained or all parties agree otherwise, and excepting videotape depositions for use at trial, all depositions in cases filed with this court shall be taken in Lehigh County, Pennsylvania.

Rule 4017.1. Objections at Videotape Depositions.

The following shall govern the procedure for making objections during videotape depositions:

(a) When counsel makes an objection, counsel shall merely state the word "objection" and request that the video operator stop the videotape. Any arguments on objections shall be made on the written transcript but off camera.

(b) Once the video is stopped, counsel should first summarize the reasons for the objection in a word or phrase. Counsel may then proceed with argument on the transcript and off the camera or may merely state the summary grounds for the objection. Arguments should be brief, and should consist of no more than the reason for the objection, an answer to the reason for the objection, and brief rebuttal.

(c) Counsel shall review the transcript together before presentation to the trial judge to resolve whatever objections can be resolved. They should present to the judge a list by page and line of the objections that still need rulings.

(d) Prior to the playing of the videotape, the court shall advise the jurors of the procedure dealing with objections and instruct them to disregard the word "objection" when it is made. The videotape may then be played without interruption, except for segments stricken by the judge.

[Pa.B. Doc. No. 00-1972. Filed for public inspection November 17, 2000, 9:00 a.m.]

RULES AND REGULATIONS

Title 7—AGRICULTURE

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CH. 110]

Noxious Weeds

The Department of Agriculture (Department) amends § 110.1 (relating to noxious weed control list) to designate *Lythrum salicaria* (purple loosestrife), *Lythrum virgatum* and their cultivars and combinations thereof as noxious weeds and to add *Galega officinalis* (Goatsrue) and *Heracleum mantegazzianum* (Giant Hogweed) to the noxious weed control list. The text of this amendment is set forth at 30 Pa.B. 636 (February 5, 2000).

Statutory Authority

Sections 3(b), 8 and 9 of the Noxious Weed Control Law (act) (3 P. S. §§ 255.3(b), 255.8 and 255.9) require the Department to establish a noxious weed control list, prescribe certain plants to be included on that list and empower the Department to adopt regulations necessary to implement the act. The regulation is advanced under authority of these statutory provisions.

Need for the Rulemaking

There is a compelling public need to protect this Commonwealth's wetland plant and animal populations from the threat posed by nonnative purple loosestrife, cultivars of the plants and cultivars that are combinations of native and nonnative purple loosestrife species.

The addition of Giant Hogweed to the noxious weed control list is necessary to provide the Department needed authority to control and eradicate this nonindigenous plant at the locations in Crawford, Erie, McKean, Venango and Warren Counties where it has appeared. The sap of this plant can cause rashes on the skin of persons with whom it comes into contact.

The addition of Goatsrue to the noxious weed control list will provide the Department needed authority to address the presence of this nonindigenous plant at the Philadelphia area location where it has been detected. This plant is toxic to livestock.

Lythrum salicaria, commonly known as purple loosestrife, is a nonnative wetland plant that thrives in the absence of the insects and diseases that controlled it in Europe and Asia. It clogs waterways, crowds-out native plant species and decreases the population of animals that are dependent upon these native plant species for survival. For this reason the Department placed *Lythrum salicaria*, commonly known as purple loosestrife on the noxious weed control list in § 110.1. This regulatory change was published at 27 Pa.B. 1704 (April 12, 1997) and became effective on that date.

Since *Lythrum salicaria* was added to the noxious weed control list, the need to add other *Lythrum* species and their cultivars and combinations has become apparent. There are many cultivars (cultivated varieties) of purple loosestrife that are listed under species names other than *Lythrum salicaria*. These other species and cultivars present as great an environmental threat as does *Lythrum salicaria*. The regulation addresses the threat posed by these plants.

Lythrum virgatum is a source of purple loosestrife cultivars. Like *Lythrum salicaria*, *Lythrum virgatum* is a

European wetland plant that has been introduced into North America. These two species are very similar, differing in only several minor diagnostic characteristics. The two also cross pollinate freely. For this reason, a number of plant specialists consider *Lythrum salicaria* and *Lythrum virgatum* to be the same species. The fact that these plants intercross freely has also helped to blur scientific distinctions between cultivars of the two.

Until recently, the various ornamental purple loosestrife cultivars were thought to be sterile. As such, there would be no danger these plants could naturally cross breed with *Lythrum salicaria* and pass along genetic traits which might make purple loosestrife an even greater ecological threat than it is already. Recent research, though, has shown that no purple loosestrife cultivar is sterile.

Although most cultivars are self-sterile (that is, incapable of reproducing alone), they produce large quantities of viable seed when functioning as either male or female parents in cross breeding with other cultivars and species of loosestrife. Bees and wasps are effective pollinators of loosestrife, and provide the means for cross pollination, even between plants that are a considerable distance from each other.

It is possible a relatively benign ornamental cultivar of indigenous purple loosestrife could cross breed with *Lythrum salicaria* and produce a new cultivar of purple loosestrife that combines the native species' tolerance of this Commonwealth's temperature extremes or its ability to thrive in areas other than wetlands with the aggressive growth characteristics and the disease resistant characteristics, or both, of *Lythrum salicaria*. This is not abstract speculation. Some genetic traits of *Lythrum salicaria* have already been found in cultivars of purple loosestrife.

Galega officinalis, commonly known as Goatsrue, is a nonnative plant that is on the Federal noxious weed list and is toxic to livestock. Goatsrue is only known to exist in this Commonwealth at an arboretum in the Philadelphia area.

Heracleum mantegazzianum, commonly known as Giant Hogweed, is a nonnative plant that is on the Federal noxious weed list and causes skin rashes on many persons who come into contact with it. The plant is only known to be present in this Commonwealth in Crawford, Erie, McKean, Venango and Warren Counties.

In summary, the Department is satisfied there is a need for the final-form regulation, and that it is otherwise consistent with Executive Order 1996-1, "Regulatory Review and Promulgation."

Comments

Notice of proposed rulemaking was published at 30 Pa.B. 636 and provided for a 30-day public comment period. Neither the Legislative Committees nor the Independent Regulatory Review Commission (IRRC) offered comment with respect to that document.

The sole comment originated from the Pennsylvania Landscape and Nursery Association (PLNA). Although PLNA supports the addition of *Lythrum salicaria* (purple loosestrife), *Galega officinalis* (Goatsrue), *Heracleum mantegazzianum* (Giant Hogweed) and *Lythrum virgatum* to the noxious weed control list, it expressed concern regarding the addition of the cultivars and combinations

of *Lythrum salicaria* and *Lythrum virgatum* to that list. Rather than a broad designation of these cultivars and combinations as noxious weeds, PLNA recommended each such cultivar or combination be evaluated and considered individually for inclusion on the noxious weed control list. PLNA offered the opinion there is not "... enough evidence to support that all cultivars, both current and future, should be considered noxious weeds."

The Department gave careful consideration to PLNA's comment. On balance, the Department is satisfied that all cultivars and combinations of *Lythrum salicaria* and *Lythrum virgatum* should be included on the noxious weed control list, and that current scientific research supports this position.

Research conducted in Minnesota has shown that no purple loosestrife cultivar is sterile. All cultivars can produce viable seeds when crossed with other cultivars and species, including *Lythrum alatum* (winged loosestrife), a noninvasive native of wetlands. The cultivars pose a great risk because, unlike the parent species, they are adapted to grow in drier soils. Continued crossing between cultivars and parent species can lead to new genetic combinations that would allow loosestrife to colonize drier, more upland habitats, making it an even more troublesome weed.

The Department also believes that, even were it inclined to do so, it could not draw a workable regulatory line to exclude any particular cultivar or combination of *Lythrum salicaria* and *Lythrum virgatum* from the noxious weed control list. Distinguishing between cultivars of loosestrife is difficult at best. Like-named cultivars may look different and differently-named cultivars may appear identical. This situation would be unworkable for any plant inspector or botanist tasked with making a precise identification of a particular cultivar or combination.

The Department is mindful that certain cultivars or combinations of *Lythrum salicaria* and *Lythrum virgatum* are produced and sold commercially in this Commonwealth, and that these plants are not uncommon in ornamental flower gardens. It is satisfied, though, that there are numerous perennial plants that are suitable substitutes for these cultivars or combinations. This Commonwealth's plant nursery industry has been provided several years' advance notice that cultivars or combinations of *Lythrum salicaria* and *Lythrum virgatum* would be included on the noxious weed control list, and the Department believes the industry has prepared for this regulation by eliminating stocks of these plants or obtaining suitable substitutes for these plants. The Department views the inclusion of these plants on the noxious weed control list as the first logical step toward reducing the prevalence of these plants in this Commonwealth.

The Department is currently cooperating with the United States Department of Agriculture on a biocontrol project with respect to purple loosestrife. The project involves the release of several different species of beetles that attack loosestrife. Tests have shown these insects capable of drastically reducing loosestrife populations in natural areas, thereby allowing native plants to begin reclaiming these environments. The Department believes it would be self-defeating to allow sale of even a single cultivar or combination of loosestrife while it simultaneously pursues biological control efforts with respect to these plants.

On balance, the Department is satisfied that all cultivars and combinations of *Lythrum salicaria* and

Lythrum virgatum should be included on the noxious weed control list, and that current scientific research supports this position.

Fiscal Impact

Commonwealth

The final-form regulation will not impose appreciable costs upon the Commonwealth.

Political Subdivisions

The final-form regulation will not impose appreciable costs upon political subdivisions.

Private Sector

The final-form regulation will not impose appreciable costs upon the private sector. Only a small percentage of this Commonwealth's plant nurseries and similar establishments ever handled purple loosestrife. Of those that did, sales of those plants comprised only a small part of their business. As a result of the nursery industry's awareness of the environmental threat posed by purple loosestrife and the fact the final-form regulation was forthcoming, it is believed the fiscal impact of this amendment upon the private sector will be insignificant.

The inclusion of Goatsrue and Giant Hogweed on the Noxious Weed Control List is not expected to result in significant costs to the private sector. These plants are present in relatively few locations in this Commonwealth, and can be eliminated without significant expense.

General Public

The final-form regulation will not impose appreciable costs upon the general public.

Paperwork Requirements

The final-form regulation will not result in an appreciable increase in the amount of paperwork handled by the Department, or increase the paperwork burden of political subdivisions, the private sector or the general public.

Contact Person

Further information is available by contacting the Department of Agriculture, Bureau of Plant Industry, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attention: Will Mountain.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 24, 2000, the Department submitted a copy of the notice of proposed rulemaking published at 30 Pa.B. 636 to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs for review and comment.

In compliance with section 5(c) of the Regulatory Review Act, the Department also provided IRRC and the Committees with copies of all comments received, as well as other documentation. In preparing this final-form regulation, the Department has considered the comments received from IRRC, the Committees and the public.

This final-form regulation was deemed approved by the House and Senate Committees on October 5, 2000. IRRC met on October 19, 2000. The final-form regulation was deemed approved under section 5(g) of the Regulatory Review Act.

Findings

The Department finds that:

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

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

(3) Any modifications that were made to this regulation in response to comments received do not enlarge the purpose of the proposed amendment published at 30 Pa.B. 636.

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

Order

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

(a) The regulations of the Department, 7 Pa. Code Chapter 110, are amended by amending § 110.1 to read as set forth at 30 Pa.B. 636.

(b) The Secretary of Agriculture shall submit this order and 30 Pa.B. 636 to the Office of General Counsel and to the Office of the Attorney General for approval as required by law.

(c) The Secretary of the Department shall certify this order and 30 Pa.B. 636 and deposit them with the Legislative Reference Bureau as required by law.

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

SAMUEL E. HAYES, Jr.,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 5807 (November 4, 2000).)

Fiscal Note: Fiscal Note 2-117 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 00-1973. Filed for public inspection November 17, 2000, 9:00 a.m.]

**Title 49—PROFESSIONAL
AND VOCATIONAL
STANDARDS**

**STATE BOARD OF MEDICINE
STATE BOARD OF NURSING
[49 PA. CODE CHS. 18 AND 21]
CRNP Prescriptive Authority**

The State Boards of Medicine and Nursing (Boards) amend their regulations governing certified registered nurse practitioners (CRNPs) in Chapters 18 and 21 (relating to State Board of Medicine; and State Board of Nursing) to read as set forth in Annex A.

A. Effective Date

The amendments will be effective upon publication of final-form regulations in the *Pennsylvania Bulletin*.

B. Statutory Authority

Section 15(b) of the Medical Practice Act of 1985 (63 P. S. § 422.15(b)) authorizes the Boards to jointly promulgate regulations authorizing CRNPs to perform acts of medical diagnoses and prescription of medical, therapeutic, diagnostic or corrective measures. Section 2(1) of the Professional Nursing Law (63 P. S. § 212(1)) similarly indicates that a professional nurse may perform acts of medical diagnosis or prescription of medical therapeutic or corrective measures if the Boards promulgate regulations authorizing the acts.

C. Purpose

Under their statutory authority, the Boards have negotiated rulemaking which authorizes CRNPs to prescribe and dispense drugs within specified parameters. CRNPs are advanced practice nurses who are certified by the Boards in a particular clinical specialty area. This rulemaking will enable Pennsylvania CRNPs to make full use of their advanced education and skills and is consistent with the regulations of 41 other states which authorize CRNPs to prescribe or dispense, or both, with varying degrees of regulation or limitation. A detailed explanation of the purpose and background of the rulemaking may be found in the publication of proposed rulemaking at 29 Pa.B. 5101 (October 2, 1999).

D. Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the regulations the Boards solicited input and suggestions from the regulated community. The Boards mailed a draft on June 26, 1998, to 54 organizations, entities and individuals who had an interest in CRNP prescribing. The Boards received 373 responses to the solicitation. The Boards revised the draft as a result of the responses and submitted that revised draft as proposed rulemaking.

E. Summary of Comments and Responses to Proposed Rulemaking

Proposed rulemaking was published at 29 Pa.B. 5101 (October 2, 1999) followed by a 30-day public comment period. The Boards received reports from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) and public comments from more than 600 associations, entities and individuals. As a result of these reports and comments, a number of changes were made to the proposed rulemaking. These changes include specifications regarding the course work in advanced pharmacology that will be a prerequisite to prescribing and dispensing; a requirement of continuing education in pharmacology for a CRNP who prescribes or dispenses; a requirement that every category of drugs from which a CRNP might prescribe be identified in the collaborative agreement; greater precision in the listing of the categories of drugs from which a CRNP might prescribe, prescribe with limitations or not prescribe; a definition of "collaborative agreement"; identification of the contents of a collaborative agreement necessary for a CRNP who prescribes or dispenses; identification of the CRNP by nametag; and limiting a physician to collaborating with not more than four CRNPs who prescribe and dispense drugs at any one time unless the physician requests and obtains a waiver of this ratio. The Boards also combined subsections (b) and (c) of §§ 18.54 and 21.284.

The HPLC in its report of November 16, 1999, made recommendations regarding education in pharmacology, continuing education, the collaborative agreement, substitute collaborating physicians, and notice to patients when a patient is treated by a CRNP who prescribes drugs. IRRC in its report of December 2, 1999, made recommendations regarding the collaborative agreement, education in pharmacology, the categories of drugs, action to be taken if a drug is prescribed inappropriately and the clarity of draftmanship.

The Pennsylvania Coalition of Nurse Practitioners endorsed the proposed rulemaking but made recommendations for changes. The Nurse Practitioner Association of Southwestern Pennsylvania, individual physicians and nurses, and health care practices and entities supported the proposed rulemaking. The Hospital & Healthsystem Association of Pennsylvania (HAP), the Pennsylvania Academy of Pediatrics, the Pennsylvania Society of Anesthesiologists, the Pennsylvania State Nurses Association (PSNA) and Pennsylvania Academy of Family Physicians (PAFP) generally supported the proposed rulemaking, but made recommendations for changes. The Pennsylvania Medical Society (PMS) did not object to the proposed rulemaking, but also recommended changes. The American College of Emergency Physicians endorsed the recommendations of PMS and made several suggestions of their own.

Several associations and individuals generally opposed the proposed rulemaking. These associations included the Pennsylvania Podiatric Medical Association, the Pennsylvania Association of Chain Drug Stores and one chain drug store, and the Pennsylvania Osteopathic Medical Association.

The Boards received comments from consumers (individuals who did not identify themselves as physicians or nurses), physicians, and nurses. Of approximately 41 consumer comments, 40 favored the proposed rulemaking, one opposed. Consumers who favored the rulemaking stressed the quality of care received from CRNPs and said that the rulemaking would facilitate access to quality health care. Nurses almost uniformly favored the rulemaking and offered several suggestions which will be addressed in this Preamble. While a number of physicians opposed prescriptive authority for CRNPs, most physician commentators indicated that they were not opposed to the proposed rulemaking but made recommendations for changes. A large number of physician commentators supported the comments of PMS. The recommendations of physicians and their associations will also be addressed.

Equivalency of Programs in Other States—§§ 18.53(1) and 21.283(1).

The proposed rulemaking began by indicating that a CRNP might prescribe if the CRNP, among other things, completed a CRNP program approved by the Board or, if the nurse completed a CRNP education program in another state, the program was equivalent to programs approved by the Boards. IRRC asked how the Boards would determine equivalency. Section 7(b) of the Professional Nursing Law (63 P. S. § 217(b)), authorizes the State Board of Nursing to issue a certification to registered nurse practitioners who have completed a course of study in another state if the Board considers the program to be equivalent to that required in this Commonwealth. Under §§ 18.42 and 21.272 of the Boards' regulations the Boards may grant certification by endorsement to a CRNP who had been certified in another state if the credentials are equivalent to those required by the Boards. In implementing the statute and regulations, the Boards compare the courses

of the non-Pennsylvania program with that of Pennsylvania program. If a comparison reveals that the programs are equivalent in course work and hours, the State Board of Nursing certifies the applicant.

Course in Advance Pharmacology—§§ 18.53(2) and 21.283(2).

The proposed rulemaking would have authorized a CRNP to prescribe and dispense if the "CRNP program include[d] a core course in advanced pharmacology." The HPLC recommended that a minimum number of hours of core education in advanced pharmacology be required for a CRNP to be permitted to prescribe and dispense drugs. IRRC, the Pennsylvania Society of Health-System Pharmacists (PSHSP), and others also suggested greater clarity in describing what would qualify as an advanced pharmacology course. PMS, which recommended that the Boards clarify the proposed rulemaking in regard to the responsibility and accountability of both the CRNP and collaborating physician, requested that the course should be at least 30 hours. The PAFP recommended a 50-hour course. Individual physicians recommended specific courses of from 30 to 50 hours.

IRRC and others noted that some programs did not have a specific course but integrated pharmacology into the overall curriculum. Some commentators suggested that boards devise a way to "grandfather" those whose education in pharmacology was not contained in a specific course. Pennsylvania Association of Nurse Anesthetists, PSNA, and numerous individual nurse commentators supported this view. The PSNA recommended that the Boards consider "grandfathering" and requiring continuing education in advanced pharmacology or requiring the CRNP to provide documentation of cumulative advanced pharmacology.

In response to these comments, the Boards have adopted a 45-hour course work requirement and further refined the education acceptable to the Boards. A course in advanced pharmacology of 45 hours has been standard in Board approved CRNP programs since 1992. A course is at a level above the pharmacology courses taught in registered nursing programs. A course in pharmacology/pharmacotherapeutics of 45 contact hours is recommended in "Curriculum Guidelines & Regulatory Criteria for Family Nurse Practitioners Seeking Prescriptive Authority to Manage Pharmacotherapeutics in Primary Care: Summary Report 1998" (Curriculum Guidelines), prepared by the Health Resources & Services Administration of the United States Department of Health and Human Services recommends.¹ Forty-five hours of course work in advanced pharmacology provides a level of education necessary for a CRNP to safely prescribe and dispense drugs. This is the standard adopted by the Boards in this rulemaking. The rulemaking has been drafted so that a CRNP who has not taken 45 hours of course work as part of the CRNP education program will be able to take additional course work from a program or programs approved by the Boards. Advanced pharmacology which has been "integrated" into other courses will be acceptable, if it can be verified through means such as a course syllabus or catalog which identifies the hours devoted to advanced pharmacology.

The Pennsylvania Association of Physician Assistants expressed the view in regard to § 18.53 that it would be a great undertaking for the Board to approve CRNP programs in this Commonwealth and elsewhere. The Boards,

¹ Of the 42 states which permit CRNPs to prescribe, 21 require that the CRNP have completed a separate pharmacology course. "Curriculum Guidelines," Table 2, page 16.

however, have a history and duty and the necessary staff to approve CRNP programs. See, §§ 18.41—18.42 and 21.271—21.272.

Continuing Education—§§ 18.53(3) and 21.283(3).

The HPLC recommended that a minimum number of hours of continuing education in advanced pharmacology be required per biennium for a CRNP to maintain prescriptive authority. PMS, PAFP, PSHSP, the Pennsylvania Psychiatric Society (PPS), and numerous physician commentators also recommended continuing education for a CRNP who prescribes drugs. The Boards believe this is a sound recommendation that would help the CRNP to stay current in pharmacological knowledge, would help insure public safety, and would be consistent with the current regulations of the Boards which require a CRNP to provide evidence of continuing competency in the area of medical diagnosis and therapeutics at the time the CRNP renews certification. See §§ 18.41(c) and 21.271(d). The Boards determined that 16 hours of continuing education biennially in pharmacology approved by the State Board of Nursing would be appropriate.

The Collaborative Agreement—§§ 18.55 and 21.285.

The HPLC, IRRC and others made recommendations concerning the collaborative agreement. The proposed rulemaking referred to, but did not define, the collaborative agreement. The HPLC recommended that the collaborative agreement be in writing, contain a list of the classes of medications that the CRNP would be authorized to prescribe, identify the collaborating physician, and provide for an identified substitute collaborating physician for up to 30 days when the collaborating physician is not available. IRRC recommended that the collaborative agreement be defined, that the collaborative agreement be signed by both the physician and CRNP before the CRNP could prescribe drugs, and that the rulemaking specify the contents of the collaborative agreement.

A number of commentators, both individual physicians and associations, recommended that the collaborative agreement be a written document that clarifies the collaborating physician/CRNP relationship. HAP recommended that the collaborative agreement be defined. The PAFP, the Pennsylvania Society of Anesthesiologists, PSHP and the Pennsylvania Association of Physician Assistants expressed the view that the proposed rulemaking did not define the collaborative agreement and that the parameters of collaborative practice should be memorialized in writing so that the parties to the agreement will have a clear understanding of their responsibilities to their patients. The PAFP recommended that the collaborative agreement be in writing, identify the parties, describe the direction each physician will provide the CRNP, the frequency with which the collaborating physician will provide chart review and consultation, identify the drugs which the CRNP may prescribe, be available to anyone seeking to confirm the scope of the CRNP's prescriptive authority, and be filed with the Board. The American Academy of Pediatrics (AAP) recommended that the collaborative agreements be spelled out publicly and in writing and kept on file with the State. The PMS recommended that the final rulemaking include a section on the collaborative agreement; that when a CRNP prescribes or dispenses drugs, the agreement should be in writing; that it be available at the practice site; that it identify the collaborating physician and any substitute collaborating physician by name; that the agreement contain the list of drugs for which the CRNP might prescribe; that it outline when a physician should see the

patient and what occurrences would necessitate physician intervention; and that the collaborative agreement be filed with the State Board of Medicine if it authorized the CRNP to prescribe or dispense Schedule II controlled substances. The PMS and PPS recommended that the Boards be notified of the existence of every collaborative agreement and who is party to the agreement. PMS and PPS recommended that a physician not be permitted to include any drug in a collaborative agreement unless the physician has the expertise required to prescribe that drug so that she would be able to recognize any inappropriate prescribing or adverse reaction.

Final rulemaking contains a definition of the term "collaborative agreement" and requires that it be in writing.² See §§ 18.55(a) and 21.285(a). Sections 18.55(b) and 21.285(b) specify the contents of a collaborative agreement between a physician and a CRNP who prescribes and dispenses drugs. These subsections adopt the recommendations of the HPLC and IRRC. Additionally, under the final rulemaking the collaborative agreement of a CRNP who prescribes and dispenses drugs is required to identify the area of practice in which the CRNP is certified, contain attestation that the collaborating physician has knowledge and experience with any drug that the CRNP prescribes, specify the circumstances and how often the collaborating physician will personally see the patient, specify the conditions under which a CRNP may prescribe a Schedule II controlled substance for up to 72 hours, be kept at the primary practice location of the CRNP and a copy filed with the Bureau of Professional and Occupation Affairs, be made available for inspection to anyone seeking to confirm the scope of practice of the CRNP, be updated when it is changed substantively, and specify the amount of professional liability insurance carried by the CRNP.

Professional Liability Insurance—§§ 18.55(b)(10) and 21.285(b)(10).

The PMS, PPS, AAP, the Pennsylvania Academy of Emergency Physicians, the Pennsylvania Podiatric Medical Association, and both nurse and physician commentators recommended that a CRNP with prescriptive authority should be required to carry malpractice insurance. The PMS recommended that the Boards require a CRNP who prescribes and dispenses medications to carry \$400,000 in professional liability insurance, the current level of coverage mandated for certain health care practitioners under the Health Care Services Malpractice Act (40 P.S. §§ 1301.101—1301.1004). The Boards support the principle that a CRNP should carry professional liability insurance, but lack the statutory authority to require it by regulation. The Boards, however, can require that the collaborative agreement of a CRNP with prescriptive authority identify the level of insurance that the CRNP carries. This does not require a CRNP to carry any insurance, but will assure that the collaborating physician and anyone with an interest in reviewing the agreement will be aware of the amount of professional liability insurance, if any, carried by the CRNP.

Prescribing and Dispensing Parameters—§§ 18.54 and 21.284.

IRRC and physician and nurse commentators had several recommendations regarding these sections. IRRC requested that the Boards explain the basis for restrictions and prohibitions of certain drugs in the proposed section. These sections authorize, restrict or prohibit prescribing categories or classes of drugs rather than

² The definition is based on the definition of the collaborative agreement between a physician and nurse midwife found at 49 Pa. Code § 18.1.

specific drugs. Sections 18.54(a) and 21.284(a) adopt the American Hospital Formulary Service Pharmacologic-Therapeutic Classification (AHFS) and either: (1) authorize a CRNP to prescribe and dispense from the formulary if the authorization is documented in the collaborative agreement (§§ 18.54(b) and 21.284(b)); or (2) authorize a CRNP to prescribe and dispense if the collaborating physician originally prescribed the drug and approved it for ongoing therapy (§§ 18.54(b)(3) and 21.284(b)(3)); or (3) authorize a CRNP to prescribe or dispense from a category while prohibiting certain subcategories (See §§ 18.54(b)(7)(i)—(ii) and 21.284(b)(7)(i)—(ii)); or (4) prohibit categories of drugs (§§ 18.54(c) and 21.284(c)); or (5) establish parameters for prescribing and dispensing controlled substances (§§ 18.54(e) and (f) and 21.284(e) and (f)). The bases for the restrictions and prohibitions include potential for harm and side effects, need for physician intervention, complexity of prescribing, categories of exceptional breadth, and potential for addiction or abuse.

IRRC suggested that the Boards delete the words "which the CRNP may prescribe and dispense subject to the parameters identified in this section" from §§ 18.54(a) and 21.284(a). The Boards have not done so to avoid suggesting that if a classification of drug were in the AHSF a CRNP would automatically be able to prescribe or dispense from it.

Under subsection (b) of the proposed rulemaking, a CRNP would have been able to prescribe and dispense any drug within the categories of the subsection "without limitation," that is, without the need to list the category of drug in the collaborative agreement. Moreover, it would have been at best implicit that a CRNP, a practitioner who is certified in a specialty area, would prescribe only in the CRNP's area of practice. Under subsection (c) of the proposed rulemaking, a CRNP would have been able to prescribe any drug if the authorization was documented in the collaborative agreement.

The PPS requested that subsections (b) and (c) be combined to clarify that all categories of drugs from which a CRNP would be authorized to prescribe shall be identified in the collaborative agreement. The PAFP also recommended that the collaborative agreement identify every category of drug from which a CRNP might prescribe. Similarly, the HAP recommended that subsection (c) be modified to authorize a CRNP to prescribe a drug in the subsection if the collaborating agreement specifically included the category. Some commentators, including the Pennsylvania Association of Nurse Anesthetists, the PSNA, and a number of nurses, requested that the Boards employ a "negative formulary," and not require the collaborative agreements to list every category of drug from which a CRNP might prescribe. The Boards have not adopted this suggestion.

On final-form rulemaking, the Boards have determined that the collaborative agreement of a CRNP who prescribes should contain a "positive formulary" which specifies every category of drug from which a CRNP might prescribe and dispense. A "positive formulary" assures that the parties to a collaborative agreement have made a conscious determination that the identified categories are appropriate for the CRNP to prescribe. Subsections (b) and (c) have been combined. Subsection (b) makes explicit that the CRNP will be permitted to prescribe and dispense drugs relevant to the CRNP's area of practice.

IRRC, PPS and several other commentators questioned the phrase "without limitation" in §§ 18.54(b) and 21.284(b). IRRC suggested that the phrase could be interpreted in a way that was inconsistent with the

current regulations. The Boards have concluded that the phrase was confusing and susceptible to varying interpretations. The Boards have deleted the phrase on final rulemaking.

Several commentators pointed out that several categories of drugs in the AHFS Pharmacologic-Therapeutic Classification were omitted from the proposed rulemaking: eye, ear, nose and throat preparations, hormones and synthetic substitutes, devices, pharmaceutical aids, and unclassified therapeutic agents. These have been included in final rulemaking. Hypoglycemic agents and endocrine replacement agents, not identified as categories in the AHFS Pharmacologic-Therapeutic Classification, have been removed and are replaced with hormones and synthetic substitutes (into which categories these drugs do fall).

In regard §§ 18.54(c) and 21.284(c) of the proposed rulemaking (now subsection (b) in the final rulemaking) IRRC asked how documentation of categories of drugs would be authorized in the collaborative agreement. The parties to the collaborative agreement would simply identify the categories of drugs in the collaborative agreement.

Inappropriate Prescribing—§§ 18.54(d) and 21.284(d).

In regard to §§ 18.54(e) and 21.284(e) (now subsection (d) in final-form rulemaking), IRRC questioned the use of the word "learn" in regard to a physician's method of determining that a CRNP had prescribed incorrectly and recommended a more general course of corrective action than had been proposed. The Boards have adopted both of IRRC's suggestions. The PAFP recommended that if a physician learns that a drug has been wrongly prescribed, the physician should be required to resume direct care of the patient and make the appropriate notifications. Several nurse commentators suggested that the physician should tell the CRNP how to proceed if the physician determines that there has been incorrect prescribing. In final rulemaking, the Boards require the physician to immediately take corrective action on behalf of the patient and notify the patient of the reason for the action and advise the CRNP as soon as possible. Further, the action is required to be noted in the patient's medical record.

Controlled Substances—§§ 18.54(e) and (f) and 21.284(e) and (f).

The Boards made two editorial changes recommended by IRRC to clarify CRNP prescribing of controlled substances. In regard to §§ 18.54(f) and 21.284(f) of the proposed rulemaking (now subsection (e) in the final-form rulemaking), IRRC questioned the clarity of the phrase "immediately (within 24 hours)." The Boards agreed with IRRC's concern that the wording was unclear and replaced the phrase in question with "as soon as possible but in no event longer than 24 hours."

"Off-label" Uses—§§ 18.54(f)(2) and 21.284(f)(2). In regard to §§ 18.54(g)(2) and 21.284(g)(2) of the proposed rulemaking (now subsection (f)(2) in the final rulemaking), IRRC, PSHP and others questioned the use of the word "permitted," pointing out that the Food and Drug Administration approves drugs for clinical use for a single indication and that after a drug has been approved for a single indication a prescriber is free to use that drug for any indication that the prescriber chooses. These alternative uses are generally referred to as "unlabeled uses" or "off-label uses." The Boards replaced the word "permitted" with "approved," and will authorize a CRNP to prescribe or dispense a drug for a use not approved by the FDA if the collaborating physician approves the use.

Schedule II Controlled Substances. The PSS and PAFP recommended that CRNPs not be given the authority to prescribe Schedule II controlled substances at all. PAFP alternatively expressed the view that if CRNPs are permitted to prescribe Schedule II controlled substances, the prescription be limited to 72 hours and the types of drugs be identified in the collaborative agreement. The American Academy of Pediatrics (AAP) recommended that a CRNP be required to notify the collaborating physician promptly and obtain approval prior to dispensing or prescribing "certain" Schedule II drugs, but did not specify which drugs. PMS recommended that a CRNP be permitted to prescribe a Schedule II controlled substance for up to a 72-hour dose only if the CRNP obtains approval from the collaborating physician prior to dispensing or prescribing the medication. The Boards did not adopt these recommendations. Under the final rulemaking the CRNP will be authorized to prescribe a Schedule II controlled substance for up to 72 hours but shall inform the collaborating physician as soon as possible, but in no event longer than 24 hours. The rulemaking will, however, require the collaborative agreement to specify the conditions under which a CRNP may prescribe a Schedule II controlled substance. If a physician does not think it appropriate for a CRNP to prescribe Schedule II controlled substances, that limitation could be included in the collaborative agreement.

Identification of the CRNP—§§ 18.56 and 21.286.

The HPLC, IRRC and others recommended that a CRNP who prescribes medications provide clear and conspicuous notice to patients that he is a CRNP. Similar recommendations were made by the PMS, AAP and individual physicians. The PMS and others also recommended that a CRNP not use abbreviations that are not recognizable to the public and that a CRNP who possesses a doctorate not use only the title, "Doctor" in a clinical setting.

The final-form rulemaking requires that a patient be informed at the time of making an appointment that he or she will be seen by a CRNP, that the CRNP wear a nametag that clearly identifies himself with the title "Certified Registered Nurse Practitioner," and that a CRNP with a doctorate should take appropriate steps to inform patients that he is not a doctor of medicine or doctor of osteopathic medicine.

Physician Supervision—§§ 18.57 and 21.287.

The PMS and PPS recommended that a physician not be permitted to supervise more than four CRNPs who prescribe because it would be, in the view of the PMS, very difficult for a physician to carefully monitor more than that number. Other physician commentators noted that the regulations should require strict physician supervision and oversight. Some nurse commentators maintained that CRNPs in "solo practice" should not need a collaborating physician. The legislative scheme, however, requires CRNPs to act in accordance with regulations authorized by section 15(a) of the Medical Practice Act (63 P. S. § 422.15(a)). Current regulations define a CRNP as a registered nurse certified in a particular clinical specialty area who performs acts of medical diagnosis or prescription of medical therapeutic or corrective measures "in collaboration with and under the direction of a physician. . ." (See §§ 18.21 and 21.251) Final rulemaking emphasizes that a collaborating physician is required to provide meaningful direction to a CRNP who prescribes by generally limiting the number of prescribing CRNPs with whom a physician might collaborate. Sections 18.57 and 21.287 would permit a physician

to collaborate with four CRNPs who prescribe and dispense drugs at any one time. Under these sections a physician could supervise a total of more than four prescribing and dispensing CRNPs, but not at the same time. Moreover, the regulation would not prohibit the physician from further collaborating with other CRNPs who do not prescribe and dispense and would permit the physician to request a waiver of the limit of four prescribing CRNPs for good cause.

Further Comments.

The Pennsylvania College of Emergency Physicians recommended that the Boards include specific regulatory requirements pertaining to CRNPs prescribing in emergency departments. The Boards decline to do this but point out that the contents of a collaborative agreement could reflect the particular needs of any type of practice, including emergency departments.

The PAFP and several commentators, most of whom were physicians, recommended that CRNPs be required to pass a standard examination for certification. While a board examination is not required for certification under the Medical Practice Act of 1985 (63 P. S. §§ 422.1—422.45) and the Professional Nursing Law (63 P. S. §§ 211—225.5), §§ 18.41 and 21.271 of the regulations of the State Board of Medicine and Nursing establish educational criteria for certification of nurse practitioners. Moreover the Boards carefully review CRNP education programs and approve only those which offer rigorous course work and assessment of the nurse practitioner students.

The PAFP observed that the Boards did not specify that a CRNP must comply with § 16.95 of the regulations of the State Board of Medicine (relating to medical records). While these regulations are not specifically cited, every professional nurse is required to document and maintain accurate records under § 21.18(a)(5) of the regulations of the State Board of Nursing. Further, § 18.111 of the regulations of the State Board of Medicine and § 21.351 of the regulations of the State Board of Nursing authorize the Boards to suspend or revoke the certification of a CRNP who violates any provision of the Medical Practice Act of 1985, the Professional Nursing Law, or the regulations adopted under those acts.

The Pennsylvania Podiatric Medical Association and a number of physician commentators in their opposition to the proposed rulemaking stated that the proposal did not require a collaborative agreement, that a CRNP lacked the knowledge to medically treat a patient, that the State Board of Nursing could amend future regulations without input from the State Board of Medicine, and that the CRNP was wrongly permitted to practice independently and was now the "captain of the ship." While the proposed rulemaking did not adequately address the collaborative agreement, final rulemaking both requires a written agreement and outlines the contents of the agreement. The General Assembly has given the Boards the power to jointly promulgate regulations authorizing CRNPs to perform acts of medical diagnoses and prescription of medical, therapeutic, diagnostic or corrective measures. See Part B of this Preamble, Statutory Authority. The current regulations of both Boards provide that a CRNP while functioning in the expanded role as a professional nurse, performs acts of medical diagnosis or corrective measures "in collaboration with and under the direction of a physician. . ." §§ 18.21 and 21.251. Section 15(b) of the Medical Practice Act of 1985 requires the

joint action of both Boards to promulgate regulations regarding medical acts that might be performed by a CRNP.

The Pennsylvania Association of Chain Drug Stores, Inc. and one chain drug store opposed the proposed rulemaking. PACDS and the chain suggested that while the Boards have the statutory authority to implement regulations authorizing a CRNP to prescribe drugs, statutory authority to authorize a CRNP to dispense a drug is lacking. The Boards have the authority to jointly promulgate regulations authorizing CRNPs to perform acts of medical diagnoses and prescription of medical, therapeutic, diagnostic or corrective measures. See Part B of this Preamble, Statutory Authority. Prescribing drugs is the prescription of a medical measure. Section 8(2) of the Pharmacy Act (63 P. S. § 390-8(2)) makes clear that while it is unlawful for someone who is not licensed as a pharmacist to dispense drugs, that prohibition does not extend to "a duly licensed medical practitioner." Section 2(9) of the Pharmacy Act (63 P. S. § 390-2(9)) defines the phrase medical practitioner as "a physician, dentist, veterinarian or other individual duly authorized and licensed by law to prescribe drugs." Authorization to prescribe drugs includes authorization to dispense drugs.

Finally, the Pennsylvania Osteopathic Medical Association expressed the view that CRNPs should be "under the jurisdiction of a physician" and was concerned that "CRNPs are not adequately trained to practice independently with prescriptive authority." A CRNP performs in an expanded role as a professional nurse and performs acts of medical diagnosis or prescription of medical therapeutic or corrective measures in collaboration with and under the direction of a physician licensed to practice medicine in this Commonwealth. See §§ 18.51 and 21.251. This rulemaking does not curtail the responsibility of the collaborating physician to provide collaboration and direction.

F. Fiscal Impact and Paperwork Requirements

There will be an increase in costs to the Commonwealth. Board staff will have to receive and file copies of the collaborative agreements of those CRNPs who prescribe and dispense drugs. Board staff will also have to slightly modify the CRNP renewal application to include a provision which will enable a CRNP with prescriptive authority to certify that the CRNP has completed the 16 hours of required continuing education courses. Board staff will have to review renewal applications to ascertain that prescribing CRNPs have fulfilled continuing education requirements. The Nurse Board and its staff will have to review programs wishing to offer either courses in advanced pharmacology or continuing education, or both. The amount of these costs have not been ascertained because there is no history of these costs. Costs to the regulated community will be increased in that collaborating physicians and CRNPs who wish to prescribe will have to modify their collaborative agreements to include the required content of §§ 18.55 and 21.285 (relating to the collaborative agreement). A CRNP who wishes to prescribe but who has not already taken 45 hours of advanced pharmacology will have to bear the costs of taking a course or courses in advanced pharmacology. Prescribing CRNPs will also have to bear the costs of continuing education courses. CRNPs who prescribe and their collaborating physicians will bear the costs of forwarding a copy of the collaborative agreement to the Bureau of Professional and Occupational Affairs. The costs of this rulemaking may be passed on to consumers of CRNP services. It is unlikely that these costs will

result in significantly increased prices. The costs may be offset by the greater availability of medical services and the increased efficiency engendered by having CRNPs who can prescribe without the prior intervention of a physician. Citizens of this Commonwealth will benefit from having more ready access to cost-effective, quality health care. Revising collaborative agreements and forwarding a copy to the Bureau represent the largest increase in paperwork in regard to this rulemaking.

G. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Boards submitted a copy of the notice of proposed rulemaking, published at 29 Pa.B. 5101, to IRRC and to the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee for review and comment. In compliance with section 5(c) of the Regulatory Review Act, the Boards also provided IRRC and the Committees with copies of the comments received as well as other documentation.

In preparing these final-form regulations, the Boards have considered the comments received from IRRC and the public.

These final-form regulations were disapproved by IRRC at its meeting of July 13, 2000. IRRC's order of disapproval was received by the Boards on September 11, 2000. On that date the Boards, under section 7(a) of the Regulatory Review Act (71 P. S. § 745.7(a)), submitted written notice of their intention to modify the final-form rulemaking in accordance with section 7(c) of the Regulatory Review Act, to the Governor, IRRC and the House and Senate Committees.

On October 2, 2000, the Boards delivered final revised rulemaking and the section 7(c) report to the Governor, IRRC and the House and Senate Committees.

The final-form regulations were approved by the House Committee on October 3, 2000, deemed approved by the Senate Committee on October 12, 2000, and approved by IRRC on October 19, 2000.

H. Sunset Date

The Board continuously monitors its final-form regulations. Therefore, no sunset date has been assigned.

I. Contact Person

Further information may be obtained by contacting Ann Steffanic, Board Administrator, State Board of Nursing or Cindy Warner, Board Administrator, State Board of Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7142 and 783-1400, respectively.

J. Findings

The Boards find 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 the 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 amendments do not enlarge the purpose of proposed rulemaking published at 29 Pa.B. 5101.
- (4) These amendments are necessary and appropriate for administration and enforcement of the authorizing acts identified in Part B of this preamble.

K. Order

The Boards, acting under their authorizing statutes, order that:

(a) The regulations of the Boards, 49 Pa. Code Chapters 18 and 21, are amended by adding §§ 18.53—18.57 and 21.283—21.287 to read as set forth in Annex A.

(b) The Boards shall submit this order and Annex A to the Office of General Counsel and to the Office of Attorney General as required by law.

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

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

CHARLES D. HUMMER, Jr., MD,
STEPHEN K. ANDERSON, RN, CRNA,
Chairpersons

Fiscal Note: Fiscal Note 16A-499 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 18. STATE BOARD OF MEDICINE

**Subchapter C. CERTIFIED REGISTERED NURSE PRACTITIONERS
CRNP PRACTICE**

§ 18.53. Prescribing and dispensing drugs.

A CRNP may prescribe and dispense drugs if the following requirements are met:

(1) The CRNP has completed a CRNP program which is approved by the Boards or, if completed in another state, is equivalent to programs approved by the Boards.

(2) The CRNP has successfully completed at least 45 hours of course work specific to advanced pharmacology in accordance with the following:

(i) The course work in advanced pharmacology may be either part of the CRNP education program or, if completed outside of the CRNP education program, an additional course or courses taken from an educational program or programs approved by the Boards.

(ii) The course work in advanced pharmacology must be at an advanced level above a pharmacology course required by a professional nursing (RN) education program.

(3) A CRNP who has prescriptive authority shall complete at least 16 hours of State Board of Nursing approved continuing education in pharmacology in the 2 years prior to the biennial renewal date of his or her CRNP certification. The CRNP shall show proof that she completed the continuing education when submitting a biennial renewal.

(4) In prescribing and dispensing drugs, a CRNP shall comply with standards of the State Board of Medicine in §§ 16.92—16.94 (relating to prescribing, administering and dispensing controlled substances; packaging; and labeling of dispensed drugs) and the Department of Health in 28 Pa. Code §§ 25.51—25.58, 25.61—25.81 and 25.91—25.95.

§ 18.54. Prescribing and dispensing parameters.

(a) The Board adopts the American Hospital Formulary Service Pharmacologic-Therapeutic Classification to identify drugs which the CRNP may prescribe and dispense subject to the parameters identified in this section.

(b) A CRNP may prescribe and dispense a drug relevant to the area of practice of the CRNP from the following categories if that authorization is documented in the collaborative agreement (unless the drug is limited or excluded under this or another subsection):

(1) Antihistamines.

(2) Anti-infective agents.

(3) Antineoplastic agents, unclassified therapeutic agents, devices and pharmaceutical aids if originally prescribed by the collaborating physician and approved by the collaborating physician for ongoing therapy.

(4) Autonomic drugs.

(5) Blood formation, coagulation and anticoagulation drugs, and thrombolytic and antithrombolytic agents.

(6) Cardiovascular drugs.

(7) Central nervous system agents, except that the following drugs are excluded from this category:

(i) General anesthetics.

(ii) Monoamine oxidase inhibitors.

(8) Contraceptives including foams and devices.

(9) Diagnostic agents.

(10) Disinfectants for agents used on objects other than skin.

(11) Electrolytic, caloric and water balance.

(12) Enzymes.

(13) Antitussive, expectorants and mucolytic agents.

(14) Gastrointestinal drugs.

(15) Local anesthetics.

(16) Eye, ear, nose and throat preparations.

(17) Serums, toxoids and vaccines.

(18) Skin and mucous membrane agents.

(19) Smooth muscle relaxants.

(20) Vitamins.

(21) Hormones and synthetic substitutes.

(c) A CRNP may not prescribe or dispense a drug from the following categories:

(1) Gold compounds.

(2) Heavy metal antagonists.

(3) Radioactive agents.

(4) Oxytocics

(d) If a collaborating physician determines that the CRNP is prescribing or dispensing a drug inappropriately, the collaborating physician shall immediately take corrective action on behalf of the patient and notify the patient of the reason for the action and advise the CRNP as soon as possible. This action shall be noted by the CRNP or the collaborating physician, or both, in the patient's medical record.

(e) Restrictions on CRNP prescribing and dispensing practices are as follows:

(1) A CRNP may write a prescription for a Schedule II controlled substance for up to a 72 hour dose. The CRNP shall notify the collaborating physician as soon as possible but in no event longer than 24 hours.

(2) A CRNP may prescribe a Schedule III or IV controlled substance for up to 30 days. The prescription is not subject to refills unless the collaborating physician authorizes refills for that prescription.

(f) A CRNP may not:

(1) Prescribe or dispense a Schedule I controlled substance as defined in section 4 of the Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-14).

(2) Prescribe or dispense a drug for a use not approved by the United States Food and Drug Administration without approval of the collaborating physician.

(3) Delegate prescriptive authority specifically assigned to the CRNP by the collaborating physician to another health care provider.

(g) A prescription blank shall bear the certification number of the CRNP, name of the CRNP in printed format at the top of the blank and a space for the entry of the DEA registration number, if appropriate. The collaborating physician shall also be identified as required in § 16.91 (relating to identifying information on prescriptions and orders for equipment and service).

(h) The CRNP shall document in the patient's medical record the name, amount and dose of the drug prescribed, the number of refills, the date of the prescription and the CRNP's name.

§ 18.55. Collaborative agreement.

(a) A collaborative agreement is the signed written agreement between a CRNP and a collaborating physician in which they agree to the details of the collaborative arrangement between them with respect to the care of CRNP patients.

(b) The collaborative agreement between a physician and a CRNP who will prescribe drugs shall satisfy the following requirements. The agreement shall:

(1) Identify the parties, including the collaborating physician, the CRNP and a substitute physician who will provide collaboration and direction for up to 30 days if the collaborating physician is unavailable.

(2) Identify the area of practice in which the CRNP is certified.

(3) Identify the categories of drugs from which the CRNP may prescribe or dispense in accordance with § 18.54.

(4) Contain attestation by the collaborating physician that the CRNP has knowledge and experience with any drug that the CRNP will prescribe.

(5) Specify the circumstances and how often the collaborating physician will personally see the patient, based on the type of practice, sites of service and condition of the patient, whether the treatment is for an ongoing or new condition, and whether the patient is new or continuing.

(6) Specify the conditions under which the CRNP may prescribe a Schedule II controlled substance for up to 72 hours.

(7) Be kept at the primary practice location of the CRNP and a copy filed with the Bureau of Professional and Occupational Affairs.

(8) Be made available for inspection to anyone seeking to confirm the scope of practice of the CRNP.

(9) Be updated by the collaborating physician and the CRNP whenever it is changed substantively.

(10) Specify the amount of professional liability insurance carried by the CRNP.

(c) The CRNP shall notify the Bureau whenever a collaborative agreement of a CRNP who prescribes and dispenses drugs is updated or terminated.

§ 18.56. Identification of the CRNP.

(a) A patient shall be informed at the time of making an appointment that the patient will be seen by a CRNP.

(b) A CRNP shall wear a name tag that clearly identifies the CRNP with the title "Certified Registered Nurse Practitioner."

(c) A CRNP who holds a doctorate should take appropriate steps to inform patients that the CRNP is not a doctor of medicine or doctor of osteopathic medicine.

§ 18.57. Physician supervision.

(a) At any time a physician may not supervise more than four CRNPs who prescribe and dispense drugs. This subsection does not limit the number of collaborative agreements that a physician may have with prescribing CRNPs. By way of example, a physician may supervise four prescribing CRNPs who work in the morning and four other prescribing CRNPs who work in the afternoon as long as the physician has a collaborative agreement with each CRNP.

(b) A physician may apply for a waiver of the supervision requirements expressed in subsection (a) for good cause, as determined by the Boards.

(c) The limit of the general rule of not more than four prescribing CRNPs to one physician does not apply to CRNPs who do not prescribe or dispense drugs. By way of example, a physician may supervise at the same time four CRNPs who prescribe and dispense drugs and one or more CRNPs who do not prescribe and dispense drugs.

CHAPTER 21. STATE BOARD OF NURSING

Subchapter C. CERTIFIED REGISTERED NURSE PRACTITIONERS CRNP PRACTICE

§ 21.283. Prescribing and dispensing drugs.

A CRNP may prescribe and dispense drugs if the following requirements are met:

(1) The CRNP has completed a CRNP program which is approved by the Boards or, if completed in another state, is equivalent to programs approved by the Boards.

(2) The CRNP has successfully completed at least 45 hours of course work specific to advanced pharmacology in accordance with the following:

(i) The course work in advanced pharmacology may be either part of the CRNP education program or, if completed outside of the CRNP education program, an additional course or courses taken from an educational program or programs approved by the Boards.

(ii) The course work shall be at an advanced level above a pharmacology course required by a professional nursing (RN) education program.

(3) A CRNP who has prescriptive authority shall complete at least 16 hours of State Board of Nursing approved continuing education in pharmacology in the 2

years prior to the biennial renewal date of the CRNP certification. The CRNP shall show proof that the CRNP completed the continuing education when submitting a biennial renewal.

(4) In prescribing and dispensing drugs, a CRNP shall comply with standards of the State Board of Medicine in §§ 16.92—16.94 (relating to prescribing, administering and dispensing controlled substances; packaging; and labeling of dispensed drugs) and the Department of Health in 28 Pa. Code §§ 25.51—25.58, 25.61—25.81 and 25.91—25.95.

§ 21.284. Prescribing and dispensing parameters.

(a) The Board adopts the American Hospital Formulary Service Pharmacologic-Therapeutic Classification to identify drugs which the CRNP may prescribe and dispense subject to the parameters identified in this section.

(b) A CRNP may prescribe and dispense a drug relevant to the area of practice of the CRNP from the following categories if that authorization is documented in the collaborative agreement (unless the drug is limited or excluded under this or another subsection):

- (1) Antihistamines.
- (2) Anti-infective agents.
- (3) Antineoplastic agents, unclassified therapeutic agents, devices and pharmaceutical aids if originally prescribed by the collaborating physician and approved by the collaborating physician for ongoing therapy.
- (4) Autonomic drugs.
- (5) Blood formation, coagulation and anticoagulation drugs, and thrombolytic and antithrombolytic agents.
- (6) Cardiovascular drugs.
- (7) Central nervous system agents, except that the following drugs are excluded from this category:
 - (i) General anesthetics.
 - (ii) Monoamine oxidase inhibitors.
- (8) Contraceptives including foams and devices.
- (9) Diagnostic agents.
- (10) Disinfectants for agents used on objects other than skin.
- (11) Electrolytic, caloric and water balance.
- (12) Enzymes.
- (13) Antitussive, expectorants and mucolytic agents.
- (14) Gastrointestinal drugs.
- (15) Local anesthetics.
- (16) Eye, ear, nose and throat preparations.
- (17) Serums, toxoids and vaccines.
- (18) Skin and mucous membrane agents.
- (19) Smooth muscle relaxants.
- (20) Vitamins.
- (21) Hormones and synthetic substitutes.

(c) A CRNP may not prescribe or dispense a drug from the following categories:

- (1) Gold compounds.
- (2) Heavy metal antagonists.
- (3) Radioactive agents.
- (4) Oxytocics.

(d) If a collaborating physician determines that the CRNP is prescribing or dispensing a drug inappropriately, the collaborating physician shall immediately take corrective action on behalf of the patient and notify the patient of the reason for the action and advise the CRNP as soon as possible. This action shall be noted by the CRNP or the collaborating physician, or both, in the patient's medical record.

(e) Restrictions on CRNP prescribing and dispensing practices are as follows:

(1) A CRNP may write a prescription for a Schedule II controlled substance for up to a 72 hour dose. The CRNP shall notify the collaborating physician as soon as possible but in no event longer than 24 hours.

(2) A CRNP may prescribe a Schedule III or IV controlled substance for up to 30 days. The prescription is not subject to refills unless the collaborating physician authorizes refills for that prescription.

(f) A CRNP may not:

(1) Prescribe or dispense a Schedule I controlled substance as defined in section 4 of the Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. § 780-14).

(2) Prescribe or dispense a drug for a use not approved by the United States Food and Drug Administration without approval of the collaborating physician.

(3) Delegate prescriptive authority specifically assigned to the CRNP by the collaborating physician to another health care provider.

(g) A prescription blank shall bear the certification number of the CRNP, name of the CRNP in printed format at the top of the blank and a space for the entry of the DEA registration number, if appropriate. The collaborating physician shall also be identified as required in § 16.91 (relating to identifying information on prescriptions and orders for equipment and service).

(h) The CRNP shall document in the patient's medical record the name, amount and dose of the drug prescribed, the number of refills, the date of the prescription and the CRNP's name.

§ 21.285. Collaborative agreement.

(a) A collaborative agreement is the signed written agreement between a CRNP and a collaborating physician in which they agree to the details of the collaborative arrangement between them with respect to the care of CRNP patients.

(b) The collaborative agreement between a physician and a CRNP who will prescribe drugs shall satisfy the following requirements. The agreement shall:

(1) Identify the parties, including the collaborating physician, the CRNP, and a substitute physician who will provide collaboration and direction for up to 30 days if the collaborating physician is unavailable.

(2) Identify the area of practice in which the CRNP is certified.

(3) Identify the categories of drugs from which the CRNP may prescribe or dispense in accordance with § 21.284 (relating to prescribing and dispensing parameters).

(4) Contain attestation by the collaborating physician that the CRNP has knowledge and experience with any drug that the CRNP will prescribe.

(5) Specify the circumstances and how often the collaborating physician will personally see the patient, based

on the type of practice, sites of service and condition of the patient, whether the treatment is for an ongoing or new condition, and whether the patient is new or continuing.

(6) Specify the conditions under which the CRNP may prescribe a Schedule II controlled substance for up to 72 hours.

(7) Be kept at the primary practice location of the CRNP and a copy filed with the Bureau of Professional and Occupational Affairs.

(8) Be made available for inspection to anyone seeking to confirm the scope of practice of the CRNP.

(9) Be updated by the collaborating physician and the CRNP whenever it is changed substantively.

(10) Specify the amount of professional liability insurance carried by the CRNP.

(c) The CRNP shall notify the Bureau whenever a collaborative agreement of a CRNP who prescribes and dispenses drugs is updated or terminated.

§ 21.286. Identification of the CRNP.

(a) A patient shall be informed at the time of making an appointment that the patient will be seen by a CRNP.

(b) A CRNP shall wear a name tag that clearly identifies the CRNP with the title "certified registered nurse practitioner."

(c) A CRNP who holds a doctorate should take appropriate steps to inform patients that the CRNP is not a doctor of medicine or doctor of osteopathic medicine.

§ 21.287. Physician supervision.

(a) At any time a physician may not supervise more than four CRNPs who prescribe and dispense drugs. This section, however, does not limit the number of collaborative agreements that a physician may have with prescribing CRNPs. By way of example, a physician may supervise four prescribing CRNPs who work in the morning and four other prescribing CRNPs who work in the afternoon as long as the physician has a collaborative agreement with each CRNP.

(b) A physician may apply for a waiver of the supervision requirements expressed in subsection (a) for good cause, as determined by the Boards.

(c) The limit of the general rule of not more than four prescribing CRNPs to one physician does not apply to CRNPs who do not prescribe or dispense drugs. By way of example, a physician may supervise at the same time four CRNPs who prescribe and dispense drugs and one or more CRNPs who do not prescribe and dispense drugs.

[Pa.B. Doc. No. 00-1974. Filed for public inspection November 17, 2000, 9:00 a.m.]

STATE BOARD OF NURSING

[49 PA. CODE CH. 21]

Biennial Renewal Fees

The State Board of Nursing (Board) amends §§ 21.5, 21.147 and 21.253 (relating to fees) by revising biennial renewal fees. The amendments increase renewal fees for registered nurses from \$21 to \$45, for licensed practical nurses from \$16 to \$40 and for certified registered nurse practitioners (CRNPs) from \$26 to \$50.

A. Effective Date

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

B. Statutory Authority

Section 11.2(a), (b) and (d) of the Professional Nursing Law (63 P. S. § 221.2(a), (b) and (d)) and section 17.5(a) and (b) of the Practical Nurse Law (63 P. S. § 667.5(a) and (b)), require the Board to set fees required for renewal of licenses and certificates by regulation. The same provisions require the Board to increase fees by regulation to meet or exceed projected expenditures if the current revenues raised by fees, fines and civil penalties are not sufficient to meet projected expenditures and to increase fees in an amount that insures adequate revenues are raised to meet the required enforcement efforts.

C. Background and Purpose

The Board's licensure laws require that the Board fund enforcement and operating expenses through biennial renewal fees, fines and penalties. The biennial renewal fees fund nearly all of the Board's costs.

In accordance with the laws, the Board, in conjunction with the Department's Budget and Financial Management Office and its Revenue Office, has reviewed the actual expenditures and revenue history of the Board against its projected expenses and revenue. The review of the actual expenditures and revenue determined that the last recorded positive revenue balance was on June 30, 1998, and that the biennial renewal fees were not adequate to meet current and projected expenditures. The amendments update the biennial renewal fees to meet or exceed expenditures. A detailed explanation of the background of these fees as well as a description of the fees was published at 30 Pa.B. 2265 (May 6, 2000).

D. Summary of Comments and Responses on Proposed Rulemaking

Notice of proposed rulemaking was published at 30 Pa.B. 2265. Publication was followed by a 30-day public comment period. The Board received comments from three public commentators, the Hospital and Healthsystem Association of Pennsylvania (HAP), Johanna B. Mattiola, RN (Mattiola) and Paula D. Earliwine, RN (Earliwine). In accordance with the Regulatory Review Act (71 P. S. §§ 745.1—745.15), the proposal was reviewed by the Independent Regulatory Review Commission (IRRC), the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). No objections, suggestions or comments were made. The following is the Board's response to the public comments.

HAP suggested that the Board use the biennial renewal process to collect and disseminate comprehensive data about licensed nurses in this Commonwealth. The comprehensive data HAP suggested that the Board collect and disseminate includes demographic information, professional characteristics, employment characteristics and educational characteristics. HAP also recommended that the cost of data collection should be built into the biennial renewal fees.

The Board notes that it does not have the statutory authority to collect the comprehensive data that HAP has suggested. Further, the purpose of the biennial renewal fee regulation is to fund the Board's costs for general operations, enforcement, and confirming continued eligibility for licensure, all of which have specific statutory and regulatory requirements. Comprehensive data collec-

tion is not the purpose of the biennial renewal fee regulation. Thus, the addition of comprehensive data collection would impermissibly exceed the scope of the Board's statutory authority and impermissibly exceed the purpose of proposed rulemaking. The Board also notes that the biennial renewal fees are calculated based upon actual and projected expenditures and do not include the costs of comprehensive data collection. Comprehensive data collection would result in increased fees to licensees for activities that are beyond the authority of the Board and beyond the purpose of proposed rulemaking. Therefore, the Board has determined that comprehensive data collection should not be included in final-form rulemaking.

Mattiola and Earliwine expressed concern that the increase in fees was excessive and suggested that legal costs should be offset by collecting fees from those who are disciplined by the Board. The Board notes that the costs of monitoring licensees in monitoring programs are borne by the monitored licensees, and that the revenue received from civil penalties and fines has already been factored into the calculations used to increase the biennial renewal fees. The Board further notes that the biennial renewal fees fund nearly all the Board's costs; that the biennial renewal fees were last updated in 1992; and that the Board last recorded a positive revenue/expenditure balance on June 30, 1998. The Board is required by law to increase fees to meet or exceed expenditures. Additionally, the Commonwealth's biennial renewal fees remain significantly lower than the biennial renewal fees in several neighboring states. Details of the Board's analysis are in the Regulatory Review Form, which is available upon request.

E. Compliance with Executive Order 1996-1, Regulatory Review and Promulgation

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and the regulated community under the directives of Executive Order 1996-1 (February 6, 1996), Regulatory Review and Promulgation. The final-form regulations address a compelling public interest as described in this Preamble and otherwise comply with Executive Order 1996-1.

F. Fiscal Impact

These final-form regulations will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The fees will have a modest fiscal impact on licensees who renew their license biennially. Licensed practical nurses, registered nurses and certified registered nurse practitioners will pay an additional \$24 for biennial renewal.

G. Paperwork Requirements

The final-form regulations will require the Board to alter some of its forms to reflect the new biennial renewal fees; however, the regulations should not create additional paperwork for the private sector.

H. Sunset Date

The Professional Nursing Law (63 P. S. §§ 651—667.8) and the Practical Nurse Law (63 P. S. §§ 211—225.5) require that the Board monitor its revenue and cost on a fiscal year and biennial basis. Therefore, no sunset date has been assigned.

I. Regulatory Review

Under to section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted a copy of notice of proposed rulemaking, published at 30 Pa.B. 2265, to IRRC, and to the Chairpersons of the HPLC and SCP/PLC for review and comment.

In accordance with section 5(c) of the Regulatory Review Act, the Board also provided IRRC and the Committees with copies of comments received, as well as other documentation. In preparing these final-form regulations, the Board has considered the comments received.

These final-form regulations were approved by the HPLC on October 11, 2000, and deemed approved by the SCP/PLC on October 15, 2000. IRRC met on October 19, 2000. The final-form regulations were deemed approved in accordance with section 5.1(g) of the Regulatory Review Act (71 P. S. § 745.5a(g)).

I. Contact Person

Further information may be obtained by contacting Ann Steffanic, Administrative Assistant, State Board of Nursing, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7200.

J. Findings

The Board finds that:

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

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

(3) These amendments do not enlarge the purpose of proposed rulemaking published at 30 Pa.B. 2265.

(4) These amendments are necessary and appropriate for administration and enforcement of the authorizing acts identified in Part B of this Preamble.

K. Order

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

(1) The regulations of the Board, 49 Pa. Code Chapter 21, are amended by amending §§ 21.5, 21.147 and 21.253 to read as set forth at 30 Pa.B. 2265.

(2) The Board shall submit this order and 30 Pa.B. 2265 to the Office of General Counsel and to the Office of Attorney General as required by law.

(3) The Board shall certify this order and 30 Pa.B. 2265 and deposit them with the Legislative Reference Bureau as required by law.

(4) This order shall take effect on publication in the *Pennsylvania Bulletin*.

K. STEPHEN ANDERSON, CRNP,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 5807 (November 4, 2000).)

Fiscal Note: Fiscal Note 16A-5113 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 00-1975. Filed for public inspection November 17, 2000, 9:00 a.m.]

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STATE BOARD OF VETERINARY MEDICINE
[49 PA. CODE CH. 31]
Biennial Renewal Fees

The State Board of Veterinary Medicine (Board) adopts an amendment to § 31.41 (relating to fees).

Notice of proposed rulemaking was published at 30 Pa.B. 2378 (May 13, 2000). Publication was followed by a 30-day public comment period during which the Board received no comments from the general public. Neither the House Professional Licensure Committee nor the Senate Consumer Protection and Professional Licensure Committee made comments on the proposed amendment. On July 13, 2000, the Independent Regulatory Review Commission (IRRC) sent a letter to the Board, stating it had no objections, comments or suggestions to offer on the amendment.

The amendment will increase the biennial license renewal fee for veterinarians from \$105 to \$225 and for animal health technicians from \$30 to \$60, as required to support the operations of the Board. A detailed description of the amendment may be found in the notice of proposed rulemaking.

Statutory Authority

The amendment is authorized under section 13(a) and (b) of the Veterinary Medicine Practice Act (act) (63 P. S. § 485.13(a) and (b)). Section 13(a) of the act requires the Board to fix the fees required for renewal of licenses and certificates by regulation. In addition, section 13(b) of the act requires the Board to increase fees to meet or exceed projected expenditures if the revenues raised by fees, fines and civil penalties are not sufficient to meet expenditures.

Fiscal Impact

The amendment will increase the biennial renewal fee for veterinarians and animal health technicians. A veterinarian will pay an additional \$120 for biennial renewal. An animal health technician will pay an additional \$30 for biennial renewal. The amendment should have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The amendment will require the Board to alter some of its forms to reflect the new biennial renewal fees; however, the amendment should not create additional paperwork for the private sector.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the Board submitted a copy of the notice of proposed rulemaking, published at 30 Pa.B. 2378 to IRRC and to the Chairpersons of the House Committee on Professional Licensure and the Senate Committee on Consumer Protection and Professional Licensure.

Publication of the notice of proposed rulemaking was followed by a 30-day public comment period during which the Board received no written comment from the public. Subsequent to the close of the public comment period, the

Board received no comments from the House or Senate Committee. The Board received and considered comments from IRRC.

This final-form regulation was approved by the House Professional Licensure Committee on October 3, 2000, and was deemed approved by the Senate Consumer Protection and Professional Licensure Committee on October 9, 2000. The final-form regulation was deemed approved by IRRC under section 5(g) of the Regulatory Review Act, effective October 11, 2000.

Further Information

Individuals who need information about the final-form regulation may contact Robert Kline, Administrative Assistant, State Board of Veterinary Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-4848.

Findings

The Board finds that:

(1) Public notice of intention to adopt an amendment to Chapter 31 was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (5 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The amendment is necessary and appropriate for the administration of the act.

Order

The Board orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 31, are amended by amending § 31.41 to read as set forth at 30 Pa.B. 2378.

(b) The Board shall submit a copy of this order and 30 Pa.B. 2378 to the Office of the Attorney General and the Office of General Counsel for approval as required by law.

(c) The Board shall certify this order and 30 Pa.B. 2378 and shall deposit them with the Legislative Reference Bureau as required by law.

(d) The amendment shall take effect immediately upon publication in the *Pennsylvania Bulletin*.

BRIAN V. HARPSTER, V.M.D.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 5807 (November 4, 2000).)

Fiscal Note: Fiscal Note 16A-579 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 00-1976. Filed for public inspection November 17, 2000, 9:00 a.m.]

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STATE REAL ESTATE COMMISSION
[49 PA. CODE CH. 35]
General Revisions

The State Real Estate Commission (Commission) amends Chapter 35 (relating to State Real Estate Commission) to read as set forth in Annex A.

Summary

This rulemaking updates the Commission's existing regulations to address issues of current importance to the

real estate industry and to better serve and protect the interest of consumers who use the services of a licensee in a real estate transaction.

In the final-form rulemaking, the Commission made changes to §§ 35.271, 35.304, 35.305 and 35.308. Editorial changes are also made to §§ 35.201, 35.281 and 35.287. As to proposed changes to §§ 35.222, 35.223, 35.245, 35.322 and 35.327, the Commission has withdrawn the proposed rulemaking.

Response to Comments

Notice of proposed rulemaking was published at 29 Pa.B. 565 (January 30, 1999). Publication was followed by a 30-day public comment period during which the Board received comments from the Pennsylvania Association of Realtors (PAR). Following the close of the public comment period, the Board also received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). The final-form rulemaking is in response to the comments and suggestions received by the commentators and the regulatory review bodies.

For ease of reference, the Commission will address the comments in the order in which the amendments appear.

1. § 35.222(b). *Licensure as broker.*
 § 35.223(b). *Licensure as salesperson.*

In proposed form, the Commission rewrote the requirements for nonresident brokers and salespersons seeking to obtain licensure by recognition of a license in another state. The HPLC questioned the rationale of the Commission's requirement that a broker be licensed in another state for 5 years prior to submitting an application for licensure. IRRC suggested that the term "active" replace "current" since a current license may be inactive. The Commission has determined that it wishes to study the issue of license by endorsement of another state's license. As such, the Commission has withdrawn the proposed revision. Therefore no changes to §§ 35.322(b) and 35.323(b) are made in final-form rulemaking.

2. § 35.245. *Display of licenses in office.*

Proposed § 35.245 required licensees to display their licenses in their broker's office and display a photocopy in the office where they work. The HPLC questioned the Commission's authority to require that a photocopy and not the original be displayed. Owing to HPLC's concern, the Commission has withdrawn the revision and has determined to make no change to § 35.245 in the final-form rulemaking.

3. § 35.271(b)(2). *Examination for broker's license.*

Proposed § 35.271(b)(2) would be amended to require mandatory education courses for brokers in office management and real estate law. The HPLC suggested that these courses would be more appropriate for continuing education for all licensees and not just newly licensed brokers. Although these courses may be of some educational value to licensees generally, it is the Commission experience that many broker violations involve escrow accounts and failure to supervise salespersons. These activities are, in the view of the Commission, core practices, knowledge of which should form the basis of broker education. In an attempt to reduce the number of violations, the Commission believes that applicants for a license should be required to complete an intensive course specifically designed to address the additional responsibilities imposed upon brokers. Finally, the Commission notes that salespersons and licensed brokers may take

either the office management or law courses as part of their continuing education requirement.

4. § 35.271(b)(3)(iv). *Examination for broker's license.*

The proposed amendment to § 35.271(b)(3)(iv) would permit education courses offered by real estate organizations in another jurisdiction, provided they are approved by the licensing authority in that state to be counted toward the education requirement to sit for the examination.

The HPLC questioned whether permitting out-of-State courses to be counted toward the educational requirement would raise or lower standards for licensure. Under the current regulations, only courses offered in this Commonwealth are eligible for credit. Unfortunately, not all National courses, especially those in specialized areas such as commercial and property management, are taught in this Commonwealth. Therefore the Commission believes that permitting applicants to receive credit for a real estate course taught in another jurisdiction may raise educational standards and will benefit the licensees and consumers of real estate services in this Commonwealth.

5. § 35.305. *Business name on advertisements.*

Proposed § 35.305 eliminates the current requirement that the brokers name and telephone number be given greater prominence in advertisements. As proposed, the section requires that the broker's name and number be the same size as the advertising licensee. The HPLC questioned the necessity of the amendment.

The HPLC commented that the current regulation accomplishes the Commission's objective of "ensuring that a consumer will know the name and telephone number of the broker who is legally responsible for the activities of the employe." The HPLC requested a cost analysis of the cost differential under the current regulation and the proposed amendment.

The existing regulation imposes a cost on salespersons not justified by a larger typeface. Since advertising fees vary by media and market area it is not possible to quantify the costs throughout this Commonwealth. Nonetheless, the Commission believes most licensees experience a substantial cost savings annually by eliminating the greater prominence requirement because advertisements are paid by the inch. The public will be able to identify the broker's name and number, equally as well as those of the salesperson. For these reasons, no change has been made in final rulemaking.

6. § 35.308. *Relationship with educational institution.*

Proposed § 35.308 requires real estate companies, franchises and networks to disclose ownership interests in advertisements, promotions and endorsements.

The HPLC requested an explanation why the Commission reversed its position taken when this provision was originally promulgated, that this regulation was needed "to prevent real estate firms from steering prospective students to real estate providers with which the firms have business of financial relationships."

The Commission understands that some real estate companies have an ownership interest in real estate schools. The Commission believes that it is in the best interest of students and consumers to know of this ownership interest and make choices accordingly. Despite this notice ability, § 35.354(a)(8) prohibits schools from recruiting or soliciting students.

7. *§ 35.322. Transfer of escrow funds.*

Proposed § 35.322 would have permitted buyers and sellers to change how the escrow moneys are being held after the agreement is signed. The Commission is aware there are circumstances when the parties desire to have escrow funds released prior to the consummation of the agreement. For example, after the agreement is signed, the seller may agree to extend the settlement date for the buyer if the buyer agrees to release the escrow funds. To accomplish this under the current regulations, the agreement must be terminated and a new agreement executed.

The HPLC commented that section 604(5)(I) of the Real Estate Licensing and Registration Act (63 P. S. §§ 455.604 (5)(I)) (act) prohibits a broker from transferring funds prior to the consummation or termination of the real estate transaction. It opined that "the Commission lacks the legislative authority to promulgate the provisions related to the transfer of escrow funds." Echoing PAR's comment, IRRC suggested that the term "separate" be deleted.

In response to the comments of the HPLC, the Commission has removed the language added on proposed.

8. *§ 35.327. Procedure when entitlement to money held in escrow is disputed.*

Under the current regulations, when parties to disputed escrow funds are unwilling to sign a release, it is left to the broker to file an interpleader action in the courts of common pleas. The costs associated with this interpleader action include the filing fee and the attorney's fees to draft the pleading. The amendment to subsection (a) would have permitted the broker to recoup the costs of filing the interpleader.

Also, during the Commission's public meetings and in many inquiries by consumers and licensees, the Commission has been asked what a broker is to do when the broker either goes out of business or retires and there is money in the disputed escrow fund. Under the current regulations, the accounts must remain open. In an attempt to deal with this issue, the Commission would have amended subsection (b).

Both the HPLC and IRRC commented that the Commission does not have the statutory authority under section 604(a)(5)(iv) of the act to permit the broker to deduct costs from the escrow account or dispose of moneys when the parties have not consented or a civil action filed. The HPLC further suggested that subsection (b) "improperly places the broker in the position of being the final arbiter of fact and law" and "unnecessarily exposes the broker to claims of liability from the aggrieved party." Both recommend deleting all amendments. Additionally, PAR and IRRC recommended that the term "release" be replaced with "agreement regarding its disposition."

Owing to the statutory concerns raised by the HPLC and IRRC the Commission has withdrawn the amendatory language in final rulemaking.

Compliance with Executive Order 1996-1, Regulatory Review and Promulgation

The Board reviewed this rulemaking and considered its purpose and likely impact upon the public and the regulated population under the directives of Executive Order 1996-1, Regulatory Review and Promulgation. The final-form regulations address a compelling public interest as described in this Preamble and otherwise comply with Executive Order 1996-1.

Fiscal Impact and Paperwork Requirements

The amendments will have no fiscal impact on the Commonwealth, its political subdivisions, the public and the regulated community. Likewise, the amendments will not necessitate any legal, accounting, reporting or other paperwork requirements on the regulated community.

Statutory Authority

The amendments are authorized by sections 404 and 602 of the act (63 P. S. §§ 455.404 and 455.602).

Sunset Date

The Board continually monitors the effectiveness of its regulations through communications with the regulated population; accordingly, no sunset date has been set.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 30, 1999, the Commission submitted a copy of the notice of proposed rulemaking, published at 29 Pa.B. 565, to IRRC and the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

In compliance with section 5(c) of the Regulatory Review Act, the Commission also provided IRRC and the Committees with copies of the comments received, as well as other documentation. In preparing these final-form regulations, the Commission has considered the comments received from IRRC and the public.

These final-form regulations were approved by the HPLC on October 11, 2000, and deemed approved by the SCP/PLC. IRRC met on October 19, 2000, and approved the final-form regulations in accordance with section 5.1(e) of the Regulatory Review Act (71 P. S. § 745.5(e)).

Contact Person

Further information may be obtained by contacting Deborah A. Sopko, Administrative Assistant, State Real Estate Commission, at P. O. Box 2649, Harrisburg, PA 17105-2649 (717) 783-7155.

Findings

(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 the regulations promulgated thereunder at 1 Pa. Code §§ 7.1 and 7.2.

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

(3) These amendments do not enlarge the purpose of the proposed rulemaking published at 29 Pa.B. 565.

(4) These amendments are necessary and appropriate for administration and enforcement of the Board's authorizing statute.

Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 35, are amended by amending §§ 35.201, 35.271, 35.281, 35.287, 35.304, 35.305, 35.308 and 35.321 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

JOSEPH TARANTINO, Jr.,
Chairperson

(Editor's Note: The proposal to amend §§ 35.222, 35.223, 35.245, 35.322 and 35.327, included in the proposed rulemaking published at 29 Pa.B. 565, has been withdrawn by the Commission.

For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 30 Pa.B. 5807 (November 4, 2000.)

Fiscal Note: Fiscal Note 16A-560 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 35. STATE REAL ESTATE COMMISSION

Subchapter B. GENERAL PROVISIONS

§ 35.201. Definitions.

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

* * * * *

Broker—An individual or entity that, for another and for a fee, commission or other valuable consideration, does one or more of the following:

(i) Negotiates with or aids a person in locating or obtaining for purchase, lease or acquisition of interest in real estate.

(ii) Negotiates the listing, sale, purchase, exchange, lease, time share and similarly designated interests, financing or option for real estate.

(iii) Manages real estate.

(iv) Represents himself or itself as a real estate consultant, counsellor or house finder.

(v) Undertakes to promote the sale, exchange, purchase or rental of real estate. This subparagraph does not apply to an individual or entity whose main business is that of advertising, promotion or public relations.

(vi) Attempts to perform one of the actions listed in subparagraphs (i)—(v).

* * * * *

Salesperson—An individual who is employed by a broker to do one or more of the following:

(i) Sell or offer to sell real estate, or list real estate for sale.

(ii) Buy or offer to buy real estate.

(iii) Negotiate the purchase, sale or exchange of real estate.

(iv) Negotiate a loan on real estate.

(v) Lease or rent real estate, or offer to lease or rent real estate or to place real estate for rent.

(vi) Collect rent for the use of real estate, or offer or attempt to collect rent for the use of real estate.

(vii) Assist a broker in managing property.

* * * * *

**Subchapter C. LICENSURE
LICENSURE REQUIREMENTS**

§ 35.271. Examination for broker's license.

(a) An individual who wants to take the broker's examination for a Pennsylvania broker's license shall:

(1) Be 21 years of age or older.

(2) Be a high school graduate or have passed a high school general education equivalency examination.

(3) Have worked at least 3 years as a licensed salesperson, with experience qualifications that the Commission considers adequate for practice as a broker, or possess at least 3 years of other experience, education, or both, that the Commission considers the equivalent of 3 years' experience as a licensed salesperson.

(4) Have acquired 16 credits, or 240 hours of instruction, in professional real estate education as determined by the Commission under subsection (b).

(5) Submit a completed examination application to the Commission or its designee with:

(i) Official transcripts evidencing the acquisition of course credits

(ii) A detailed resume of real estate activities performed by the candidate while working as a salesperson and a sworn statement from the candidate's employing broker confirming that these activities were performed if the candidate is a licensed salesperson.

(iii) A complete description of work experience and education that the candidate considers relevant to the requirements of paragraph (3) if the candidate is not a licensed salesperson.

(iv) A certification from the real estate licensing authority of the jurisdiction in which the candidate is licensed stating that the candidate had an active license for each year that credits are claimed if the candidate is applying brokerage experience to satisfy the professional education requirement.

(v) The fees for review of the candidate's qualifications to take the examination and for administration of the examination prescribed in § 35.203 (relating to fees).

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(4):

(1) A candidate who has obtained one of the following degrees will be deemed to have met the education requirement and will not be required to show completion of coursework in specific areas of study:

(i) A bachelor's degree with a major in real estate from an accredited college, university or institute of higher learning.

(ii) A bachelor's degree from an accredited college, university or institute of higher learning, having completed coursework equivalent to a major in real estate.

(iii) A juris doctor degree from an accredited law school.

(2) Except as provided in paragraph (6), 2 of the required 16 credits shall be in a Commission-developed or approved real estate office management course and 2 of

the required 16 credits shall be in a Commission-developed or approved law course. At least 6 of the remaining 12 credits shall be in 3 or more of the Commission-developed courses listed in this paragraph. The remaining 6 credits shall be in real estate courses but not necessarily those listed in this paragraph. A candidate may not apply credits used to qualify for the salesperson's examination toward fulfillment of the broker education requirement.

- (i) Real Estate Law.
 - (ii) Real Estate Finance.
 - (iii) Real Estate Investment.
 - (iv) Residential Property Management.
 - (v) Nonresidential Property Management.
 - (vi) Real Estate Sales.
 - (vii) Residential Construction.
 - (viii) Valuation of Residential Property.
 - (ix) Valuation of Income-Producing Property.
- (3) To be counted toward the education requirement, a real estate course shall have been offered by:
- (i) An accredited college, university or institute of higher learning, whether in this Commonwealth or outside this Commonwealth.
 - (iii) A real estate school outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the school is located. The course transcript or certificate of completion shall state that the course is approved by the licensing authority of the jurisdiction where the school is located.
 - (iv) A real estate industry organization outside this Commonwealth, if the course is approved by the licensing jurisdiction of another state. The course transcript or certificate of completion shall state that the course is approved by the licensing jurisdiction which has approved it.
- (4) A maximum of four credits will be allowed for each real estate course. A maximum of four credits will be allowed for each area of real estate study listed in paragraph (2).
- (5) Courses shall have been completed within 10 years prior to the date of successful completion of the licensing examination.
- (6) Two credits will be allowed for each year of active practice the candidate has had a licensed broker in another jurisdiction during the 10-year period immediately preceding the submission of the examination application.

GENERAL ETHICAL RESPONSIBILITIES

§ 35.281. Putting contracts, commitments and agreements in writing.

- (a) A licensee who acts in a representative capacity shall ensure that sale or lease contracts, commitments and agreements in connection with a real estate transaction that he has knowledge of, or that he reasonably should be expected to have knowledge of, are in writing.
- (b) A licensee who enters into an open listing agreement shall provide the seller or lessor with a written memorandum stating the terms of the agreement.
- (c) A rental listing referral agent shall ensure that the agreement between himself and a prospective tenant is in writing.

§ 35.287. Supervised property management assistance by salespersons.

A salesperson may assist in the management of real estate if the salesperson's work is directly supervised and controlled by the employing broker. The salesperson may not independently negotiate the terms of a lease nor execute a lease on behalf of the lessor.

ADVERTISING AND SOLICITATION

§ 35.304. Disclosure of licensure when advertising own real estate.

A licensee who sells or leases his own real estate shall disclose that he is a real estate *licensee* in advertisements for the property. This requirement does not apply if the property is listed with a real estate company.

§ 35.305. Business name on advertisements.

(a) Brokerage companies, including sole proprietorships, cemetery companies and rental listing referral agencies shall advertise or otherwise hold *themselves* out to the public only under the business name designated on their license.

(b) Individual brokers of record, associate brokers, salespersons, cemetery associate brokers, cemetery salespersons and rental listing referral agents who wish to use and advertise nicknames (for example, Jack v. John or Margaret v. Peggy) shall include the names on their licensure applications or biennial renewal applications.

(c) An advertisement by an associate broker, salesperson, cemetery associate broker or cemetery salesperson shall contain the business name and telephone number of the employing broker. The names and telephone numbers shall be of equal size.

§ 35.308. Relationship with educational institution.

A real estate company, franchise or network may promote, endorse, or advertise its association, affiliation or connection with a real estate school or with a college, university or institute of higher learning regarding its offering of real estate instruction. An association, affiliation or connection which includes an ownership interest shall be disclosed in all promotions, endorsements or advertisements. For purposes of this section, an ownership interest will be considered by the Commission to include proprietary or beneficial interests through which the real estate company, franchise or network earns or has the potential to earn income, or which produces a direct or indirect economic benefit.

ESCROW REQUIREMENTS

§ 35.321. Duty to deposit money belonging to another into escrow account.

(a) Except as provided in subsection (b), a broker shall deposit money that the broker receives belonging to another into an escrow account in a Federally or State-insured bank or depository to be held pending consummation of the transaction or a prior termination thereof that does not involve a dispute between the parties to the transaction, at which time the broker shall pay over the full amount to the party entitled to receive it. If a broker is a partnership, association or corporation, its broker of record shall be responsible for ensuring that the escrow duty is performed.

(b) A broker is not required to hold in escrow rents that he receives as a property manager for a lessor. A broker shall deposit rents received into a rental management account that is separate from the broker's escrow and general business accounts.

(c) If a broker receives money belonging to another under an installment land purchase agreement, the transaction shall be considered consummated, for purposes of subsection (a), when the buyer has been afforded the opportunity, by means of the seller's written acknowledgement on or affixed to the agreement, to record the agreement, unless the agreement specifies otherwise.

(d) If a broker receives money belonging to another under an agreement of sale involving cemetery property, the transaction shall be considered consummated, for purposes of subsection (a), when the buyer receives a copy of the agreement of sale.

(e) If a broker receives a security deposit belonging to another under a lease agreement, the broker's duty to pay over the deposit for purposes of subsection (a), shall arise when the tenancy ends. If a sale of the leased premises or a change in a property management contract occurs during the term of the tenancy, the broker may transfer the security deposit from the broker's escrow account to the escrow account of the lessor or the lessor's broker upon notification in writing to each tenant from whom the broker received a deposit of the name and address of the banking institution in which the deposits will be held, and the amount of the deposits.

[Pa.B. Doc. No. 00-1977. Filed for public inspection November 17, 2000, 9:00 a.m.]

Title 58—RECREATION

GAME COMMISSION

[58 PA. CODE CH. 141]

Flintlock Muzzleloading Season

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 12, 2000, meeting, adopted the following change:

Amend § 141.43 (relating to deer) to expand the types of ammunition lawful for use in the flintlock muzzle-loader season.

This amendment is adopted under the authority of 34 Pa.C.S. (relating to the Game and Wildlife Code) (code).

Introduction

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its June 21, 2000, meeting proposed, and at its October 12, 2000, meeting finally adopted an amendment to § 141.43 to allow the use of single projectile ammunition during the muzzleloading deer season. This change was made under section 2102(d) of the code (relating to regulations).

Purpose and Authority

The Commission is mandated by section 2102(d) of the code to promulgate regulations "... stipulating... the type of firearms and ammunition, which may be used." The change was adopted under this authority.

There has been a great deal of confusion with regard to what ammunition may be used during the muzzleloading deer season. The change will simplify what ammunition can be used.

Regulatory Requirements

The change will expand the types of ammunition that can be lawfully used and relax regulatory requirements. The requirements of section 2322(a)(4) of code (relating to prohibited devices and methods) will still govern composition if any ammunition used.

Persons Affected

Those wishing to hunt deer during the special muzzleloading seasons will be affected by the change.

Comment and Response Summary

No written comments were received with regard to the adopted change.

Cost and Paperwork Requirements

The amendment will not result in any additional cost or paperwork.

Effective Date

The amendment will be effective on final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

Contact Person

For further information on the amendment, contact David E. Overcash, Acting Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendment 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 thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending § 141.43, to read as set forth at 30 Pa.B. 4622 (September 2, 2000).

(b) The Executive Director of the Commission shall certify this order and 30 Pa.B. 4622 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order amending § 141.43, shall become effective upon final publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-124. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 00-1978. Filed for public inspection November 17, 2000, 9:00 a.m.]

GAME COMMISSION
[58 PA. CODE CH. 141]

Uses of Muzzleloading Firearms in Southeast and Southwest Special Regulations Areas

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 12, 2000, meeting, adopted the following change:

Amend § 141.1 (relating to special regulations areas) to allow the use of muzzleloading pistols in the Southeast and Southwest Special Regulations Areas to remain consistent with the Commission's intent to expand hunting opportunities.

This amendment is hereby adopted under the authority of 34 Pa.C.S. (relating to the Game and Wildlife Code) (code).

Introduction

To more effectively manage the wildlife resources of this Commonwealth, the Commission at its meeting held on June 21, 2000, proposed, and at its meeting held on October 12, 2000, finally adopted amendments to § 141.1 to allow the use of any muzzleloading firearm with single projectile ammunition for deer hunting in special regulations areas. This will allow more flexibility for muzzleloaders in special regulations areas and create more hunting opportunities. The change was adopted under the authority contained in section 2102 of the code (relating to regulations).

Purpose and Authority

Because of excessive deer populations within the established special regulations areas, the Commission has decided to encourage deer hunting as much as possible. One way in which this can be done is by allowing the use of muzzleloading pistols with appropriate ammunition during the applicable season. The change will allow this.

Section 2102(a) of the code directs the Commission to "... promulgate such regulations as it deems necessary and appropriate concerning ... the ways, manner, methods, and means of hunting or furtaking ..." section 2102(d) of the code also directs the Commission to promulgate regulations stipulating "... the type of firearms and ammunition and other devices which may be used ..." The change was adopted under this authority.

Regulatory Requirements

The amendment will relax current requirements.

Persons Affected

Individuals wishing to hunt deer in special regulations areas with muzzleloading firearms using single projectile ammunition will be affected by the change.

Comment and Response Summary

No written comments were received with regard to the adopted change.

Cost and Paperwork Requirements

The change will not result in any additional cost or paperwork.

Effective Date

The change will be effective on final publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

Contact Person

For further information on the change, contact David E. Overcash, Acting Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative 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 thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending § 141.1 to read as set forth at 30 Pa.B. 1262 (March 4, 2000).

(b) The Executive Director of the Commission shall certify this order and 30 Pa.B. 1262 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order amending § 141.1, shall become effective upon final publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-123 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 00-1979. Filed for public inspection November 17, 2000, 9:00 a.m.]

PROPOSED RULEMAKING

COMMISSION ON CRIME AND DELINQUENCY

[37 PA. CODE CH. 431]

Constables' Education and Training

The Commission on Crime and Delinquency (Commission) and its Constables' Education and Training Board (Board) are publishing this proposed rulemaking that would add Chapter 431 (relating to Constables' Education and Training Board). The proposal is made under 42 Pa.C.S. §§ 2944—2946 and 2948. The proposed chapter will establish training programs that constables and deputy constables must undergo to be paid for the work they do, and to be able to carry and use a firearm while conducting their occupation. These proposed regulations are set forth in Annex A.

A. *Effective Date*

The proposed regulations will be effective upon publication of the final-form regulations in the *Pennsylvania Bulletin*.

B. *Statutory Authority*

The regulations are proposed under 42 Pa.C.S. §§ 2941—2950 (relating to constables) (act).

C. *Background and Purpose*

Legislation enacted in 1994 established the Constables' Board as an advisory board to the Commission. See section 2943(a) of the act (relating to board established). Among other things, the act directed that a constable or deputy constable may perform judicial duties and receive a fee, surcharge or mileage provided by the act only if the officer is certified by the Board. See section 2942(a) of the act (relating to conduct and insurance).

As of September 1, 2000, a total of 1,651 constables and deputy constables held current certification issued by the Board. Constables and deputy constables are independent contractors who are engaged as needed, primarily by the district justices of this Commonwealth. They perform a variety of duties, including serving complaints, summons, subpoenas and other legal documents in civil matters, levying on goods and performing other duties related to execution proceedings, providing courtroom security and transporting prisoners, executing arrest warrants and performing other duties in criminal matters.

Section 2950(f) and (g) of the act (relating to fees), sets forth a list of duties for which constables and deputy constables may be compensated by a court, provided they are certified by the Board as having been trained in accordance with the act. The Administrative Office of State Courts reports that, in calendar 1998, the most recent year for which statistics are compiled, the following procedures or judicial events took place: nontraffic arrest warrants served, 68,806; traffic warrants served, 185,298; civil actions disposed, 144,944, including 18,269 executions; landlord-tenant matters disposed, 59,651, including 24,206 possessions; Protection from Abuse Orders, 4,795 new cases opened, 3,348 involving evictions. Although constables and deputy constables were by no means involved in all of these events, it is reasonable to assume that the Board's regulated community participated in a significant subset of them.

To carry out the certification function, the Board was authorized to certify candidates who successfully complete an initial 80-hour course of basic training, section 2945 of the act (relating to program contents), and to reissue certification annually to those constables and deputy constables who successfully complete continuing education of no more than 40 hours per year. See section 2946 of the act (relating to continuing education). The Board was directed to establish programs to accomplish this required training, section 2944(3) and (4) of the act (relating to program established), and to approve and revoke the approval of schools and to certify instructors in connection with such training. See section 2944(5) and (6) of the act. The Board also was directed by the act to establish standards for the qualification of constables and deputy constables who seek the capability of carrying and using firearms in the performance of their duties. See section 2948 of the act (relating to use of firearms).

Section 2949 of the act (relating to restricted account), provides that the various training programs shall be funded by a special restricted account within the General Fund known as the Constables' Education and Training Account. The fund accumulates through surcharges assessed as costs in criminal cases and in any civil case in which a constable or deputy constable performs a service. Using proceeds from the account, the Board is able to provide training that, for the most part, is free of charge to constables and deputy constables.

The act empowered the Board to "[m]ake rules and regulations and perform other duties as may be reasonably necessary or appropriate to administer the education and training program for constables and deputy constables." See section 2944(10) of the act. The Board was directed to determine the content of basic training by regulation, and to include in basic training "instruction in the interpretation and application of the fees...". See section 2945 of the act. The act was otherwise silent as to the required content of the programs.

In 1995-96, Commission staff conducted a series of curriculum development meetings with constables, deputy constables and other interested parties throughout this Commonwealth. A training program was designed, which the Board and Commission in 1996 approved for implementation, but no proposed rulemaking was published at the time. Due to the time urgency of the legislative mandate, the Board and Commission began the training programs in 1997. The Board and Commission at this time are publishing this proposed rulemaking to take official action to implement the authority of the act to establish training.

D. *Description of Proposed Regulations.*

The proposed Chapter 431 would establish training programs to educate constables and deputy constables in applicable law and practical skills necessary for them to attain certification by the Board, thus allowing them to be compensated for performing judicial duties. The regulations also provide for the approval of schools, certification of instructors in the school, and firearms qualification for the constables and deputy constables who seek it. The regulations are divided into six general subheadings:

General provisions—This subheading sets forth the statutory authority and purpose for the rulemaking. It also lists definitions of key concepts, such as "basic training," "certification," "firearms qualification" and "waiver."

Certification—This subheading describes the mechanism by which a person may register with the Board to be considered for certification, a status to be attained in order for a constable or deputy constable to be compensated by a court for judicial duties performed. To attain initial certification, a constable or deputy constable must either complete the basic training course successfully or pass the Board's basic training waiver examination. The process of annual recertification is described, requiring successful completion of the Board's continuing education course. Finally, the subheading describes the mechanism for issuing or reissuing a certification number to a constable or deputy constable, or rendering the number inactive or reactivating it, depending on the training status of the individual.

Basic training—The substantive topics to be covered in the 80-hour basic training are listed. The same section proposes that future curriculum modifications may be made by publishing notice in the *Pennsylvania Bulletin* and in the *Constables' Training Bulletin*.

The subheading establishes the criteria for successful completion of basic training: (1) mandatory attendance at all classroom training; (2) passing score on written examinations as established by the Board, and (3) demonstrated proficiency in practical skills. The Board is not inserting a specific passing grade into the criteria. Although the Board currently intends that a score of 70% on written examinations will constitute a minimum passing grade, the Board wishes to maintain the flexibility of adjusting the minimum score as needed without having to revise the regulations.

The Board under this subheading proposes to allow constables and deputy constables to apply for a waiver of the classroom attendance and examination requirements for certification, based on the Board's determination that prior training undergone in other occupations is equivalent to the Board training. An individual granted a waiver by the Board must pass a specially-designed waiver examination in order to be certified. The individual must attend the basic training course in its entirety and successfully complete it upon failing the waiver examination.

The waiver mechanism is designed to accommodate the individuals who are currently working as municipal police officers or deputy sheriffs, or who have recently ended those jobs or that of officers in the State Police, and who desire to supplement their income by performing duties as constables and deputy constables. These individuals have already undergone training substantially similar to that of the Board and have been independently certified by other entities as being capable of performing their occupations. The implementation of such waiver mechanism carries out the mandate in the act to "[p]romote the most efficient and economical program for...training by utilizing existing facilities, programs and qualified State and local personnel." See section 2944(8) of the act.

Finally, this subheading establishes various attendance policies. Specifically, individuals who are not yet elected as constables or appointed as deputy constables may take basic training at their own cost. It also provides for penalties for individuals who register to attend a basic training course but who cancel without timely notification to the school. The latter provision is designed to address the problem of those who commit to limited training slots, thus displacing other potential attendees, but who ultimately do not appear for the training.

Continuing education—Under this subheading, the Board describes the criteria for successful completion of

the annual continuing education, which are similar to that for basic training. Regarding content, the proposal would allow the Board to adjust the curriculum periodically as it deems necessary. The flexibility will allow the Board to introduce new or varied topics as needed within the statutory requirement of no more than 40 hours every year.

A waiver option is proposed for constables and deputy constables who have recently undergone equivalent training in other occupations. The Board may allow an individual to forego Board training in only those specific topics successfully undergone in the training program of the other certification entity. The constable or deputy constable will be required to attend and successfully complete all other topics in the Board program that are not waived by the Board.

The Board also sets forth an attendance policy penalizing constables and deputy constables who register for continuing education but who do not appear for the training, or who give notice of cancellation too late for the school to refill the slot.

Firearms qualification—The Board under this subheading outlines the program for determining that a constable or deputy constable is qualified to carry and use a firearm in the performance of judicial duties. Most, but not all, constables and deputy constables seek to obtain firearms qualification by the Board.

The Board's firearms qualification program has similar criteria to basic training and continuing education in terms of attendance policies, what is needed to successfully complete the program and what topics may be waived. The Board recognizes additional categories of alternate occupations that may qualify for a waiver of Board firearms training in addition to that of municipal police officers and deputy sheriffs. The additional categories are officers of the Game Commission and of the Fish and Boat Commission.

Schools and instructors—The Board under this subheading establishes a mechanism for approval of schools to be selected and contracted with to deliver basic training, continuing education and firearms qualification. The Board also proposes a mechanism for certification of instructors to teach in the schools.

E. *Affected Persons.*

Those directly affected by the proposed rulemaking are the constables and deputy constables who are required to undergo mandated training. As of September 1, 2000, a total of 2,512 persons were registered with the Board. Of these, a total of 1,651 constables and deputy constables held current Board certification. (Only those registered constables and deputy constables who recently have successfully completed training may be certified.) In addition, a total of 1,239 currently certified constables or deputy constables held current Board firearms qualification.

Those indirectly affected are participants in the Commonwealth's judicial system, including judges or other employees, those charged with criminal offenses, litigants in civil matters or witnesses in any judicial matter. All will benefit from a constable cadre that is well-trained.

F. *Compliance with Executive Order 1996-1.*

In initially designing the training program, Commission staff on behalf of the Board conducted extensive public outreach to those likely to be affected by the regulations. Among other things, the staff in early 1996 conducted a series of six meetings throughout the State. One meeting

each was held in the South Central, Southeast, Southwest, Northeast, Northwest and North Central regions. Approximately 2 weeks before each meeting, staff mailed a letter to each constable and deputy constable in that region, inviting them to register for the meeting to provide input. At each site, staff conducted two 3-hour sessions, limited to 30 constables each. Also in attendance were district justices and municipal officials. At the sessions, constables and deputy constables completed job task inventory surveys designed to develop a cross-section of the frequency of judicial duties performed. Input also was provided as to preferences relating to scheduling of training and waiver examinations. After collecting this input, Commission staff and the Board designed a curriculum that in their view maximized basic training, continuing education and firearms qualification courses mandated by the act.

Subsequent to the initial development of the programs, the Board has communicated extensively with its regulated community. Constables' Training Bulletins are disseminated periodically to update constables, deputy constables, municipal officials, district justices and other court officials on any operational or curriculum changes. The Board conducts quarterly meetings, and it has been its custom to hold at least one meeting a year in a location removed from Harrisburg. For example, the meeting of September 1999 was held in Montgomery County, and the meeting of September 2000 was held in Scranton.

It should be noted that the composition of the seven-person Board as mandated by the act promotes effective development of public input and advocacy. Specifically, three members of the Board are required to be constables, one a district justice, one a court administrator and one a county commissioner. Each of these members is appointed by the Governor with the consent of a majority of the Senate. The seventh member is the State Police Commissioner or a designee.

G. Fiscal Impact and Paperwork Requirements

The proposed regulation will have minimal fiscal impact on this Commonwealth.

H. Sunset Date

The Board will review the effectiveness of its regulations on an ongoing basis. Therefore, no sunset date has been assigned.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 2, 2000, the Commission submitted a copy of the proposed regulations to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Judiciary Committee and the Senate Judiciary Committee.

In addition to submitting this proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the agency in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed regulations, it will notify the Commission within 10 days after the expiration of the Committees' review period. The notification shall specify the regulatory review criteria that have not been met by that portion.

The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the regulations, by IRRC, the General Assembly and the Governor of objections raised.

J. Public Comment and Questions

Interested persons are invited to submit written questions or comments regarding the proposed rulemaking to Gerard M. Mackarevich, Chief Counsel, Commission on Crime and Delinquency, P. O. Box 1167, Harrisburg, PA 17108-1167, within 30 days of publication of this proposed rulemaking. Questions and comments may also be sent via electronic mail to gmackarevi@state.pa.us, or by facsimile machine to Mr. Mackarevich's attention at the Commission's Civil and Criminal Training Division (717) 783-7139.

THOMAS W. CORBETT, Jr., Esq.,
Chairperson
Commission on Crime and Delinquency
 HONORABLE JAMES E. RUSSO,
Chairperson
Constables' Education and Training Board

Fiscal Note: 35-26. (1) General Fund;

	<i>Costs</i>
(2) Implementing Year 2000-01 is	\$1,966,632;
(3) 1st Succeeding Year 2001-02 is	\$1,966,632;
2nd Succeeding Year 2002-03 is	\$1,966,632;
3rd Succeeding Year 2003-04 is	\$2,006,632;
4th Succeeding Year 2004-05 is	\$2,166,632;
5th Succeeding Year 2005-06 is	\$2,266,632;
(4) Fiscal Year 1999-00	\$1,435,000; Fiscal Year 1998-99
	\$1,297,000; Fiscal Year 1997-98 \$923,000; (7) Constable
	Education and Training Account; (8) recommends adop-
	tion. <i>Note:</i> Costs are offset by surcharges collected at the
	county level relating to initiation of civil matters or
	service of process. The surcharges are deposited into a
	restricted account in the General Fund known as the
	Constable Education and Training Account.

Annex A

TITLE 37. LAW

PART VI. COMMISSION ON CRIME AND DELINQUENCY

CHAPTER 431. CONSTABLES' EDUCATION AND TRAINING BOARD

GENERAL PROVISIONS

Sec.	Purpose.
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431.11.	Registration.
431.12.	Initial certification.
431.13.	Annual recertification.
431.14.	Lapse of certification.
431.15.	Certification numbers.

BASIC TRAINING

431.21.	Curriculum.
431.22.	Successful completion.
431.23.	Eligibility for waiver.
431.24.	Waiver examination.
431.25.	Attendance policies.

CONTINUING EDUCATION

431.31.	Curriculum.
431.32.	Successful completion.
431.33.	Eligibility for waiver.
431.34.	Scope of waiver.
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FIREARMS QUALIFICATION

431.41.	Qualification course.
431.42.	Eligibility for firearms qualifications.
431.43.	Firearm and ammunition.
431.44.	Successful completion.
431.45.	Eligibility for waiver.

- 431.46. Scope of waiver.
 431.47. Attendance policies.
 431.48. Lapse of qualification.

SCHOOLS AND INSTRUCTORS

- 431.51. Board approval of school.
 431.52. Scope of approval.
 431.53. Board certification of instructors.
 431.54. Scope and limitations of instructor certification.

GENERAL PROVISIONS

§ 431.1. Purpose.

This chapter sets forth standards and procedures relating to the certification of constables and deputy constables and their qualification to carry or use firearms in the performance of their duties.

§ 431.2. Definitions.

The following words and phrases, when used in this chapter, have the meanings as indicated:

Act—42 Pa.C.S. §§ 2941—2950 (relating to constables).

Basic training—A course of training administered by the Board that, when completed successfully, entitles a new constable or one who has been out of office for not less than 5 years to perform judicial duties and be compensated under the act.

Board—The Constables' Education and Training Board of the Commission.

Certification—The Board's official determination that a constable or deputy constable has completed successfully the training required by the act to perform judicial duties and be compensated.

Commission—The Commission on Crime and Delinquency.

Constable—A person currently serving as constable or deputy constable.

Continuing education—A course of annual training administered by the Board that, when completed successfully, entitles a constable to continue to perform judicial duties and be compensated under the act.

Firearms qualification—The Board's official determination under the act that a constable is qualified to carry or use firearms in the performance of duties.

School—A facility approved by the Board that enters a contract with the Commission to conduct training.

Waiver—The Board's grant of permission to a constable to reduce the hours of classroom attendance in a Board training course based on the Board's determination that, because of prior training and experience, the constable has acquired knowledge or skill equivalent to that provided by the Board's training.

CERTIFICATION

§ 431.11. Registration.

To be considered by the Board for certification, a person shall register with the Board by submitting the information requested by the Board. A registrant shall inform the Board of a change to information previously provided within 15 days of the change.

§ 431.12. Initial certification.

The Board will issue a certification to a constable who successfully completes basic training or attains a passing grade on the Board's basic training waiver examination.

§ 431.13. Annual recertification.

(a) If a constable successfully completes continuing education, the Board will recertify the constable for the next calendar year.

(b) To maintain continuous certification, a constable shall complete continuing education during the calendar year following the year in which the constable completed one of the following:

- (1) Basic training.
- (2) The basic training waiver examination.
- (3) A previous course of continuing education.

§ 431.14. Lapse of certification.

The certification of a constable who fails to complete continuing education successfully within the time allowed in § 431.13(b) (relating to annual recertification) shall lapse and be listed by the Board as inactive. Upon successful completion of continuing education by a constable, the Board will reactivate the lapsed certification.

§ 431.15. Certification numbers.

(a) The Board will issue a unique certification number to a constable whom the Board has certified for the first time.

(b) If a person has not been elected or appointed as constable, but has successfully completed basic training, the Board will issue a certification number upon the individual's election or appointment and the notification to the Board by the constable of the election or appointment.

(c) The Board will reissue the original certification number to a constable who successfully completes continuing education.

(d) If a person has vacated the office of constable or deputy constable, the person is required to notify the Board immediately. Upon the notification, the Board will place the applicable certification number into inactive status.

(e) Upon reelection or reappointment to office, the constable shall notify the Board immediately. Based upon the timing of reelection or reappointment, the Board will take one of the following steps:

(1) If the reelection or reappointment occurs within a year of the constable's initial certification or most recent recertification, the constable's certification number will be reactivated as soon as practicable.

(2) If the reelection or reappointment occurs a year or more but less than 5 years after the constable's initial certification or most recent recertification, the Board will reactivate the original certification upon the constable's successful completion of the next available continuing education.

(3) If the reelection or reappointment occurs not less than 5 years after the constable's initial certification or most recent recertification, the Board will issue a new certification number upon the constable's successful completion of the next available basic training.

BASIC TRAINING

§ 431.21. Curriculum.

(a) Basic training will consist of instruction in the following topics:

- (1) Role of the constable in the justice system.
- (2) Professional development.

- (3) Civil law and process.
- (4) Criminal law and process.
- (5) Use of force.
- (6) Mechanics of arrest.
- (7) Defensive tactics.
- (8) Prisoner transport and custody.
- (9) Court security.
- (10) Crisis intervention.

(b) The Board may add, delete or modify one or more topics upon publishing prior notice of the changes in the *Pennsylvania Bulletin* and in an edition of the *Constables' Training Bulletin* that is distributed to constables and other interested parties.

§ 431.22. Successful completion.

(a) A constable or other person will complete basic training successfully upon meeting the following criteria:

- (1) Attending all of the hours of basic training required by the act.
- (2) Attaining a passing score as established by the Board on the written examination for each topic.
- (3) Demonstrating to the Board's satisfaction proficiency in practical skills.

(b) A constable or other person who fails to achieve a passing score on a written examination may undergo a second examination.

(c) A constable or other person who fails to achieve a passing score in a second examination shall attend a second basic training in its entirety and complete it successfully to be issued a certification.

(d) A constable or other person may attend a third basic training upon failing to complete the second course successfully, but shall be given no additional opportunities upon failing to complete the third course successfully.

§ 431.23. Eligibility for waiver.

A constable who fits one of the following categories may apply to the Board for a waiver of the requirement to attend and successfully complete basic training:

- (1) Current employment as a municipal police officer or deputy sheriff in this Commonwealth who demonstrates to the satisfaction of the Board that training and certification required to perform the applicable occupation are current.
- (2) Employment within the past 2 years as a State Police officer, municipal police officer or deputy sheriff, who demonstrates to the satisfaction of the Board that training and certification required to perform the applicable occupation were current at the time the constable terminated the employment.

§ 431.24. Waiver examination.

(a) The Board will issue an initial certification to a constable to whom the Board grants a waiver of basic training and who attains a passing grade score on the Board's basic training waiver examination as established by the Board.

(b) A constable shall have one opportunity only to obtain a passing score on a basic training waiver examination. A constable who fails the basic training waiver examination shall attend the Board's basic training course in full and complete it successfully to obtain an initial certification.

§ 431.25. Attendance policies.

(a) A person who is not a constable but who indicates an intention to seek election or appointment as a constable may register and attend basic training if an opening is available and the person bears financial responsibility for the cost.

(b) A constable or other person who registers for basic training may withdraw from the course without penalty upon timely notification to the director of the school conducting basic training. A notification shall be deemed timely if it is delivered to the director of the school at least 7 days prior to the start of classes. The school may assess a failing grade for all or part of basic training if the constable or other person fails to provide timely notification and the Board finds that substantial mitigating circumstances do not exist.

CONTINUING EDUCATION

§ 431.31. Curriculum.

The Board may adjust periodically the content of continuing education it deems necessary to address new or varied topics or skills required to perform judicial duties in the act.

§ 431.32. Successful completion.

(a) A constable will complete continuing education successfully upon meeting the following criteria:

- (1) Attending all of the hours of continuing education required by the act, except for topics specifically waived by the Board under this chapter.
- (2) Attaining a passing score as established by the Board on each written examination taken.
- (3) Demonstrating proficiency in each examination of practical skills.

(b) A constable who fails to attain a passing score on any written examination may undergo a second examination for that topic.

(c) A constable who fails to attain a passing score in a second examination shall attend another course in the failed module and complete it successfully to be recertified. The constable shall bear financial responsibility for a second continuing education.

(d) A constable who fails two successive continuing education courses will not be afforded an opportunity to attend a third course.

§ 431.33. Eligibility for waiver.

(a) At the beginning of each calendar year, the Board will determine for which specific topics it will entertain waiver requests from constables in that year's continuing education curriculum.

(b) A constable seeking annual recertification who is currently employed as a municipal police officer or deputy sheriff may apply to the Board for a waiver of certain topics in that year's continuing education curriculum if the constable demonstrates that equivalent training and certification required to perform the applicable other occupation are current.

(c) A constable shall apply to the Board for each year's continuing education for which the constable is seeking waiver.

§ 431.34. Scope of waiver.

(a) The Board will grant a waiver of continuing education for those topics that also were covered in the certification training for the other occupation.

(b) A constable who is granted a waiver of continuing education will be recertified despite absence from classroom attendance for those topics specifically waived by the Board, if the constable attends and successfully completes all topics in continuing education for which a waiver is not granted.

§ 431.35. Attendance policies.

A constable who registers for continuing education may withdraw without penalty upon timely notification to the director of the school conducting the continuing education. A notification will be deemed timely if it is delivered to the director of the school at least 7 days prior to the start of classes. The school may assess a failing grade for the entire course or applicable topic if the constable fails to provide timely notification and the Board finds that substantial mitigating circumstances do not exist.

FIREARMS QUALIFICATION

§ 431.41. Qualification course.

(a) Unless granted a waiver by the Board as set forth in § 431.45 (relating to eligibility for waiver), a constable shall attend and successfully complete a basic firearms qualification course established by the Board to be qualified for the first time by the Board to carry and use a firearm in the performance of duties.

(b) After a constable attains firearms qualification for the first time, the constable shall attend and successfully complete the Board's annual firearms qualification course to maintain firearms qualification, except to the extent the Board grants a waiver as set forth in § 431.45.

§ 431.42. Eligibility for firearms qualification.

A constable holding current Board certification who is not precluded under State or Federal law from possessing or using a firearm is eligible to attend a firearms qualification course.

§ 431.43. Firearm and ammunition.

(a) A constable shall be responsible for providing a firearm, ammunition, magazines, speed loaders, safety accessories, cleaning equipment and other associated equipment as needed during the firearms qualification course.

(b) The firearm provided shall be of a design and caliber generally acceptable for law enforcement usage within this Commonwealth, and shall be in a condition for safe operation as designed and intended by the firearm manufacturer.

(c) The ammunition provided shall be of a type and design generally acceptable for law enforcement usage within this Commonwealth, and may not be remanufactured or reloaded.

§ 431.44. Successful completion.

(a) The Board will qualify a constable to carry and use a firearm in the performance of duties who meets the eligibility criteria of § 431.42 (relating to eligibility for firearms qualification) and who meets the following criteria:

(1) Attending all of the hours of training scheduled by the Board, except for topics specifically waived by the Board under this chapter.

(2) Attaining a passing score as established by the Board on each written examination.

(3) Demonstrating proficiency in each examination of practical skills, using the same firearm and the same or

comparable ammunition that the constable will carry in the performance of duties during the upcoming year.

(b) A constable who fails to attain a passing score on a written examination or course-of-fire may undergo one retest of the applicable written examination or practical skill proficiency examination.

(c) A constable who fails to attain a passing score in a retest of a written examination or practical skill proficiency examination shall attend a second firearms qualification course in its entirety and complete it successfully to obtain a firearms qualification. The constable shall bear financial responsibility for the second firearms qualification course.

(d) A constable who fails two successive firearms qualification courses will not be afforded an opportunity to attend a third course.

§ 431.45. Eligibility for waiver.

(a) A constable seeking firearms qualification who is currently employed as a municipal police officer, deputy sheriff or officer of the Game Commission or the Fish and Boat Commission may apply to the Board for a full or partial waiver of a Board firearms qualification course if the constable demonstrates to the satisfaction of the Board that training and certification required to carry and use a firearm in the applicable other occupation are current.

(b) A constable shall apply to the Board for each separate firearms qualification course for which the constable is seeking waiver.

§ 431.46. Scope of waiver.

(a) The Board will grant a waiver relating to a Board firearms qualification course for those topics that also were covered in the firearms training for the other occupation.

(b) A constable who is granted a waiver relating to a Board firearms qualification course will be qualified by the Board to carry and use firearms despite absence from classroom attendance for those topics specifically waived by the Board, if the constable attends and successfully completes all topics in the course for which a waiver is not granted.

§ 431.47. Attendance policies.

A constable who registers for a firearms qualification course may withdraw from the course without penalty upon timely notification to the school conducting the course. A notification will be deemed timely if it is delivered to the director of the school at least 7 days prior to the start of classes. The school may assess a failing grade for all or part of the course if the constable fails to provide timely notice and the Board finds that substantial mitigating circumstances do not exist.

§ 431.48. Lapse of qualification.

A firearms qualification will lapse immediately if a person who held the qualification no longer meets the eligibility criteria in § 431.42 (relating to eligibility for firearms qualification), or does not successfully complete a firearms qualification course in the calendar year following the person's most recent successful completion of such a course.

SCHOOLS AND INSTRUCTORS

§ 431.51. Board approval of school.

(a) The Board may select and approve one or more schools to conduct any of the various training programs that it administers under the act.

(b) The Board will select and approve schools to provide training from a list of candidates solicited by the Commission through a competitive process.

§ 431.52. Scope of approval.

Board approval of a school shall be effective only for the duration of the contract executed between Commission and the school.

§ 431.53. Board certification of instructors.

The Board will certify instructors for its training programs from one or more persons who shall apply to the Board through a school and submit information as requested. Information shall include a detailed description of the formal training and actual experience in the specific topics for which certification is being sought, and a description of the instructional experience of the applicant.

§ 431.54. Scope and limitations of instructor certification.

A person certified by the Board as an instructor shall use the certification only while teaching Board training in a school. Board certification of an instructor shall be effective only so long as the instructor is actively involved in teaching in a school the topics for which certification was granted.

[Pa.B. Doc. No. 00-1980. Filed for public inspection November 17, 2000, 9:00 a.m.]

OFFICE OF THE BUDGET

[4 PA. CODE CH. 7]

Fiscal Notes

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

Purpose of Proposed Amendments

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

The OB is updating the regulations so that they conform with the present practice of writing fiscal notes.

Explanation of Regulatory Requirements

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

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

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

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

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

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

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

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

The OB reviews the regulatory action or administrative procedure, or changes thereto, and writes a fiscal note explaining its economic impact. The OB sends the fiscal note to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

Fiscal Impact

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

Paperwork

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

Effective Date

The proposed amendments, if approved upon final rulemaking, will become effective upon publication in the *Pennsylvania Bulletin*.

Contact Person

Interested persons are invited to submit written comments, objections or suggestions about the proposed amendments to Pamela F. Cross, Office of the Budget, Legal Office, 7th Floor Bell Tower, 303 Walnut Street, Harrisburg, PA 17101-1808 within 30 days after the date of the publication of this notice in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), the OB submitted a copy of the proposed amendments on November 8, 2000, to IRRC and the Chairpersons of the Senate and House Appropriations Committees. In addition to submitting the proposed amendments, the OB has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the OB. 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 OB within 30 days of the close of the public comment period. The notification shall specify the regulatory review criteria that have not been met by that portion. The Regulatory Review Act specifies

detailed procedures for review by the OB, the Governor and the General Assembly to review these objections before final publication of the regulations.

ROBERT BITTENBENDER,
Secretary

Fiscal Note: 9-1. No fiscal impact; (8) recommends adoption.

Annex A

**TITLE 4. ADMINISTRATION
PART I. GOVERNOR'S OFFICE
CHAPTER 7. MISCELLANEOUS PROVISIONS
Subchapter R. FISCAL NOTES**

§ 7.232. Definitions.

Regulatory actions and administrative procedures consist of the following:

* * * * *

(4) Notice of rule changes and notices related to Federally required changes and changes in fee structure.

§ 7.233. [Publishing of fiscal notes] (Reserved).

[(a) Except as noted in subsection (b), fiscal notes are to be published once for each regulatory action or administrative procedure, and changes thereto, appearing in the *Pennsylvania Bulletin*, as follows:

(1) When the initial text of a regulatory action or administrative procedure is published with notice of proposed rulemaking.

(2) When a regulatory action or administrative procedure is published in final text without notice of proposed rulemaking.

(b) When a proposed regulatory action or administrative procedure is modified to such a degree following notice of proposed rulemaking that the original fiscal note is no longer applicable, a new fiscal note shall be published with the final text of the regulatory action or administrative procedure.]

§ 7.234. Responsibilities

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

[(1) *Proposed regulatory action or administrative procedure.* A fiscal note, in triplicate, and one copy of each proposed regulatory action or administrative procedure is to be delivered by the promulgating agency to the Office of the Budget at the time the proposed regulatory action or administrative procedure is deposited with the Legislative Reference Bureau or, if required, with the Department of Justice for review as to legality.

(2) *Final regulatory action or administrative procedure.* A fiscal note, in triplicate, and one copy of each final regulatory action or administrative procedure not subject to proposed rule making or a fiscal note, in triplicate, as required by § 7.233(b) (relating to publishing of fiscal notes) is to be delivered by the promulgating agency to the Office of the Budget at the time the final regulatory action or administrative procedure is deposited

with the Department of Justice for review as to legality or, if Department of Justice review is not required, with the Legislative Reference Bureau.]

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

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

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

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

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

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

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

* * * * *

§ 7.235. [Format of fiscal notes] (Reserved).

[(a) Fiscal notes shall be prepared on Form OA-536.

(b) The following guidelines are furnished for preparation of Form OA-536:

(1) Agency identification number. Each agency should cross-identify fiscal notes with regulations and administrative procedures by use of an identification system that includes the agency, year, and sequential numbers for the year. For example: Exec Bd-78-1 or Agric-78-14.

(2) If all four NO blocks, relating to loss of revenue or increased costs, are checked, complete only the next two items (FUND and APPROPRIATION).

(3) If loss of revenue or increased costs are applicable to political subdivisions, identify the FUND(S) blocks the subdivisions or classes of subdivisions to which the loss or increase will apply.

(4) The 3-year history of program cost is for the current and two immediately preceding years.

(5) Do not enter remarks in the block for the Budget Secretary's recommendations.

(6) Remove the two copies marked for the Legislative Reference Bureau. Complete the remaining sections on the Budget Office and Agency copies and forward the first three copies as shown in § 7.234 (relating to responsibilities).]

[Pa.B. Doc. No. 00-1981. Filed for public inspection November 17, 2000, 9:00 a.m.]

STATE BOARD OF VETERINARY MEDICINE

[49 PA. CODE CH. 31]
Continuing Education

The State Board of Veterinary Medicine (Board) proposes to amend § 31.15 (relating to continuing education) to read as set forth in Annex A. The proposed amendment would restrict the number of continuing education hours taken in individual study programs to 25% of the total hours required by statute and regulation.

Effective Date

The limitation would be effective on final publication in the *Pennsylvania Bulletin* and would apply to continuing education credits earned during the December 1, 2000, to December 1, 2002, biennial renewal period.

Statutory Authority

Section 18 of the Veterinary Medicine Practice Act (act) (63 P. S. § 485.18), requires the Board to set the standards for continuing education programs to ensure that the programs meet the educational and professional requirements of the profession.

Background and Need for Amendment

The Board's current regulation regarding continuing education was adopted at 26 Pa.B. 2785 (June 15, 1996). The current regulation mirrors the statutory requirements for biennial continuing education.

Under the current system of approving continuing education programs for credit, a number of providers, such as the American Veterinary Medical Association and veterinary colleges, are preapproved and do not have to submit their proposed courses for approval of the Board. Other continuing education providers must submit a course description to the Board's continuing education committee for approval prior to the course being offered. For these courses, the committee reviews the proposed program and makes a recommendation to the entire Board. The Board then determines whether or not to approve the course for continuing education credit. If the course is approved for credit, the Board determines how many credits will be granted for completion of the course.

Over the past year, an increasing number of continuing education providers whose courses are not preapproved have sought approval for individual study programs. The Board has granted credit for some of these individual study programs. The Board wishes to limit the number of

individual study course credits a licensee may apply to meet the continuing education requirements for two reasons.

First, the act mandates that all licensees complete a minimum of 8 hours of continuing education each biennial period. The Board is charged with enforcing this requirement. Because it is impossible for the Board to independently verify a licensee's completion of an individual study course, the Board believes that the number of individual study courses a licensee may use to fulfill the biennial continuing education requirement should be limited.

Second, individual study courses do not provide licensees with an opportunity to interact with their professional colleagues, which is an integral component of traditional continuing education courses. Because the Board believes that interaction with professional peers is an important part of a licensee's participation in traditional continuing education courses, the Board believes that the number of individual study courses a licensee may use to fulfill the biennial continuing education requirement should be limited.

Description of Proposed Amendments

The Board proposes to amend its continuing education regulation in § 31.15 to require that six of the eight credits required in each biennial period be earned from traditional continuing education programs. The remaining two credits may be earned from individual study programs.

Compliance with Executive Order 1996-1

In accordance with Executive Order 1996-1 (February 6, 1996), in drafting and promulgating the regulation, the Board sent the text of the proposed amendment to interested parties, including State and regional veterinary medical associations, associations of animal health technicians and veterinary schools. Only one predraft comment was received regarding the proposed amendment: the Bucks/Montgomery Counties Veterinary Medical Association endorsed the proposed amendment. In addition, the Board considered the amendment as required by law and the least restrictive means of covering the costs of services required to be performed by the Board.

Fiscal Impact

The proposed amendment should have no fiscal impact on licensees, the Board, the private sector, the general public or any political subdivisions.

Paperwork Requirements

The proposed amendment should not create additional paperwork for the Board or the private sector.

Sunset Date

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 8, 2000, the Board submitted a copy of this proposed amendment to IRRC and the Chairpersons of the House Professional Licensure Committee and Senate Consumer Protection and Professional

Licensure Committee for review and comment. In addition to submitting the proposed amendment, the Board has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Board in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, if IRRC has objections to any portion of the proposed amendment, it will notify the Board within 10 days after the expiration of the Committees' review 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, prior to final publication of the regulation, by the Board, the General Assembly and the Governor of objections raised.

Public Comment

Interested persons are invited to submit written comments, suggestions or objections regarding this proposed rulemaking to Robert Kline, Administrator, State Board of Veterinary Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, within 30 days following publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

BRIAN V. HARPSTER, V.M.D.,
Chairperson

Fiscal Note: 16A-5711. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 31. STATE BOARD OF VETERINARY MEDICINE

LICENSURE

§ 31.15. Continuing education.

As a condition of licensure renewal under § 31.13 (relating to licensure renewal), a veterinarian shall attend **[eight] 8** clock hours of continuing education courses approved by the Board during the 24 months preceding the renewal date. Continuing education credit will not be given for a course in office management or practice building. **A maximum of 2 clock hours may be earned by taking individual study or correspondence courses for which third-party verification of satisfactory completion is provided. The courses shall meet the requirements of § 31.16 (relating to continuing education provider approval).**

[Pa.B. Doc. No. 00-1982. Filed for public inspection November 17, 2000, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Education

The Executive Board approved a reorganization of the Department of Education effective November 3, 2000.

The organization chart at 30 Pa.B. 5972 (November 18, 2000) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)

[Pa.B. Doc. No. 00-1983. Filed for public inspection November 17, 2000, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

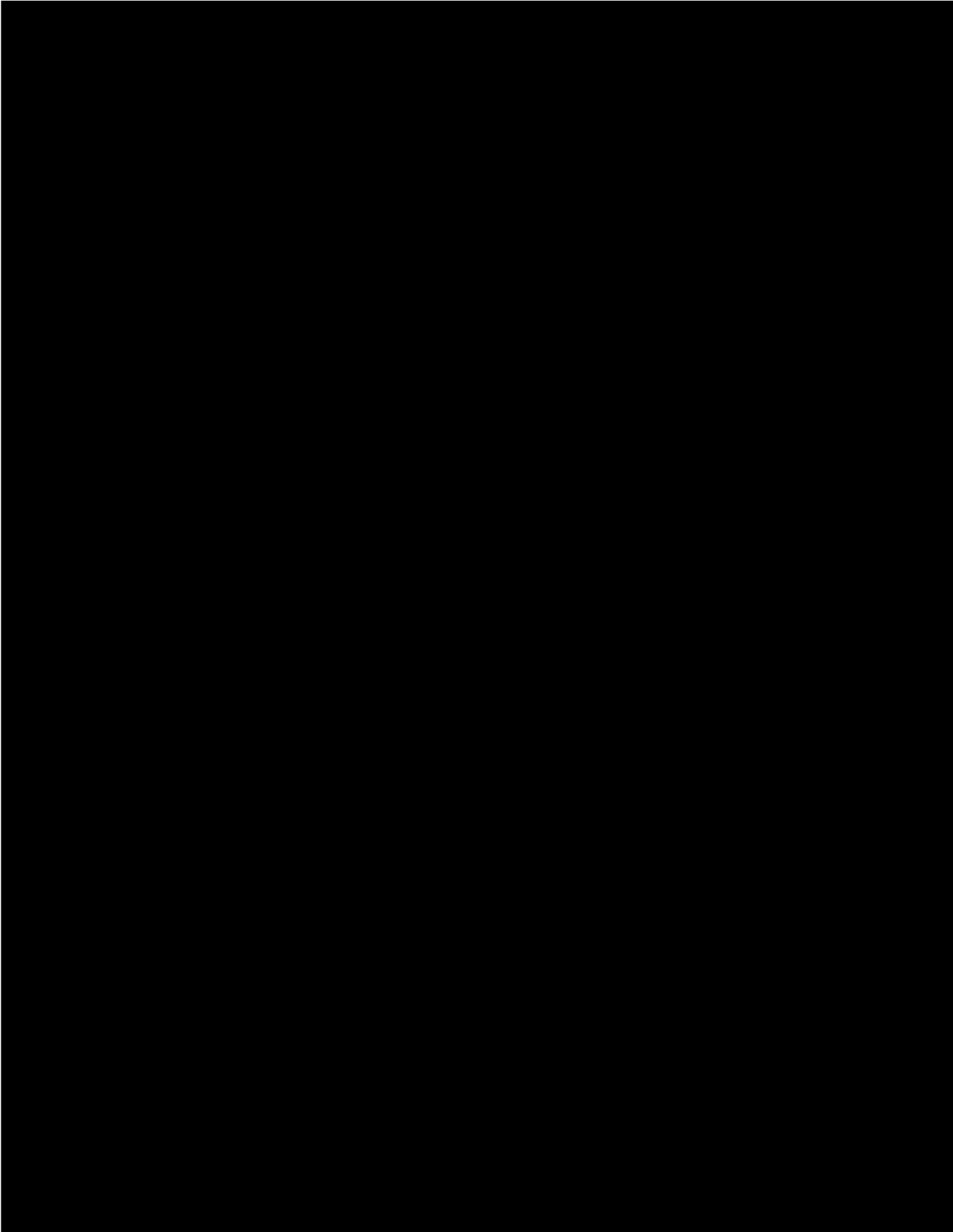
Reorganization of the Department of Military and Veterans Affairs

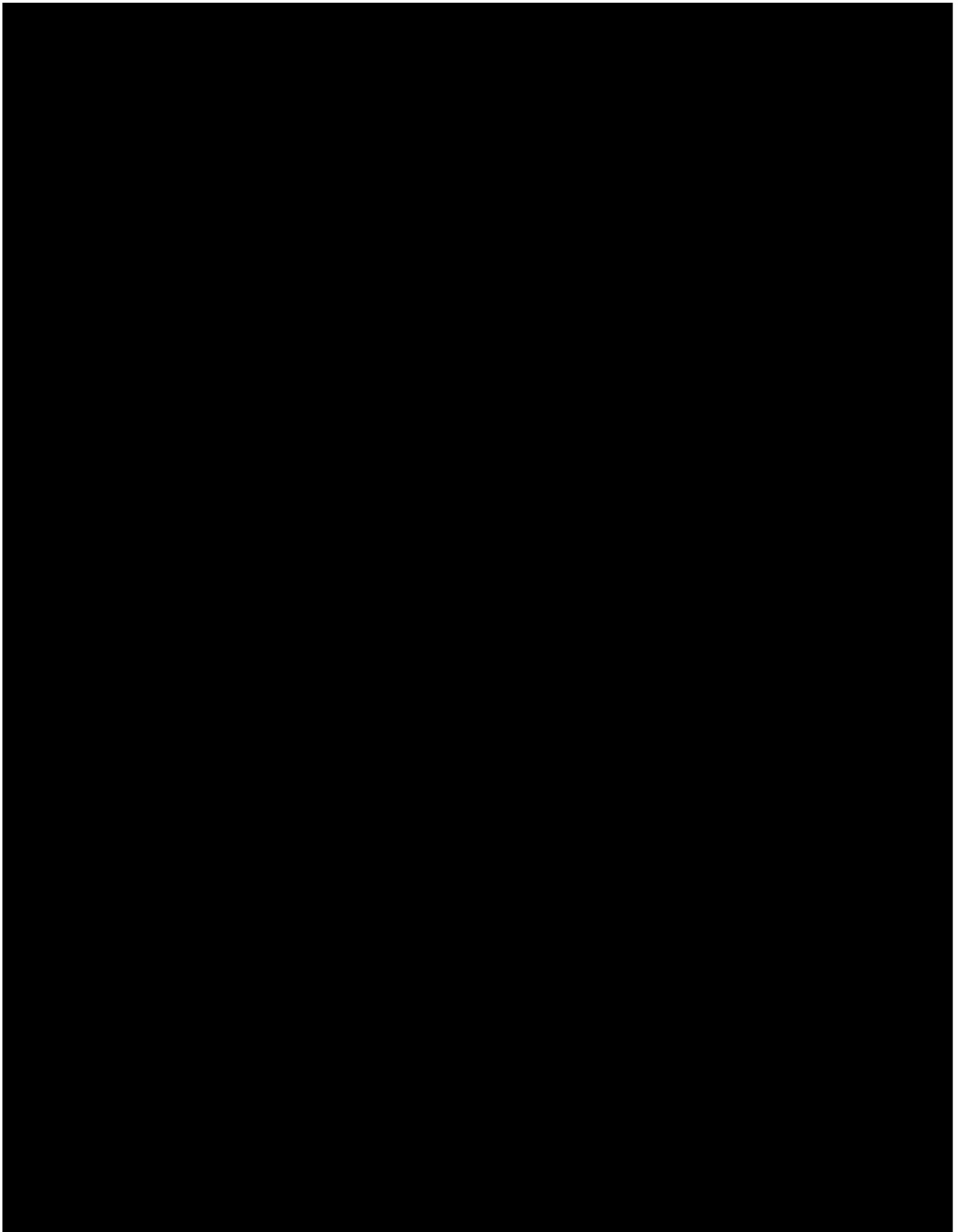
The Executive Board approved a reorganization of the Department of Military and Veterans Affairs effective November 7, 2000.

The organization chart at 30 Pa.B. 5973 (November 18, 2000) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the Pennsylvania Bulletin.)

[Pa.B. Doc. No. 00-1984. Filed for public inspection November 17, 2000, 9:00 a.m.]





NOTICES

DEPARTMENT OF BANKING

Action on Applications

The Department of Banking of the Commonwealth of Pennsylvania, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending November 7, 2000.

BANKING INSTITUTIONS

Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
11-7-00	National Penn Bancshares, Inc., Boyertown, to acquire 100% of the voting shares of Community Independent Bank, Inc., Bernville	Boyertown	Approved

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-25-00	Farmers First Bank Lititz Lancaster County Purchase of Assets/Assumption of Liabilities of One Branch Office of Main Street Bank, Reading, Located at: 1950 Old Philadelphia Pike East Lampeter Township Lancaster County (Note: Listed incorrectly on previous Weekly Summary #44.)	Lititz	Approved

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-31-00	The Glen Rock State Bank Glen Rock York County	3094 Cape Horn Road Red Lion York Township York County	Opened
11-1-00	Somerset Trust Company Somerset Somerset County	807 Goucher St. Johnstown Cambria County	Filed
11-2-00	Iron and Glass Bank Pittsburgh Allegheny County	3400 S. Park Road Bethel Park Allegheny County	Approved

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-23-00	Peoples State Bank of Wyalusing Wyalusing Bradford County	<i>To:</i> 110 Main Street (Route 220) Ulster Bradford County <i>From:</i> 111 Main Street Ulster Bradford County	Effective
10-31-00	Summit Bank Bethlehem Northampton County	<i>To:</i> 1975 Street Road Bensalem Bucks County <i>From:</i> 2084 Street Road Bensalem Bucks County	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-31-00	Main Street Bank Reading Berks County	1950 Old Philadelphia Pike Greenfield East Lampeter Twp. Lancaster County	Filed
11-7-00	Fulton Bank Lancaster Lancaster County	2900 Oregon Pike Lititz Lancaster County	Approved

Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
11-7-00	Laurel Bank Johnstown Cambria County	Amendment to Article 1, providing for a change in name of the institution to "Promistar Bank."	Approved Effective 11-15-00
11-7-00	Laurel Trust Company Johnstown Cambria County	Amendment to Article 1, providing for a change in name of the institution to "Promistar Trust Company."	Approved Effective 11-15-00

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

JAMES B. KAUFFMAN, Jr.,
Acting Secretary

[Pa.B. Doc. No. 00-1985. Filed for public inspection November 17, 2000, 9:00 a.m.]

Election by First Star Savings Bank to Exercise Conditional Powers

Effective on the date of this publication in the *Pennsylvania Bulletin*, under an election by First Star Savings Bank, authorized by section 513(b) of the Banking Code of 1965, as amended by act of April 16, 1981 (P. L. 9, No. 4) (7 P. S. § 513(b)), First Star Savings Bank is hereby granted the following conditional powers as described by sections 504(b)(xiii) and 506(a)(iv)(B) and (vi) of the Banking Code of 1965, to be exercised only with the prior written approval of the Department of Banking.

JAMES B. KAUFFMAN, Jr.,
Acting Secretary

[Pa.B. Doc. No. 00-1986. Filed for public inspection November 17, 2000, 9:00 a.m.]

ment of Conservation and Natural Resources on Wednesday, November 29, 2000. 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 Claire Guisewite directly at (717) 705-0031 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate your needs.

PAULETTE JOHNSON,
Chairperson

[Pa.B. Doc. No. 00-1987. Filed for public inspection November 17, 2000, 9:00 a.m.]

**DEPARTMENT OF
CONSERVATION AND
NATURAL RESOURCES**

Conservation and Natural Resources Advisory Council Meeting

Notice is hereby given of a meeting of the Conservation and Natural Resources Advisory Council to the Depart-

Land Exchange

The Department of Conservation and Natural Resources, acting through the Bureau of Forestry, and Debra Eichenlaub and Louis Taber are proposing to negotiate an exchange of lands in Pike and Cambria Counties, Pennsylvania.

The Bureau of Forestry is proposing to acquire from Debra Eichenlaub and Louis Taber 7.278 acres of land in Greene Township, Pike County, adjoining the Pine Lake Natural Area of the Delaware State Forest.

In return, the Bureau of Forestry proposes to convey to Debra Eichenlaub and Louis Taber the 14 acre Elstie Fire Tower site in Gallitzin Township, Cambria County.

As is the policy of the Department of Conservation and Natural Resources, the public is hereby notified of this exchange. A 30-day period for public inquiry and/or comment will be in effect commencing November 20, 2000, and ending December 19, 2000. Oral or written comments or questions concerning this proposed exchange may be addressed to: Dr. James R. Grace, State Forester, Pennsylvania Bureau of Forestry, P. O. Box 8552, Harrisburg, PA 17105-8552; (717) 787-2703. These oral and/or

written comments will become part of the official document used in the final decision process.

If, in the duration of the 30-day comment period, a significant amount of public concern develops, the Secretary of the Department of Conservation and Natural Resources may schedule a public informational meeting.

SAMUEL A. MCCULLOUGH,
Secretary

[Pa.B. Doc. No. 00-1988. Filed for public inspection November 17, 2000, 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 his right to review or object to this proposed permit action under the waiver provision 40 CFR 123.6E.

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

Following the 30-day comment period, the 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 (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 0026085. Sewage, **Upper Merion Municipal Utility Authority**, 175 West Valley Forge Road, King of Prussia, PA 19406.

This application is for renewal of an NPDES permit to discharge treated sewage from treated sewage in Upper Merion Township, **Montgomery County**. This is existing discharge to Frog Run.

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

The proposed effluent limits for Outfall 002 based on an average flow of 6.88 mgd follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	18	27	36
(11-1 to 4-30)	25	38	50
Suspended Solids	30	45	60
Ammonia (as N) (5-1 to 10-31)	6.0		12.0
(11-1 to 4-30)	18.0		36.0
Total Residual Chlorine	0.5		1.2
Fecal Coliform	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 2.0 mg/l at all times		
pH	within limits of 6.0—9.0 standard units at all times		

The EPA waiver is in effect.

PA 0052949. Industrial Waste, SIC: 4941, **Philadelphia Suburban Water Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010.

This application is for renewal of an NPDES permit to discharge treated backwash water from a water pumping station in Upper Uwchlan Township, **Chester County**. This is an existing discharge to unnamed tributary of Marsh Creek.

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

The proposed effluent limits for Outfall 001, based on an average flow of 3,000 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Suspended Solids	30	60	75
Total Aluminum	4	8	10
Total Iron	2	4	5
Total Manganese	1	2	2.5
Chloroform	monitor/report		
Chlorodibromo Methane	monitor/report		
Dichlorobromo Methane	monitor/report		
Total Residual Chlorine	0.5		1.3
pH	within limits of 6.0—9.0 standard units at all times		

The proposed effluent limits for 002, based on an average flow of 3,000 gpd are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Residual Chlorine	0.5		1.3
pH	within limits of 6.0—9.0 standard units at all times		

Other Conditions:

The EPA waiver is in effect.

Northeast Region: Environmental Protection Manager—Water Management—2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2553.

PA 0060801. Sewerage, **Montrose Municipal Authority**, P. O. Box 306, Montrose, PA 18801.

This proposed action is for renewal of an NPDES permit to discharge treated sewage into Pettis Creek in Bridgewater Township, **Susquehanna County**.

The receiving stream is classified for the following uses: warm 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 Danville Water Supply on North Branch of Susquehanna River.

The proposed effluent limits for Outfall 001 based on a design flow of .82 mgd are:

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25.0	40.0	50.0
Total Suspended Solids	30.0	45.0	60.0
NH ₃ -N			

NOTICES

<i>Parameter</i>	<i>Monthly Average (mg/l)</i>	<i>Weekly Average (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
(5-1 to 10-31)	2		4
(11-1 to 4-30)	6		12
Dissolved Oxygen	a minimum of 5 mg/l at all times		
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 to 9.0 standard units at all times		
pH	.02		
Total Residual Chlorine	.05		

The EPA waiver is in effect.

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

PA 0036269. SIC Code 4952, Sewage, **Stewartstown Borough Authority**, (Stewartstown Borough WWTP), c/o Borough Office, Six North Main Street, Stewartstown, PA 17363.

This application is for renewal of an NPDES permit for an existing discharge of treated sewage to Ebaughs Creek in Watershed 7-I (Kreutz—Muddy Creeks), in Hopewell Township, **York County**.

The receiving stream is classified for cold water fishes, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was Aberdeen Proving Ground—Chapel Hill located in Maryland. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.4 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅				
(5-1 to 10-31)	15	22	XXX	30
(11-1 to 4-30)	25	40	XXX	50
Total Suspended Solids	30	45	XXX	60
NH ₃ -N				
(5-1 to 10-31)	3.5	XXX	XXX	7.0
(11-1 to 4-30)	10.5	XXX	XXX	21.0
Total Phosphorus	2.0	XXX	XXX	4.0
Total Residual Chlorine	0.33	XXX	XXX	1.09
Osmotic Pressure	XXX	XXX	140	210
Total Antimony	XXX	XXX	monitor and report	XXX
Total Cadmium	XXX	XXX	monitor and report	XXX
Total Mercury	XXX	XXX	monitor and report	XXX
Total Selenium	XXX	XXX	monitor and report	XXX
Total Silver	XXX	XXX	monitor and report	XXX
Total Zinc	XXX	XXX	monitor and report	XXX
Dissolved Oxygen	minimum of 5.0 at all times			
pH	From 6.0 to 9.0 inclusive			
Fecal Coliform	200/100 ml as a geometric average			
(5-1 to 9-30)	7,000/100 ml as a geometric average			
(10-1 to 4-30)				

Individuals may make an appointment to review the DEP files on this case by calling Mary DiSanto, File Review Coordinator, at (717) 705-4732.

The EPA waiver is in effect.

PA 0083747. SIC Code 2421, Industrial Waste, **Weaber, Inc.**, 1231 Mount Wilson Road, Lebanon, PA 17042-4785.

This application is for renewal of an NPDES permit for an existing discharge of treated industrial waste to Gingrich Run in Watershed 7-D (Swatara Creek), in South Annville Township, **Lebanon County**.

The receiving stream is classified for trout stocking fishery, recreation, water supply and aquatic life. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply intake considered during the evaluation was the Pennsylvania American Water Company located in South Hanover Township, Dauphin County. The discharge is not expected to impact any potable water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.015 mdg are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH (S.U.)		6.0 to 9.0	
D.O.		5.0 instantaneous minimum	
Total Residual Chlorine	<0.1	—	<0.2
Total Suspended Solids	30.0	—	60.0
CBOD ₅	25.0	—	50.0
NH ₃ -N			
(5-1 to 10-31)	1.5	—	3.0
(11-1 to 4-30)	4.5	—	9.0
Fecal Coliform			
(5-1 to 9-30)	200.0	—	—
(10-1 to 4-30)	2,000.0	—	—

Outfalls 002 through 008 are identified as stormwater outfalls. Monitoring for conventional pollutants and several metals is required for Outfalls 002, 003, 004, 006, and 007.

Individuals may make an appointment to review the DEP files on this case by calling Mary DiSanto, File Review Coordinator, at (717) 705-4732.

The EPA waiver is in effect.

Northcentral Region: Environmental Program Manager, Water Management Program, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (570) 327-3666.

PA 0228249. SIC 4952, **Eagle Creek Partnership (Eagle Creek Mobile Home Park)**, 1901 East College Avenue, State College, PA 16801.

The proposed action is for a new NPDES permit for the discharge of treated sewage to Bald Eagle Creek in Union Township, **Centre County**.

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

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, flouride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Pennsylvania-American Water Company at Milton, located 92 river miles downstream.

The proposed effluent limits for Outfall 001 based on a design flow of 0.03 mgd are:

<i>Discharge Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
TSS	30	60
Total Chlorine Residual	1.0	2.3
Fecal Coliform		
(5-1 to 9-30)		200/100 mL as geom. avg.
(10-1 to 4-30)		2000/100 mL as geom. avg.
pH		6.0—9.0 at all times
<i>Other Considerations:</i>		none

The EPA waiver is in effect.

PA 0228273. Sewerage, SIC: 4952, **Locust Township Municipal Authority**, R. R. 3, Box 119A, Catawissa, PA 17820.

The proposed action is for issuance of an NPDES permit for a new discharge of treated sewage wastewater to an unnamed tributary to Roaring Creek in Locust Township, **Columbia County**.

The receiving stream is classified for the following uses: cold water fishes, aquatic life, water supply and recreation. For the purposes of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Danville Borough Water Company located approximately 20 river miles downstream.

The proposed effluent limits for Outfall 001 based on a design flow of 0.05 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
TSS	30	45	60
Ammonia			
(6-1 to 10-31)	3	4.5	6
(11-1 to 5-31)	9	13.5	18
Dissolved Oxygen	5 (minimum)		

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Cl ₂ Residual	0.24		0.77
Fecal Coliforms	200 col/100 ml as a geometric mean		
pH	6.0 to 9.0 at all times		

The EPA waiver is in effect.

PA 0112747. Sewerage, SIC: 4952, **Mahaffey Borough Municipal Authority**, P. O. Box 202, Mahaffey, PA 15757.

This proposed action is for renewal of an NPDES permit for an existing discharge of treated sewage wastewater to West Branch Susquehanna River in Mahaffey Borough, **Clearfield County**.

The receiving stream is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purposes of evaluating effluent requirements for TDS, NO₂, -NO₃, fluoride and phenolics, the existing downstream potable water supply (PWS) considered during the evaluation is Reliant Energy located at Shawville.

The proposed effluent limits for Outfall 001 based on a design flow of 0.07 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40	50
TSS	45	65	90
Total Cl ₂ Residual	1.0		2.3
Fecal Coliforms (5-1 to 9-30)	200 col/100 ml as a geometric mean		
(10-1 to 4-30)	2,000 col/100 ml as a geometric mean		
pH	6.0 to 9.0 at all times		

The EPA waiver is in effect.

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

PA 0218511. Industrial Waste, SIC: 4941, **Municipal Water Authority of Aliquippa**, 160 Hopewell Avenue, Aliquippa, PA 15001.

This application is for a new NPDES permit to discharge treated backwash water from the Aliquippa WTP facility located in Aliquippa Borough, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, Logstown Run, classified as a WWF fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply (PWS) is Midland Borough W. A., located approximately 17.5 miles downstream of the discharge point.

Outfall 001: new discharge, design flow of 0.114 mgd.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (mgd)	monitor and report				
TSS		monitor and report			60
Total Iron			30		4
Aluminum (T)			2		8
Manganese (T)			4		2
TRC			1		1.0
pH	between 6.0 and 9.0 at all times		0.5		

The EPA waiver is in effect.

PA 0217140. Sewage, **Indiana County Municipal Services Authority**, 827 Water Street, Indiana, PA 15701.

This application is for renewal of an NPDES permit to discharge treated sewage from Shelocta Sewage Treatment Plant in Armstrong Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Crooked Creek, which are classified as a warm water fishery with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Buffalo Township Municipal Authority Freeport Plant.

Outfall 001: existing discharge, design flow of 0.07 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform	200/100 ml as a geometric mean			
(5-1 to 9-30)	30,000/100 ml as a geometric mean			
(10-1 to 4-30)	not less than 6.0 nor greater than 9.0			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

PA 0223034. Industrial Waste, SIC: 3312. Duferco Farrell Corporation.

This application is for a new NPDES Permit, to discharge treated industrial waste, non-contact cooling water and stormwater to the Shenango River in the City of Farrell, Mercer County. These are existing discharges.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is PA American Water Company on the Shenango River located at New Castle, approximately 16 miles below point of discharge.

The proposed discharge limits for Outfall No. 104 based on a design flow of 0.072 mgd are:

Parameter	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow (mgd)	monitor and report		
Total Suspended Solids	XX	XX	1002
Oil and Grease	15		30
Lead	XX	XX	6.0
Zinc	XX	XX	8.0
Copper	0.4	0.8	1.0
(T) Iron	1.5	3.0	3.75
pH	6.0 to 9.0 at all times		

The proposed discharge limits for Outfall No. 504 based on a design flow of 1.3 mgd are:

Parameter	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX		
Total Suspended Solids	XX	XX	330
Oil and Grease	XX	30	
(T) Iron	XX		
pH	6.0 to 9.0 at all times		

The proposed discharge limits for Outfall No. 604 based on a design flow of 0.072 mgd are:

Parameter	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX		
Total Suspended Solids	XX	XX	104
Oil and Grease	XX	XX	35
(T) Iron	XX		
Lead	XX	XX	0.63
Zinc	XX	XX	0.42
Naphthalene	XX	XX	
Tetrachloroethylene	XX	0.21	
Nickel	XX	XX	1.3
pH	6.0 to 9.0 at all times		

The proposed discharge limits for Outfall Nos. 104, 504 and 604 based on a design flow of 23.444 mgd are:

Parameter	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX		
Oil and Grease	15		30

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
(T) Iron		4.0	
Temperature		XX	
pH		6.0 to 9.0 at all times	

The EPA waiver is not in effect.

PA 0036617. Sewage. **Remark Estates Mobile Home Park**, 169 Pullman Drive, West Middlesex, PA 16158.

This application is for renewal of an NPDES Permit, to discharge treated sewage to Unnamed Tributary to the Little Neshannock Creek in Lackawannock Township, **Mercer County**. This is an existing discharge.

The receiving water is classified for the following uses: trout stocked 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 Municipal Authority of the Township of North Sewickley on the Beaver River located at river mile 7.6 and is located 35.0 miles below point of discharge.

The proposed discharge limits for Outfall No. 001 based on a design flow of 0.01350 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
TSS	30	60
Ammonia-Nitrogen (5-1 to 10-31)	4	8
(11-1 to 4-30)	12	24
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	
Total Residual Chlorine	1.4	3.3
Dissolved Oxygen	minimum of 3 mg/l at all times	
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

PA 0238414. Sewage. **Josephine Schotsch**, P. O. Box 915A, New Castle, PA 16107.

This application is for a new NPDES Permit, to discharge treated sewage to Unnamed Tributary to Big Run in Scott Township, **Lawrence County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is Beaver Falls Municipal Authority located at 32.17 miles below point of discharge.

The proposed discharge limits for Outfall No. 001 based on a design flow of 800 gpd are:

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

The EPA waiver is in effect.

PA 0091341. Sewage. **Moniteau School District**, Moniteau Junior/Senior High School, 1810 West Sunbury Road, West Sunbury, PA 16061.

This application is for renewal of an NPDES Permit, to discharge treated sewage to Unnamed Tributaries of Slippery Rock Creek and Glade Run Dam Lake (South Branch Slippery Rock Creek) in Cherry Township, **Butler County**. This is an existing discharge.

The receiving water is classified for the following uses: cold water fish, 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 Salvation Army Camp Allegheny on Slippery Rock Creek located at river mile 3.2 and is located 30.0 miles below point of discharge.

The proposed discharge limits for Outfall No. 001 based on a design flow of 0.01300 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
TSS	30	60
Ammonia-Nitrogen (5-1 to 10-31)	15	30
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	
Total Residual Chlorine	0.5	1.2
pH	6.0—9.0 at all times.	

The EPA waiver is in effect.

PA 0032905. Sewage, **Sunnyview Mobile Home Park**, 90 Shenango Park Road, Transfer, PA 16154.

This application is for renewal of an NPDES Permit, to discharge treated sewage to Unnamed Tributary to the Little Neshannock Creek in Lackawannock Township, **Mercer County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fish, 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 Sharpsville Municipal Water Authority on the Shenango River located at river mile 32.6 and is located 4.6 miles below point of discharge.

The proposed discharge limits for Outfall No. 001 based on a design flow of 0.02500 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
TSS	30	60
Ammonia-Nitrogen (5-1 to 10-31)	2	2
(11-1 to 4-30)	6.0	12
Phosphorus	1	2
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	
Total Residual Chlorine	1	2.3
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

PA 0032026. Sewage, **Family Affair Campground**, 9640 Findley Lake Road, North East, PA 16428.

This application is for renewal of an NPDES permit to discharge treated sanitary sewage from a campground to an unnamed tributary to Sixteen Mile Creek in North East Township, **Erie County**. This is an existing discharge.

The receiving water is classified for cold water and migratory 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 Borough of North East Grahamville Reservoir intake pipe, located on Sixteen Mile Creek in North East Township, Erie County, approximately 1.15 miles downstream from the point of discharge.

The proposed effluent limits for Outfall 001 based on average design flow of 0.025 mgd are:

<i>Parameter</i>	<i>Effluent Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	50
Total Suspended Solids	30	60
NH ₃ -N (5-1 to 10-31)	6.5	13
(11-1 to 4-30)	19.5	39
Phosphorus as "P"	1.0	
Dissolved Oxygen	minimum of 3.0 mg/l at all times	
Total Residual Chlorine	0.5	1.2
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	2,000/100 ml as a geometric average	
pH	6.0—9.0 standard units at all times	

The EPA waiver is in effect.

PA 0104086. Industrial waste, SIC: 3462. **Mercer Forge Corporation**, 200 Brown Street, P. O. Box 272, Mercer, PA 16137.

This application is for renewal of an NPDES Permit, to discharge noncontact cooling water and stormwater to Otter Creek in Mercer Borough, **Mercer County**. This is an existing discharge.

The receiving water is classified for the following uses: trout stocking, 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 Beaver Falls Municipal Authority on the Beaver River located at Beaver Falls, approximately 45.5 miles below point of discharge.

The proposed discharge limits for Outfall No. 001 based on a design flow of 0.015 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	XX		
Oil and Grease	15		30
pH		6.0 to 9.0 at all times	

The proposed discharge limits for Outfall No. 002 are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
C-Biochemical Oxygen Demand (5-day)	XX		
Chemical Oxygen Demand	XX		
Oil and Grease	XX		
pH	XX		
SARA Title III, Section 313	XX		
Water Priority Chemicals*	XX		
Total Suspended Solids	XX		
Total Phosphorus	XX		
Total Kjeldahl Nitrogen	XX		
Iron (Dissolved)	XX		
pH		6.0 to 9.0 at all times	

XX—Monitor and report on monthly DMRs.

*—Any Section 313 water priority chemical discharged in stormwater outfalls for which the permittee is subject to reporting requirements under SARA Title III, Section 313.

The EPA waiver is in effect.

PA 0100935. Sewage. **Maple Winds Mobile Home Park**, 89 Gill Road, Grove City, PA 16127.

This application is for renewal of an NPDES Permit, to discharge treated sewage to unnamed tributary to Wolf Creek in Pine Township, **Mercer County**. This is an existing discharge.

The receiving water is classified for the following uses: cold water fish, 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 Salvation Army Camp Allegheny on Slippery Rock Creek located at river mile 3.2 and is located approximately 27.0 miles below point of discharge.

The proposed discharge limits for Outfall No. 001 based on a design flow of 0.00600 mgd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
TSS	30	60
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric average 2,000/100 ml as a geometric average	
Total Residual Chlorine	0.5	1.2
pH		6.0—9.0 at all times

The EPA waiver is in effect.

PA 0209929. Sewage. **Dennis Stefanak**, R. R. 2, Pulaski, PA 16143.

This application is for renewal of an NPDES Permit, to discharge treated sewage to unnamed tributary to Shenango River in Shenango Township, **Mercer County**. This is an existing discharge.

The receiving water is classified for the following uses: warm water fishes, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed

downstream potable water supply considered during the evaluation is Pennsylvania-American Water Company located in New Castle, which is approximately 12 miles below point of discharge.

The proposed discharge limits for Outfall No. 001 based on a design flow of 400 gpd are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
TSS	30	60
Fecal Coliform	200/100 ml as a geometric average	
Total Residual Chlorine	monitor and report	
pH	6.0—9.0 at all times	

The EPA waiver is in effect.

Proposed NPDES Permit Renewal Actions for Minor Sewage Discharges

The following parties have applied to renew their current NPDES permits to allow the continued discharge of controlled wastewaters into the surface waters of this Commonwealth. The Department of Environmental Protection (Department) has made a tentative determination to renew these permits and proposes to issue them, subject to their current permit effluent limitations, and monitoring and reporting requirements, with appropriate and necessary updated requirements to reflect new or changed regulations and other requirements. The updates may include, but will not be limited to, applicable permit conditions and/or requirements addressing combined sewer overflows (CSOs), municipal sewage sludge management, and total residual chlorine control (TRC). Any major changes to or deviations from the terms of the existing permit will be documented and published with the final Department actions.

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

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

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

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

Northeast Regional Office: Regional Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 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>
PA-0060640	Lehman Pike Water & Sewer Co. P. O. Box 447 Bushkill, PA 18324-0447	Pike County Lehman Township	Saw Creek	

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

<i>NPDES No.</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Tributary Stream</i>	<i>New Permit Requirements</i>
PA0080501	Tuscarora School District Montgomery Elem. 118 E. Seminary Street Mercersburg, PA 17236	Franklin County Montgomery Township	UNT W. Branch Conococheauque Creek	TRC
PA0084131	Gettysburg Area School District Franklin Township Elem. School 900 Biglerville Road Gettysburg, PA 17325	Adams County Franklin Town- ship	UNT to Marsh Creek	TRC

**DISCHARGE OF CONTROLLED INDUSTRIAL
WASTE AND SEWERAGE WASTEWATER**

**Applications under the Pennsylvania Clean
Streams Law**

(Part II Permits)

**Industrial waste and sewerage applications under
The Clean Streams Law (35 P. S. §§ 691.1—
691.100).**

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

WQM Permit No. 1500429. Sewerage. **City of Coatesville Authority**, 114 E. Lincoln Highway, P. O. Box 791, Coatesville, PA 19320. Applicant is requesting approval for the construction of a new sewage system to serve 247 single family residential units located in East Fallowfield Township, **Chester County**.

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

A. 3500405. Sewerage. **Geisinger Health System**, 100 North Academy Drive, Danville, PA 17822-1540. Application for construction of a 15,000 gpd wastewater treatment facility to replace existing wastewater treatment facility servicing the Marworth Drug and Alcohol Rehabilitation Center located in North Abington Township, **Lackawanna County**. Application received in the Regional Office September 28, 2000.

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

A. 0500409. Sewage, submitted by **Broad Top Township**, P. O. Box 57, Defiance, PA 16633-0057 in Broad Top Township, **Bedford County** to construct a wastewater treatment plant to replace existing individual on-lot sewage systems has been received in the Southcentral Region on October 24, 2000.

A. 0685203 amendment (00-1). Industrial waste submitted by **Joe Jurgielewicz & Son, Ltd.**, P. O. Box 257, Shartlesville, PA 19554 in Tilden Township, **Berks County** to upgrade the existing residual waste impoundment and spray field serving the existing duck processing plant was received in the Southcentral Region on October 26, 2000.

A. 6700413. Sewage submitted by **Red Lion Municipal Authority**, Center Square, Red Lion, PA 17356 in Red Lion Borough, **York County** to replace the 2000 Highland Road Pump Station was received in the Southcentral Region on October 31, 2000.

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

A. 9939-S-A2. Sewerage, **McCandless Township Sanitary Authority**, 9600 Perry Highway, Pittsburgh, PA 15237. Application for the replacement and operation of an interceptor to serve Rochester Road located in the town of McCandless, **Allegheny County**.

A. 5600405. Sewerage, **Raymond Spangler**, 106 Humberson Drive, Somerset, PA 15501. Application for the construction and operation of a small flow sewage

treatment plant located in Stonycreek Township, **Somerset County** to serve the Spangler Residence.

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

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the office noted above the application within 30 days from the date of this public notice. Comments reviewed within this 30-day permit 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 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.

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

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

NPDES Permit PAS10-G445. Stormwater. **Wilmer L. Hostetter**, 481 Limestone Road, Oxford, PA 19363, has applied to discharge stormwater from a construction activity located in East Nottingham Township, **Chester County**, to East and West Branch of Big Elk Creek (HQ-TSF-MF).

NPDES Permit PAS10-G446. Stormwater. **Keystone Custom Homes**, 214A Willow Valley Lake Drive, Willow Street, PA 17584, has applied to discharge stormwater from a construction activity located in Penn Township, **Chester County**, to unnamed Tributary to East Branch Big Elk Creek (HQ-TSF-MF).

SAFE DRINKING WATER

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

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

A. 5100502. Public Water Supply. **Philadelphia Water Department**, 1101 Market Street, Philadelphia, PA 19107. This proposal involves the installation of a chemical storage and feed facilities at the Belmont Water Treatment Plant in City of Philadelphia, **Philadelphia County**.

A. 0900510. Public Water Supply. **Warminster Municipal Authority**, 415 Gibson Avenue, Warminster, PA 18974. This proposal involves the construction of a 750,000-gallon storage tank to replace the existing 200,000-gallon storage tank and the installation of chlorination facilities in Warminster Township, **Bucks County**.

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

Permit No. 0600509. Public water supply. **Citizens Utilities Water Company of Pennsylvania**, Lower Heidelberg and Spring Township. *Responsible Official:* Darryl A. Jenkins, Manager, Engineering & Construction, Citizens Utilities Water Company of Pennsylvania, 4 Wellington Blvd., Wyomissing Hills, PA 19610. *Type of Facility:* New community water system serving Rosewood Hills subdivision. *Consulting Engineer:* Darryl A. Jenkins, Manager, Engineering & Construction, Citizens Water Company of Pennsylvania, 4 Wellington Blvd., Wyomissing Hills, PA 19610. *Application received:* September 18, 2000.

Permit No. 0600510. Public water supply. **Berkleigh Heights Mobile Home Park, Berks County**. *Responsible Official:* William J. Keller, Berkleigh Heights MHP, 1329 Richmond Rd., Fleetwood, PA 19522. *Type of Facility:* Existing backup well. *Consulting Engineer:* Bruce W. Haigh P. E., Technicon Enterprises, Inc., 2675 Morgantown Rd., Suite 4100, Reading, PA 19607. *Application received:* September 29, 2000.

Permit No. 2800506. Public water supply. **Mockingbirdhill Inc.**, Antrim Township, **Franklin County**. *Responsible Official:* Charles Eckstine, P. O. Box 246, Greencastle, PA 17225. *Type of Facility:* Applicant seeks a Construction Permit for Well No. 2 to be added to the existing Shangri La MHP community water system. Treatment to be added to Well No. 2 will include softening, granular activated carbon, reverse osmosis and sodium hypochlorite disinfection. *Consulting Engineer:* Harry E. Bingaman, P. E., Glace Associates, Inc., 3705 Trindle Road, Camp Hill, PA 17011. *Application received:* October 11, 2000.

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

5687504-A1. Garrett Borough, P. O. Box 218, Garrett, PA 15542-0218. Application of phosphates to reduce the rate of corrosion to the water pipes serving Summit Township, **Somerset County**.

2600505. NWL, Inc., 1001 LaFayette Drive, Farmington, PA 15628. Construction of Well #6 and transmission line serving Wharton Township, **Fayette 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—305 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background standard, Statewide health standard, the site-specific standard, or who intend to remediate a site as a special industrial area, must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known suspected contaminants at the site, the proposed remediation measures for the site, and a description of the intended future use of the site. A person who demonstrates attainment of one, or a combination of the cleanup standards, or who receives approval of a special industrial area remediation identified under the Act, will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

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

For further information concerning the content of a Notice of Intent to Remediate, contact the Environmental Cleanup Program Manager in the Department of Environmental Protection Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

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

Southeast Regional Office: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428, (610) 832-5950.

1100 East Mermaid Lane Property, Springfield Township, **Montgomery County**. Darryl Borrelli, Manko, Gold & Katcher, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004, has submitted a Notice of Intent to Remediate site soil contaminated with asbestos and groundwater contaminated with solvents. The applicant proposes to remediate the site to meet site-specific standards. A summary of the Notice of Intent to Remediate was reported to have been published in *Philadelphia Daily News* on October 4, 2000.

1200 East Mermaid Lane Property, Springfield Township, **Montgomery County**. Darryl Borrelli, Manko, Gold & Katcher, LLP, 401 City Avenue, Suite 500, Bala Cynwyd, PA 19004, has submitted a Notice of Intent to Remediate site soil contaminated with lead, heavy metals, solvents and BTEX and groundwater contaminated with solvents and BTEX. The applicant proposes to remediate the site to meet Statewide health and site-specific standards. A summary of the Notice of Intent to Remediate was reported to have been published in *Philadelphia Daily News* on October 4, 2000.

J & T Building Co., Inc., Media Borough, **Delaware County**. Richard S. Werner, P.G., Environmental Consulting, Inc., 500 East Washington St., Suite 375, Norristown, PA 19401, has submitted a Notice of Intent to Remediate site soil contaminated with lead and site groundwater contaminated with solvents. The applicant proposes to remediate the site to meet the Statewide health standard for soil and background standards for groundwater. A summary of the Notice of Intent to Remediate was reported to have been published in *The Delaware County Daily Times* on October 6, 2000.

Congresso De Latino Unidos, Inc., City of Philadelphia, **Philadelphia County**. Gloria G. Hunsberger, P.G., Powell-Harpstead, Inc., 800 East Washington Street, West Chester, PA 19380, has submitted a Notice of Intent to Remediate site soil contaminated with lead, heavy metals and polycyclic aromatic hydrocarbons. The applicant proposes to remediate the site to meet the Statewide health standard. A summary of the Notice of Intent to Remediate was reported to have been published in *The Philadelphia Daily News* on October 13, 2000.

U. S. Steel Fairless Works, S.W.E.C., LLC (Formerly ABB Parcel), Falls Township, **Bucks County**. Kathleen M. Mayher, U. S. Steel, 600 Grant Street (Room 2068), Pittsburgh, PA 15219, has submitted a Notice of Intent to Remediate site soil contaminated with PCBs, vanadium, metals, BTEX, polycyclic aromatic hydrocarbons and solvents. The applicant proposes to remediate the site to meet Statewide health and site-specific standards. A summary of the Notice of Intent to Remediate was reported to have been published in *The Bucks County Courier Times* on October 16, 2000.

Northeast Regional Field Office: Joseph Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Tokarczyk Property (540 Altamont Boulevard), West Mahanoy Township, **Schuylkill County**. Eric P. Roberts, Principal Engineer, Excalibur Group LLC, 19709 Frederick Road, Suite 440, Germantown, MD 21770 has submitted a Notice of Intent to Remediate (on behalf of

Leonard Tokarczyk and George Tokarczyk, North Railroad Avenue, Frackville, PA 17931) concerning the remediation of site soils and groundwater found or suspected to have been contaminated with gasoline. The applicant proposes to remediate the site to meet the Background standard. A Final Report was simultaneously submitted. Please refer to additional *Pennsylvania Bulletin* notice.

Southcentral Regional Office: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4705.

All American Truck Plaza Carlisle, Middlesex Township, **Cumberland County**. Hydrocon Services, Inc., 2945 South Pike Avenue, Allentown, PA 18103 and All American Truck Plazas, Inc., Box 302, Bethel, PA 19507 have submitted a Notice of Intent to Remediate site soils contaminated with BTEX and PAHs. The applicants propose to remediate the site to meet the Statewide health standard requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Carlisle Sentinel* on July 1, 2000.

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

Goldschmidt Industrial Chemical Corporation, Borough of McDonald, **Washington County**. Goldschmidt Industrial Chemical Corporation, 941 Robinson Highway, McDonald, PA 15057 and Scott Rasmussen, Civil and Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 has submitted a Notice of Intent to Remediate soil contaminated with zinc. The applicant proposes to remediate the site to meet the site-specific standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Observer Reporter* (Washington County edition) on October 21, 2000.

SOLID AND HAZARDOUS WASTE

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

Southcentral Regional Office: Regional Waste Management, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4706.

Permit No. 100346. FR&S, Inc. (Pioneer Crossing Landfill, Exeter Township, **Berks County**) submitted an application for expansion subject to the Governor's Executive Order and policies. FR&S, Inc. proposes an expansion comprising approximately 75 acres. It also proposes an increase in the average and maximum daily volumes from 1,000 tons/day to 1,550 and 1,600 tons/day to 1,975 respectively. Under the provisions of the Governor's Executive Order and Money Back Guarantee Program, the host municipality, applicant, and the Department of Environmental Protection (Department) have negotiated an application review timeline. The negotiated number of days, which the Department had to review the application

and to render a decision, is 380 days from September 14, 2000 (date of Governor's Executive Order Meeting). The 380 days does not include time that the applicant uses to respond to review comments from the Department.

AIR QUALITY

Notice of Plan Approval and Operating Permit Applications Nonmajor Sources and Modifications

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

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

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

Persons wishing to receive a copy of the proposed Plan Approval or Operating Permit must indicate their interest to the Department Regional Office within 30 days of the date of this notice, and must file protests or comments on a proposed Plan Approval or Operating Permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Any comments or protests filed with Department Regional Offices must include a concise statement of the objections to the issuance of the plan approval or operating permit and relevant facts, which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior to the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the Regional Office identified below. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

OPERATING PERMITS

Applications received and intent to issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001-4015) and 25 Pa. Code Chapter 127, Subchapter F (relating to operating permit requirements).

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

39-313-043: GEO Specialty Chemicals, Inc. (401 South Earl Avenue, PO Box 4747, Lafayette, IN 47903-4747) for operation of a DMPA process and associated air cleaning device in South Whitehall Township, **Lehigh County**.

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

21-03042: Dairy Farmers of America (4825 Old Gettysburg Road, Mechanicsburg, PA 17055) for a Natural Minor Operating Permit for two boilers in Lower Allen Township, **Cumberland County**.

21-03049: Pyrotech Inc. (1285 Claremont Road, Carlisle, PA 17013) for a Natural Minor Operating Permit for a refractory fabrication plant in Middlesex Township, **Cumberland County**.

21-05030: Ahlstrom Filtration, Inc. (122 West Butler Street, Mt. Holly Springs, PA 17065) for a Synthetic Minor Operating Permit for a paper manufacturing plant in Mt. Holly Springs Borough, **Cumberland County**.

21-05037: Union Quarries, Inc. (P. O. Box 686, Carlisle, PA 17013) for a Synthetic Minor Operating Permit for an asphalt plant in South Middleton Township, **Cumberland County**.

22-03014: Stewart-Amos Steel Inc. (4400 Paxton Street, Harrisburg, PA 17111) for a Natural Minor Operating Permit for a surface coating operation in Swatara Township, **Dauphin County**.

22-03025: John M. Shultz Funeral Home (406 Market Street, Lykens, PA 17048) for a Natural Minor Operating Permit for a crematorium in Lykens Borough, **Dauphin County**.

22-05003: Stroehmann Bakeries, LC (3996 Paxton Street, Harrisburg, PA 17111) for a Synthetic Minor Operating Permit for a bakery in Swatara Township, **Dauphin County**.

28-05019: Valley Quarries, Inc. (169 Quarry Road, Chambersburg, PA 17201) for a Synthetic Minor Operating Permit for an asphalt plant in Guilford Township, **Franklin County**.

36-03033: Bulova Technologies L.L.C. (101 North Queen Street, Lancaster, PA 17604) for a Natural Minor Operating Permit for metal finishing and coating operations in the City of Lancaster, **Lancaster County**.

36-05086: DONSCO, Inc. (P. O. Box 2001, Wrightsville, PA 17368) for a Synthetic Minor Operating Permit for an iron foundry in Mt. Joy Borough, **Lancaster County**.

36-05067: C&D Technologies, Inc. (82 East Main Street, Leola, PA 17540) for a Synthetic Minor Operating Permit for a lead-acid battery manufacturing plant in Upper Leacock Township, **Lancaster County**.

38-03014: Pennsylvania Lime, Inc. (P. O. Box 160, Annville, PA 17003) for a Natural Minor Operating

Permit for the Millard Quarry in North Londonderry Township, **Lebanon County**.

38-05008: Rich Maid Cabinetry (633 West Lincoln Avenue, Myerstown, PA 17067) for a Synthetic Minor Operating Permit for a cabinet manufacturing plant in Jackson Township, **Lebanon County**.

44-05012: DONSCO, Inc. (P. O. Box 2001, Wrightsville, PA 17368) for a Synthetic Minor Operating Permit for an iron foundry in Union Township, **Mifflin County**.

67-03023: J. E. Baker Co. (320 North Baker Road, York, PA 17404) for a Natural Minor Operating Permit for a limestone quarry in West Manchester Township, **York County**.

67-05049: Trenwyth Industries, Inc. (One Connelly Road, Emigsville, PA 17318) for a Synthetic Minor Operating Permit for an architectural block manufacturing plant in Manchester Township, **York County**.

67-05057: Fypon, Ltd. (22 West Pennsylvania Avenue, Stewartstown, PA 17363) for a Synthetic Minor Operating Permit for a molded millwork manufacturing plant in Stewartstown Borough, **York County**.

Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.

63-00069: Western Center (333 Curry Hill Road, Canonsburg, PA 15317) for installation of a boiler in Cecil Township, **Washington County**.

56-00253: Senate Coal Mines, Inc. (One Energy Place, Suite 5100, Latrobe, PA 15650) for operation of coal crushing and refuse reclaim at Acosta in Jenner Township, **Somerset County**.

56-00251: Genesis, Inc. (P. O. Box 552, Somerset, PA 15501) for operation of coal screening/stockpiling at Solar No. 7 Mine in Quemahoning Boro, **Somerset County**.

26-00473: Bullskin Tipple Co. (200 College Drive, Suite 300, Lemont Furnace, PA 15456) for operation of a railroad freight terminal at Bullskin Yard in Connellsville Township, **Fayette County**.

Notice of Intent to Issue Title V Operating Permits

Under 25 Pa. Code §§ 127.521 and 127.424, 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 and G (relating to operating permit requirements; and Title V operating permits).

Appointments to review copies of the Title V application, proposed permit and other relevant information must be made by contacting Records Management using the appropriate regional office telephone number noted. For additional information, contact the appropriate 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. Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the Regional Office identified below. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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.

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

46-00087: Gasboy International, Inc. (707 North Valley Forge Road, Lansdale, PA 19446) in Lansdale Borough, **Montgomery County**. The facility's major emission points include spraying and drying booths, which emit major levels of volatile organic compounds (VOCs).

46-00027: Ortho-McNeil Pharmaceutical (Welsh and McKean Roads, Spring House, PA 19477) in Lower Gwynedd Township, **Montgomery County**. The facility's major volatile organic compound (VOC) emission point is a coating process during the manufacturing of the finished dosage form of a pharmaceutical drug. Additional VOC and NO_x (Oxides of Nitrogen) sources include boilers, generators, solvent and fuel storage tanks, numerous laboratory hoods, a small printing shop and a waste consolidation area.

15-00015: Sartomer Co., Inc. (610 South Bolmar Street, West Chester, PA 19382) in West Chester Borough, **Chester County**. The facility's major emission points include: various acrylic ester monomer manufacturing processes, which have the potential to emit major levels of volatile organic compounds (VOCs) and nitrogen oxide compounds (NO_x).

46-00037: Cabot Performance Materials (P. O. Box 1608, Boyertown, PA 19512) in Douglass Township, **Montgomery County**. This company manufactures Tantalum and Niobium by processing mineral ores. This company is a major source volatile organic compounds from the ore digestion, tantalum process, niobium process, metal finishing and wastewater system at the facility.

15-00014: Norwood Industries, Inc. (57 Morehall Road, Frazer, PA 19355) in East Whiteland Township, **Chester County**. The facility's major emission points include: combustion units, four surface coating lines and a medical device manufacturing process, which emit major levels of volatile organic compounds (VOCs).

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

95-044: GATX Terminals Corp. (Allegheny Avenue and the Delaware River, Philadelphia, PA 19134) for operation of a petroleum product terminal. The facility's air emissions sources include a 6.7 MMBTU/hr boiler, a 13.4 MMBTU/hr boiler, storage tanks, tank car/truck/marine vessel loading, and fugitive emissions. Storage tanks with vapor recovery and six tank truck loading racks vent to a vapor incinerator. The facility has a carbon adsorption unit as a back-up to the vapor incinerator.

95-037: Rohm and Haas Co. (5000 Richmond Street, Philadelphia, PA 19137) for operation of a chemical manufacturing facility. The facility's air emissions sources include two 48.4 MMBTU/hr boilers, one emergency river pump, ion exchange resin processes, a UB process, a GOAL process, an ambersorb process, wastewater treatment, and groundwater remediation, and storage tanks. Control devices include scrubbers, cyclone collectors, and dust collectors.

95-047: Sunoco Chemicals — Frankford Plant (4700 Bermuda Street, Philadelphia, PA 19137-1193) for operation of a chemical manufacturing facility. The facility's air emissions sources include two 250 MMBTU/hr boilers, one 360 MMBTU/hr boiler, one MMBTU/hr boiler, five emergency generators, distillation columns, condensers, oxidation processes, reactors, phenol and alpha-methyl styrene loading, and storage tanks. Control devices include scrubbers, charcoal adsorbers, a thermal oxidizer, and a catalytic oxidizer.

95-038: Sunoco, Inc. (R&M)—Refinery (3144 Passyunk Avenue, Philadelphia, PA 19145) for the operation of a petroleum refinery. The facility's air emissions sources include eight boilers larger than 100 MMBTU/hr, heaters, cumene tank truck loading, benzene railcar unloading, propane loading, two Claus sulfur recovery plants, eight cooling towers, storage tanks, marine barge loading, inter-refinery pipeline equipment, two alkylation units, hydrogen purification, degreasing vats, a butane isomerization unit, wastewater sources, a benzene production unit, a cumene production unit and fugitives.

PLAN APPROVALS

Applications received and intent to issue Plan Approvals under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B (relating to plan approval requirements).

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

09-310-062: Haines & Kibblehouse, Inc. (300 Skunk Hollow Road, Chalfont, PA 18914) for construction of a portable crushing plant in Hilltown Township, **Bucks County**.

46-0112: Palmer International, Inc. (2036 Lucon Road, Skippack, PA 19474) for installation of a thermal oxidizer in Skippack Township, **Montgomery County**.

09-310-064: Haines & Kibblehouse, Inc. (300 Skunk Hollow Road, Chalfont, PA 18914) for construction of a portable crushing plant in Hilltown Township, **Bucks County**.

09-310-063: Haines & Kibblehouse, Inc. (300 Skunk Hollow Road, Chalfont, PA 18914) for construction of a portable crushing plant in Hilltown Township, **Bucks County**.

15-0027C: Johnson Matthey (434 Devon Park Drive, Wayne, PA 19087) for installation of two coating lines and wet scrubber in Tredyffrin Township, **Chester County**.

46-0047: Mueller Streamline Co. (287 Wissahickon Avenue, North Wales, PA 19454) for modification of two vapor degreasers in Upper Gwynedd Township, **Montgomery County**.

46-0209: PPL Hatfield (Elroy Road, Hatfield, PA 19440) for installation of two (2) electric LM600 Turbines in Hatfield Township, **Montgomery County**.

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

66-399-003: Procter & Gamble Paper Products Co. (P. O. Box 32, Mehoopany, PA 18629) for construction of a central vacuum system for the diaper production area along Route 87 in Washington Township, **Wyoming County**.

54-322-003A: Commonwealth Environmental Systems L. P. (P. O. Box 249, Dunmore, PA 18512) for modification of the landfill (daily capacity limits) in Foster Township, **Schuylkill County**.

35-399-035: Corning, Inc. (Franklin Valley Road, Fleetville, PA 18420-0188) for construction of assembly and soldering benches in Benton Township, **Lackawanna County**.

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

06-05002A: Allentown Cement Co., Inc. (P. O. Box 619, Blandon, PA 19510-0619) for installation of two cyclones, two spray towers and two fabric collectors on two cement kilns in Maiden Creek Township, **Berks County**.

21-05064A: Atlas Roofing Corp. (802 Highway 19 North, Suite 190, Meridian, MS 39307) for a conversion over to a different blowing agent (that is, pentane) to be used in the production of foam insulating materials at their plant located at 817 Spangler Road, in Camp Hill Borough, **Cumberland County**. The majority of VOC emissions emanating from the process will be controlled by a thermal oxidizer.

06-05100A: Calpine Construction Finance Co., LP (The Pilot House, 2nd Floor, Lewis Warf, Boston, MA 02110) for transfer of Emission Reduction Credits to the proposed combined cycle electric generating plant in Ontelaunee Township, **Berks County**.

21-05021C: Arnold Fuel Oil, Inc. (P. O. Box 2621, Harrisburg, PA 17105) for installation of a back up Vapor Recovery Unit at Mechanicsburg North Terminal in Silver Spring Township, **Cumberland County**.

36-05019D: Anvil International, Inc. (1411 Lancaster Avenue, Columbia, PA 17512) for installation of a gray iron casting line at the Columbia Facility in Columbia Borough, **Lancaster County**. The installation will allow the facility to produce cast iron plumbing fixtures. The installation of equipment will result in a net decrease of particulate and an increase in volatile organic compounds (VOC). The particulate will be controlled by new and existing fabric collectors and the VOCs will be vented to the atmosphere. The plan approval will contain operational, recordkeeping and reporting requirements to ensure the facility is complying with all applicable air quality requirements. Upon completion of the construction and compliance of all conditions, the plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an Administrative Amendment.

36-05114: PPL Global LLC (Suite 400, 11350 Random Hills Road, Fairfax, VA 22030) for construction of four gas-fired simple cycle combustion turbines nominally rated at 45 MW each for electrical generation for a new facility in West Hempfield Township, **Lancaster County**. This source is subject to 40 CFR Part 60, Subpart GG—Standards of Performance for Stationary Gas Turbines.

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

59-00005B: Dominion Transmission Corp. (CNG Tower, 625 Liberty Avenue, Pittsburgh, PA 15222-3199) for installation of a replacement air cleaning device (a "screw-in prechamber) on a 2,000 horsepower natural gas-fired reciprocating internal combustion compressor engine (Engine #6) at the Sabinsville Compressor Station in Clymer Township, **Tioga County**. The air cleaning device installation will not result in any change in the amount of nitrogen oxides or any other air contaminant allowed to be emitted from the engine but may result in a reduction in the emission rate of one or more air contaminants from the levels now actually occurring. This is a Title V facility.

41-0010A: Andritz, Inc. (35 Sherman Street, Muncy, PA 17756-1202) for construction of a 650 pound electric induction furnace and a thermal sand reclaiming and associated air cleaning device (a fabric collector) in Muncy Borough, **Lycoming County**.

Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.

63-911A: Twilight Industries (212 State Street, Belle Vernon, PA 15012) for installation of a coal crusher at the Lustik Surface Mine in Somerset Township, **Washington County**.

03-224A: McVile Mining Co. (R. D. 9, Box 379A, Kittanning, PA 16201) for operation of coal processing at Clementine #1 Mine in South Buffalo Township, **Armstrong County**.

26-521A: Thomas M. Dolfi Funeral Home (136 North Gallatin Avenue, Uniontown, PA 15401) for operation of Cremator #1 in Uniontown, **Fayette County**.

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

37-314A: Natural Sand & Gravel Co., Inc. (Plain Grove Road, Slippery Rock, PA 16075-0774) for construction of a non-metallic mineral processing facility (100 tons/hour) with baghouse control in Plain Grove and Scott Townships, **Lawrence County**.

Notice of Intent to Issue a Plan Approval and Amend a Title V Operating Permit

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection (Department) intends to issue two plan approvals to Southdown, Inc. (2001 Portland Park, Wampum, PA 16157), for their plant located in Wampum Borough, **Lawrence County**. The facility currently has a Title V permit No. 37-00013. The plan approvals will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date.

Plan approval No. PA37013A is for the installation of slag feed equipment and the incorporation of slag as a raw material. This construction will result in no emission increases at the facility. The construction of material handling equipment at a Portland Cement production facility is subject to Federal NESHAP requirements defined in 40 CFR Part 63, Subpart LLL.

Plan approval No. PA37013A is for the installation of four baghouses on the existing clinker transfer system.

The installation of the baghouses on the transfer system will result in a particulate matter reduction of 5.40 tons/year.

The Plan Approvals and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

REASONABLY AVAILABLE CONTROL TECHNOLOGY (RACT)

Proposed Revision to the State Implementation Plan for Plain'n Fancy Kitchens, Inc. Heidelberg Township, Lebanon County

The Department of Environmental Protection (Department) is proposing to amend its State Implementation Plan (SIP) by withdrawing the existing facility specific SIP revision and to issue a new Plan Approval for Plain'n Fancy Kitchens, Inc. at Oak Street and Route 501, Schaefferstown, PA 17088.

The Department issued an operating permit (38-318-019C) to Plain'n Fancy Kitchens, Inc. on December 23, 1994 limiting the facility's Volatile Organic Compounds (VOC) emissions to less than 50 tons per year. Subsequently, U. S. EPA approved this Operating Permit on August 8, 1995, as a part of Pennsylvania's SIP. Plain'n Fancy Kitchens, Inc. submitted an application on May 10, 2000, to increase the facility's VOC emissions to 70 tons per year.

This proposal includes two actions: 1) Revocation of the existing facility specific SIP revision which limited the facility's VOC emissions to less than 50 tons per year of VOC. 2) Issuance of a new Plan Approval (38-02011). These actions do not adopt any new regulations.

The proposed Plan approval limits the facility's potential VOC emissions to 70 tons per year. Additional conditions require monitoring, testing, reporting, and recordkeeping requirements for the VOC sources at the facility. Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121-143, the Federal Clean Air Act and regulations adopted under the act.

One public hearing will be held for the purpose of receiving comments on the proposal. The hearing will be held on December 19, 2000, at the Schaefferstown Fire Company, Oak Street, Schaefferstown, PA 17087 from 1 p.m. until such a time as all scheduled comments on the proposal are received. The public is invited to comment on the proposed action and SIP revision revocation. Persons interested in commenting are invited to appear at the public hearing. Persons interested in submitting written comments should send their comments to Ranjan Roy, Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110-8200 on or before December 29, 2000.

An appointment may be scheduled to review Plan Approval 38-02011A, and other pertinent documents at the Southcentral Regional Office by contacting Mary DiSanto at (717) 705-4732 between 8 a.m. and 3:30 p.m., Monday through Friday, except holidays.

MINING

APPLICATIONS TO CONDUCT COAL AND NONCOAL ACTIVITIES

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1-1396.19a); the

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

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

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

Where any of the mining activities listed below will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. These 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.

McMurray District Office, 3913 Washington Road, McMurray, PA 15317.

Coal Mining Applications Received:

56001301. Genesis, Inc. (P. O. Box 552, Somerset, PA 15501), to operate the Genesis No. 17 Mine in Lincoln,

Quemahoning and Somerset Townships, **Somerset County**, new deep mine permit application, 001—Higgins Run, 002 — 003 004 — Tribs to Beaver Dam Creek. Application received August 29, 2000.

0380302. Keystone Coal Mining Corp. (P. O. Box 219, Shelocta, PA 15774), to revise the permit for the Margaret No. 7 Mine in Cowanshannock and Plumcreek Townships, **Armstrong County** to re-designate an existing permit at the Margaret No. 7 Mine's upper and lower pool mine drainage sites as an Industrial Waste Permit, no additional discharges. Application received August 30, 2000.

63733708. Mon View Mining Corp. (5311 Progress Blvd., Bethel Park, PA 15102), to revise the permit for the Mathies Mine CRDA in Union Township, **Washington County**, slurry injection into abandoned deep mine, no additional discharges. Application received September 20, 2000.

30733707. Consolidation Coal Co. (P. O. Box 100, Osage, WV 26543), to renew the permit for the Robena CRDA in Monongahela and Green Townships, **Greene County** to renew the permit, no additional discharges. Application received August 28, 2000.

63851702. Consolidation Coal Co. (4000 Brownsville Rd., South Park, PA 15129), to renew the permit for the Westland Mine, Arden AMD Treatment Plant in Chartiers Township, **Washington County** to renew the permit, no additional discharges. Application received September 27, 2000.

03841305. Keystone Coal Mining Corp. (P. O. Box 219, Shelocta, PA 15774), to revise the permit for the Emilie No. 1 and 2 in South Bend Township, **Armstrong County**, revision to change the post mining land use of approximately 20.5 acres at the Emilie No. 9 drift portal area, no additional discharges. Application received October 11, 2000.

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

33930107. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767). Transfer of an existing bituminous strip operation from Leonard Yenzi in Pinecreek and Warsaw Townships, **Jefferson County** affecting 383.3 acres. Receiving streams: Unnamed tributary of Laurel Run to Little Mill Creek and unnamed tributaries to Little Mill Creek. Application received: April 10, 2000. Permit issued: October 30, 2000.

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

03960109. Amerikohl Mining, Inc. (202 Sunset Drive, Butler, PA 16001). Application received to change the postmining land use from forestland to land occasionally cut for hay at a bituminous surface mining site located in Valley Township, **Armstrong County**, affecting 113 acres. Receiving streams: unnamed tributary to Laurel Run and Laurel Run. Application received: October 25, 2000.

63890103. Pangersis Coal Company (165 Old McKee Road, Oakdale, PA 15071). Application received to renew permit for reclamation only at a bituminous surface mine located in Robinson Township, **Washington County**, affecting 28.5 acres. Receiving streams: unnamed tributary to Robinson Run. Application received: November 1, 2000.

03950110. Rosebud Mining Company (R. D. 9, Box 279A, Kittanning, PA 16201). Application received to renew permit for reclamation only at a bituminous

surface/auger mine located in Mahoning Township, **Armstrong County**, affecting 82.9 acres. Receiving streams: unnamed tributaries to Mahoning Creek. Application received: November 1, 2000.

03950106. TDK Coal Sales, Inc. (P. O. Box 259, Brockway, PA 15824). Application received for renewal of permit for reclamation only for a bituminous surface mining site located in Bradys Bend Township, **Armstrong County**, affecting 95.3 acres. Receiving streams: unnamed tributaries to Sugar Creek and to Sugar Creek. Application received: November 2, 2000.

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

17814000. T D K Coal Sales, Inc. (P. O. Box 259, Brockway, PA 15824), transfer of an existing bituminous surface mine permit from Al Hamilton Contracting Company, located in Penn Township, **Clearfield County** affecting 204.2 acres. Receiving streams: Irish Run and unnamed tributaries to Irish Run. Application received October 5, 2000.

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

49850701R3. Reading Anthracite Company (200 Mahantongo St., PO Box 1200, Pottsville, PA 17901), renewal of an existing coal refuse disposal operation in Coal Township, **Northumberland County** affecting 29.8 acres, receiving stream—none. Application received October 27, 2000.

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

1307-16950306-E-2. Ancient Sun, Inc. (P. O. Box 129, Shippensburg, PA 16254). Application for a stream encroachment to upgrade an existing stream crossing over an unnamed tributary to Black Fox Run in Toby and Perry Townships, **Clarion County**. Receiving streams: Unnamed tributary to Black Fox Run. Application received: October 31, 2000.

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

Coal Applications Withdrawn

54820203T2. International Anthracite Corporation (213 South 16th Street, Pottsville, PA 17901), withdrawal of a permit transfer application in Hegins and Porter Townships, **Schuylkill County** affecting 200.0 acres, receiving stream—Each Branch Rausch Creek. Application received September 27, 2000. Application withdrawn October 30, 2000.

Bureau of Deep Mine Safety

The Bureau of Deep Mine Safety has received a request for variance from DLR Mining, Inc. The following notification contains a summary of this request. A complete copy of the variance request may be obtained from Allison Gaida by calling (724) 439-7469 or from the BDMS web site at <http://www.dep.state.pa.us/dep.deputate/minres/dms/dms.htm>.

The Department of Environmental Protection (Department) is publishing a summary of the request in order to solicit comments from affected parties on the proposed variance request. Comments may be used by the Bureau to assist in its investigation of the variance request. Comments will be accepted for 30 days following the publication of this notice. All comments should be addressed to Richard E. Stickler, Director, Bureau of Deep

Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401.

Section 702 of the Bituminous Coal Mine Act (52 P. S. §§ 701 and 702) provides a mechanism for operators to obtain variances from specific requirements of the Act to accommodate the adoption of new machinery, equipment, tools, supplies, methods or processes.

Section 242(c) states that where belt conveyors are installed, main stoppings and regulators shall be so arranged as to reduce the quantity of air traveling in the belt conveyor entry to a minimum for effective ventilation and to provide an intake air split as an escapeway from the face area to the main air current.

Summary of the request: DLR Mining, Inc. requests a variance to use point carbon monoxide early warning fire detection system and entries in common with the belt conveyor entry in short term panels at the Nolo Mine.

APPLICATIONS RECEIVED UNDER SECTION 401: FEDERAL WATER POLLUTION CONTROL ACT ENCROACHMENTS

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

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

Applications received under the Dam Safety and 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.

E15-651. Encroachment. **Peter D. Melchiorre**, 1020 North Valley Road, Paoli, PA 19301. To maintain an existing fill which impacted approximately 0.32 acre of wetland in and along the 100-year floodplain of French Creek (TSF-MF). The site is located approximately 2,000 feet southeast of the intersection of Township Road and Mawere Road (Phoenixville, PA Quadrangle N: 2.25 inches; W: 4.25 inches) in Phoenixville Borough, **Chester County**.

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

E39-367. Encroachment. **County of Lehigh**, 17 South Seventh Street, Allentown, PA 18101-2400. To maintain the existing Basin Street Bridge across the Little Lehigh Creek (HQ-CWF) with work consisting of scour repairs to bridge piers and the construction of deflectors in Little Lehigh Creek. The project is located east of Klines Island at the Basin Street Bridge over Little Lehigh Creek, (Allentown East, PA Quadrangle N: 18.6 inches; W: 11.6 inches), City of Allentown, **Lehigh County** (Philadelphia District, U. S. Army Corps of Engineers).

E40-559. Encroachment. **Michael Forte**, 37 North Washington Street, Wilkes-Barre, PA 18701. To place fill in 0.13 acre of PSS wetlands for the purpose of constructing a residential dwelling on Lot No. 4 in Clifton Court. The project is located approximately 0.6 mile north of the intersection of Ashley Street and Middle Road, (Wilkes-Barre West, PA Quadrangle N: 16.3 inches; W: 9.7 inches), Hanover Township, **Luzerne County** (Baltimore District, U. S. Army Corps of Engineers). The applicant proposes wetland replacement by making a contribution to the Pennsylvania Wetland Replacement Project.

E45-401. Encroachment. **East Stroudsburg University**, 200 Prospect Street, East Stroudsburg, PA 18301-2999. To place fill in approximately 0.55 acre of PFO wetlands for the purpose of constructing an athletic field at East Stroudsburg University. The project is located on the eastern side of the campus along Mary Street, approximately 300 feet east of its intersection with Gwendolyn Street, (East Stroudsburg, PA Quadrangle N: 0.25 inch; W: 5.75 inches), East Stroudsburg Borough, **Monroe County** (Philadelphia District, U. S. Army Corps of Engineers).

E45-402. Encroachment. **Harry B. Kneezal**, R. R. 1, Box 198, Tannersville, PA 18372-9602. To remove the existing structure and to construct and maintain a private footbridge having a single span of approximately 62 feet an underclearance of approximately 8 feet across Pocono Creek (HQ-CWF). The project is located on the north side of S. R. 4006 (Camelback Road), approximately 200 feet east of the intersection of S. R. 4006 and Township Road T539, (Mount Pocono, PA Quadrangle N: 10.8 inches; W: 14.1 inches), Pocono Township, **Monroe County** (Philadelphia District, U. S. Army Corps of Engineers).

E52-167. Encroachment. **Wild Acres Lakes Property and Homeowners Association**, R. R. 1, Box 500, Dingmans Ferry, PA 18328. To remove the existing structure and to construct and maintain a road crossing of Hornbeck's Creek (HQ-CWF), consisting of an open-bottomed aluminum boxed culvert having a waterway opening of approximately 14.4 feet x 3.3 feet. The project is located on Doe Drive, approximately 1,500 feet south-east of Richard's Lake (Lake Maskenozha, PA-NJ Quadrangle N: 17.9 inches; W: 7.2), Delaware Township, **Pike County** (Philadelphia District, U. S. Army Corps of Engineers).

E64-213. Encroachment. **Pennsylvania Department of Transportation**, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501. To remove the existing structure and to construct and maintain a prestressed concrete spread box beam bridge having a single span of 62.3 feet (19.00 meters) and underclearance of approximately 13.2 feet (4.03 meters) across Wallenpaupack Creek (HQ-CWF); to temporarily place fill in 0.4 acre (1,936 square meters) of PSS Wetlands for the purpose of maintaining a temporary roadway during construction of the new bridge; and to permanently place fill in a de minimis area of PSS wetlands equal to 0.03 acre (140 square meters).

The project is located along S. R. 0507, Segment 0230, Offset 1187 (Newfoundland, PA Quadrangle N: 12.0 inches; W: 9.1 inches), Dreher Township, **Wayne County**, and Greene Township, **Pike County** (Philadelphia District, U. S. Army Corps of Engineers).

E64-214. Encroachment. **Paul E. Saylor, Jr.**, R. R. 2, Box 2127, Equinunk, PA 18417. To dredge approximately 6 to 7 feet of material from an on-stream pond having a surface area of approximately 0.03 acre. The pond is situated on a tributary to south branch Equinunk Creek (HQ-CWF) on the east side of S. R. 1023, just north of S.G.L. 159, Long Eddy NY-PA Quadrangle N: 3.4 inches; W: 16.9 inches), Lebanon Township, **Wayne County** (Philadelphia District, U. S. Army Corps of Engineers).

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

E07-339. Encroachment. **Terry Wagner, Blair County Commissioners**, 423 Allegheny Street, Hollidaysburg, PA 16648. To remove an existing bridge and to construct and maintain a concrete culvert having a normal span of 12 feet and an underclearance of 3.6 feet in the channel of a tributary to the Frankstown Branch of the Juniata River (WWF) at a point at East Second Street (Williamsburg, PA Quadrangle N: 15.6 inches; W: 10.5 inches) in Williamsburg Borough, **Blair County**.

E28-282. Encroachment. **John Hart, Franklin County Commissioners**, 157 Lincoln Way East, Chambersburg, PA 17201. To remove the existing County Bridge #76, construct and maintain twin pre-cast concrete box culverts each having spans of 16.0 feet and a rise of 4.9 feet in the West Branch Antietam Creek (CFW). Channel realignment and widening of approximately 100 feet of upstream and 130 feet of downstream channel section is proposed. The project is located on Hess-Benedict Road (T-391) (Waynesboro, PA Quadrangle N: 11.0 inches; W: 10.7 inches) in Quincy Township, **Franklin County**.

E28-283. Encroachment. **John Hart, Franklin County Commissioners**, 157 Lincoln Way East, Chambersburg, PA 17201. To remove the existing County Bridge #74 and to construct and maintain twin pre-cast concrete box culverts each having spans of 11 feet with a rise of 4.75 feet in the West Branch Antietam Creek (CWF). Channel realignment and widening of approximately 60 feet of upstream and 105 feet of downstream channel section is proposed. Project is located on Stamey Hill Road (T-399) (Waynesboro, PA Quadrangle N: 15.9 inches; W: 9.7 inches) in Quincy Township, **Franklin County**.

E28-284. Encroachment. **John Hart, Franklin Cnty Comm**, 157 Lincoln Way East, Chambersburg, PA 17201. To remove the existing County Bridge #75 and to construct and maintain twin pre-cast concrete box culverts each having spans of 13.0 feet and a rise of 4.5 feet in the West Branch Antietam Creek (CWF). Channel realignment and widening of approximately 30 feet of upstream and 125 lineal feet of downstream channel section is proposed. The project is located on Mt. Zion Road (T-397) (Waynesboro, PA Quadrangle N: 13.9 inches; W: 10.2 inches) in Quincy Township, **Franklin County**.

E31-166. Encroachment. **Charles Querry**, R. D. 4, Box 433, Tyrone, PA 16686. To construct and maintain a stream crossing consisting of three 42-inch by 29-inch corrugated metal pipe arch culverts in the channel of

Logan Spring Run (WWF) at a point approximately 1,500 feet upstream of the Route 550 crossing (Tyrone, PA Quadrangle N: 10.7 inches; W: 8.8 inches) in Warriors Mark Township, **Huntingdon County**.

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

E02-1324. Encroachment. **J. West Corporation**, 222 Oxford Boulevard, Allison Park, PA 15101. To place and maintain fill on the right bank of the Allegheny River (WWF), to place and maintain fill in approximately 0.17 acre of wetlands and to construct and maintain two outfall structures on the right bank of said stream for the purpose of constructing the Cove at St. Charles residential development located on the south side of St. Charles Court, approximately 300 feet west from the intersection of Boyd Avenue, River Road and St. Charles Court (Braddock, PA Quadrangle N: 21.8 inches; W: 14.4 inches) in O'Hara Township and Baldwin Borough, **Allegheny County**.

E03-390. Encroachment. **Boggs Township Supervisors**, R. D. 1, Box 49A, Templeton, PA 16259. To remove the existing structure (Township Bridge No. 33) and to construct and maintain a bridge having a normal clear span of 20 feet and an underclearance of 6.9 feet across Scrubgrass Creek (CWF) located on T-822 at a point approximately 200 feet from its intersection with T-632. Also to construct and maintain temporary diversion devices in the channel during construction (Distant, PA Quadrangle N: 5.69 inches; W: 16.99 inches) in Boggs Township, **Armstrong County**.

E26-275. Encroachment. **Kenneth Nicholson, Jr.**, P. O. Box 201, Normalville, PA 15469. To construct and maintain a 125-foot long, 8-foot diameter pipe stream enclosure in Irish Run (WWF) for the purpose of providing additional parking for Fat Boys Lounge located along S. R. 119 South approximately 0.5 mile north of its intersection with S. R. 982 (Connellsville, PA Quadrangle N: 11.25 inches; W: 8.95 inches) in Bullskin Township, **Fayette County**.

E32-427. Encroachment. **Pine Township**, P. O. Box 89, Heilwood, PA 15745-0089. To remove the existing structure and to construct and maintain a 40-foot long culvert consisting of four 5-foot diameter pipes (invert depressed 4 inches) in Dutch Run (CWF) located on T-585 (Kinter Station Road) at a point approximately 0.5 mile east of its intersection with S. R. 1013. Also to place and maintain rock rip rap at the structure's inlet and outlet (Colver, PA Quadrangle N: 19.38 inches; W: 15.77 inches) in Pine Township, **Indiana County**.

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

E25-622. Encroachment. **PA Department of Transportation, District 1-0**, 255 Elm Street, P. O. Box 398, Oil City, PA 16301. To install concrete paving 1-foot below the existing streambed and maintain the 480-foot long concrete arch stream enclosure having a span of 21 feet and a rise of 12 feet in Twelvemile Creek (HQ-CWF; MF) on S. R. 0090, Segment 0384, Offset 1789 approximately 2.4 miles east of exit 10A (North East, PA-NY Quadrangle N: 7.9 inches; W: 13.8 inches) in North East Township, **Erie County**.

DAM SAFETY

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

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

D02-098A. Dam. **Adam and Becky Slade** (2510 Wexford Bayne Road, Sewickley, PA 15143). To modify, operate and maintain Adam and Becky Slade Dam across Rippling Run (TSF), for the purpose of making repairs and meeting current design standards for dams. Work includes replacing the primary spillway, constructing a new emergency spillway, constructing a forebay in the upstream section of the lake to reduce sedimentation in the remaining portion of the lake. (Emsworth, PA Quadrangle N: 18.4 inches; W: 15.7 inches) in Franklin Park Borough, **Allegheny County**.

ENVIRONMENTAL ASSESSMENT

The following Environmental Assessment and request for Water Quality Certification is being processed under section 105.12(a)(16) and 105.15(b), restoration activities undertaken and conducted under a restoration plan approved by the Department.

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

EA46-032CO. Environmental Assessment. **Robert Levy, Jr., President** (Talamore at Oak Terrace, 723 Talamore Drive, Ambler, PA 19002). To remove a partially breached dam across a tributary to Park Creek (WWF, MF) for the purpose of restoring the stream to a free flowing condition. The dam is located approximately 1,100 feet northeast of the intersection of Talamore Drive and State Route 63 (Ambler, PA Quadrangle N: 12.75 inches; W: 10.75 inches). Horsham Township, **Montgomery County**.

WATER ALLOCATIONS

Applications filed under the act of June 24, 1939 (P. L. 842, No. 365) (32 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth.

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

Permit No. WA06-1015. Water Allocation. **Citizens Utilities Water Company of Pennsylvania, Berks County.** *Responsible Official:* Brian Hassinger, P. O. Box 6342, 4 Wellington Blvd., Wyomissing, PA 19610. Request: Right to purchase 330,000 gallons per day (mgd) on a monthly basis from the Western Berks Water Authority to serve Rosewood Hills area of the Penn District service area. *Consulting Engineer:* Darryl Jenkins, P. E., Citizens Utilities, P. O. Box 6342, 4 Wellington Blvd., Wyomissing, PA 19610. *Application received:* September 18, 2000.

STORAGE TANKS

SITE SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site Specific Installation Permit application has been received by the Department and is currently under review. Persons wishing to comment on the proposed permit are invited to submit a statement to the Bureau of Watershed Conservation, Division of Storage Tanks, P. O. Box 8762, Harrisburg, PA

17105-8762, within 30 days from the date of this publication. 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 the comment and the relevant facts upon which it is based.

<i>SSIP Application Number</i>	<i>Applicant Name and Address</i>
00027	Steven W. Crain Panda Perkiomen Power, L. P. Suite 1001 4100 Spring Valley Dallas, TX 75422

<i>County and Municipality</i>	<i>Tank Type and Capacity</i>
Montgomery County Upper Hanover Township	1 AST storing Aqueous Ammonia 20% Solution 60,000 gallons 1 AST storing Acid (Sulfuric) 95% Solution 6,000 gallons 1 AST storing Caustic (Sodium Hydroxide) 25% or 50% Solution 6,000 gallons 2 ASTs storing Biocide Storage Tanks—15% Sodium Hypochlorite 2,000 gallons each 1 AST storing Diesel Generator Fuel Oil Tank 1,600 gallons 2 ASTs storing Steam Turbine Lubricating Oil Tanks 5,000 gallons each 4 ASTs storing Combustion Turbine Lubricating Oil Tanks 6,000 gallons each

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.

Any person aggrieved by this action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Board through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed

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

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

Industrial waste and sewerage actions under The Clean Streams Law (35 P. S. §§ 691.1—691.100).

Permits Issued

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

NPDES Permit No. PA0026867 Amendment No. 2. Sewage. **Abington Township**, 1176 Old York Road, Abington, PA 19001. The applicant is authorized to discharge from a facility in Upper Dublin Township, **Montgomery County**.

NPDES Permit No. PA0055972 Permit Transfer. Sewage. **Joseph M. Davis Owner**, 411 Tudor Road, Collegeville, PA 19426. The applicant is authorized to discharge from a facility in Perkiomen Township, **Montgomery County**.

NPDES Permit No. PA0058106. Sewage. **Doug Jones, Owner**, 229 Goshen Road, Apartment B, Schwenksville, PA 19473. The applicant is authorized to discharge from a facility in Douglass Township, **Montgomery County**.

NPDES Permit No. PA0056642. Sewage. **Meenan Oil Company**, 8301 Lansdowne Avenue, Upper Darby, PA 19082. The applicant is authorized to discharge from a facility in Upper Darby Township, **Delaware County**.

NPDES Permit No. PA0056006. Sewage. **Nicholas M. Caban, Owner**, 136 Haldeman Road, Schwenksville, PA 19473. The applicant is authorized to discharge from a facility in Perkiomen Township, **Montgomery County**.

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

WQM Permit No. 5400403. Sewerage Industrial Waste. **Schuylkill County Municipal Authority**, 221 South Centre Street, P. O. Box 960, Pottsville, PA 17901, is authorized to construct a pump station and force main to serve the Foster Township, Schuylkill Highridge Business Park, CES Landfill, and Butler Township, **Schuylkill County**.

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

Permit No. PA0054852 Amendment No. 1. Sewerage. **Western Berks Refuse Authority**, 455 Poplar Neck Road, Birdsboro, PA 19508 is authorized to discharge from a facility located in Cumru Township, **Berks County** to the receiving waters named Schuylkill River.

Permit No. PA0041220. Sewerage. **Hershey Conewago Recreaground, LLC.**, P. O. Box 449, Hershey, PA 17033 is authorized to discharge from a facility located in Conewago Township, **Lancaster County** to the receiving waters named UNT to the Conewago Creek in Watershed 7-G.

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

Permit NPDES PA0114472. Sewerage. **Cherry Township Board of Supervisors**, R. R. 1, Box 1283BB, Dushore, PA 18614-9804. Renewal granted to existing NPDES permit for facility located at Cherry Township, **Sullivan County**.

Permit NPDES PA0209236. Sewerage. **Borough of Tioga**, P. O. Box 158, Tioga, PA 16946-0158. Renewal granted to existing NPDES permit for facility located at Tioga Township, **Tioga County**.

Permit NPDES PA0114588. Industrial Waste. **Sunoco Inc R & M**, 10 Penn Center, 1801 Market Street, Philadelphia, PA 19103-1699. Renewal granted to existing NPDES permit for facility located at State College Borough, **Centre County**.

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

NPDES Permit No. PA0094994. Sewage. **Kennywood Entertainment Partners, L. P.**, 4800 Kennywood Boulevard, West Mifflin, PA 15122 is authorized to discharge from a facility located at Idlewild Park Sewage Treatment Plant, Ligonier, **Westmoreland County** to receiving waters named Loyalhanna Creek.

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

NPDES Permit No. PA0023124. Sewage. **Albion Borough Municipal Authority**, 15 Smock Avenue, Albion, PA 16401 is authorized to discharge from a facility located in Conneaut Township, **Erie County** to Conneaut Creek.

NPDES Permit No. PA0000167. Industrial Waste. **Transportation Investment Group—Union Electric Steel Corporation**, Greengarden Electro Slag Remelt Facility, 7005 West Pine Gate Road, Fairview, PA 16415 is authorized to discharge from a facility located in the City of Erie, **Erie County** to an unnamed tributary to Cascade Creek.

WQM Permit No. 2000411. Sewage. **Trustees of Conneaut Lake Park, Inc.**, 12382 Center Street, Conneaut Lake, PA 16316. This project is for the conversion of an abandoned wastewater treatment plant into an equalization tank in Sadsbury Township, **Crawford County**.

WQM Permit No. 2500418. Sewerage, **Mark T. Hopson SRSTP**, 8658 Haft Rd., Erie, PA 16510. Construction of Mark T. Hopson SRSTP located in Greene Township, **Erie County**.

WQM Permit No. 6200412. Sewerage, **Rebecca L. Gafner SRSTP**, 6 Bradley St., Warren, PA 16365. Construction of Rebecca L. Gafner SRSTP located in Pine Grove Township, **Warren County**.

INDIVIDUAL PERMITS

(PAS)

The following NPDES Individual Permits for Discharges of Stormwater from Construction Activities have been issued.

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

<i>NPDES Permit No.</i>	<i>Applicant's Name and Address</i>	<i>County Municipality</i>	<i>Receiving Stream or Body of Water</i>
PAS10-G008-R	Toll Brothers, Inc. 3103 Philmont Avenue Huntingdon Valley, PA 19006	Easttown Township Chester County	Unnamed Tributary to Crum Creek (HQ-CWF)
PAS10-G161-R	The Pulte Home Corporation of Delaware Valley 1210 Northbrook Drive Suite 150 Trevose, PA 19053	Schuylkill Township Chester	Pickering Creek Reservoir (HQ-TSF)

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

<i>NPDES Permit No.</i>	<i>Applicant's Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Stream Body of Water</i>
PAS10R036	Chris L. Rau HC2, Box 2573 Jim Thorpe, PA 18229	Luzerne County Dennison Township	Mill Creek HQ-CWF
PAS10S091	Steven Setar and Nyles Possinger 44 Overlook Dr. Stroudsburg, PA 18360	Monroe County Jackson Township	Kettle Creek/ McMichaels Creek HQ-CWF
PAS10U126	Joseph Trinkle Director of Development Liberty Property, L. P. 1510 Valley Center Parkway Suite 240 Bethlehem, PA 18017	Northampton County Hanover Township	Catasauqua and Monocacy Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County Municipality</i>	<i>Receiving Stream or Body of Water</i>
PAS102514	GKN Sintered Metals Inc. P. O. Box D St. Marys, PA 15857 Dobson Excavation Cherry Road Kersey, PA 15846	Elk County Fox Township	Byrnes Run (EV)

INDIVIDUAL PERMITS

(PAR)

Notice of Intent (NOI) for coverage under NPDES and/or other General Permits

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

The 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 arrangement 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 Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-10	General Permit for Discharge Resulting From Hydrostatic Testing of Tanks and Pipelines
PAG-11	(TO BE ANNOUNCED)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)

General Permit Type—PAG-2

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
New Garden Township Chester County	PAR10-G393	Orleans Homebuilders 3333 Street Road Suite 101 Bensalem, PA	West Branch Red Clay Creek (TSF)	Department of Environmental Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130
East Marlborough Township Chester County	PAR10-G353	DCW, Inc. 214 Kirkbrau Road Kennett Square, PA	Red Clay Creek (WWF-MF)	Department of Environmental Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130
East Fallowfield Township Chester County	PAR10-G356	Fallowfield Development Company 1532 Richard Drive West Chester, PA	Dennis Run (WWF-MF)	Department of Environmental Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Collegeville Borough Montgomery County	PAR10-T619	Ursinus College Main Street Collegeville, PA	Perkiomen Creek (TSF)	Department of Environmental Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Lower Gwynedd Township Montgomery County	PAR10-T630	Philomeno and Salamone 450 S. Gravers Rd. Plymouth Meeting, PA	Unnamed Tributary to Wissahickon Creek	Department of Environmental Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130

NOTICES

6001

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
New Hanover Township Montgomery County	PAR10-T656	Nicholas P. Fioravanti 2978 Reifsnnyder Rd. Gilbertsville, PA	Swamp Creek (TSF)	Department of Environmental Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Hatfield Township Montgomery County	PAR10-T640	TH Properties, Inc. 345 Main Street Harleysville, PA 19438	Unnamed Tributary to Towamencin Creek (TSF)	Department of Environmental Protection Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Lehigh County N. Whitehall Township	PAR10Q147	N. Whitehall Township Janet Talotta 3256 Levans Rd. Coplay, PA 18037	Coplay Creek CWF	Lehigh CD (610) 391-9583
Lehigh County N. Whitehall Township	PAR10Q148	Nuss Enterprises Leonard Nuss 2632 Old Post Rd. Coplay, PA 18037	Coplay Creek CWF	Lehigh CD (610) 391-9583
Northampton County Upper Mt. Bethel Township	PAR10U143	Stephan J. Setar 44 Overlook Drive Stroudsburg, PA 18360	Allegheny Cr. CWF	Northampton CD (610) 746-1971
Elk County City of St. Marys	PAR102520	St. Marys Clay Products Co. 1764 Bucktail Trail St. Marys, PA 15857	Elk Creek (CWF)	Elk Conservation District Elk County Courthouse P. O. Box 448 Ridgway, PA 15853 (814) 776-5373
Erie County Millcreek Township	PAR10K170	Paul Luciano 7950 Palmer Drive Fairview, PA 16415	Unnamed Tributary to Walnut Creek (CWF; MF)	Erie Conservation District 12723 Route 19 P. O. Box 801 Waterford, PA 16441 (814) 796-4203

General Permit Type—PAG-3

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Lancaster County Columbia Borough	PAR203527	Colonial Metals Company 217 Linden Street P. O. Box 311 Columbia, PA 17512-0311	Susquehanna River	DEP—Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Union County White Deer Township	PAR804835	Pillings FRP R. R. 1, Box 75 New Columbia, PA 17856	West Br. Susquehanna	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Sandycreek Township Venango County	PAR208347	Timken Latrobe Steel—Sandycreek Service Center 2626 Ligonier Street P. O. Box 31 Latrobe, PA 15650	Unnamed Tributary to Morrison Run	DEP Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (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, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Dauphin County East Hanover Township	PAG043535	Mark Malone 273 North Mill Road Harrisburg, PA 17112	UNT to Manada Creek	DEP—Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Bradford County Monroe Township	PAG044893	Carol J. Beirne R. R. 4, Box 273C Towanda, PA 18848	UNT to Towanda Creek	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Lycoming County Bastress Township	PAG044834	Howard and Dorothy Smith 4825 Rte 654 Highway Williamsport, PA 17702-9502	UNT Bender Run	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Centre County Union Township	PAG044831	Frederick G. Moore 318 Walker Hollow Rd. Bellefonte, PA 16823	UNT Bald Eagle Creek	Northcentral 208 W. Third St. Williamsport, PA 17701 (717) 327-3664
Westmoreland County Mt. Pleasant Township	PAG046104	George Lazur R. D. 4, Box 1895 Mt. Pleasant, PA 15666	Tributary of Boyer Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Greene Township Erie County	PAG048695	Mark T. Hopson 8658 Haft Road Erie, PA 16510	Unnamed Tributary to Fourmile Creek	DEP Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Pine Grove Township Warren County	PAG048698	Rebecca L. Gafner 6 Bradley Street Warren, PA 16365	Unnamed Tributary of Wiltsie Run	DEP Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Conewango Township Warren County	PAG048340	Edward W. and Barbara C. McCullough 630 Liberty Street Extension Warren, PA 16365	Unnamed Tributary of Conewango Creek	DEP Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Sugar Grove Township Warren County	PAG048352	Robert A. and Mary A. Marasco R. R. 1, Box 85C Youngsville, PA 16371	Tributary to Irvine Run	DEP Northwest Region Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-5

<i>Facility Location County and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Stream, Body of Water or Site Name and Address</i>	<i>Contact Office and Telephone No.</i>
Berks County Exeter Township	PAG053543	PA Historical & Museum Commission Daniel Boone Homestead 400 Daniel Boone Road Birdsboro, PA 19508	Otawin Creek	DEP—Southcentral Region 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Washington County Washington City	PAG056146	United Refining Co. of PA 11 Bradley Street P. O. Box 688 Warren, PA 16365	UNT of Catfish Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

**SEWAGE FACILITIES ACT
PLAN APPROVAL**

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

Northcentral Regional Office: Department of Environmental Protection, Water Management Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (570) 327-0530.

Location: Jackson Township, Tioga County.

Project Description: Construction of sewage collection and conveyance system consisting of approximately 44,100 feet of 8-inch sewer and 4,000 feet of 4-inch force main to serve the villages of Millerton and Jackson Summit as well as the SR 0328 corridor between these two villages. A pump station will be located southwest of Millerton. A new 100,000 gallon per day extended aeration sewage treatment plant will be constructed northeast of Millerton with discharge to Hammond Creek. Approximately 283 existing EDUs will be served by this project.

The Department's review of the sewage facilities update revision has not identified any significant negative environmental impacts resulting from this proposal.

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

Location: Garda's Restaurant at the Intersection of S. R. 0066 and Township Rd. T-522. Manor Township, Armstrong County.

Project: Approval of a revision to the Official Sewage Facilities Plan of Manor Township, **Armstrong County**. Project involves construction of a small flow sewage treatment facility to service an existing restaurant. Treated effluent is to be discharged to Crooked Creek.

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

Location: City of Corry, Erie County. Municipal Authority of the City of Corry, 100 South Center Street, Corry, PA 16407.

Project Description: This approved project proposes construction of a new pump station adjacent to the existing Avenue A Pump Station. The pump station will be designed to handle 1.15 mgd dry-weather flows and 6.0+

mgd wet weather flows. A new 18" force main, parallel to the existing force main will be constructed. Several short-term improvements to the Sewage Treatment Plant to enhance operation and maintenance are included.

The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal.

SAFE DRINKING WATER

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

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

Permit No. 0600505. Public water supply. **Washington Township Municipal Authority, Berks County.** *Responsible Official:* Newton T. Longacre, Authority Chairperson, P. O. Box 421, Bally, PA 19503-0421. *Type of Facility:* New consecutive community water system comprised of a distribution system only. *Consulting Engineer:* Richard L. Hinkle, Gilmore & Associates, Inc., 331 Butler Avenue, New Britain, PA 18901. *Permit to Construct Issued:* September 15, 2000.

Permit No. 0698506. Public water supply. **Filippini Real Estate, Inc., Berks County.** *Responsible Official:* Edmidio Filippini, 17 Augusta Lane, Fleetwood, PA 19522. *Type of Facility:* Issued permit to construction of two wells with treatment to serve the Golden Oaks Subdivision. *Consulting Engineer:* Timothy Krall, P.E., Vitillo Corporation. *Permit to Construct Issued:* October 16, 2000.

Permit No. 0600502. Public water supply. **Cornell Corrections, Inc., New Morgan Borough, Berks County.** *Responsible Official:* Thomas Rathjen, 4801 Woodway, Suite 100E, Houston, TX 77056-1805. *Type of Facility:* Public water supply Well No. 5 as a second source with disinfection and pH adjustment. *Consulting Engineer:* Daniel R. Hudson, P.E., Evans Mill Environmental, Inc., P. O. Box 735, 101 Fellowship Road, Uwchland, PA 19480-0735. *Permit to Operate Issued:* October 20, 2000.

Regional Office: Northcentral Field Operations, Environmental Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701.

Permit No. Minor Amendment. The Department issued an Operation Permit to **Wellsboro Municipal Authority**, 28 Crafton Street, Wellsboro, PA 16901, Wellsboro Borough, **Tioga County**. The permit will allow operation of the sedimentation basin with the new cover.

Permit No. 1498505 Operation Temporary #2. The Department issued an Operation Temporary Permit to **College Township Water Authority**, 1481 East College Avenue, State College, PA 16801, College Township, **Centre County**. This permit authorizes temporary operation of Spring Creek Park Well, a disinfection system, a sequestration system and a pump station.

Permit No. 1791503. The Department issued a Revised Operation Permit to **Clearfield Municipal Authority**, 107 East Market Street, Clearfield, PA 17830, Clearfield Borough, **Clearfield County**. This revised permit condition is to limit maximum flow from all wells to 740 gallons a minute.

Permit No. 1799502. The Department issued an Operation Permit to **Clearfield Municipal Authority**, 107 East Market Street, Clearfield, PA 17830, Clearfield Borough, **Clearfield County**. This permit authorizes operation of Wells 4 and 5 as permanent supply sources that will be treated at the Montgomery Creek Filter Plant.

Permit No. Minor Amendment. The Department issued an Operation Permit to **Clearfield Municipal Authority**, 107 East Market Street, Clearfield, PA 17830, Clearfield Borough, **Clearfield County**. This permit amendment authorizes operation of a finished water storage tank, booster pumping facilities and water transmission and distribution lines to provide public water service to the Mount Zion area of Lawrence Township.

Permit No. Minor Amendment. The Department issued a construction permit to **Shamokin Dam Borough Water System**, 144 West Eighth Avenue, PO Box 273, Shamokin Dam, PA 17876, Shamokin Dam Borough, **Snyder County**. This minor amendment authorizes construction of a 10-inch diameter direct feed line in the new elevated welded steel finished water storage tank. This direct feed line will allow the supply of water directly from the treatment plant to the elevated tank.

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

Permit No. 0399502. Public Water Supply. **South Buffalo Township Municipal Authority**, P. O. Box 266, Iron Bridge Road, Freeport, PA 16229-0266.

Type of Facility: Kenneth R. VanDyke Storage Tank, Permit issued for Operation: October 27, 2000.

Permit No. 0200501. Public Water Supply. **Harrison Township Water Authority**, 1705 Rear Freeport Road, Natrona Heights, PA 15065. *Type of Facility: Harrison Township Water Storage Tanks, Permit issued for Construction: October 23, 2000.*

Northwest Regional Office: Regional Manager; Water Supply Management, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6899.

3300501. Public Water Supply. **Brockway Borough Municipal Authority**, 501 Main Street, Brockway, PA 15824. Permit issued for the construction and development of groundwater supply well at Rattlesnake Reser-

voir (Well No. 5) in Snyder Township, **Jefferson County**. *Type of Facility: Municipal Authority*

Consulting Engineer: Robert A. Reisinger, Project Manager, Glace Associates, Inc., Consulting Engineers, 3605 Trindle Road, Camp Hill, PA 17011.

Construction Permit Issued: November 1, 2000.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 2

The following final reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the Act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or non-residential exposure factors, a description of the remediation performed, and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected.

For further information concerning the final report, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the community relations coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

Southeast Regional Office: Environmental Cleanup Program Manager; Lee Park Suite 6010, 555 North Lane Conshohocken, PA 19428, (610) 832-5950.

Boeing Company Helicopters, Ridley Township and Eddystone Borough, **Delaware County**. Colleen Costello, P.G., Langan Engineering & Environmental Services, Inc., 500 Hyde Park, Doylestown, PA 18901-1699, has submitted a Final Report concerning remediation of site soil contaminated with BTEX, petroleum hydrocarbons, polycyclic aromatic hydrocarbons and heavy metals and groundwater, surface water and sediment contaminated with BTEX, petroleum hydrocarbons, polycyclic aromatic hydrocarbons, solvents and heavy metals. The report is intended to document remediation of the site to meet Statewide health, background and site-specific standards.

Riverfront North Site—Property A, Bristol Borough, **Bucks County**. Michael A. Christie, P.G., Penn Environmental & Remediation, Inc., 2755 Bergey Road, Hatfield, PA 19440, has submitted a Final Report concerning remediation of site soil contaminated with lead, heavy metals, solvents, and polycyclic aromatic hydrocarbons. The report is intended to document remediation of the site to meet the Statewide health standard.

James Armour Site, City of Philadelphia, **Philadelphia County**. Thomas G. May, P.E., Urban Engineers, Inc., 530 Walnut Street, 14th Floor, Philadelphia, PA 19106-3685, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with lead, BTEX, petroleum hydrocarbons and polycyclic aromatic hydrocarbons. Since the site now meets the Statewide health standard, the report was prepared in accordance with the Statewide health standard format. It had previously been expected that a site-specific standard would be necessary as was published as such in the February 28, 1998 *Pennsylvania Bulletin*. The Final Report is intended to document remediation of the site to meet the Statewide health standard.

Northeast Regional Field Office: Joseph Brogna, Regional Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Tokarczyk Property (540 Altamont Boulevard), West Mahanoy Township, **Schuylkill County**. Eric P. Roberts, Principal Engineer, Excalibur Group LLC, 19709 Frederick Road, Suite 440, Germantown, MD 21770 has submitted a Final Report (on behalf of Leonard Tokarczyk and George Tokarczyk, North Railroad Avenue, Frackville, PA 17931) concerning the remediation of site soils and groundwater found or suspected to have been contaminated with gasoline. The report was submitted to document remediation of the site to meet the Background standard. A Notice of Intent to Remediate was simultaneously submitted. Please refer to additional *Pennsylvania Bulletin* notice.

Southcentral Regional Office: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4705.

All American Truck Plaza Carlisle, Middlesex Township, **Cumberland County**. Hydrocon Services, Inc., 2945 South Pike Avenue, Allentown, PA 18103 and All American Truck Plazas, Inc., Box 302, Bethel, PA 19507 have submitted a Final Report concerning remediation of site soils contaminated with BTEX and PAHs. The report is intended to document remediation of the site to the Statewide health standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

Under Act 2, 1995

Preamble 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908) and Chapter 250 Administration of Land Recycling Program.

Provisions of 25 Pa. Code § 250.8 Administration of Land Recycling Program requires the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the Land Recycling and Environmental Remediation Standards Act (Act). Plans and reports required by provisions of the Act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report, and cleanup plan. A remedial investigation report includes conclusions

from the the site investigation, concentration of regulated substances in environmental media, benefits of reuse of the property, and in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. A cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed, and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice of the plan or report appears. If information concerning a plan or report is required in an alternative form, contact the community relations coordinator at the appropriate regional office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has acted upon the following plans and reports:

Southcentral Regional Office: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4705.

Lewistown Hospital, Derry Township, **Mifflin County**. Bolger Brothers, Inc., R. D. 2, Box 438, Altoona, PA 16601-9322 and Lewistown Hospital, 400 Highland Avenue, Lewistown, PA 17044 have submitted a final report concerning the remediation of site soils contaminated with BTEX, PHCs and PAHs. The final report demonstrated attainment of the Statewide health standard, and was approved by the Department on October 27, 2000.

Teledyne Amco, Mohnton Borough, **Berks County**. Teledyne Industries, Inc., c/o ATI, 1000 Six PPG Place, Pittsburgh, PA 15222 has submitted a combined remedial investigation and baseline risk assessment report concerning the remediation of site soils, groundwater, surface water and sediment contaminated with solvents. The report was disapproved by the Department on November 2, 2000.

Northcentral Regional Office: Michael C. Welch, Environmental Cleanup Program Manager, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (570) 321-6525.

Abandoned Garnier Portfolio Site, City of Sunbury, **Northumberland County**. Coca-Cola Enterprises, Inc., 2500 Windy Ridge Parkway, Suite 700, Atlanta, GA 30339 has submitted a Final Report concerning the remediation of site soil contaminated with lead, heavy metals, solvents and PAHs. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 16, 2000.

SOLID AND HAZARDOUS WASTE

LICENSE TO TRANSPORT HAZARDOUS WASTE

Amended license issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations for license to transport hazardous waste.

Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Monarch Transport Environmental Services, P. O. Box 330, Woodstown, NJ 08098; License No. PA-AH 0558; amended license issued November 2, 2000.

License expired under the Solid Waste Management Act (35 P. S. §§ 6018.1001—6018.1003) and regulations for license to transport hazardous waste.

Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Ahles Pump & Tank Company, Inc., 5302 Brown Road, Verona, NY 13478; License No. PA-AH S234; license expired on October 31, 2000.

Keystone Petroleum Equipment, LTD, 981 B Trindle Road W., Mechanicsburg, PA 17055; License No. PA-AH 0540; license expired on October 31, 2000.

License issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations for license to transport hazardous waste.

Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

AES Transportation, Inc., 4990 Grand Avenue, Pittsburgh, PA 15225; License No. PA-AH 0671; license issued October 31, 2000.

Heritage-Crystal Clean, LLC, 3970 W. 10th Street, Suite A, Indianapolis, IN 46222; License No. PA-AH 0672; license issued November 2, 2000.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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

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

Permit I. D. No. 301256. Martins Creek SES Ash Basin No. 1, PPL Martins Creek, LLC, Two North Ninth Street, Allentown, PA 18101-1179. A permit reissuance, transferring Permit No. 301256, Martins Creek SES Ash Basin No. 1 from PPL to PPL Martins Creek, LLC for this captive, Class II residual waste disposal impoundment, located in Lower Mount Bethel Township, Northampton County. The permit was reissued in the Regional Office on October 30, 2000.

Permit I. D. No. 301257. Martins Creek SES Ash Basin No. 4, PPL Martins Creek, LLC, Two North Ninth Street, Allentown, PA 18101-1179. A permit reissuance,

transferring Permit No. 301257, Martins Creek SES Ash Basin No. 4 from PPL to PPL Martins Creek, LLC for this captive, Class II residual waste disposal impoundment, located in Lower Mount Bethel Township, Northampton County. The permit was reissued in the Regional Office on October 30, 2000.

AIR QUALITY

OPERATING PERMITS

General Plan Approval and Operating Permit usage authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

17-15A: Kriebel Minerals, Inc. (P. O. Box 765, Clarion, PA 16214) on October 31, 2000, for construction and operation of a 450 horsepower natural gas-fired engine and associated air cleaning device (a catalytic converter) pursuant to the General Plan Approval and General Operating Permit for Natural Gas Production Facilities (BAQ-GPA/GP5) in Knox Township, Clearfield County.

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

24-152: Atlas America Inc., Boone Mountain Station (County Line Road, St. Marys, PA 15857) on October 31, 2000, for a natural gas fired compressor engine in Horton Township, Elk County.

Administrative Operating Permit Amendments issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.450 (relating to administrative operating permit amendments).

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

37-00264: Ellwood Quality Steels Co. (700 Moravia Street, New Castle, PA 16101) for an Administrative Amendment made to the facility's Title V Operating Permit to incorporate newly applicable requirements from Plan Approvals PA37-264C and PA37-264D in New Castle, Lawrence County.

Operating Permits issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F (relating to operating permit requirements).

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

15-0078: Centocor, Inc. (200 Great Valley Parkway, Malvern, PA 19355) on November 3, 2000, for operation of a Facility NO_x/VOC RACT in East Whiteland Township, Chester County.

46-0202: Nanosystems elan Pharmaceuticals Tech. (3000 Horizon Drive, King of Prussia, PA 19406) on November 3, 2000, for operation of an emergency electric generator in Upper Merion Township, Montgomery County.

46-0123: Wesco Industrial Products, Inc. (1250 Welsh Road, Lansdale, PA 19446) on November 3, 2000, for operation of spray paint booths in **Montgomery County**.

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

17-305-045: King Coal Sales, Inc. (P. O. Box 712, Phillipsburg, PA 16866) on October 3, 2000, for operation of a rotary coal breaker and diesel engine in Morris Township, **Clearfield County**. The coal breaker is subject to Subpart Y of the Federal Standards of Performance for New Stationary Sources.

47-303-003: HRI, Inc. (1750 West College Avenue, State College, PA 16804-0155) on October 10, 2000, to operate a drum mix asphalt concrete plant and associated air cleaning device (a fabric collector) in Liberty Township, **Montour County**. This plant is subject to Subpart I of the Federal Standards of Performance for New Stationary Sources.

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

37-00003: Essroc Cement (2nd Street, Bessemer, PA 16112) for a Title V Operating Permit on November 2, 2000, for operation of the cement manufacturing facility in Bessemer Borough, **Lawrence County**. This operating permit included approval to utilize tire-derived fuels in the cement kilns at the facility.

PLAN APPROVALS

Plan Approvals issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B (relating to plan approval requirements).

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

15-0086A: Bakery Feeds, Inc. (97 Westbrook Drive, Honey Brook, PA 19344) on November 2, 2000, for operation of a Regenerative Thermal Oxidizer (RTO) in West Brandywine Township, **Chester County**.

09-0009B: Webcraft Direct Marketing, Inc. (4371 County Line Road, Chalfont, PA 18914) on November 2, 2000, for operation of a Web Offset Press in New Britain Township, **Bucks County**.

46-0169B: H & N Packaging, Inc. (92 County Line Road, Colmar, PA 18915) on November 3, 2000, for operation of a five color Flexographic Printing Press in Hatfield Township, **Montgomery County**.

15-0074A: R. A. Ferris & Co., Inc. (899 Fern Hill Road, West Chester, PA 19380) on November 3, 2000, for operation of a gas fired cremation unit in West Goshen Township, **Chester County**.

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

45-318-031: Tobyhanna Army Depot (Attention AMSEL-TY-RK-E, 11 Hap Arnold Boulevard, Tobyhanna, PA 18466) on October 27, 2000, for construction of a paint spray booth and associated air cleaning device in Coolbaugh Township, **Monroe County**.

39-304-009C: Ransom Industries LP (101 North Church Street, Macungie, PA 18062) on October 30, 2000, for modification of grinding stations in Macungie Borough, **Lehigh County**.

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

19-317-023C: Heinz Pet Products (6670 Low Street, Bloomsburg, PA 17815-8607) on October 2, 2000, for installation of an air cleaning device (a wet centrifugal collector) on seven gravy mixing tanks in South Centre Township, **Columbia County**.

08-302-042: Oak Hill Veneer, Inc. (P. O. Box 304, Troy, PA 16947) on October 16, 2000, for construction of a 16.26 million BTU per hour wood-fired boiler and associated air cleaning device (a multiclone collector) in Troy Township, **Bradford County**. This boiler is subject to Subpart Dc of the Federal Standards of Performance for New Stationary Sources.

08-313-003D: Osram Sylvania Products, Inc. (Hawes Street, Towanda, PA 18848-0504) on October 17, 2000, for installation of an air cleaning device (a cartridge collector) on three TV phosphor furnaces in North Towanda Township, **Bradford County**.

49-0014A: Jeraco Enterprises, Inc. (135 Sodom Road, Milton, PA 17847) on October 24, 2000, for construction of three fiberglass automotive accessory surface coating spray booths in Milton Borough, **Northumberland County**.

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

37-290A: Barletto Corp. (526 South Jefferson Street, New Castle, PA 16101) on October 30, 2000, for installation of a baghouse in New Castle, **Lawrence County**.

24-318-001A: Osram Sylvania, Inc. (835 Washington Road, St. Marys, PA 15857) on October 30, 2000, for installation of a baghouse in Benzinger Township, **Elk County**.

Plan Approvals extensions issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code § 127.13 (relating to extensions).

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

46-0207: BKL, Inc. (421 Feheley Drive, King of Prussia, PA 19406) on November 3, 2000, for operation of two screen printing presses and two coating in Upper Merion Township, **Montgomery County**.

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

31-05011A: U. S. Silica Co. (P. O. Box 187, Berkeley Springs, WV 25411-0187) on October 28, 2000, for operation of a low iron sand project controlled by a dust collector, covered under this Plan Approval until February 24, 2001, at the Mapleton Depot Plant in Brady Township, **Huntingdon County**. This source is subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Processing Plants.

Southwest Regional Office: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4174.

65-307-054B: Teledyne, Inc. (100 River Road, Brackenridge, PA 15014) on November 1, 2000, for the EAF Oxygen Lance and AOD Vessel at Teledyne Allvac in Derry Township, **Westmoreland County**.

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

10-047D: Mine Safety Appliances Co. (1420 Mars Evans City Road, Evans City, PA 16033) on October 30, 2000, for a drying operation in the amine boranes plant in Forward Township, **Butler County**.

25-974A: Hi-Tech Plating Co. (1015 West 18th Street, Erie, PA 16502) on October 30, 2000, for a chrome plating operation in Erie, **Erie County**.

42-399-013C: Temple Inland Forest Products Corp.—Mt. Jewett (R. D. 2, Hutchins Road, Mt. Jewett, PA 16740) on October 30, 2000, for post modification of the particleboard operation (System 15/15A) in Sergeant Township, **McKean County**.

42-158A: Temple Inland Forest Products Corp.—Mt. Jewett (R. D. 2, Hutchins Road, Mt. Jewett, PA 16740) on October 30, 2000, for post modification of the particleboard operation (System 17) in Sergeant Township, **McKean County**.

42-176C: Temple Inland Forest Products Corp.—Mt. Jewett (R. D. 2, Hutchins Road, Mt. Jewett, PA 16740) on October 30, 2000, for a sander dust system in Sergeant Township, **McKean County**.

MINING

APPROVALS TO CONDUCT COAL AND NONCOAL ACTIVITIES

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 water quality certification. Mining activity permits issued in response to such 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).

McMurray District Office, 3913 Washington Road, McMurray, PA 15317.

Coal Mining Permits Issued:

32881301. Mears Enterprises, Inc. (P. O. Box 157, Clymer, PA 15728), to renew the permit for the Penn Run Mine in Cherryhill Township, **Indiana County** to renew the existing deep mine permit, no additional discharges. Permit issued October 13, 2000.

32881301. Mears Enterprises, Inc. (P. O. Box 157, Clymer, PA 15728), to revise the permit for the Penn Run Mine in Cherryhill Township, **Indiana County** to revise the subsidence control plan to eliminate the support areas for pre-1966 structures, no additional discharges. Permit issued October 18, 2000.

30743711. RAG Cumberland Resources, L. P. (P. O. Box 1020, Waynesburg, PA 15370), to transfer the permit for the Cumberland Mine, Refuse Site No. 1 in Whiteley Township, **Greene County** to transfer from Corp. to L. P., no additional discharges. Permit issued October 27, 2000.

30960701. RAG Emerald Resources, L. P. (P. O. Box 1020, Waynesburg, PA 15370), to transfer the permit for the Emerald Mine, Refuse Site No. 2 in Franklin Township, **Greene County** to transfer from Corp. to L. P., no additional discharges. Permit issued October 28, 2000.

32991301. DLR Mining, Inc. (3065 Airport Rd., Indiana, PA 15701), to revise the permit for the Nolo Mine in Buffington Township, **Indiana County** to revise the existing permit to add a haul road with a stream crossing, no additional discharges. Permit issued October 30, 2000.

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

17840132. M. B. Energy, Inc. (P. O. Box 1319, Indiana, PA 15701-1319), renewal of an existing bituminous surface mine permit in Bell Township, **Clearfield County** affecting 459.4 acres. Receiving streams: unnamed tributaries to Whiskey Run, Whiskey Run to Lost Run. Application received August 28, 2000. Permit issued October 31, 2000.

17753050. River Hill Coal Company, Inc. (P. O. Box 141, Kylertown, PA 16847), revision to an existing bituminous surface mine permit for a Change in Permit Acres from 642.8 to 687.6 acres. The permit is located in Karthaus Township, **Clearfield County**. Receiving streams: unnamed tributaries to Saltlick Run, to Saltlick Run, unnamed tributaries to Mosquito Creek, unnamed tributaries to West Branch Susquehanna River, Saltlick Run, Mosquito Creek all to West Branch Susquehanna River. Application received September 22, 2000. Permit issued October 31, 2000.

17990123. Thunder Coal Company (P. O. Box 283, Grampian, PA 16838), commencement, operation and restoration of a bituminous surface mine permit in Penn Township, **Clearfield County** affecting 64.8 acres. Receiving streams: unnamed tributaries to Kratzer Run and unnamed tributaries to Bell Run. Application received December 6, 1999. Permit issued October 30, 2000.

17930124. Sky Haven Coal, Inc. (R. R. 1, Box 180, Penfield, PA 15849), transfer of an existing bituminous surface mine-auger permit from Al Hamilton Contracting Company. The permit is located in Woodward and Decatur Townships, **Clearfield County** affecting 346 acres. Receiving streams: North Branch to Upper Morgan Run, Upper Morgan Run to Clearfield Creek, Clearfield Creek to West Branch Susquehanna River; and Little Beaver Run to Beaver Run, Beaver Run to Moshannon Creek, Moshannon Creek to West Branch Susquehanna River. Application received June 12, 2000. Permit issued October 25, 2000.

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

Small Noncoal (Industrial Mineral) Permits Issued

58000832. George Appleman (P. O. Box 52, Nicholson, PA 18446), commencement, operation and restoration of a small bluestone quarry operation in Springville Township, **Susquehanna County**, affecting 2.0 acres, receiving stream—Meshoppen Creek. Permit issued October 31, 2000.

58000840. William H. Liepinis (R. R. 1, Box 145A, Susquehanna, PA 18847), commencement, operation and restoration of a small bluestone quarry operation in Oakland Township, **Susquehanna County**, affecting 3.0 acres, receiving stream—Lewis Creek. Permit issued November 1, 2000.

58000837. Robert J. Thomas, Sr. (Montrose Terrace Park, Box 503, Montrose, PA 18801), commencement, operation and restoration of a small bluestone quarry operation in Franklin Township, **Susquehanna County**, affecting 3.0 acres, receiving stream—Snake Creek. Permit issued November 1, 2000.

58000838. John L. Magill (R. R. 1, Box 1453, Hop Bottom, PA 18824), commencement, operation and restoration of a small noncoal quarry operation in Lathrop Township, **Susquehanna County**, affecting 1.0 acre, receiving stream—none. Permit issued November 3, 2000.

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

Small Industrial Minerals Permit Issued

08000807. Irene West (P. O. Box 387, Wysox, PA 18854), commencement, operation and restoration of a Small Industrial Minerals (Flagstone) permit in Rome Township, **Bradford County** affecting 3 acres. Receiving streams: unnamed tributary; tributary to Parks Creek to Wysox Creek. Application received September 19, 2000. Permit issued November 1, 2000.

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

Noncoal Permits Issued

52980301. McKean & Son, Inc. (R. R. 1, Box 628, Hawley, PA 18428), commencement, operation and restoration of a quarry operation in Lackawaxen Township, **Pike County** affecting 11.87 acres, receiving stream—unnamed tributary to Little Blooming Grove Creek. Permit issued November 1, 2000.

36990301. Martin Limestone, Inc. (P. O. Box 550, Blue Ball, PA 17506), commencement, operation and restoration of a quarry operation in Earl and Ephrata Townships, **Lancaster County** affecting 51.2 acres, receiving stream—none. Permit issued November 1, 2000.

7774SM2A1C4. Berks Products Corporation (726 Spring Street, Reading, PA 19603), correction to an existing quarry operation in Ontelaunee Township, **Berks County** affecting 152.0 acres, receiving stream—Maiden Creek. Correction issued November 3, 2000.

Bureau of Deep Mine Safety

The Bureau of Deep Mine Safety (BDMS) has approved Consolidation Coal Company's request for a variance from the requirements of Section 224(b) of the Pennsylvania Bituminous Coal Mine Act at the Dilworth Mine. This notification contains a summary of this request. A complete copy of the variance request may be obtained from Allison Gaida by calling (724) 439-7469 or from the BDMS web site at <http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm>.

Summary of the request: Consolidation Coal Company requested a variance from Section 224(b) of the Pennsylvania Bituminous Coal Mine Act to use a Conoco Drill to drill long horizontal boreholes in advance of mining at the Dilworth Mine. The proposal accords protections to persons and property substantially equal to or greater than the requirements of Section 224(b).

The basis for the Bureau's approval is summarized in the following statements:

1. The proposed alternate drilling method requested by Consolidation Coal Company was used successfully in 1998 under a Bureau-approved plan for the F Mains Section of the Dilworth Mine. In 1998, this method was used to verify that there were no mine voids that would

be cut into during future planned mining activities and to tap and dewater an adjacent mine pool.

2. The Conoco Drill is equipped with a means to close off the borehole should abandoned workings be encountered, thus preventing water and/or hazardous gasses from entering the Dilworth Mine.

3. The proposed minimum barrier pillar width of 50 feet is substantially larger than the pillar that would be provided under the provisions of Section 224(b).

4. The long horizontal borehole method is less labor intensive and produces less exposure to injuries by not having to handle and use hand-held drills and drill steels. By mining normal depth cuts, the work force will be subjected to less risk associated with equipment place changes due to drilling rib boreholes to a depth of 20 feet at an angle of 45-degrees every 8 feet. This will eliminate the need to handle all the equipment associated with the hand-held drill, including hydraulic hoses, drill steels, and the drill itself. Thus, the work force's exposure to types of injuries that could result from handling the hand-held drill is significantly reduced.

5. The long horizontal borehole method will provide verification along the entire length of the drilled hole that there are no mine voids present.

This approval is limited to a variance of the test hole drilling methods set forth in Section 224(b). All other terms and requirements of Section 224 shall remain in effect. Continued authorization for operation under this approval is contingent upon compliance with the measures described in Dilworth Mine's plan. Specific-site plans for future drilling using the long horizontal borehole method shall be submitted to the District Mine Inspector for review and approval.

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 Dam Safety and Encroachment permit applications, requests for Environmental Assessment approval, and requests for Water Quality Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).

Any person aggrieved by this action may appeal, under 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, 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 the written notice of this action unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decisional law.

Actions on applications filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), 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).

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

E40-556. Encroachment. **Pennsylvania Department of Transportation**, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501. To remove the existing structure and to construct and maintain a road crossing of Long Run, consisting of a 22.0-foot by 6.0-foot concrete box culvert, depressed 1.0 foot below stream bed elevation. The project includes the placement of fill in a de minimis area of wetlands equal to 0.02 acre. The project is located on S. R. 3040, Section 370, approximately 0.5 mile east of S. R. 0081 (Sybertsville, PA Quadrangle N: 5.4 inches; W: 0.2 inch), in Butler Township, **Luzerne County**.

E54-273. Encroachment. **Raymond Yaggie**, 202 Kemp Street, Lyons Station, PA 19536. To excavate accumulated silts and sediments within an existing 0.11 acre body of water known as Yaggie Pond in order to restore its original storage capacity; to expand the pond areally an additional 0.2 acre in a southerly direction; to construct an impervious clay liner in the bottom and sides of the pond and to construct and maintain a 4-inch PVC intake structure in a tributary to Lizard Creek. The project is located approximately 500 feet south east of the intersection of Township Road T761 and T928 (New Tripoli, PA Quadrangle N: 15.3 inches; W: 14.0 inches), in West Penn Township, **Schuylkill County**.

E54-275. Encroachment. **Pine Grove Manufactured Homes, Inc.**, P. O. Box 128, Pine Grove, PA 17963. To perform minor grading, paving, chain link fence and guide rail installation within the 100-year floodway of Swatara Creek associated with the driveway realignment and parking lot extension at the Pine Grove Manufactured Homes, Inc. facility. The project is located on the south side of S. R. 0443 approximately 1,500 feet east of the intersection of S. R. 0443 and S. R. 0125 (Pine Grove, PA Quadrangle N: 9.95 inches; W: 0.9 inch) in Pine Grove Borough, **Schuylkill County**.

E54-277. Encroachment. **Kmetz Sales & Service**, R. R. 2, Box 165, Tamaqua, PA 18252. To place fill in 0.08 acre of wetlands for the purpose of constructing a parking lot for an auto sales and service building. The project is located on the west side of S. R. 0309 approximately 700 feet south of the intersection of S. R. 1027 and S. R. 0309 (Tamaqua, PA Quadrangle N: 15.4 inches; W: 16.1 inches), Ross Township, **Schuylkill County**.

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

E05-280. Encroachment. **New Enterprise Stone & Lime Inc.**, P. O. Box 77, New Enterprise, PA 16664. To construct and maintain a bridge with a single span of 32.5 feet with a minimum underclearance of 4.19 feet across Three Springs Run (HQ-CWF) in order to provide access of delivery trucks located about 1,750 feet down-

stream of Church Street (New Enterprise, PA Quadrangle N: 8.33 inches; W: 3.86 inches) in South Woodbury Township, **Bedford County**. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E06-543. Encroachment. **Kutztown Borough**, 105 Railroad Street, Kutztown, PA 19530. To construct and maintain a building for public works facility along the right bank's 100-year floodplain of Sacony Creek located in the area bounded by Perch Street, Railroad Street and Roeller Alley (Kutztown, PA Quadrangle N: 3.8 inches; W: 3.78 inches) in Kutztown Borough, **Berks County**. This permit is in accordance with the Chapter 106 Floodplain Management.

E36-697. Encroachment. **Conoy Township**, 211 Falmouth Road, Bainbridge, PA 17052. To remove the existing structure and to construct and maintain a 71-inch by 47-inch corrugated metal arch culvert at the channel of an unnamed tributary to Conoy Creek in order to widen Chestnut Street (T-849) in Bainbridge Village (York Haven, PA Quadrangle N: 17.3 inches; W: 6.0 inches) in Conoy Township, **Lancaster County**. This permit was issued under section 105.13(e) "Small projects." This permit also includes 401 Water Quality Certification.

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

E32-421. Encroachment. **Indiana County Commissioners**, 825 Philadelphia Street, Indiana, PA 15701-3972. To remove the existing structure and to construct and maintain a 24-foot long, 8-foot by 4-foot R. C. box culvert (invert depressed one foot) in Tom's Run (CWF) located on an access road in Pine Ridge Park at a point approximately 1,000 feet southeast of S. R. 2002. Also, to construct and maintain riprap stream bank protection for a length of 15 feet at the structure and to replace the existing 15-inch RC pipe on the back channel with an 18-inch diameter SLCPP (Bolivar, PA Quadrangle N: 12.5 inches; W: 10.8 inches) in Burrell Township, **Indiana County**. This permit was issued under section 105.13(e) "small projects." This permit also includes 401 Water Quality Certification.

E10-312. Encroachment. **Jeremy Thrower**, 234 Westminster Road, Sarver, PA 16055. To construct and maintain a private driveway across a tributary to Davis Run consisting of four 36-inch diameter plastic pipe culverts and clean rock fill approximately 3,000 feet southeast of the intersection of Tower Road and S. R. 2012 (Curtisville, PA Quadrangle N: 20.75 inches; W: 12.5 inches) in Clinton Township, **Butler County**.

E25-617. Encroachment. **Erie Yacht Club**, P. O. Box 648, Erie, PA 16512-0648. To make the following improvements to the existing Erie Yacht Club Marina in Presque Isle Bay, Lake Erie at the foot of Ravine Drive approximately 1 mile east of the base of the Presque Isle peninsula (Swanville, PA Quadrangle N: 22.3 inches; W: 0.8 inch) in the City of Erie, **Erie County**:

1. To dredge six areas of the existing marina basin removing a total of approximately 25,000 cubic yards of sediment and shale to establish and maintain bed elevations ranging from 560.0 feet USGS to 564.0 feet USGS.

2. To install and maintain a 370-foot long by 6-foot wide pile anchored floating dock along and parallel to the eastern side of the western marina jetty.

ENVIRONMENTAL ASSESSMENT

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

Environmental Assessment No. EA63-001SWa. U. S. Department of Energy, Grand Junction Office, 2597 B3/4 Road, Grand Junction, CO 81503. To construct and maintain 517 linear feet of rip rap and vegetated, reinforced earth bank stabilization along the right bank of Chartiers Creek (WWF) in the borough of Canonsburg, **Washington County** (Canonsburg, PA Quadrangle N: 1.1; W: 10.1).

WATER QUALITY CERTIFICATION

Northeast Regional Office: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2553.

Certification Request Initiated by: Department of the Army, United States Army Corps of Engineers, P. O. Box 1715, Baltimore, MD 21203-1715, Attention: Robert W. Lindner, Chief, Planning Division.

Date of Initial Pennsylvania Bulletin Notice: September 23, 2000.

Project Description/Location: The project, known as the Scranton Local Flood Protection Project, will protect the communities of Plot and Green Ridge, Lackawanna County, Pennsylvania, against a 100-year flood event on the Lackawanna River. The Water Quality Certification is being requested for the following specific activities: construction of earth levees, mechanically stabilized earth wall sections, a concrete floodwall, road closure structures, and interior drainage structures. No dredging is planned as part of this project. Long-term operation and maintenance of the project will be the responsibility of the City of Scranton.

Final Action on Request: Certification granted.

WATER ALLOCATIONS

Actions taken on applications filed under the Act of June 24, 1939 (P. L. 842, No. 365) (32 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth.

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

Permits issued

WA2-131B. Water Allocation. Pittsburgh Water & Sewer Authority, Allegheny County, Pennsylvania. This permit grants the right to purchase, for public water supply purposes, 110,000 gallons per day (GPD) of water, on a peak month, 30 day average basis, from Tarentum Borough, Allegheny County.

WA-200D. Water Allocation. Pennsylvania American Water Company, Allegheny County, Pennsylvania. Modification Order to supply water to the Pittsburgh Water & Sewer, Allegheny County.

SPECIAL NOTICES**Notice of Certification to Perform Radon-Related Activities in Pennsylvania**

In the month of October 2000 the Department of Environmental Protection, under the authority contained in the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the persons listed below to perform radon-related activities in Pennsylvania. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in Pennsylvania and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Alan Aulson The Aulson Co., Inc.	49 Danton Drive Methuen, MA 01844	Mitigation
Biechler & Tillery, Inc.	2843 North Front Street Harrisburg, PA 17110	Testing
Jeanne Buckley	2575 Giant Oaks Drive Pittsburgh, PA 15241	Testing
Kevin Crane Crane Enterprises, Inc.	282 Union Avenue Williamsport, PA 17701	Testing
Daniel Festa Festa Radon Technologies Co.	634 North Avenue Pittsburgh, PA 15209	Mitigation
Kevin Fischer	49 South Main Street Yardley, PA 19067	Testing
Cathleen Flood	P. O. Box 191 Centre Hall, PA 16828	Testing
Todd Giddings	3049 Enterprise Drive State College, PA 16801	Testing Mitigation
John Gogal Choice Environ. Solutions	P. O. Box 65 Brodheads ville, PA 18322	Mitigation
Housing Insp. Services, Inc.	P. O. Box 373 Murrysville, PA 15668	Testing
JCN Radon Testing & Mitigation	R. D. 2, Box 1050 New Columbia, PA 17856	Testing Mitigation

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Dan Jones Precision Home Inspections, Inc.	6 Chestwood Drive Connellsville, PA 15425	Mitigation
Garen Mugardichian	302 Lexington Road Schwenksville, PA 19473	Testing
Randolph Payne	500 Carothers Avenue Carnegie, PA 15106	Testing
Raymond Rowe	735 Municipal Street Pittsburgh, PA 15204	Mitigation
Troy Rudy	P. O. Box 4214 Lancaster, PA 17604	Testing
Jacqueline Rutter	P. O. Box 191 Centre Hall, PA 16828	Testing
Ronald Simon	Flat 21, Bridge House 18 Saint George Wharf London SW82LP UK	Mitigation
Kenneth Struder	P. O. Box 722 Thorndale, PA 19372	Testing
Mary Terp	957 Ebert Road Coopersburg, PA 18036	Testing
John Urenovitch	118 Maple Drive Drums, PA 18222	Testing
Glenn Vernon Certified Radon Services	200 Newburn Avenue Pittsburgh, PA 15227	Testing

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

The Department of Environmental Protection hereby announces the submission deadline for 2000 Host Municipality Inspector Program Reimbursement Applications as April 2, 2001. Reimbursements are available to municipalities under the Municipal Waste Planning, Recycling and Waste Reduction Act (Act 101) and the Hazardous Sites Cleanup Act (Act 108). Municipalities include cities, boroughs, incorporated towns, townships and home rule municipalities.

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

The application for reimbursement contains tables for specifying the itemized expenses for certified inspectors and for calculating the total reimbursement request. Complete instructions are included with the application, which is being distributed to all municipalities that have participated in the program. If your municipality does not receive but requires an application, or if you have any questions about this program, please contact the Program Development Section, Department of Environmental Protection,

Bureau of Land Recycling and Waste Management, Rachel Carson State Office Building, P. O. Box 8471, Harrisburg, PA 17105-8471, (717) 787-9870.

The deadline for submitting applications is 4 p.m. on April 2, 2001. Applications received by the Department after the deadline will not be considered.

[Pa.B. Doc. No. 00-1989. Filed for public inspection November 17, 2000, 9:00 a.m.]

Cleanup Standards Scientific Advisory Board Meeting

The Cleanup Standards Scientific Advisory Board (CSSAB) meeting will be held on December 7, 2000, at 9:30 a.m., 400 Market Street, RCSOB, 14th Floor conference room.

Questions concerning the agenda for this meeting can be directed to Marilyn Wooding at (717) 783-7509 or e-mail to Wooding.Marilyn@dep.state.pa.us. All agendas, minutes and meeting materials will be available through the Public Participation Center on Department's world wide website at <http://www.dep.state.pa.us>.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Marilyn Wooding directly at (717) 783-7509 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate your needs.

JAMES M. SEIF,
Secretary

[Pa.B. Doc. No. 00-1990. Filed for public inspection November 17, 2000, 9:00 a.m.]

DEPARTMENT OF HEALTH

Organ Donation Advisory Committee Meeting

The Organ Donation Advisory Committee, established by section 8 of the act of December 1, 1994 (P. L. 655, No. 102) (20 P. S. § 8622), will hold a public meeting on December 6, 2000, from 10 a.m. to 2 p.m. The meeting will be held in Room 812 of the Health & Welfare Building, 7th & Forster Streets, Harrisburg, PA.

For additional information please contact William J. Neil, Manager, Health Education and Information Program, Bureau of Chronic Diseases & Injury Prevention or Angela H. Anderson, Clerk Typist II, Health Education & Information Program, Bureau of Chronic Diseases & Injury Prevention, 1000 Health & Welfare Building, Harrisburg, PA at (717) 787-5900.

Persons with a disability who desire to attend the meeting and require an auxiliary aid, service or other accommodation to do so, should contact William J. Neil or Angela H. Anderson at (717) 787-5900.

V/TT (717) 783-6514 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

This meeting is subject to cancellation without notice.

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 00-1991. Filed for public inspection November 17, 2000, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Intention to Establish an Additional Class of Disproportionate Share Payments

The purpose of this notice is to provide prior public notice of the Department of Public Welfare's (Department's) intent to establish an additional class of disproportionate share payments for certain qualifying hospitals.

The Department intends to make this payment, in addition to the classes of disproportionate share payments already made under the Medical Assistance (MA) Program, to certain hospitals, which the Department has determined advance the Department's goal of enhanced access to multiple types of medical care in economically distressed areas of this Commonwealth.

The Department intends to consider a hospital eligible if:

(a) The hospital is an acute care hospital (provider type 11) currently receiving inpatient disproportionate share payments; and

(b) The hospital reported in excess of 40,000 Pennsylvania MA inpatient days on their Fiscal Year 1996-97 Medical Assistance Cost Report (MA 336); and

(c) The hospital is part of a health system that is owned by a State-related university, which operates a school of medicine, children's hospital and school of dentistry; and

(d) The hospital operates an emergency room and has acute care beds, both of which are located in a Federal Empowerment Zone.

The Department intends to allocate \$5,861,504 from the State General Fund for this additional payment. Payments will be divided proportionally between qualifying hospitals based on the percentage of each qualifying hospital's MA inpatient days to the total MA inpatient days of all qualifying facilities. All payment limitations are still applicable, namely, the Commonwealth may not exceed its aggregate annual disproportionate share allotment, and no hospital may receive disproportionate share payments in excess of its hospital-specific limit.

Fiscal Impact

For Fiscal Year 2000-2001, the fiscal impact as a result of this additional payment will be \$12,637,999 in total funds (\$5,861,504 in State General funds and \$6,776,495 in Federal funds).

Contact Person

A copy of this notice is available for review at local County Assistance Offices. Interested persons are invited to submit written comments to this notice within 30 days of this publication. These comments should be sent to the Department of Public Welfare, Office Of Medical Assistance Programs, Attention: Suzanne Love, Room 515 Health and Welfare Building, Harrisburg, PA 17105.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD Users) or (800) 654-5988 (Voice Users). Persons who require an alternate format should contact Thomas Vracarich in the Office of Legal Counsel at (717) 783-2209.

FEATHER O. HOUSTOUN,
Secretary

Fiscal Note: 14-NOT-264. (1) General Fund; (2) Implementing Year 2000-01 is \$5.862 Million; (3) 1st Succeeding Year 2001-02 is \$5.862 Million; 2nd Succeeding Year 2002-03 is \$5.862 Million; 3rd Succeeding Year is \$5.862 Million; 4th Succeeding Year 2004-05 is \$5.862 Million; 5th Succeeding Year 2005-06 is \$5.862 Million; (4) 1999-00 Program—\$392.528 Million; 1998-99 Program—\$453.594 Million; 1997-98 Program—\$428.079 Million; (7) Medical Assistance—Inpatient; (8) recommends adoption. Funds are available in the Department's current budget to cover the cost of the additional disproportionate share payment.

[Pa.B. Doc. No. 00-1992. Filed for public inspection November 17, 2000, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Bingo Mania II Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314), and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Bingo Mania II.

2. *Price:* The price of a Pennsylvania Bingo Mania II instant lottery game ticket is \$5.00.

3. *Play Symbols:* Each Pennsylvania Bingo Mania II instant lottery game ticket will contain ten play areas designated as "Card 1," "Card 2," "Card 3," "Card 4," "Card 5," "Card 6," "Card 7," "Card 8," "Card 9" and "Card 10." The 76 play symbols located in the 10 play areas are: The numbers 1 through 75 and FREE. Each ticket will also contain a "Caller's Card" area. The "Caller's Card" area will consist of 30 squares in a 6 x 5 grid. The play symbols that may be located in each square are: The letter B with a number 1 through 15; the letter I with a number 16 through 30; the letter N with a number 31 through 45; the letter G with a number 46 through 60; and the letter O with a number 61 through 75.

4. *Prizes:* The prizes that can be won in this game are \$5, \$10, \$15, \$25, \$50, \$100, \$250, \$500, \$1,000 and \$50,000. The player can win up to 10 times on a ticket.

5. *Approximate Number of Tickets Printed For the Game:* Approximately 4,080,000 tickets will be printed for the Pennsylvania Bingo Mania II instant lottery game.

6. *Determination of Prize Winners:*

(a) Holders of tickets matching the "Caller's Card" play symbols in a "M" pattern, matching in a five space vertical pattern the first and fifth columns and the second square from the top of the second and fourth columns, on any "Card," shall be entitled to a prize of \$50,000.

(b) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 10," shall be entitled to a prize of \$1,000.

(c) Holders of tickets matching the "Caller's Card" play symbols in a postage stamp pattern, matching four numbers to form a postage stamp (a 2 x 2 grid) in any of the four corners on "Card 10," shall be entitled to a prize of \$1,000.

(d) Holders of tickets matching the "Caller's Card" play symbols in a "X" extending through the "FREE" space and through to each of the four corners on "Card 6," "Card 8," "Card 9" or "Card 10," shall be entitled to a prize of \$1,000.

(e) Holders of tickets matching the "Caller's Card" play symbols in a "X" extending through the "FREE" space and through to each of the four corners on "Card 3" or "Card 7," shall be entitled to a prize of \$500.

(f) Holders of tickets matching the "Caller's Card" play symbols in a postage stamp pattern, matching four numbers to form a postage stamp (a 2 x 2 grid) in any of the four corners on "Card 6," "Card 8" or "Card 9," shall be entitled to a prize of \$500.

(g) Holders of tickets matching the "Caller's Card" play symbols in a postage stamp pattern, matching four

numbers to form a postage stamp (a 2 x 2 grid) in any of the four corners on "Card 3" or "Card 7," shall be entitled to a prize of \$250.

(h) Holders of tickets matching the "Caller's Card" play symbols in a "X" extending through the "FREE" space and through to each of the four corners on "Card 4" or "Card 5," shall be entitled to a prize of \$250.

(i) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 6" or "Card 8," shall be entitled to a prize of \$250.

(j) Holders of tickets matching the "Caller's Card" play symbols in a "X" extending through the "FREE" space and through to each of the four corners on "Card 2," shall be entitled to a prize of \$100.

(k) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 3," shall be entitled to a prize of \$100.

(l) Holders of tickets matching the "Caller's Card" play symbols in a postage stamp pattern, matching four numbers to form a postage stamp (a 2 x 2 grid) in any of the four corners on "Card 4" or "Card 5," shall be entitled to a prize of \$100.

(m) Holders of tickets matching the "Caller's Card" play symbols in a "X" extending through the "FREE" space and through to each of the four corners on "Card 1," shall be entitled to a prize of \$50.

(n) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 5," "Card 7" or "Card 9," shall be entitled to a prize of \$50.

(o) Holders of tickets matching the "Caller's Card" play symbols in a postage stamp pattern, matching four numbers to form a postage stamp (a 2 x 2 grid) in any of the four corners on "Card 2," shall be entitled to a prize of \$25.

(p) Holders of tickets matching the "Caller's Card" play symbols in a postage stamp pattern, matching four numbers to form a postage stamp (a 2 x 2 grid) in any of the four corners on "Card 1," shall be entitled to a prize of \$15.

(q) Holders of tickets matching the "Caller's Card" play symbols in the four corners on "Card 1," "Card 2" or "Card 4," shall be entitled to a prize of \$10.

(r) Holders of tickets matching the "Caller's Card" play symbols in a five space horizontal, vertical or diagonal line on any "Card," shall be entitled to a prize of \$5.

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes, and approximate odds of winning:

<i>Match Any Of The Winning Numbers To Any Of Your Numbers; With Prize(s) Of:</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 4,080,000 Tickets</i>
Line Card 1	\$5	1:15	272,000
Line Card 2	\$5	1:20	204,000
Line Card 3	\$5	1:30	136,000
Line Card 4	\$5	1:30	136,000
Line Card 5	\$5	1:60	68,000
Line Card 6	\$5	1:60	68,000
Line Card 7	\$5	1:30	136,000
Line Card 8	\$5	1:60	68,000
Line Card 9	\$5	1:60	68,000
Line Card 10	\$5	1:60	68,000
Line Card 1 + Line Card 2	\$10	1:42.86	95,200

<i>Match Any Of The Winning Numbers To Any Of Your Numbers; With Prize(s) Of:</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 4,080,000 Tickets</i>
Line Card 4 + Line Card 5	\$10	1:300	13,600
Corner Card 1	\$10	1:50	81,600
Corner Card 2	\$10	1:300	13,600
Stamp Card 1	\$15	1:60	68,000
Line Card 1 + Line Card 2 + Line Card 3 + Line Card 8	\$20	1:100	40,800
Line Card 2 + Line Card 5 + Corner Card 1	\$20	1:300	13,600
Corner Card 1 + Corner Card 2	\$20	1:300	13,600
Line Card 1 + Line Card 4 + Line Card 5 + Corner Card 2	\$25	1:300	13,600
Corner Card 4 + Stamp Card 1	\$25	1:300	13,600
Line Card 4 + Line Card 5 + Stamp Card 1	\$25	1:600	6,800
Stamp Card 2	\$25	1:600	6,800
Stamp Card 2 + Line Card 7 + Corner Card 1 + Corner Card 4	\$50	1:1,200	3,400
Stamp Card 2 + Line Card 6 + Stamp Card 1 + Line Card 10	\$50	1:1,200	3,400
Line Card 1 + Line Card 2 + Line Card 3 + Line Card 4 + Line Card 5 + Line Card 6 + Line Card 7 + Line Card 8 + Line Card 9 + Line Card 10	\$50	1:2,400	1,700
X Card 1	\$50	1:3,000	1,360
Corner Card 5	\$50	1:3,000	1,360
Corner Card 7	\$50	1:4,000	1,020
X Card 2	\$100	1:20,000	204
Corner Card 3	\$100	1:20,000	204
Stamp Card 4	\$100	1:20,000	204
Stamp Card 5	\$100	1:20,000	204
X Card 1 + Corner Card 9	\$100	1:30,000	136
X Card 3	\$500	1:30,000	136
Stamp Card 6	\$500	1:30,000	136
Stamp Card 8	\$500	1:30,000	136
Stamp Card 9	\$500	1:40,000	102
X Card 7	\$500	1:40,000	102
X Card 4 + Stamp Card 7	\$500	1:40,000	102
Stamp Card 3 + Corner Card 8	\$500	1:40,000	102
X Card 5 + Corner Card 6	\$500	1:40,000	102
X Card 6	\$1,000	1:40,000	102
X Card 8	\$1,000	1:60,000	68
X Card 9	\$1,000	1:60,000	68
Corner Card 10	\$1,000	1:204,000	20
X Card 10	\$1,000	1:204,000	20
Stamp Card 10	\$1,000	1:204,000	20
M Pattern on any Card	\$50,000	1:510,000	8

8. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Bingo Mania II 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 Bingo Mania II, prize money from winning Pennsylvania Bingo Mania II 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 Bingo Mania II instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

10. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

11. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Bingo Mania II or through normal communications methods.

LARRY P. WILLIAMS,
Acting Secretary

[Pa.B. Doc. No. 00-1993. Filed for public inspection November 17, 2000, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Application for Lease of Right of Way

Notice is hereby given that pursuant to 67 Pa. Code § 495.4, an application to lease highway right-of-way has been made to the Department of Transportation by Schuylkill River Greenway Association of 960 Old Mill Road of Wyomissing, Pa 19610 seeking to lease highway right of way located along SR 422 in the City of Reading, Berks County, 2.45 acres ±, adjacent to SR 422, for the purposes of a public bike/walking trail. 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 Walter E. Bortree, P. E., District Engineer, Engineering District 5-0, 1713 Lehigh Street, Allentown, PA 18103.

Questions regarding this application or the proposed use may be directed to Paul J. Goida, Right of Way Administrator, Engineering District 5-0, 2460 Parkwood Drive, Allentown, PA 18103, (610) 791-6011.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 00-1994. Filed for public inspection November 17, 2000, 9:00 a.m.]

Finding

Somerset County

Pursuant to the provisions of 71 P. S. § 2002(b), the Secretary of Transportation makes the following written finding:

The Department of Transportation plans to replace the existing bridge carrying SR 523 over the Casselman River in Lower Turkeyfoot and Addison Townships, Somerset County. This project will require the acquisition of 0.4 ha(1.05 acre) from the 45.2 ha(111.6 acre) Hanna Farmstead and the demolition of a two story agricultural storage building that is considered a contributing structure to the National Register eligible Hanna Farmstead.

Information describing the project, together with the associated environmental analysis, is contained in the Categorical Exclusion Evaluation/Section 2002 Evaluation that was prepared for this project.

Based upon studies, there is no prudent and feasible alternative to the use of property from the National Register eligible Hanna Farmstead.

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 effects.

No adverse environmental effect is likely to result from the reconstruction of this section of highway.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 00-1995. Filed for public inspection November 17, 2000, 9:00 a.m.]

Retention of Engineering Firms

Blair County

Project Reference No. 08430AG2641

The Department will retain an engineering firm to provide supplementary construction inspection staff of approximately eight (8) inspectors, under the Department's Inspector(s)-in-Charge for construction inspection and documentation services on S.R. 0865, Sections 002 & 003, Bellwood Bridge and S.R. 0865 Realignment, Blair County.

This project involves the reconstruction and realignment of S. R. 0865 in Bellwood Borough and Antis Township, Blair County. The project begins approximately 800 feet west of Old S. R. 0220 and extends 3,424 feet to the west on S. R. 0865 to the intersection with North Second Street in Bellwood Borough. The major construction items include:

- A new roadway alignment and three-span bridge carrying S.R. 0865 over the Norfolk Southern Railroad and Main Street from East Logan Street to West Tuckahoe Street.
- Reconstruction of East Logan Street with wider traffic lanes, curb gutters, and sidewalks.
- Construction of a Main Street connection for access from S.R. 0865 to Main Street.
- A new bridge carrying pedestrian traffic over the Norfolk Southern Railroad.
- Extensive utility replacements and utility relocation.
- Demolition of the existing Cambria Street Bridge after the new alignment is open to traffic.

Department policy requires firms providing construction inspection services to have a Federal Acquisition Regulation (FAR) field overhead rate established. The Department's current policy (SOL-430-91-34) requires a firm to submit their proposed field and office cost allocation approach, before the beginning of the fiscal year where the separate overhead rates would apply. This approach must comply with the provisions set forth in Part 31 of the Federal Acquisition Regulations (48 CFR Chapter 1) which governs the determination of the eligibility of costs making up the firm's Direct and Indirect Costs.

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 final ranking will be established directly from the letters of interest. Technical proposals will not be requested prior to the establishment of the final 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. Review of inspectors' resumes with emphasis on current construction inspection capabilities and specialized experience in Maintenance and Protection of Traffic, soils, structures, concrete, asphalt paving and drainage. Work experience and supervisory experience with the Department and Engineering District 9-0.

b. Specialized experience in asphalt paving, drainage, earthwork, signalization, CPM Schedule usage, and Construction Documentation System (CDS).

c. Number of NICET and NECEPT certified inspectors in each payroll classification.

d. Number of available inspectors in each payroll classification.

e. Ability to provide one (1) CDS operator or person capable of inputting data into personal computer and one (1) licensed nuclear operator (TCI-M classification).

f. Past performance, with particular emphasis being placed on the firm's demonstrated commitment to customer service, customer satisfaction, partnering, and dedicated support staff.

g. Understanding of Department's requirements, policies, and specifications.

Letters of interest must clearly indicate which inspectors meet these requirements.

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 2 (TCM-2) (NICET Highway Construction Level 4 or equivalent)	1 (1)
Transportation Construction Ins. Super. (TCIS) (NICET Highway Construction Level 3 or equivalent)	1 (1)
Transportation Construction Inspector—Materials (TCI-Materials) (NICET Highway Materials Level 2 or equivalent)	1 (1)
Transportation Construction Inspector (TCI) (NICET Highway Construction Level 2 or equivalent)	3 (1)
Technical Assistant (TA) (NICET Highway Construction Level 1 or equivalent)	2 (0)

The number(s) in parenthesis above indicate the number of inspectors in each Classification that must meet at least one of the following requirements:

1. Be certified by the National Institute for Certification in Engineering Technologies (NICET) in the field of Transportation Engineering Technology, subfield of Highway Construction, or subfield of Highway Materials, at the Level required for the Inspection Classification.

2. Be registered as a Professional Engineer by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.

3. Be certified as an Engineer-in-Training by the Commonwealth of Pennsylvania with the required highway experience specified for the Inspection Classification.

4. Hold a Bachelor of Science Degree in Civil Engineering or a Bachelor of Science Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

5. Hold an Associate Degree in Civil Engineering Technology with the required highway experience specified for the Inspection Classification.

The maximum hourly payroll rate for each Department Payroll Classification for calendar year 2000 shall be as shown:

<i>Payroll Classification</i>	<i>Maximum Straight Time Hourly Payroll Rate (Year 2000)</i>
(TCM-2)	\$26.50
(TCIS)	\$20.34
(TCI-Materials)	\$17.55
(TCI)	\$17.05
(TA)	\$11.72

If applicable, the maximum straight time hourly payroll rate for subsequent calendar years will be established at the scope of work meeting.

The maximum hourly payroll rate is the maximum hourly rate paid to an employee in a specific Department Payroll classification. The Department reserves the right to negotiate hourly payroll rates of compensation of individuals based on knowledge, experience and education up to the payroll classification maximum hourly payroll rate.

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:

<i>Quantity</i>	<i>Item</i>
1	Nuclear Densometer Gauges/License
1	Vehicle for Transporting Nuclear Gauge
3	Pagers
1	Camera—digital

The Department will directly reimburse the selected engineering firm for the above equipment, for use by the consultant inspection staff at their actual cost not to exceed the maximum direct reimbursement shown below.

- Nuclear Densometer Gauge @ \$660.00 each Maximum/month
- Vehicle for Gauge @ \$650.00 each Maximum/month
- Pagers As per invoice
- Camera - digital As per invoice

If the equipment is self-owned, reimbursement will be based on actual cost of ownership not to exceed the maximum allowable. If equipment is from an outside

supplier, the engineer must secure a minimum of three written quotes. The Department reserves the right to request additional quotes.

The Department will reimburse for actual miles driven on the project as directed by the Department, and a maximum of \$32.50/day for either mileage to and from the work site or lodging. An inspector will not be reimbursed for a combination of the two (2) during the same day. Mileage will be reimbursed for the most direct route from the inspector's residence or the Consultant's office, whichever is less, to the project site and return at the lesser of the maximum mileage rate established by the Commonwealth or the firm's current policy. The first fifteen (15) miles each day of an inspector's commute from and to his/her residence or the consultant's office to the work location is considered normal commuting travel and will not be eligible for mileage reimbursement. Lodging will be reimbursed at a maximum rate of \$32.50/day, in lieu of mileage, but receipts for all costs must be provided to the Department with the Engineer's invoice. Lodging will only be reimbursed for employees whose home or headquarters is more than 65 miles from the project.

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.

Letters of interest for this project must include a letter, with an original signature (no copies), signed by the individuals you propose for all TCM-2 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-2	2
TCIS	2
TCI-M	2
TCI	4
TA	0

Resumes shall clearly show the individual's construction inspection experience within the past five (5) years, identifying the dates, project location, and description of work.

This project reference assignment is considered non-complex. The letter of interest shall be limited to a maximum of three (3) pages, 8 1/2" x 11", one sided (any pages beyond 3 will not be reviewed by the Department), plus an organizational chart (up to 11" x 17" size), and additional resumes, if applicable. (See the General Requirements and Information Section).

The Letter of Interest submission shall be sent to:

Mr. Earl L. Neiderhiser, P.E., District Engineer
Engineering District 9-0
1620 North Juniata Street
Hollidaysburg, PA 16648

The Letter of Interest submission for this project reference number must be received at the address listed above by 4:30 P.M. prevailing time on the twentieth (20th) day following the date of this Notice.

Any technical questions concerning the requirements for this project should be directed to Mr. Philip J. Rampulla, District 9-0, phone number (814) 696-7135, fax number (814) 696-7146.

General Requirements and Information

Firms interested in providing the above work and services are invited to submit a Letter of Interest with the required information for each Project Reference Number for which the applicant wishes to be considered.

The Letter of Interest and required information must be submitted to the person designated in the individual advertisement.

The Letter of Interest and required information must be received by the Deadline indicated in the individual advertisement.

For District projects, all consultants, both prime consultants and subconsultants, who desire to be included in a Letter of Interest must have an Annual Qualification Package on file with the appropriate District Office, by the deadline stipulated in the individual advertisements.

For Statewide projects, all consultants, both prime consultants and subconsultants, who desire to be included in a Letter of Interest must have an Annual Qualification Package on file with Central Office, Bureau of Design by the deadline stipulated in the individual advertisements.

Information concerning the Annual Qualification Package can be found in Strike-off Letter No. 433-99-04 or under the Notice to all Consultants published in the February 27, 1999 issue of the *Pennsylvania Bulletin*.

By submitting a letter of interest for the projects that request engineering services, the consulting firm is certifying that the firm is qualified to perform engineering services in accordance with the laws of the Commonwealth of Pennsylvania. A firm not conforming to this requirement may submit a letter of interest as a part of a joint venture with an individual, firm or corporation which is permitted under State law to engage in the practice of engineering.

The letter of interest must include full disclosure of any potential conflict of interest by the prime or any subconsultant based on Engineering Involvement Restrictions Guidelines as established in Strike-off Letter No. 433-00-02 published March 27, 2000. If there are no potential conflicts you shall include the following statement: "I have reviewed Strike-off Letter No. 433-00-02 and determine that there are no potential conflicts of interest for anyone on this project team."

If a Joint Venture responds to a project advertisement, the Department of Transportation will not accept separate Letters of Interest from the Joint Venture constituents. A firm will not be permitted to submit a Letter of Interest on more than one (1) Joint Venture for the same Project Reference Number. Also a firm that responds to a project as a prime may not be included as a designated subcontractor to another firm that responds as a prime to the project. Multiple responses under any of the foregoing situations will cause the rejection of all responses of the firm or firms involved. The above does not preclude a firm from being set forth as a designated subcontractor to more than one (1) prime responding to the project advertisement.

If a goal for Disadvantaged Business Enterprise (DBE) participation is established for an advertised project, firms expressing interest in the project must agree to ensure that Disadvantaged Business Enterprise (DBE) firms as defined in the Transportation Equity Act for the 21st century (TEA-21) and currently certified by the

Department of Transportation shall have the opportunity to participate in any subcontracting or furnishing supplies or services approved under Form 442, Section 1.10(a). The TEA-21 requires that firms owned and controlled by women (WBEs) be included, as a presumptive group, within the definition of Disadvantaged Business Enterprise (DBE). The goal for DBE participation shall be as stated in the individual project advertisement. Responding firms shall make good faith efforts to meet the DBE goal using DBEs (as they are defined prior to the act, WBEs or combinations thereof).

Proposed 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.

Letters of Interest for will be considered non-responsive and eliminated from further consideration for any of the following reasons:

1. Letters of Interest not received on time.
2. Project of interest is not identified.
3. An Annual Qualification Package for the prime consultant and all subconsultants is not on file with the organization receiving the Letter of Interest.
4. Conflict of Interest evaluation statement is not included.
5. A Disadvantaged Business Enterprise (DBE) participation goal is established for the Project Reference Number but no DBE/WBE is identified and no good faith effort is included.
6. Firm submitted a Letter of Interest on more than one (1) Joint Venture or a firm submitted a Letter of Interest as a prime and was also included as a subconsultant, to another firm. Multiple responses under any of the foregoing situations will cause the rejection of all responses of the firm, or firms, involved.

In addition to the above reasons, a Letter of Interest for Construction Inspection Services will be considered non-responsive for any of the following reasons:

1. Prime consultant or any subconsultant does not have a Federal Acquisition Regulation (FAR) Audit Field Overhead Rate on file with the Department.
2. Using an individual's resume without including a letter granting the individual's approval for TCIS and higher positions.
3. Exceeding the maximum number of resumes in a payroll classification.

The assignment of the agreement/contract for the above advertisement(s) will be made to one of the firms who submitted an acceptable Letter of Interest in response to the project advertisement. The assignment will be made based on the Department's evaluation of the firm's qualification and capabilities. The Department reserves the

right to reject all letters submitted, to cancel the solicitations requested under this Notice, and/or to readvertise solicitation for the work and services.

BRADLEY L. MALLORY,
Secretary

[Pa.B. Doc. No. 00-1996. Filed for public inspection November 17, 2000, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

Michael A. Varleta and Joan M. Gustin v. DEP and The Executive Golf & Country Club; EHB Doc. No. 2000-226-L

Michael A. Varleta and Joan M. Gustin have appealed the issuance by the Department of Environmental Protection of an NPDES permit to The Executive Golf & Country Club for a facility in Lackawanna County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, and may be reviewed by any interested party on request during normal business hours. If information concerning this notice is required in an alternative form, please contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.62. Copies of the Board's rules of practice and procedure are available upon request from the Board.

GEORGE J. MILLER,
Chairperson

[Pa.B. Doc. No. 00-1997. Filed for public inspection November 17, 2000, 9:00 a.m.]

HISTORICAL AND MUSEUM COMMISSION

National Register Nominations to be Reviewed by the Historic Preservation Board Meeting

Great Valley and Piedmont Region

1. *White Horse Historic District.* Intersection of Goshen and Providence Roads, Willistown Township, Chester County.

2. *Columbia Wagon Works.* 920 Plane Street, Columbia, Lancaster County.

Anthracite Region and Poconos

3. *Tamaqua Historic District.* Roughly bounded by State Route 209 and the Odd Fellows Cemetery, Rowe and Mauch Chunk Streets, East End Avenue, Mountain Avenue, Cedar Street, West Cottage Avenue, VanGelder

Street to Odd Fellows Cemetery, Tamaqua Borough and Schuylkill Township, Schuylkill County 111085.

4. *Summit Hill High School*. 124 West Hazard Street, Summit Hill, Carbon County 105583.

Southwestern Pennsylvania, Allegheny Plateau, Ridge and Valley—no nominations

BRENT D. GLASS,
Executive Director

[Pa.B. Doc. No. 00-1998. Filed for public inspection November 17, 2000, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission (Commission) met publicly at 10:30 a.m., Thursday, November 2, 2000, and took the following actions:

Regulations Approved:

State Board of Examiners of Nursing Home Administrators #16A-626: Fees (amends 29 Pa. Code § 39.72).

State Board of Vehicle Manufacturers, Dealers and Salespersons: #16A-600: Application Fees (amends 49 Pa. Code § 19.4).

State Board of Accountancy: #16A-558: Fees (amends 49 Pa. Code §§ 11.4, 11.5 and 11.17).

Pennsylvania Public Utility Commission #57-213: Reporting Requirements for Quality of Gas Service Benchmarks and Standards (adds §§ 62.31—62.37 to 52 Pa. Code).

Pennsylvania Public Utility Commission #57-212: Reporting Requirements for Universal Service and Energy Conservation Programs (adds §§ 62.1—62.8 to 52 Pa. Code).

Commissioners Voting: John R. McGinley, Jr., Chairperson, by Proxy; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner, by Phone

Public Meeting held
November 2, 2000

State Board of Examiners of Nursing Home Administrators; Fees—Regulation No. 16A-626

On April 30, 1999 the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Examiners of Nursing Home Administrators (Board). This rulemaking amends 49 Pa. Code § 39.72. The proposed regulation was published in the May 15, 1999 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 2, 2000.

The Board is proposing to revise or add fees for the following:

<i>Fee Title</i>	<i>Existing Fee</i>	<i>Proposed Fee</i>
License application fee	\$30	\$40
N.A.B. examination fee (Effective January 1, 2000)	\$170	\$235
Complete nursing home administration examination (Effective January 1, 2000)	\$212	\$322
Temporary permit fee	\$150	\$145
Certification of examination scores	\$15	\$25
Verification of licensure	\$10	\$15
Verification of temporary permit	None	\$15
Continuing education provider application fee	\$50	\$40
Continuing education program application fee per credit	\$10	\$15

The Board estimates that 1,000 persons will request one or more of the enumerated services over the next 2-year period. Total additional costs to the regulated community during that time span will be approximately \$70,000.

We have determined this regulation is consistent with the statutory authority of the State Board of Examiners of Nursing Home Administrators (63 P. S. § 1107.1(a)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Commissioners Voting: John R. McGinley, Jr., Chairperson, by Proxy; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner, by Phone

Public Meeting held
November 2, 2000

State Board of Vehicle Manufacturers, Dealers and Salespersons; Application Fees—Regulation No. 16A-600

On September 17, 1999, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Vehicle Manufacturers, Dealers and Salespersons (Board). This rulemaking amends 49 Pa. Code § 19.4. The proposed regulation was published in the October 2, 1999 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 2, 2000.

This regulation amends the fee schedule for the Board by increasing 13 existing fees and adding two new fees. The Board estimates that 13,000 persons will avail themselves of one or more of the enumerated services over the next 2-year period. Total additional costs to the regulated community during that time span will be approximately \$140,000. Only those requesting the enumerated services will be affected.

We have determined this regulation is consistent with the statutory authority of the State Board of Vehicle Manufacturers, Dealers and Salespersons (63 P. S. § 818.30(b)) and the intention of the General Assembly.

Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Commissioners Voting: John R. McGinley, Jr., Chairperson, by Proxy; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner, by Phone

Public Meeting held
November 2, 2000

State Board of Accountancy; Fees—Regulation No. 16A-558

On May 3, 2000, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Accountancy (Board). This rulemaking amends 49 Pa. Code §§ 11.4, 11.5 and 11.17. The proposed regulation was published in the May 13, 2000 *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 2, 2000.

In response to a recent audit, the Board is increasing four fees to generate revenue to cover the actual costs of the services. These fees were last revised in 1990. In addition, the regulation implements the statutory requirement that the Board establish a new fee for the reinstatement of inactive or expired licenses.

We have determined this regulation is consistent with the statutory authority of the Board (63 P. S. §§ 9.3(a)(6), 9.6 and 9.9b(d)(2)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Commissioners Voting: John R. McGinley, Jr., Chairperson, by Proxy; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner, by Phone

Public Meeting held
November 2, 2000

Pennsylvania Public Utility Commission; Reporting Requirements for Quality of Gas Service Benchmarks and Standards—Regulation No. 57-213

On February 3, 2000, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Public Utility Commission (PUC). This rulemaking adds §§ 62.31—62.37 to 52 Pa. Code. The proposed regulation was published in the February 19, 2000 *Pennsylvania Bulletin* with a 45-day public comment period. The final-form regulation was submitted to the Commission on October 2, 2000.

The final-form regulation establishes standard measurement and reporting requirements for customer service performance of natural gas distribution companies. The regulation implements portions of the Natural Gas Choice and Competition Act (Act). Under the Act, customer service for retail gas customers must be maintained at the same level of quality, under retail competition, that was in effect prior to the implementation of the Act.

We have determined this regulation is consistent with the statutory authority of the Pennsylvania Public Utility Commission (66 Pa.C.S. §§ 501 and 1308) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Commissioners Voting: John R. McGinley, Jr., Chairperson, by Proxy; Alvin C. Bush, Vice Chairperson; Arthur Coccodrilli; Robert J. Harbison, III; John F. Mizner, by Phone

Public Meeting held
November 2, 2000

Pennsylvania Public Utility Commission; Reporting Requirements for Universal Service and Energy Conservation Programs—Regulation No. 57-212

On February 3, 2000, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Public Utility Commission (PUC). This rulemaking adds sections 62.1—62.8 to 52 Pa. Code. The proposed regulation was published in the February 19, 2000 *Pennsylvania Bulletin* with a 45-day public comment period. The final-form regulation was submitted to the Commission on October 2, 2000.

This regulation implements part of the Natural Gas Choice and Competition Act by establishing standard reporting requirements for universal service and energy conservation programs. All seven natural gas distribution companies will be required to comply. The PUC anticipates that this regulation will benefit the approximately 10,000 low-income customers in the Commonwealth.

We have determined this regulation is consistent with the statutory authority of the Pennsylvania Public Utility Commission (66 Pa.C.S. §§ 501, 504, 2202 and 2203; and 45 P. S. §§ 1202 and 1205) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 00-1999. Filed for public inspection November 17, 2000, 9:00 a.m.]

Notice of Comments Issued

Section 5(d) and (g) of the Regulatory Review Act (71 P. S. § 745.5(d) and (g)) provides that the designated standing committees may issue comments within 20 days of the close of the public comment period, and the Independent Regulatory Review Commission (Commission) may issue comments within 10 days of the close of the committees' comment period. The Commission's Comments are based upon the criteria contained in section 5.1(h) and (i) of the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)).

The Commission issued Comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulations. The

final-form regulations must be submitted by the date indicated.

Reg. No.	Agency/Title	Issued	Final-Form Submission Deadline
7-358	Environmental Quality Board Interim Enhanced Surface Water Treatment	11/02/00	10/02/02
7-359	Environmental Quality Board Disinfectants and Disinfection Byproducts	11/02/00	10/02/02
2-133	Department of Agriculture Preferential Assessment of Farmland and Forest Land Under the Clean and Green Act	11/02/00	10/02/02
10-162	Department of Health School Immunization	11/02/00	10/02/02
11-184	Insurance Department Policies and Forms; General Filing Requirements and General Contents of Forms	11/02/00	10/02/02
6-270	State Board of Education Special Education Services and Programs	11/02/00	10/02/02
7-356	Environmental Quality Board Administration of Land Recycling Program	11/03/00	10/04/02

**Environmental Quality Board Regulation No. 7-358
Interim Enhanced Surface Water Treatment
November 2, 2000**

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which have not been met. The Environmental Quality Board must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by October 2, 2002, the regulation will be deemed withdrawn.

1. General. Reasonableness.

The Environmental Protection Agency (EPA) commented that the provision at 40 CFR 141.173(a)(3) is not included in this rulemaking. This Federal provision states, "A system that uses lime softening may acidify representative samples prior to analysis using a protocol approved by the state." Why was this option excluded in Pennsylvania's regulation?

2. Section 109.1. Definitions.—Clarity.

CPE—Comprehensive Performance Evaluation

The provisions under subsection (ii) are substantive. Definitions should not contain substantive provisions. These minimum components of the Comprehensive Performance Evaluation should be moved to section 109.205.

Disinfection profile

This definition mentions "procedures and measurement methods established by the EPA. For clarity, a specific reference to the EPA procedures and measurement methods should be added.

3. Section 109.202. State MCLs and treatment technique requirements.—Reasonableness; Clarity.

Subsection (c)(1)(iii)(C) uses the phrase "unless the Department specifies more stringent performance criteria." Under what circumstances would the Department require "other filtration technologies" to meet more stringent criteria than conventional filtration? What process will the Department use to impose more stringent performance criteria?

4. Section 109.204. Disinfection profiling and benchmarking.—Nature of required reports; Reasonableness; Clarity.

This section requires data to be submitted "in a format acceptable to the Department." What format does the Department intend to accept? How will the person filing the data be notified what format is acceptable to the Department?

5. Section 109.301. General monitoring requirements.—Economic impact; Reasonableness.

Subsection (1)(iv) requires an operator to "conduct continuous monitoring of turbidity . . . and record turbidity levels every 15 minutes." One commentator currently records turbidity continuously and can retrieve data as necessary from the continuous data. The commentator suggests an amendment to "record data at least every 15 minutes." Is the requirement to "record turbidity levels every 15 minutes" intended to be a minimum requirement? If so, the regulation should be amended as suggested.

6. Section 109.701. Reporting and recordkeeping.—Clarity.

In regard to Subsection (e), the EPA notes that "systems must maintain individual filter monitoring data for at least 3 years, and they must report that they have conducted individual filter monitoring within 10 days after the end of each month that the system serves water to the public." Existing subsection (d) specifies record maintenance requirements. Are the records required under subsection (e) subject to subsection (d) Record maintenance? Does this meet EPA requirements?

7. Section 109.714. Filter profile, filter self-assessment and CPEs.—Reasonableness; Clarity.

EPA commented that under Federal regulations, systems have 90 days to complete a Comprehensive Performance Evaluation. Subsection (3) states a CPE must be conducted within 30 days. There are two concerns. First, why is Pennsylvania using a 30-day requirement when the EPA uses a 90-day requirement? Second, the regulation should state when the CPE must be completed.

**Environmental Quality Board Regulation No. 7-359
Disinfectants and Disinfection Byproducts
November 2, 2000**

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which have not been met. The Environmental Quality Board (EQB) must respond to these Comments when it submits the final-form regulation. If the final-

form regulation is not delivered by October 2, 2002, the regulation will be deemed withdrawn.

1. General.—Clarity.

The Pennsylvania Bottled Water Association and the International Bottled Water Association have questioned whether provisions in the proposed regulation apply to bottled water companies. The final-form regulation should clearly state who is required to comply with these provisions.

2. Section 109.1. Definitions.—Clarity.

MRDL—Maximum Residual Disinfectant Level

The definition of “MRDL” includes the phrase, “unacceptable possibility of adverse health effects.” What is an unacceptable possibility of adverse health effects?

3. Section 109.202. State MCLs, MRDLs or treatment technique requirements.—Clarity.

Subsection (a) Primary MCLs

Paragraph (3) of Subsection (a) states that a public water system may apply to the Department for “an extension of up to 24 months past the application compliance date specified in the Federal regulations.” How will a public water system apply for an extension, and what criteria will be used in determining whether or not to grant an extension?

Paragraph (a)(3), as published in the *Pennsylvania Bulletin*, contains a typographical error. In the first sentence, there is a period after the phrase “. . . in the Federal regulations.” It would appear a comma was intended so that the regulation will read “. . . in the Federal regulations, but not beyond December 31, 2003.” This correction should be made in the final-form regulation.

Subsection (g) Treatment technique requirements for disinfection byproduct precursors

Subsection (g)(2)(ii)(C) begins with a lengthy sentence. For clarity, this sentence should be broken into shorter sentences.

This provision also has a typographical error. It appears the second and third sentences were intended to be one sentence with a comma.

4. Section 109.301. General monitoring requirements.—Clarity.

Subsection (12)(i)(A)

EPA commented that sample sites for total trihalomethanes (TTHM) and haloacetic acids (five) (HAA5) should be representative of the entire site distribution system. Should this provision be added?

Subsections (12)(i)(B)(I)(a)—(c)

These subsections state, “Systems on reduced monitoring are not required to monitor source water TOC.” EPA agrees that systems do not have to meet a particular total organic carbon (TOC) level to remain on reduced monitoring for TTHM and HAA5. However, if the system uses a conventional filtration plant under the disinfection byproducts precursor treatment technique, the system would still need to monitor source water TOC. Therefore, EPA suggests that TOC monitoring should be continued if monitoring for TTHM and HAA5 is reduced. Should TOC monitoring be required in this situation?

Subsection (12)(iv)(A)

This section states, “Systems shall take monthly samples of the source water alkalinity, the source water

TOC and the combined filter TOC for each treatment plant that utilizes conventional filtration.” If a plant does not have a combined filter effluent line, where should this sample be taken?

5. Section 109.403. Description and content of notice.—Protection of the public safety.

EPA commented that the EQB should not adopt the public notice on health effects language referenced in Subsection (d). EPA recommends using EPA’s revised language in 40 CFR Part 141, Subpart Q, Appendix B. The regulation should be amended accordingly.

6. Section 109.701. Reporting and recordkeeping.—Clarity.

EPA commented that two reporting requirements for disinfectant residuals were left out of Subsection (a)(8) as follow:

- For chlorine dioxide, systems must also report whether the MRDL was exceeded and whether it was exceeded in any two consecutive daily samples and whether the resulting violation was acute or nonacute.
- For chlorine and chloramines, systems must also report the number of samples and whether the MRDL was exceeded.

EPA also commented that the phrase “entry point” should be taken out of Subsection (a)(9)(ii)(A) because systems must report all samples, not just entry point samples. The EQB should consider revising this subsection in accordance with EPA’s comments.

Department of Agriculture Regulation No. 2-133 Preferential Assessment of Farmland and Forest Land Under The Clean and Green Act November 2, 2000

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which have not been met. The Department of Agriculture (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by October 2, 2002, the regulation will be deemed withdrawn.

1. Comments of Representative Raymond Bunt, Jr., and Senator Noah W. Wenger.

During our review of this regulation, we identified a number of sections that did not meet the criteria of the Regulatory Review Act. These same issues were also raised in the comments submitted by Representative Raymond Bunt, Jr., Chairperson of the House Agriculture and Rural Affairs Committee, and Senator Noah W. Wenger, Acting Chairperson of the Senate Agriculture and Rural Affairs Committee, in their letters to the Department dated October 23, 2000.

We concur with the objections and recommendations that were raised in the comments of Representative Bunt and Senator Wenger concerning the following sections of the regulation:

Section 137b.1. Purpose.—Consistency with statute; Legislative intent.

For consistency with the Pennsylvania Farmland and Forest Land Assessment Act of 1974, as amended by Act

156 of 1998 (72 P. S. §§ (5490.1—5490.11) (Act), the last sentence of Subsection (b) should be deleted.

Section 137b.2. Definitions.—Consistency with statute; Clarity.

The second sentence of the definition of “transfer” should be deleted, as it is inconsistent with Section 6(a.3) of the Act.

Paragraphs (i) and (ii) under the definition of “outdoor recreation” are inconsistent with the Act and should be deleted.

Section 137b.12. Agricultural use.—Clarity

The undefined term “agricultural production” should be replaced with the defined term “agricultural commodity.”

Section 137b.13. Agricultural reserve.—Statutory authority; Clarity.

The Department should delete the requirement that at least 60% of the land in agricultural reserve must be in land classifications I through IV excluding wetlands and water areas, or explain its statutory basis. Additionally, the phrase “and woodlot” should be added at the end of the sentence, since this section describes agricultural reserve land.

Section 137b.14. Forest reserve.—Statutory authority; Clarity.

Since there is no statutory basis for the requirement of producing annual growth of 25 cubic feet per acre, it should be deleted. Paragraph (ii) from the definition of “forest reserve” should be added to this section.

Section 137b.27. Assessment of ineligible land.—Clarity. The phrase “and buildings” is unnecessary and should be deleted.

Subsection 137b.52(b) No termination of preferential assessment without change of use.—Legislative intent; Consistency with the statute; Clarity.

The last sentence in the first paragraph of Subsection (b) is inconsistent with the Act and the intent of the General Assembly. This sentence should be deleted. Examples 3 and 4 under Subsection (b) are not applicable without the mechanism to make advance payments toward the roll-back tax. Therefore, they should be deleted.

Subsection 137b.52(d) Payment of roll-back taxes does not affect preferential assessment of remaining land.—Clarity.

The references to Section 2 of the Act in Examples 3 and 4 are incorrect. They should be changed to Section 3 of the Act.

Section 137b.54. Calculating the contributory value of farm buildings.—Clarity.

Paragraph (i) of the proposed definition for “contributory value of farm buildings” should be added to this section.

Section 137b.62. Enrolled “agricultural use” land of less than 10 contiguous acres.—Clarity.

Instead of using terms describing specific agricultural operations, the defined term “agricultural commodity” should be used.

Section 137b.71. Death of an owner of enrolled land.—Clarity.

This section should clearly indicate that the inheritors of the preferentially assessed land must file amended applications as required by Section 5490.4(f)(1) of the Act.

Section 137b.102. Recordkeeping.—Consistency with statute; Clarity.

To be consistent with Section 5(a)(1) of the Act, the term “property record cards” should be added to the first sentence of this section. In addition, the last sentence should be deleted.

Section 137b.131. Civil penalties.—Clarity

We agree with Representative Bunt, Senator Wenger and the Pennsylvania Farm Bureau that the term “violation” should be defined in this section. Additionally, the regulation should state that those who change the use of enrolled land are subject to roll-back taxes, not civil penalties.

2. Section 137b.2 Definitions.—Consistency with statute; Clarity.

General

The definitions of “agricultural commodity, agricultural reserve, agricultural use, capitalization rate, farm building, farmstead land, income approach, land use category, net return to land, and woodlot” are the same as the Act. The regulation should reference the statutory definitions, not repeat them verbatim.

The regulatory definitions of “contributory value of farm building, forest reserve, split off, roll-back taxes, and separation” are similar to the statutory definitions in the Act but include new language. To be consistent with the statute, the regulation should reference the statutory definitions.

Rural enterprise incidental to the operational unit

This phrase is defined as a “commercial enterprise or venture.” Section 8(d) of the Act refers to this activity as “direct commercial sales of agriculturally related products and activities or for a rural enterprise incidental to the operational unit.” The definition should be amended to incorporate the language of the Act.

3. Section 137b.4. Contacting the Department.—Clarity.

This section gives the street address of the Department along with a telephone and fax number that the regulated community can use. Can the regulated community contact the Department through electronic mail? If so, an e-mail address should also be included.

4. Section 137b.22. Landowner may include or exclude from the application tracts described in separate deeds.—Consistency with statute; Clarity.

This section states that if contiguous tracts are described in separate deeds, a landowner may include or exclude any of the tracts from the application for preferential assessment. Subsections 3(a.1)(1) and (2) of the Act (72 P. S. §§ 5490.3(a.1)(1) and (2)) state that contiguous tracts may be enrolled if the total area meets the minimum requirements for eligibility. Additionally, if a tract itself does not meet the minimum requirements, it may be enrolled if it is contiguous to a tract previously enrolled for preferential assessment.

This section in the regulation does not include these conditions. The regulation should be revised to reflect these statutory provisions governing the enrollment of contiguous tracts with separate deeds.

5. Section 137b.24. Ineligible land may appear on an application, although it cannot receive preferential assessment.—Statutory authority; Clarity.

This section includes the following sentence: “The ultimate determination of whether land is eligible or ineli-

gible shall be made by the county assessor.” Rather than using the word “ultimate,” the regulation should state that eligibility determinations by the county assessor shall be based upon the requirements and standards set forth in the Act.

6. Section 137b.26. Land located in more than one tax district.—Consistency with other regulations; Clarity.

Example 2 under this section contains statements that conflict with Section 137b.43. Example 2 provides that when a tract of land is located in two counties, the landowner must file applications for preferential assessment in each county. Section 137b.43 states that when a tract is located in more than one county, the landowner must file the application with the county assessor in the county to which the landowner pays property taxes. Example 2 should be consistent with Section 137b.43.

7. Section 137b.41. Application forms and procedures.—Legislative intent; Consistency with statute; Implementation procedure; Reasonableness; Clarity.

Subsection (a) Standardized application form required.

Subsection (b) Application form and worksheets.

Subsection 4(c) of the Act (72 P. S. § 5490.4(c)) sets forth three conditions for “application forms for preferential assessment in all counties”:

- Application forms shall be “uniform.”
- “Application forms shall be developed by the department.”
- Forms will include “the information the department shall deem appropriate.”

Subsections 137b.41(a) and (b) refer to a “‘Clean and Green Valuation Application’ form” and “‘Clean and Green Valuation Worksheet’ form.” However, nothing in this section or elsewhere in the regulation identifies the contents of these forms or the types of information needed to complete the forms.

To insure uniformity, the regulation should be amended to include the content and informational requirements of the application and worksheet forms.

Subsection (e) Additional information.

This subsection allows a county assessor to require an applicant to provide additional information or documentation. A county assessor must make the request in writing. This written request must clearly state the reasons why the application is insufficient and identify the necessary information required by the assessor. There are two concerns.

First, for consistency with Subsection 3(e) of the Act (72 P. S. § 5490.3(e)), Subsection 137b.41(e) should provide examples of the types of documentation or information that a county assessor may request.

Second, this section should direct counties to perform a completeness review. The completeness review should be finished within a certain time period, such as within 30 days of receipt. The county should then notify the applicant as to whether the application is complete or what additional information is required.

8. Section 137b.46. Fees of the county board for assessment appeals.—Consistency with statute; Clarity.

This section could be interpreted to allow counties to charge fees in addition to those authorized by Subsections

4(d), (e) and (f) of the Act. For clarity, the regulation should reference Subsections 4(d), (e) and (f) of the Act which specify both the application fee and the circumstances when a county may impose recording fees.

9. Section 137b.51. Assessment procedures.—Reasonableness; Clarity

Subsection (d) Determining preferential assessment.

This section contains a standard formula for determining preferential assessment of land. The formula includes the number of acres of land in each subcategory and the use value for the particular land use subcategory. However, each county uses its own “established predetermined ratio” in assessing land values. The term “established predetermined ratio” is defined in Section 102 of the General County Assessment Law (72 P. S. § 5020-102). In order to accurately determine the assessments of these lands, the regulation should incorporate a county’s established predetermined ratio into the formula.

10. Section 137b.52. Duration of preferential assessment.—Legislative intent; Consistency with the statute; Clarity.

Subsection (g) Transfer does not trigger roll-back taxes.

This subsection states that there will be no roll-back taxes when enrolled land is transferred without a change to an ineligible use. There are two concerns.

First, the second sentence limits the protection from roll-back taxes to contiguous acreage when the enrolled land consists of several noncontiguous tracts in one application. However, the Act does not make a distinction between contiguous and noncontiguous tracts in the same application. The Department needs to explain its authority for the second sentence or delete it from the regulation.

Second, this subsection does not indicate who is responsible for roll-back taxes if there is a change in the use of the land. Subsection 6(a.3) of the Act provides: “The landowner changing the use of the land to one inconsistent with the provisions of Section 3 shall be liable for payment of roll-back taxes.” This subsection of the regulation should include a reference to this provision of the Act.

11. Section 137b.53. Calculation and recalculation of preferential assessment.—Statutory authority; Reasonableness; Clarity.

Subsection (b) Option of county assessor in calculation of preferential assessment.

Subsection (b) gives county assessors the option of either calculating the preferential assessment annually, or establishing a “base year” for preferential assessment. However, the process for calculating a “base year” value is not discussed. The regulation should include the acceptable process for calculating a “base year.”

Subsection (g) Land enrolled prior to June 2, 1998.

Subsection (g) provides county assessors the option of not recalculating the preferential assessment of land covered in applications for preferential assessment filed on or before June 1, 1998. We have three questions regarding this subsection.

First, what is the Department’s statutory authority for including this “grandfather clause”?

Second, why is this subsection optional?

Finally, how was the date of “June 1, 1998” determined?

12. Section 137b.61. Liability for roll-back taxes.—Clarity.

Subsection (a) provides that, if an owner of enrolled land changes the use of the land “. . . so that it otherwise fails to meet the requirements of section 3 of the Act (72 P. S. § 5490.3). . . .” the landowner is responsible for the payment of roll-back taxes. The regulation should include a phrase that states that, if the above condition is met, the land shall be removed from the preferential assessment program.

13. Section 137b.64. Agricultural reserve land to be open to the public.—Statutory authority.

Subsection (c) Reasonable restrictions on use allowed.

This section allows a landowner to place “. . . reasonable restriction to public access on enrolled land that is enrolled as agricultural reserve land.” Subsection (c) also includes examples of restrictions, including “limiting access to the land to pedestrians only,” and “prohibiting hunting or the carrying or discharge of firearms on the land.”

Section 5490.2 of the Act (72 P. S. § 5490.2) defines “agricultural reserve” as “Noncommercial open space lands used for outdoor recreation . . . and open to the public . . . on a nondiscriminatory basis.” This definition does not contain the restrictions listed in Subsection (c). What is the statutory authority for including these restrictions?

14. Section 137b.75. Transfer of enrolled land for use as a cemetery. Section 137b.76. Transfer of enrolled land or transfer of an easement or right-of-way across enrolled land for use as a trail.—Clarity.

Sections 137b.75 and 137b.76 allow an owner of enrolled land to sell, donate or otherwise transfer any portion of the enrolled land to a nonprofit corporation for use as a cemetery, or easement or right of way, without violating the land’s preferential assessment.

The term “transfer” is not applicable in this instance. As defined in Section 137b.2, “transfer” includes “[a] conveyance of all the contiguous enrolled land described in a single application for preferential assessment under the act” [emphasis added]. The scenarios included in Sections 137b.75 and 137b.76 only apply to portions of land being “transferred,” not the entire parcel. The word “transfer” should be replaced in these two sections with the word “convey.”

15. Section 137b.131. Civil penalties.—Consistency with statute; Clarity

Subsection (c) Appeal hearing.

Subsection (c) provides that a hearing for contesting a civil penalty will be allowed upon “timely notification.” The phrase “timely notification” is unclear. This subsection should be clarified by replacing “timely” with a reference to Section 137b.131(b)(2) in the final-form regulation.

Subsection (d) Final civil penalty.

This subsection, as well as Subsection (b)(2), includes the phrase “within 10 days” for the period to file an appeal. Section 5490.5b(b) of the act (72 P. S. § 5490.5b(b)) states, “If within ten *calendar* days . . . the person does not notify the county board for assessment appeals . . . the civil penalty shall become final” [emphasis added]. Section 137b.131(b)(2) also uses the term “calen-

dar days.” For consistency with the statute, the phrase “within 10 calendar days” should be used in Subsections (d) and (b)(2).

16. Impact of proposed regulation on counties, municipalities and school boards. —Fiscal impact; Implementation procedures; Clarity.

The Preamble indicates that the regulation and the Act will impose costs on counties including revenue shortfalls. Neither the Preamble nor the Regulatory Analysis Form (RAF) provides any estimates concerning the fiscal impact of this regulation on local governments. What will be the economic impact of this regulation on municipalities and school districts?

**Department of Health Regulation No. 10-162
School Immunization
November 2, 2000**

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which have not been met. The Department of Health (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by October 2, 2002, the regulation will be deemed withdrawn.

1. Adoption by reference.—Protection of the public health and safety; Reasonableness; Clarity.

In the Preamble, the Department explains that the amendments are based on recommendations of the Advisory Committee on Immunization Practices (ACIP) under the Federal Centers for Disease Control and Prevention. The ACIP is recognized as the authority in this area under Pennsylvania law. Section 2 of the Hepatitis B Prevention Act (35 P. S. § 630.2) requires the Department “to establish a program for the prevention of hepatitis B through immunization of children consistent with the recommendations of the Advisory Committee on Immunization Practices.”

Is it the Department’s intention to follow ACIP guidelines in establishing requirements for school immunization? If so, the Department should consider incorporating ACIP guidelines by reference in the regulation, under to 45 Pa.C.S. § 727 and 1 Pa. Code § 3.41. A concern is that new vaccine availability could lag behind the ACIP guidelines. If this is the case, the regulation should provide a grace period for distribution of new vaccines.

2. Section 23.83. Immunization requirements.—Protection of the public health and safety; Reasonableness; Consistency; Need.

(a) Required for entry.

(b) Required for attendance.

Chickenpox and hepatitis B immunizations are included in the list of immunizations required for entry into kindergarten and first grade under Subsection (a). However, they are not included in the list of immunizations required for attendance under Subsection (b). Why? What is the impact of this requirement when a child moves to Pennsylvania and does not have these two immunizations?

Requirement for chickenpox immunization.

Sections 23.83(a)(8) and (c)(2) require chickenpox immunization as a requirement for entry “at a public, private, or parochial school in this Commonwealth, including special education and home education programs.” Public comment was submitted both in support of and in

opposition to adding chickenpox immunity to the list of immunizations required for entry into school. The Department should provide additional explanation or documentation of the need to require chickenpox immunization as a prerequisite for school entry.

3. Section 23.84. Exemption from immunization.—Protection of the public health and safety; Need.

Existing Section 23.84 provides an exemption in the event a physician determines an immunization may be detrimental to the health of the child. One commentator stated that immunizations can be detrimental to other persons in the child's household whose immune systems have been compromised by other diseases or treatments. Is this a possibility? If so, the Department should consider addressing this issue in a future rulemaking.

**Insurance Department Regulation No. 11-184
Policies and Forms; General Filing Requirements
and General Contents of Forms
November 2, 2000**

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) which have not been met. The Insurance Department (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by October 2, 2002, the regulation will be deemed withdrawn.

1. Section 89.2. Scope. and Chapter 89a.—Clarity.

Existing Section 89.2, relating to scope, covers life insurance forms. Section 89a.3 also mentions life insurance forms. For clarity, the Department should explain the differences between Chapter 89 and Chapter 89a, or combine them.

2. Section 89a.6. General contents of forms.—Clarity.

Subsection (c)(3) requires forms to indicate whether the form is a "participating or nonparticipating" form. We understand that the intent is to indicate whether a member may participate in the divisible surplus of an insurer. However, one commentator believes members of a health care network may mistakenly believe "participating and nonparticipating" refers to providers in the health care provider network. Could a different phrase be used?

3. Electronic filing compatibility.—Clarity.

In regard to electronic filings, there is no mention of how compatibility problems will be resolved. What will happen if a filing is made electronically, but it is unusable or unreadable?

**State Board of Education Regulation No. 6-270
Special Education Services and Programs
November 2, 2000**

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)), which have not been met. The State Board of Education (Board) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by October 2, 2002, the regulation will be deemed withdrawn.

1. General.—Clarity.

Course completion and diplomas

Section 14.39 relating to course completion and diplomas is being deleted. We have two questions regarding this deletion. Will a student who satisfactorily completes a special education program developed by an IEP team be issued a diploma? How will parents and school districts know what criteria is necessary for a child with a disability to graduate?

Calendar days and school days

In a number of sections, including Sections 14.131(a)(1), 14.154(d)(1) and 14.161(2), the regulation includes specific time frames. However, it is unclear whether these time frames refer to school or calendar days. These timelines should be clarified and made consistent throughout the regulation.

2. Section 342.1. Definitions.—Clarity.

Mental retardation

This definition is deleted from Chapter 342. It is defined in 34 CFR Section 300.7. The term is used in Section 14.132(2)(vii). Because the federal definition is less specific than the existing definition in Chapter 342, how will parents and school districts measure whether students have "subaverage general intellectual functioning"? Further, how will reliance upon the Federal definition affect students currently in special education?

3. Section 14.101. Definitions.—Clarity.

Child with a disability

The proposed regulation incorporates by reference the Federal definition of this term at 34 CFR Section 300.7. However, variations of this term appear throughout the regulation. For example, Section 14.121(c) refers to "students with disabilities." The defined term "child with a disability" should be used consistently throughout the final-form regulation.

Early intervention services and Mutually agreed-upon written arrangement

The definitions of "early intervention services" and "mutually agreed-upon written arrangement" are not consistent with the definitions of these terms found in Section 875-103 of the Early Intervention Services System Act (Act) (11 P. S. § 875-103). The regulation should include or reference the definitions used in the Act or explain why the text of these definitions differ from their counterparts in the Act.

Parent

The Federal regulations at 34 CFR 300.20 define the term "parent" in two subsections. Subsection (a) generally defines "parent" and Subsection (b) defines the term relating to "foster parent." The Federal definition provides "unless State law prohibits a foster parent from acting as a parent, a State may allow a foster parent to act as a parent." The final-form regulation should address the role of foster parents in obtaining special education or early intervention services.

4. Section 14.102. Purpose.—Reasonableness; Clarity.

Subsection (a) uses the term "quality" to describe special education services and programs. The term "quality" is vague. It should be clarified or deleted from the final-form regulation.

Subsection (a)(2) provides for the incorporation by reference of an extensive list of Federal requirements. We have two concerns with this section. First, the Board is incorporating by reference 25 different citations of 34 CFR Part 300. The extensive reference to the Federal

citations gives little guidance to school districts and parents. It would improve the clarity of this regulation if the incorporation by reference were moved to the corresponding sections of the regulation under the applicable subject areas wherever possible.

Second, Subsection (a)(2) uses the phrase “except as expressly otherwise provided in this chapter. . . .” We were unable to find any sections in the proposed rulemaking where citations to 34 CFR were not incorporated by reference. For clarity, this phrase should be deleted.

Subsection (a)(3) uses the phrase “reach their potential.” This phrase is vague. It should be clarified or deleted from the final-form regulation.

5. Section 14.104. Educational plans.—Clarity.

Subsection (f)(1) states “services and programs are adequate in quantity and variety to meet the needs of students. . . .” The terms “adequate” and “variety” should be clarified or deleted from the final-form regulation.

6. Section 14.121. Child find.—Consistency with statute; Clarity.

Subsection (a)

This subsection requires each school district to “locate and identify children thought to be eligible for special education. . . .” Federal regulations, specifically 34 CFR Section 300.125(a)(i), adds the requirement that children with disabilities are also “evaluated.” For consistency with Federal regulations, the Board should amend Subsection (a) to reflect that children thought to be eligible for special education are “identified, located and evaluated.”

Subsection (b)

This subsection requires school districts to conduct “awareness activities. . . .” This subsection should include examples of “awareness activities.”

Subsection (c)

This subsection requires school districts to “provide annual public notification, . . . with circulation adequate to notify parents throughout the school district. . . .” What constitutes “adequate” circulation?

7. Section 14.122. Screening.—Clarity; Reasonableness.

General

This section requires school districts to establish a system of screening. It is not clear from this section whether the school districts are required to involve parents in this activity. Are school districts required to notify parents before any intervention during the screening phase?

Subsection (a)

In Subsection (a)(1), how do school districts “identify and provide initial screening and direct intervention for students *prior to referral for a special education evaluation*”? (Emphasis added.) This should be clarified in the final-form regulation.

Subsection (d)

Subsection (d) provides “if screening activities have produced little or no improvement within 60 school days after initiation, the student shall be formally referred for evaluation. . . .” A period of 60 school days could potentially extend to a total of 12 weeks or a 3 month period of time. What is the basis for the 60-school day limit for screening? Would a lesser period of time following a

teacher’s screening be sufficient to refer a student for an evaluation? For example, would 6 weeks or 30 school days suffice? We request that the Board respond to these questions when the final-form regulation is submitted.

Further, Subsection (d) states that the “student shall be formally referred for evaluation. . . .” Is there a distinction for “formally referred” as opposed to “informally”? If so, specific components of the formal referral process should be specified in the final-form regulation. If not, then the term should be deleted from the final-form regulation.

8. Section 14.123. Evaluation.—Reasonableness; Need; Clarity.

General

Existing Chapter 342 includes not only the disabilities that students would be tested for, but also the types of evaluations that would be used in assessing the presence of various disabilities. The proposed regulation incorporates by reference 34 CFR 300.534(a)(1) and 300.531—535 (relating to evaluating students with disabilities). However, the CFR sections do not address specific disabilities or the methods for determining whether a child has a disability. The final-form regulation should include the provisions of 22 Pa. Code § 342.25(f)—(m) (relating to multidisciplinary evaluation). If these provisions are not included, an explanation should be provided in the preamble of the final-form regulation.

Subsection (a)

Subsection (a) requires a group of qualified professionals to review evaluation materials to determine whether a child has a disability. We have two concerns with this subsection and Section 14.124(a).

First, this group of qualified professionals, according to this subsection, “. . . shall include a certified school psychologist *when appropriate*.” (Emphasis added.) When would including a school psychologist be inappropriate in this setting? Who determines when the psychologist’s participation is “appropriate”?

Second, the term “group of qualified professionals” is vague. For clarity, the term “group of qualified professionals” should be defined in either this section, or Section 14.101 relating to definitions.

Subsection (b)

This subsection requires “the initial evaluation shall be completed and a copy of the evaluation report presented to the parents no later than 60-school days after the agency receives written parental consent.” We have two concerns with this subsection.

First, will parents be allowed to review and discuss drafts of the report with the school administration? If so, language should be included clarifying that parents have this right.

Second, why does a school district need 60 school days from the time it receives written parental consent to complete the evaluation and draft the report? We have the same concern with the 60-day time frame for reevaluation in Section 14.124(b). Sections 14.123 and 14.124 in the final-form regulation should explain the process that occurs during the 60-school day time period.

9. Section 14.131. IEP.—Reasonableness; Need; Clarity.

Subsection (a)

“Notwithstanding the requirements incorporated by reference. . . .” is confusing. As written, this provision does not provide sufficient notice of mandatory standards. Only

those specific Federal regulations that do not conflict with the Board's regulations should be incorporated by reference.

As soon as possible

The existing 22 Pa. Code § 14.32(i)(2) provides that "the IEP of each student shall be implemented as soon as possible, but no later than 10 school days after the completion of the IEP." The proposed regulation does not directly address the implementation time frame. Instead, it incorporates 34 CFR 300.342(b)(1), through its general references in Section 14.102, which requires public agencies to implement a student's IEP "as soon as possible." The phrase "as soon as possible" in the Federal regulations is vague, and leaves the time frame for implementation open to interpretation. The final-form regulation should retain the 10-school day time frame from the existing regulation, or the Board should explain why 10 school days is no longer appropriate.

Behavior management programs

Commentators have noted that behavior management programs are no longer included in the IEP. The Federal regulations, at 34 CFR 300.347, specify the content of an IEP. Behavior management plans are not included. However, Section 300.346(a)(2)(i), relating to development, review and revision of an IEP, states, "In the case of a child whose behavior impedes his or her learning . . . consider, if appropriate, strategies, including positive behavioral interventions, strategies, and supports to address that behavior."

The behavior management criterion for an IEP is not specifically included in Section 14.131 of the proposed regulation, or Section 300.347 of the Federal regulation, even though the behavior of a student with a disability will be evaluated during the formulation of their IEP. Therefore, the Board should consider retaining "behavior management programs" as a component of the IEP or explain why this requirement is not retained.

Subsection (a)(1)

Subsection (a)(1) allows a parent to waive the rule requiring a copy of the comprehensive evaluation report to be disseminated to the child's parents at least 10 days prior to the meeting of the IEP team. What is the process for a parent to waive this rule? This procedure should be clarified in the final-form regulation.

Subsection (a)(2)

Subsection (a)(2) outlines the process for students with disabilities that transfer from one school district in the Commonwealth to another. This subsection also provides that the student's new school district will provide services and programs specified in an interim IEP, ". . . until a new IEP is developed and implemented and until the completion of due process proceedings under this chapter." This subsection implies that due process hearings are an automatic part of transferring a student with disabilities to a new school district. If that is not the case, this provision should indicate that if due process proceedings occur, they must be completed before the new IEP is developed and implemented.

Subsection (a)(3)

Subsection (a)(3) states "If a student with a disability moves into a school district in this Commonwealth from another state, the new school district may treat the student as a new enrollee and place the student into regular education and is not required to implement the student's existing IEP." Why would a Commonwealth

school district place a transferring student with a disability into a regular education program without an evaluation?

10. Section 14.132. ESY.—Clarity.

The regulation should indicate whether this section applies to eligible young children. An "eligible young child" as defined in Section 14.101, is "a child who is less than the age of beginners and at least 3 years of age and meets the criteria at 34 CFR Section 300.7 (relating to a child with a disability)." Since the definition of the term "child with a disability" includes the term "eligible young child," can an eligible young child qualify for ESY services?

11. Section 14.133. Behavior support.—Reasonableness; Clarity.

Subsection (e) includes a list of aversive techniques that are considered inappropriate and impermissible. Subsection (e)(7) includes "treatment of a demeaning nature." For greater clarity, the final-form regulation should include examples or a definition of "treatment of a demeaning nature."

Finally, for consistency, the term "behavior management" should be replaced with the IDEA 97 term-of-art "behavioral management" in this section, and throughout the regulation.

12. Section 14.141. Educational placement.—Reasonableness; Need; Clarity.

Paragraph (1)

Paragraph (1) defines a number of terms used in reference to educational placement. These terms include "itinerant," "part time" and "resource." "Itinerant" includes regular classroom instruction for most of the school day, "with special education services and programs provided by special education personnel inside or outside of the regular class for part of the school day." "Part time" includes special education services and programs outside of the regular classroom, ". . . but in a regular school for most of the school day, with some instruction in the regular classroom for part of the school day." "Resource" denotes regular classroom instruction for most of the school day, "with special education services provided by special education personnel in a resource room for part of the school day." These definitions are confusing. In the final-form regulation, the differences between these three terms should be clarified.

Caseload charts

Paragraph (2) requires each school district to ". . . establish caseloads for special education and submit a caseload chart to the Department for approval as part of their special education plan. . . ." We have a number of concerns.

First, why is the Board replacing the former caseload requirements and allowing school districts to determine their own standards?

Second, Paragraph (5) states, "the Department may impose caseloads on agencies when the caseload is determined to be inadequate." What criteria will be used in determining whether a school district's caseload is inadequate? Criteria for the evaluation of caseload charts should be included in this section.

Third, Paragraph (4) provides that caseloads are not applicable to approved private schools. As "approved private schools" are included in the definition of "agency," we question why these schools are not subject to the caseload requirement.

Paragraph (6)

Paragraph (6) requires each school district to establish an age range chart for both elementary school classes and secondary school classes and submit this chart to the Department for approval. Paragraph (6)(iii) requires school districts to provide justification for deviating from the Department's recommended age ranges.

Commentators, including the House Education Committee, have stated that, even with the inclusion of Paragraph (6)(iii), age ranges included in 22 Pa. Code Section 342.42(f) should be retained. We agree and request that the Board consider retaining in this regulation the requirements of caseload and age range that are included in 22 Pa. Code Section 342.42(f).

13. Section 14.142. Caseload for special education.—Reasonableness; Clarity.

Caseload chart

This section includes a chart that "presents the recommended maximum caseload allowed on a single teacher's roll for each school district." This revised chart is different from the existing chart contained in Chapter 342 (22 Pa. § 342.42). We have several concerns about Section 14.142.

First, absent any Federal or state requirement to do so, the Board should explain the need for altering the existing table in the final-form regulation.

Second, why are the ratios merely "recommended"? Under the existing regulation, the caseload was required for every school district in the Commonwealth. In this proposal, the ratios are optional, and therefore, are included in the regulation to offer school districts guidance. A regulation contains mandates and has the full force and effect of law. Nonmandatory provisions should be contained in a separate guidance document. If the ratios are nonmandatory, the word "recommended" should be deleted.

Third, the existing caseload chart established the limited number of students in parentheses after each caseload ratio. This number denoted the "maximum number of exceptional students in the room with the teacher at any one time." The revised caseload chart does not include that number. Why has that number been deleted in the caseload table?

Fourth, the existing caseload chart (22 Pa. Code § 342.42(j)) under "learning support" and "life skills support" included ratios for both part-time and full-time students in both elementary and secondary schools. The proposed rulemaking includes only elementary and secondary caseload ratios for "life skills" support, and even then it is only under the "full-time" category. Elementary and secondary caseload ratios are not included for "learning support." Why are these ratios and specific educational program breakdowns not included in the final-form regulation?

Finally, the existing caseload chart included a range of students allowed on a single teacher's class rosters. That range has been replaced by a single number. Why has a single number in the final-form regulation replaced the range of students?

14. Section 14.144. Facilities.—Clarity.

Paragraph (1)

This paragraph requires students with disabilities to be provided with "appropriate classroom space." This requirement is vague and open to interpretation. For example, does this provision apply to the actual size and

location of the classroom, or the facilities within the classroom? The Board should clarify the meaning of "appropriate classroom space" in the final-form regulation.

Paragraph (2)

This paragraph addresses the circumstances under which moving a class is permissible. Does this paragraph apply only to moves within a district, or are moves between districts allowed?

15. Section 14.152. Child find, public awareness and screening.—Clarity.

Subsection (a)

This subsection requires early intervention agencies to "adopt and use a system to locate and identify eligible young children. . . ." Federal regulations, specifically 34 CFR 300.125(a)(i), add the requirement that children with disabilities must be "evaluated." For consistency with federal regulations, Subsection (a) should be amended to reflect that early intervention agencies "identify, locate and evaluate eligible young children."

Subsection (c)

This subsection requires early intervention agencies to "notify the public of child identification and the procedures followed to ensure confidentiality of information pertaining to eligible young children." What type of notification is required? This requirement should be clarified in the final-form regulation.

16. Section 14.153. Evaluation.—Reasonableness; Clarity.

Paragraphs (A)(i), (ii) and (iii)

Paragraphs (i) and (ii) require an evaluation or reevaluation to be completed and a report presented to the parents within "60 days" of the request for evaluation or reevaluation. What process occurs during the 60-day period, and how was this time frame determined? Additionally, the time period should refer to school days consistent with the requirements for special education evaluation and reevaluation in Sections 14.123 and 14.124.

Paragraph (iii) requires reevaluations to occur at least once every 2 years. The existing requirement at 22 Pa. Code 342.53(i) is once every year. Why was the minimum time frame for reevaluations revised?

17. Section 14.154. IEP.—Reasonableness.

Subsection (d)(1) requires that the IEP be implemented "as soon as possible, but no later than 14 days after completion of the IEP." What is the basis for the 14-day limit for implementation?

18. Section 14.155. Range of services.—Statutory authority; Clarity.

In its comments, the Pennsylvania Catholic Conference objects to the licensure requirements referenced in Subsection (a). Section 5 of the Private Academic Schools Act (24 P. S. § 6705) specifically exempts religiously affiliated schools from licensure requirements. Furthermore, Section 304 of the Early Intervention Services System Act (11 P. S. § 875-304) only requires mutually agreeable written arrangements and annual assurance that "the service

provider is in compliance with the Commonwealth's regulations and standards." What is the statutory authority for requiring licensure of private preschools?

19. Section 14.156. System of quality assurance.—Reasonableness; Clarity.

Paragraph (2)(i)

This paragraph states that the caseload for supportive intervention "should be 10—40 children with no more than 6 eligible young children serviced in the same session." (Emphasis added.) We have three concerns.

First, the term "supportive intervention" should be defined in the final-form regulation.

Second, this paragraph states what the caseload "should be." As written, this provision appears to be a guideline, rather than a mandate. A regulation has the full force and effect of law. Nonmandatory provisions should not be included in regulations. If the caseload range contained in this paragraph is a requirement, then the language should be revised to so indicate. If the caseload range is a recommendation, the language should be placed in a statement of policy.

Finally, how was the caseload range determined?

Paragraph (2)(ii)

Paragraphs (A), (B) and (C) list the staff-to-children ratios for children functioning at different developmental levels. How were these ratios determined?

Paragraph (2)(iii)

This paragraph specifies that for home based programs, the caseload ratio is 10 to 20 eligible young children per teacher. This ratio appears to include a broad range of children for which a teacher may provide services. Please explain how this ratio was determined.

Paragraph (2)(iv)

This paragraph provides that the speech and language itinerant program caseload for a single teacher is 10 to 50 eligible young children. This appears to be a broad range. How was this ratio determined?

Paragraph (2)(v)

Under this paragraph, for "early intervention programs where physical therapy or occupational therapy, or both, is specified on the IEP, individual caseloads are determined with consideration of the type of services delivered and the time required for those services." For these situations, does the individual therapist determine the caseload?

20. Section 14.157. Exit criteria.—Reasonableness; Clarity.

Subsection (a)(1) cross-references 11 P. S. 875-301(1). However, this citation does not appear to relate to exit criteria. Is this citation correct?

Subsection (a)(2) establishes a 4 month time period during which a child functions within the range of normal development as one of the criteria to exit the early intervention program. The existing time period is 6 months. Why is this time period is being reduced?

21. Section 14.158. Data collection and confidentiality.—Clarity.

The title of this section references confidentiality. However, there are no confidentiality provisions in this section. This section should be reviewed to reconcile this inconsistency.

22. Section 14.161. Prehearing conferences.—Clarity.

Inclusion of early intervention agencies

This section of the regulation addresses prehearing conferences as they relate to when "the parent disproves the school district's proposed action or refusal to act." Do the provisions in this section also apply to early intervention agencies? If so, they should be added to this section. If not, please explain the options for parents when they disagree with the action or inaction of the early intervention agency.

Additionally, if early intervention agencies are included under this section, the term "young child" in the first sentence (relating to the purpose of the section) should be replaced with the defined term "eligible young child."

Paragraph (2)

Under this paragraph, "When requested, the school district shall convene the prehearing conference within 10 days of receipt of the parent notice and shall be chaired by the superintendent or the superintendent's designee." There are two concerns.

First, a hearing officer has the discretion to schedule a prehearing conference with or without a party's request. Therefore, the word "shall" should be changed to "may" in this paragraph.

Second, the regulation should clarify what constitutes "receipt" of a parent notice.

Paragraph (3)

This paragraph states that "if the prehearing conference does not result in an agreement, the provisions under 14.162 (relating to impartial due process hearing and expedited due process hearing) shall be applied." In its comments, the House Education Committee notes that the Pennsylvania mediation system could be applied and that parents should not feel compelled to enter a due process hearing. Consequently, the House Education Committee suggests changing "shall be applied" to "may be applied." We concur. Also, to improve clarity, a reference to the mediation process should be included in this subsection.

23. Section 14.162. Impartial due process hearing and expedited due process hearing.—Statutory authority; Reasonableness; Clarity.

Subsection (b)

This subsection consists of one long sentence, which is confusing and difficult to read. The clarity of this section could be improved by breaking the sentence into subparagraphs.

Subsection (c)

This subsection allows the school district or early intervention agency to request a hearing to proceed with an initial evaluation or educational placement when they have been unable to obtain consent from the parents. In its comments, the House Education Committee recommends deleting the reference to early intervention agencies. The Committee notes that the early intervention system is optional, since parents may choose whether or not they want these services for their child.

What is the statutory authority for the early intervention agency to proceed with evaluation or placement in

the absence of parental consent? If there is none, the reference to early intervention agencies should be deleted.

Subsection (d)

This subsection requires a hearing to be held at "a place reasonably convenient to the parents." This provision should be revised to require the hearing to be held at both a place and time that is convenient for the parents.

Subsection (i)

The Board's explanation of this subsection in the preamble does not clearly convey the intent of the regulatory language. We suggest that this discussion be redrafted to clarify that a party does not have to be represented by a lawyer in a due process hearing. A party may be accompanied, assisted or advised by a person with expertise in special education. However, only a lawyer may perform functions in the hearing that constitute the practice of law.

**Environmental Quality Board Regulation No. 7-356
Administration of Land Recycling Program
November 3, 2000**

We submit for consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P. S. § 745.5a(h) and (i)) that has not been met. The Environmental Quality Board (Board) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by October 4, 2002, the regulation will be deemed withdrawn.

1. Section 250.5. Public notice by applicant.—Clarity.

Subsection (d)

Subsection (d) states "the remediator shall send notice to every municipality and community water supplier servicing the area. . . ." Will the remediator have to "send notice" through first class or registered mail? Will notice by phone or electronic mail suffice? The final-form regulation should include a clarification of the notice requirement.

Subsection (e)

Subsection (e) begins with the phrase "Upon receipt of a request. . . ." What constitutes "receipt"? Additionally, upon receipt, the "municipality and community water supplier shall have 45 days to indicate . . . any information relevant to the requirements of § 250.303." When does the 45-day time frame begin? The final-form regulation should indicate how receipt is documented.

2. Section 250.6. Public participation.—Reasonableness; Clarity.

Subsection (e) requires a person making a precertification determination request for a nonuse aquifer to develop and implement a public involvement plan. We have a number of concerns regarding this subsection.

First, this subsection requires that a public involvement plan ". . . shall be developed by the person making a precertification determination request under § 250.303(f). . . ." Section 250.303(f) allows only municipal authorities and political subdivisions to make a precertification determination request. Is this the intent? Should a company interested in remediating the site also be able to develop a public involvement plan?

Second, Subsection (e)(2) requires a person making a precertification determination request to implement a public involvement plan. One component of the public

involvement plan is a 90-day comment period. How was the 90-day time frame time determined? Would 45 or 60 days be sufficient time for local governments to respond?

Third, Subsections (c)(1) and (e)(3) require the public to have access to documentation at "convenient locations." For clarity, examples of "convenient locations" should be included in these subsections in the final-form regulation.

Fourth, Subsections (c)(1) and (e)(3) should require the documentation to be available to the public at convenient times. They should include examples of convenient times.

Finally, Subsections (c)(1) and (e)(5) require "A location near the proposed nonuse aquifer designation site for any public hearings and meetings. . . ." The word "near" is vague and needs clarification.

3. Section 250.303. Aquifer determination; current use and currently planned use of aquifer groundwater.—Consistency with the statute; Clarity.

We have several concerns with Subsection (f). First, the regulation refers to "receipt of a nonuse aquifer determination request, and receipt of the required public involvement plan." The final-form regulation should clarify what constitutes "receipt."

Second, Subsection (f) establishes a 3 year expiration date for a nonuse aquifer determination made under this subsection. How was the 3 year period determined? Would a longer period of time suffice? Additionally, what does the renewal process entail? Is another public involvement plan required?

Finally, under this subsection, the nonuse aquifer determination "may be updated at any time additional *relevant* information comes to the attention of the Department." (Emphasis added.) For clarity, the final-form regulation should include examples of what type of information would be considered relevant to updating a nonuse aquifer determination.

4. Section 250.311. Evaluation of ecological receptors.—Clarity.

Subsections (c) and (d) address "Constituents of Potential Ecological Concern (CPECs) associated with a release at the site. . . ." Does "release" refer to any historical release on the site, or only the release that is currently being remediated?

5. Section 250.707. Statistical tests.—Clarity.

There are several concerns with this section. First, Subsection 250.707(b)(1)(iii) uses the phrase "full site characterization." It is our understanding that the required components of a "full site characterization" are listed in existing Subsections 250.204(b)—(e). If so, Subsection 250.707(b)(1)(iii) should cross-reference the subsections that describe a "full site characterization."

Second, the regulation only addresses situations in which a "full site characterization" has not been done in association with an excavation remediation. What requirements apply when a "full site characterization" has been done?

Third, does Subsection 250.707(b)(1)(iii) pertain only to underground storage tank systems or does it involve releases in other situations?

Finally, Subsection 250.707(b)(1)(iii)(C) states: "All sample results shall meet the Statewide health standards." The subsection should cross-reference or identify the appropriate "Statewide health standards."

6. Appendix A, Medium-Specific Concentrations (MSCs) for Organic Regulated Substances, Physical and Toxicological Properties.—Consistency with other regulations; Reasonableness; Clarity.

Part of this regulation was a correction of typographical and calculation errors in Appendix A. This is a continual process. BP Exploration & Oil, Inc., Pennsylvania Electric Association, PPL Generation LLC and Energy Association of Pennsylvania noted the need for additional corrections. The Appendix should be reviewed and corrected in developing the final-form regulation.

In particular, there is a concern with the standards and calculations for polychlorinated biphenyls (PCBs). The Energy Association of Pennsylvania noted that the standards and calculations for PCBs in the proposed regulation are inconsistent with and more stringent than the Federal standards of the U.S. Environmental Protection Agency. The standards for monitoring PCBs need to be clarified. If they are more stringent than comparable Federal standards, the need for the higher standards should be justified.

JOHN R. MCGINLEY,
Chairperson

[Pa.B. Doc. No. 00-2000. Filed for public inspection November 17, 2000, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations on the dates indicated. To obtain the date and time of the meeting at which the Commission will consider these regulations, contact the Commission at (717) 783-5417 or visit its website at www.irrc.state.pa.us. To obtain a copy of the regulation, contact the promulgating agency.

Final-Form

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
106-5	Environmental Hearing Board Practice and Procedure	11/08/00
18-349	Department of Transportation Administrative Practice and Procedure; Outdoor Advertising	11/08/00

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 00-2001. Filed for public inspection November 17, 2000, 9:00 a.m.]

INSURANCE DEPARTMENT

Alleged Violation of Insurance Laws: Kevin J. Brogan; Doc. No. SC00-11-009

Notice is hereby given of the Order to Show Cause issued on May 4, 1999, by the Deputy Insurance Commissioner of the Commonwealth of Pennsylvania in the above-referenced matter. Violation of the following is alleged: Insurance Department Act of 1921 (40 P.S. §§ 234, 275, 278 and 279); 31 Pa. Code §§ 37.46—37.47, 81.1 and Appendix A.

Respondent shall file a written answer to the Order to Show Cause within 30 days of the date of issue. If

Respondent files a timely answer, a formal administrative hearing shall be held in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law); 1 Pa. Code §§ 31.1—35.251 (relating to General Rules of Administrative Practice and Procedure); 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure) and other relevant procedural provisions of law.

Answers, motions preliminary to those at hearing, protests, petitions to intervene, or notices of intervention, if any, must be filed in writing with the Docket Clerk, Insurance Department, Administrative Hearings Office, 901 North 7th Street, Harrisburg, PA 17102.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 00-2002. Filed for public inspection November 17, 2000, 9:00 a.m.]

Application for Voluntary Dissolution

PMA Life Insurance Company, a domestic stock life insurance company, has submitted an application for approval of the voluntarily dissolution of its charter. The filing was made under requirements set forth under the Business Corporation Law of 1988, 15 Pa.C.S. § 1 et seq. Persons wishing to comment on the grounds of public or private interest concerning the dissolution, are invited to submit a written statement to the Pennsylvania Insurance Department within 15 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include the name, address and telephone number of the writer, identification of the application to which the comment is addressed, and a concise statement with sufficient detail to inform the Insurance Department of the exact basis of the comment and the relevant facts upon which it is based. Written statements should be directed to Robert Brackbill, Company Licensing Division, Room 1311 Strawberry Square, Harrisburg, PA 17120, by fax to (717) 787-8557, or by e-mail to rbrackbi@ins.state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 00-2003. Filed for public inspection November 17, 2000, 9:00 a.m.]

List of Names of Qualified Unlicensed Reinsurers

Under Section 319.1 of The Insurance Company Law of 1921 (40 P.S. § 442.1), the Insurance Commissioner hereby lists reinsurers not licensed by the Insurance Department which shall be considered qualified to accept reinsurance from insurers licensed by the Insurance Department.

This listing of qualified unlicensed reinsurers shall be published in the *Pennsylvania Bulletin* when additions to or deletions from such listing are made by the Insurance Commissioner. This present listing shall replace in their entirety previously published listings of qualified unlicensed reinsurers which appeared at 6 Pa.B. 2423 (September 25, 1976); 6 Pa.B. 3140 (December 18, 1976); 7 Pa.B. 501 (February 19, 1977); 7 Pa.B. 1766 (June 25, 1977); 8 Pa.B. 276 (January 28, 1978); 8 Pa.B. 1646 (June 17, 1978); 8 Pa.B. 3461 (December 2, 1978); 9 Pa.B. 4235

(December 22, 1979); 11 Pa.B. 38 (January 3, 1981); 12 Pa.B. 37 (January 2, 1982); 12 Pa.B. 2368 (July 23, 1982); 13 Pa.B. 657 (February 5, 1983); 13 Pa.B. 2826 (September 10, 1983); 14 Pa. B. 1053 (March 24, 1984); 14 Pa.B. 3065 (August 18, 1984); 15 Pa.B. 402 (February 2, 1985); 15 Pa.B. 3214 (September 7, 1985); 16 Pa.B. 290 (January 25, 1986); 17 Pa.B. 461 (January 24, 1987); 17 Pa.B. 5368 (December 26, 1987); 18 Pa.B. 5540 (December 10, 1988); 19 Pa.B. 713 (February 18, 1989); 19 Pa.B. 3129 (July 22, 1989); 19 Pa.B. 5476 (December 23, 1989); 20 Pa.B. 6227

(December 15, 1990); 21 Pa.B. 3286 (July 20, 1991); 21 Pa.B. 5445 (November 23, 1991); 22 Pa.B. 4591 (September 5, 1992); 23 Pa.B. 60 (January 2, 1993); 23 Pa.B. 5678 (November 27, 1993); 24 Pa.B. 4151 (August 13, 1994); 24 Pa.B. 6033 (December 3, 1994); 25 Pa.B. 5799 (December 16, 1995); 26 Pa.B. 5665 (November 16, 1996); 27 Pa.B. 2593 (May 24, 1997); 27 Pa.B. 6019 (November 15, 1997); 28 Pa.B. 5733 (November 14, 1998) 28 Pa.B. 5922 (December 5, 1999) and 29 Pa.B. 5965 (November 20, 1999).

Insurance Department's Qualified Reinsurers List

1. 37958 Acceptance Insurance Company, Omaha, Nebraska
2. 10021 ACE Capital Mortgage Reinsurance Company, New York, New York
3. 30180 ACE Guaranty Re Inc., Baltimore, Maryland
4. 37532 Agricultural Excess and Surplus Insurance Company, Wilmington, Delaware
5. 10651 AIG Global Trade & Political Risk Insurance Company, Parsippany, New Jersey
6. 41858 American Dynasty Surplus Lines Insurance Company, Wilmington, Delaware
7. 37990 American Empire Insurance Company, Cincinnati, Ohio
8. 26883 American International Specialty Lines Insurance Company, Anchorage, Alaska
9. 10316 Appalachian Insurance Company, Johnston, Rhode Island
10. 27189 Associated International Insurance Company, Woodland Hills, California
11. 50687 Attorneys' Title Insurance Fund, Inc., Orlando, Florida
12. 19925 Audubon Indemnity Company, Jackson, Mississippi
13. 18988 Auto-Owners Insurance Company, Lansing, Michigan
14. 36552 AXA Reinsurance Company, Wilmington, Delaware
15. 36951 Century Surety Company, Columbus, Ohio
16. 38989 Chubb Custom Insurance Company, Dover, Delaware
17. 81914 Clarica Life Insurance Company, Waterloo, Canada
18. 97071 Clarica Life Reinsurance Company, Lansing, Michigan
19. 10291 CNA Reinsurance Company Limited, London, England
20. 39993 Colony Insurance Company, Richmond, Virginia
21. 40371 Columbia Mutual Insurance Company, Columbia, Missouri
22. 27955 Commercial Risk Re-Insurance Company, South Burlington, Vermont
23. 17400 Coregis Indemnity Company, Durham, North Carolina
24. 10928 Eagle Insurance Company, Jersey City, New Jersey
25. 10240 E+S Ruckversicherungs Aktiengesellschaft, Hannover, Germany
26. 40509 EMC Reinsurance Company, Des Moines, Iowa
27. 90670 ERC Life Reinsurance Corporation, Jefferson City, Missouri
28. 39020 Essex Insurance Company, Wilmington, Delaware
29. 35378 Evanston Insurance Company, Evanston, Illinois
30. 44792 Executive Risk Specialty Insurance Company, Simsbury, Connecticut
31. 85472 First ING Life Insurance Company of New York, New York
32. 92673 Gerling Global Life Insurance Company, Toronto, Canada
33. 87017 Gerling Global Life Reinsurance Company, Los Angeles, California
34. 22098 Grain Dealers Mutual Insurance Company, Indianapolis, Indiana
35. 88340 Hannover Life Reassurance Company of America, Orlando, Florida
36. 10241 Hannover Ruckversicherungs-Aktiengesellschaft, Hannover, Germany
37. 93505 Hartford International Life Reassurance Corporation, Westport, Connecticut
38. 78972 Healthy Alliance Life Insurance Company, St. Louis, Missouri
39. 42374 Houston Casualty Company, Houston, Texas
40. 27960 Illinois Union Insurance Company, Chicago, Illinois

41. 10040 Inner Harbor Reinsurance, Inc., Baltimore, Maryland
42. 22829 Interstate Fire & Casualty Company, Chicago, Illinois
43. INEX Insurance Exchange, Chicago, Illinois
44. 35637 Landmark Insurance Company, San Francisco, California
45. 29912 Legion Indemnity Company, Chicago, Illinois
46. 19437 Lexington Insurance Company, Wilmington, Delaware
47. Lloyd's Underwriters, London, England
48. 98078 Manulife Reinsurance Corporation (USA), Buffalo, New York
49. 32089 Medmarc Mutual Insurance Company, Vergennes, Vermont
50. 33189 Monticello Insurance Company, Wilmington, Delaware
51. 20079 National Fire & Marine Insurance Company, Omaha, Nebraska
52. 41629 New England Reinsurance Corporation, Hartford, Connecticut
53. 29700 North American Elite Insurance Company, Manchester, New Hampshire
54. 31143 Old Republic Union Insurance Company, Montgomery, Alabama
55. 88099 Optimum Re Insurance Company, Dallas, Texas
56. 37338 Pacific Insurance Company, Los Angeles, California
57. 38636 Partner Reinsurance Company of the U. S., New York, New York
58. 88536 Protective Life and Annuity Insurance Company, Birmingham, Alabama
59. 29807 PXRE Reinsurance Company, Hartford, Connecticut
60. 24481 Reliance Insurance Company of Illinois, Chicago, Illinois
61. 10679 St. Paul Reinsurance Company, Limited., London, England
62. 21911 San Francisco Reinsurance Company, Novato, California
63. 87572 Scottish Re (U.S.), Inc., Santa Cruz, California
64. 41297 Scottsdale Insurance Company, Columbus, Ohio
65. 23388 Shelter Mutual Insurance Company, Columbia, Missouri
66. 10743 Sphere Drake Insurance Company Limited, Brighton, England
67. 10932 Starr Excess Liability Insurance Company, Ltd., Wilmington, Delaware
68. 39187 Suecia Insurance Company, Nanuet, New York
69. 93483 Swiss-Am Reassurance Company, Wilmington, Delaware
70. 10672 Terra Nova Insurance Company, Limited., London, England
71. 19887 Trinity Universal Insurance Company, Dallas, Texas
72. 37982 Tudor Insurance Company, Keene, New Hampshire
73. 10292 Unionamerica Insurance Company, Limited., London, England
74. 36048 Unione Italiana Reinsurance Company of America, Inc., New York, New York
75. 39330 United Capitol Insurance Company, Atlanta, Georgia
76. 28053 United Coastal Insurance Company, Phoenix, Arizona
77. 13021 United Fire & Casualty Company, Cedar Rapids, Iowa
78. 38032 US International Reinsurance Company, Manchester, New Hampshire
79. 21067 Westchester Surplus Lines Insurance Company, Honolulu, Hawaii
80. 29548 Western Indemnity Insurance Company, Houston, Texas
81. 13196 Western World Insurance Company, Keene, New Hampshire
82. 10242 Zurich Specialties London Limited, London, England

**Changes to the Qualified Unlicensed Reinsurers
List Since it Was Published on November 20, 1999:**

The following companies have been removed from the list since it was published on November 20, 1999.

American Agricultural Insurance Company, Indianapolis, Indiana

Guardian Royal Exchange Assurance PLC, London, England

The following companies have been added to the list since it was published on November 20, 1999:

Clarica Life Insurance Company (U.S. Branch), Waterloo, Canada

Sphere Drake Insurance Company Limited, London, England

The following companies have changed their names since the list was published on November 20, 1999:

Capital Mortgage Reinsurance Company, New York, New York changed its name to ACE Capital Mortgage Reinsurance Company, New York, New York

Capital Reinsurance Company, Baltimore, Maryland changes its name to ACE Guaranty Re Inc., Baltimore, Maryland

European Reinsurance Corporation of America, Manchester, New Hampshire changed its name to North American Elite Insurance Company, Manchester, New Hampshire

Hansa Reinsurance Company of America, Nanuet, New York has changed its name to Suecia Insurance Company, Nanuet, New York

Harbourton Reassurance, Inc., Wilmington, Delaware changed its name to Scottish Re (U.S.), Inc., Santa Cruz, California

Reassurance Company of Hannover, Orlando, Florida changed its name to Hannover Life Reassurance Company of America, Orlando, Florida

Sun Life Of Canada Reinsurance Company (U.S.), Lansing, Michigan changed its name to Clarica Life Reinsurance Company, Lansing, Michigan

The following company was removed from the list because it became licensed in Pennsylvania since the list was published on November 20, 1999:

AXA Re Property & Casualty Insurance Company, Wilmington, Delaware

The following companies were removed from the list because they merged into licensed companies since the list was published on November 20, 1999:

First Excess and Reinsurance Corporation, Jefferson City, Missouri merged into GE Reinsurance Corporation

Health Providers Insurance Company, Deerfield, Illinois merged into American Continental Insurance Company

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 00-2004. Filed for public inspection November 17, 2000, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insured has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with the termination of the insured's residential or personal coverage. This administrative hearing will be held in the Insurance Department Offices in Pittsburgh, PA. Failure by the appellant to appear at the scheduled hearing may result in dismissal with prejudice.

The hearing will be held at the Pittsburgh Regional Office, Room 304 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Keith D. Cerqueira; file no. 00-308-71258; Farmers Fire Insurance Company; doc. no. P100-11-008; January 12, 2001, at 1 p.m.

Each party may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses and the like necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

Following the hearing and receipt of the stenographic transcript, 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 may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the above-referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 00-2005. Filed for public inspection November 17, 2000, 9:00 a.m.]

LEGISLATIVE REFERENCE BUREAU

Documents Filed But Not Published

The Legislative Reference Bureau accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of *Bulletin*). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no such documents have been received. For questions concerning or copies of documents filed, but not published, please call (717) 783-1530.

Executive Board

Resolution #CB-00-279, Dated, October 27, 2000. Authorizes the side letter amending Article 41 of the labor agreement between the Commonwealth of Pennsylvania and SEIU. Additionally, it also provides to increase the hourly rate paid to PRN Nurses effective 8/1/2000.

Resolution #CB-00-280, Dated, October 27, 2000. Authorizes the side letter to move the Registered Nurse 1 and Registered Nurse 2 classifications at SCI-Graterford, Southeastern Pa. Veteran's Center and four state hospitals (Norristown, Allentown, Wernersville, and Harrisburg) to Step 6 of their respective Pay Range, effective the first full pay period in August 2000.

Governor's Office

Management Directive No. 310.24—Accepting Debit/Credit Cards and Electronic Funds Transfers for Commonwealth Revenues, Amended October 20, 2000.

Management Directive No. 315.17—Direct Deposit of Pay Program, Amended October 20, 2000.

Management Directive No. 325.5—Single Audit Costs—State Level, Amended September 27, 2000.

Management Directive No. 505.28—Family Care Account Program, Amended October 6, 2000.

Management Directive No. 530.11—Benefit Rights of Permanent and Temporary Employees, Amended October 6, 2000.

Management Directive No. 620.1—Coal Sampling and Reporting, Revision No. 1, Dated September 26, 2000.

Administrative Circular No. 00-31—Holidays - 2001, Dated October 6, 2000.

Administrative Circular No. 00-32—Christmas Trees and Decorations, Dated October 16, 2000.

Administrative Circular No. 00-33—Preaudit Requirements - Invitation to Qualify (ITQ) Contracts, Dated October 20, 2000.

Administrative Circular No. 00-34—Distribution Manual for Personnel Management Review, M505.2, Dated October 23, 2000.

GARY R. HOFFMAN,
Director,
Pennsylvania Code and
Bulletin

[Pa.B. Doc. No. 00-2006. Filed for public inspection November 17, 2000, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board leases will expire:

Chester County, Wine & Spirits Shoppe #1513, 1006 Lancaster Avenue, Berwyn, PA 19312-1844.

Lease Expiration Date: August 31, 2001

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space located within 1.5 miles of Berwyn, Easttown Township.

Proposals due: December 8, 2000 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: James M. Bradley, (215) 482-9670

Delaware County, Wine & Spirits Shoppe #2311, 4316 Woodland Avenue, Drexel Hill, PA 19026-4324.

Lease Expiration Date: August 31, 2001

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,500 net useable square feet of new or existing retail commercial space located near the intersection of Woodland Avenue and Burmont Road, Drexel Hill, Upper Darby Township.

Proposals due: December 8, 2000 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: James M. Bradley, (215) 482-9670

Franklin County, Wine & Spirits Shoppe #2805, 1670 Lincoln Way East, Chambersburg, PA 17201-3346.

Lease Expiration Date: October 31, 2001

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,700 to 3,200 net useable square feet of new or existing retail commercial space along U.S. Route 30, between Interstate 81 to the west and Garman Drive to the east.

Proposals due: December 8, 2000 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Charles D. Mooney, (717) 657-4228

Chester County, Wine & Spirits Shoppe #1503, 228 South 3rd Street, Oxford, PA 19363-1728.

Lease Expiration Date: August 31, 2001

Lease retail commercial space to the Commonwealth of Pennsylvania. Proposals are invited to provide the Pennsylvania Liquor Control Board with approximately 2,000 net useable square feet of new or existing retail commercial space located within four (4) miles of the area of Oxford.

Proposals due: December 8, 2000 at 12 noon

Department: Pennsylvania Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113
Contact: James M. Bradley, (215) 482-9670

JOHN E. JONES, III,
Chairperson

[Pa.B. Doc. No. 00-2007. Filed for public inspection November 17, 2000, 9:00 a.m.]

MEDICAL PROFESSIONAL LIABILITY CATASTROPHE LOSS FUND

Notice of and Amount of Surcharge

The Medical Professional Liability Catastrophe Loss Fund, under the authority granted by section 701(e) of the Health Care Services Malpractice Act (40 P. S. § 1301.701(e)), as amended by Act 135 of 1996, has determined that the annual surcharge to be assessed for calendar year 2001 shall be 61% applied to the prevailing primary premium for each health care provider.

Act 135 of 1996 defines "prevailing primary premium" as the schedule of occurrence rates approved by the Insurance Commissioner for the Joint Underwriting Association (JUA). For purposes of the 2001 annual surcharge, the JUA rates to be used are \$500,000 per occurrence/\$1,500,000 per annual aggregate for health care providers other than hospitals, and \$500,000 per occurrence/\$2,500,000 per annual aggregate for hospitals.

Health care providers having approved self-insurance plans shall be surcharged an amount equal to the sur-

charged imposed on a health care provider of like class, size, risk and kind as determined by the Fund's Director.

JOHN H. REED,
Director

[Pa.B. Doc. No. 00-2008. Filed for public inspection November 17, 2000, 9:00 a.m.]

PENNSYLVANIA COMMISSION FOR WOMEN

Meeting Notice

The Pennsylvania Commission for Women has scheduled the next Commission Meeting to be held on Monday, November 27, 2000, from 10 a.m. until 3 p.m. at the Wyndham Garden Hotel, 765 Eisenhower Boulevard, Harrisburg, PA 17111. The public is invited to attend. Persons who need accommodations due to a disability and want to attend should contact Christine Anderson, PA Commission for Women, 205 Finance Building, Harrisburg, PA 17120 at (717) 787-8128 or (888) 615-7477, at least 24 hours in advance so arrangements can be made.

DANA ZAMOLYI,
Deputy Director

[Pa.B. Doc. No. 00-2009. Filed for public inspection November 17, 2000, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Default Order

Commissioners Present: John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson; Nora Mead Brownell; Terrance J. Fitzpatrick

Public Meeting held
October 25, 2000

Pennsylvania Public Utility Commission Law Bureau Prosecutory Staff v. American Telecommunications Enterprise; Docket No. C-00004116; A-310156

Default Order

By the Commission:

On August 30, 2000, the Law Bureau Prosecutory Staff instituted a complaint against American Telecommunications Enterprise (the "Respondent"), an interexchange ("IXC") reseller certificated at A-310156. In the complaint, Prosecutory Staff alleged that the Commission sent by certified mail a notice to the Respondent that its monthly Universal Service Fund assessments were overdue by three or more months. The complaint charged that the Respondent violated the Commission's order entered on February 4, 2000, at Docket No. L-00000148 (*Rulemaking Re Establishing Universal Service Fund Regulations at Pa. Code §§ 63.141—63.1502*) by not paying the monthly assessments.

The complaint sought an order from the Commission canceling the Respondent's certificate of public convenience for failure to pay its assessment and accrued late charges. The complaint was mailed by the Secretary's Bureau on August 31, 2000, and according to the postal return receipt, service was perfected on September 6,

2000. To date, more than 20 days later, no answer has been filed to the complaint and the assessments have still not been paid; *Therefore, It Is Ordered:*

1. That the allegations in the Law Bureau Prosecutory Staff's complaint are deemed admitted and the complaint is thereby sustained.

2. That the Secretary serve a copy of this Order upon all jurisdictional telecommunication carriers, the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Order to be published in the *Pennsylvania Bulletin* with a 20-day comment period.

3. That American Telecommunications Enterprise immediately cease providing service to any new customers and, within 10 days of the entry of this Order, provide a written notice to each existing customer directing each to select an alternative IXC service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience absent public comment within the 20-day time period established pursuant to Ordering Paragraph No. 2, above.

4. That absent the filing of adverse public comment, 30 days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate of public convenience held by American Telecommunications Enterprise at Docket No. A-310156 shall be canceled, and the company's name stricken from all active utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Audits.

By the Commission,

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 00-2010. Filed for public inspection November 17, 2000, 9:00 a.m.]

Default Order

Commissioners Present: John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson; Nora Mead Brownell; Terrance J. Fitzpatrick

Public meeting held
October 25, 2000

Pennsylvania Public Utility Commission Law Bureau Prosecutory Staff v. ATCALL, Inc.; Docket No. C-00004117; A-310340

Default Order

By the Commission:

On August 30, 2000, the Law Bureau Prosecutory Staff instituted a complaint against ATCALL, Inc. (the "Respondent"), an interexchange ("IXC") reseller certificated at A-310340. In the complaint, Prosecutory Staff alleged that the Commission sent by certified mail a notice to the Respondent that its monthly Universal Service Fund assessments were overdue by three or more months. The complaint charged that the Respondent violated the Commission's order entered on February 4, 2000, at Docket No. L-00000148 (*Rulemaking Re Establishing Universal*

Service Fund Regulations at Pa. Code §§ 63.141—63.1502) by not paying the monthly assessments.

The complaint sought an order from the Commission canceling the Respondent's certificate of public convenience for failure to pay its assessment and accrued late charges. The complaint was mailed by the Secretary's Bureau on August 31, 2000, and according to the postal return receipt, service was perfected on September 6, 2000. To date, more than 20 days later, no answer has been filed to the complaint and the assessments have still not been paid; *Therefore, It Is Ordered:*

1. That the allegations in the Law Bureau Prosecutory Staff's complaint are deemed admitted and the complaint is thereby sustained.

2. That the Secretary serve a copy of this Order upon all jurisdictional telecommunication carriers, the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Order to be published in the *Pennsylvania Bulletin* with a 20-day comment period.

3. That ATCALL, Inc. immediately cease providing service to any new customers and, within 10 days of the entry of this Order, provide a written notice to each existing customer directing each to select an alternative IXC service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience absent public comment within the 20-day time period established pursuant to Ordering Paragraph No. 2, above.

4. That absent the filing of adverse public comment, 30 days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate of public convenience held by ATCALL, Inc. at Docket No. A-310340 shall be canceled, and the company's name stricken from all active utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Audits.

By the Commission,

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 00-2011. Filed for public inspection November 17, 2000, 9:00 a.m.]

Default Order

Commissioners Present: John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson; Nora Mead Brownell; Terrance J. Fitzpatrick

Public meeting held
October 25, 2000

Pennsylvania Public Utility Commission Law Bureau Prosecutory Staff v. Business Telecommunications Systems Inc.; Docket No. C-00004118; A-310038

Default Order

By the Commission:

On September 27, 2000, the Law Bureau Prosecutory Staff instituted a complaint against Business Telecommunications Systems Inc. (the "Respondent"), an interexchange ("IXC") reseller certificated at A-310038. In the complaint, Prosecutory Staff alleged that the Commission sent by certified mail a notice to the Respondent that its monthly Universal Service Fund assessments were overdue by three or more months. The complaint charged that the Respondent violated the Commission's order entered on February 4, 2000, at Docket No. L-00000148 (*Rulemaking Re Establishing Universal Service Fund Regulations at Pa. Code §§ 63.141—63.1502*) by not paying the monthly assessments.

The complaint sought an order from the Commission canceling the Respondent's certificate of public convenience for failure to pay its assessment and accrued late charges. The complaint was mailed by the Secretary's Bureau on September 27, 2000, and according to the postal return receipt, service was perfected on September 29, 2000. To date, more than 20 days later, no answer has been filed to the complaint and the assessments have still not been paid; *Therefore, It Is Ordered:*

1. That the allegations in the Law Bureau Prosecutory Staff's complaint are deemed admitted and the complaint is thereby sustained.

2. That the Secretary serve a copy of this Order upon all jurisdictional telecommunication carriers, the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Order to be published in the *Pennsylvania Bulletin* with a 20-day comment period.

3. That Business Telecommunications Systems Inc. immediately cease providing service to any new customers and, within 10 days of the entry of this Order, provide a written notice to each existing customer directing each to select an alternative IXC service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience absent public comment within the 20-day time period established pursuant to Ordering Paragraph No. 2, above.

4. That absent the filing of adverse public comment, 30 days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate of public convenience held by Business Telecommunications Systems Inc. at Docket No. A-310038 shall be canceled, and the company's name stricken from all active utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Audits.

By the Commission,

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 00-2012. Filed for public inspection November 17, 2000, 9:00 a.m.]

Default Order

Commissioners Present: John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson; Nora Mead Brownell; Terrance J. Fitzpatrick

Public meeting held
October 25, 2000

*Pennsylvania Public Utility Commission Law Bureau
Prosecutory Staff v. Home Owners Long Distance Inc.;*
Docket No. C-00004120; A-310196

Default Order

By the Commission:

On August 30, 2000, the Law Bureau Prosecutory Staff instituted a complaint against Home Owners Long Distance Inc. (the "Respondent"), an interexchange ("IXC") reseller certificated at A-310196. In the complaint, Prosecutory Staff alleged that the Commission sent by certified mail a notice to the Respondent that its monthly Universal Service Fund assessments were overdue by three or more months. The complaint charged that the Respondent violated the Commission's order entered on February 4, 2000, at Docket No. L-00000148 (*Rulemaking Re Establishing Universal Service Fund Regulations at Pa. Code §§ 63.141—63.1502*) by not paying the monthly assessments.

The complaint sought an order from the Commission canceling the Respondent's certificate of public convenience for failure to pay its assessment and accrued late charges. The complaint was mailed by the Secretary's Bureau on August 31, 2000, and according to the postal return receipt, service was perfected on September 14, 2000. To date, more than 20 days later, no answer has been filed to the complaint and the assessments have still not been paid; *Therefore, It Is Ordered:*

1. That the allegations in the Law Bureau Prosecutory Staff's complaint are deemed admitted and the complaint is thereby sustained.

2. That the Secretary serve a copy of this Order upon all jurisdictional telecommunication carriers, the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Order to be published in the *Pennsylvania Bulletin* with a 20-day comment period.

3. That Home Owners Long Distance Inc. immediately cease providing service to any new customers and, within 10 days of the entry of this Order, provide a written notice to each existing customer directing each to select an alternative IXC service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience absent public comment within the 20-day time period established pursuant to Ordering Paragraph No. 2, above.

4. That absent the filing of adverse public comment, 30 days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate

of public convenience held by Home Owners Long Distance Inc. at Docket No. A-310196 shall be canceled, and the company's name stricken from all active utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Audits.

By the Commission,

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 00-2013. Filed for public inspection November 17, 2000, 9:00 a.m.]

Default Order

Commissioners Present: John M. Quain, Chairperson; Robert K. Bloom, Vice Chairperson; Nora Mead Brownell; Terrance J. Fitzpatrick

Public Meeting held
October 25, 2000

*Pennsylvania Public Utility Commission Law Bureau
Prosecutory Staff v. QCC, Inc.;* *Docket No. C-00004123;*
A-310019

Default Order

By the Commission:

On August 30, 2000, the Law Bureau Prosecutory Staff instituted a complaint against QCC, Inc. a/k/a Quest Communications Corp. (the "Respondent"), an interexchange ("IXC") reseller certificated at A-310019. In the complaint, Prosecutory Staff alleged that the Commission sent by certified mail a notice to the Respondent that its monthly Universal Service Fund assessments were overdue by three or more months. The complaint charged that the Respondent violated the Commission's order entered on February 4, 2000, at Docket No. L-00000148 (*Rulemaking Re Establishing Universal Service Fund Regulations at Pa. Code §§ 63.141—63.1502*) by not paying the monthly assessments.

The complaint sought an order from the Commission canceling the Respondent's certificate of public convenience for failure to pay its assessment and accrued late charges. The complaint was mailed by the Secretary's Bureau on August 31, 2000, and according to the postal return receipt, service was perfected on September 5, 2000. To date, more than 20 days later, no answer has been filed to the complaint and the assessments have still not been paid; *Therefore, It Is Ordered That:*

1. The allegations in the Law Bureau Prosecutory Staff's complaint are deemed admitted and the complaint is thereby sustained.

2. The Secretary serve a copy of this Order upon all jurisdictional telecommunication carriers, the Office of Consumer Advocate, the Office of Small Business Advocate, the Office of Trial Staff, and the Attorney General's Bureau of Consumer Protection, and also cause a copy of this Order to be published in the *Pennsylvania Bulletin* with a 20-day comment period.

3. The QCC, Inc. immediately cease providing service to any new customers and, within 10 days of the entry of this Order, provide a written notice to each existing customer directing each to select an alternative IXC service provider within 30 days of the date of the notice. Such notice must include a statement of the Commission's intent to cancel the company's certificate of public convenience absent public comment within the 20-day time period established pursuant to Ordering Paragraph No. 2, above.

4. Absent the filing of adverse public comment, 30 days after publication in the *Pennsylvania Bulletin* and without further action by the Commission, the certificate of public convenience held by QCC, Inc. at Docket No. A-310019 shall be canceled, and the company's name stricken from all active utility lists maintained by the Tariff and Annual Report Section of the Commission's Bureau of Fixed Utility Services and the Assessment Section of the Bureau of Audits.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 00-2014. Filed for public inspection November 17, 2000, 9:00 a.m.]

Rescission Order

Commissioners Present: John M. Quain, Chairperson; Robert K. Bloom, Vice-Chairperson; Nora Mead Brownell; Terrance J. Fitzpatrick

Public Meeting held
October 25, 2000

*Pennsylvania Public Utility Commission Law Bureau
Prosecutory Staff v. As Telecommunications, Inc.; Doc.
No. C-00003834; A-310537*

Rescission Order

By the Commission:

On June 28, 2000, the Law Bureau Prosecutory Staff instituted a complaint against As Telecommunications, Inc. (the Respondent), an IXC reseller certificated at A-310537 for failure to remit payment for its 1999-2000 Annual Assessment. Subsequently, on September 13, 2000, the Commission entered a Default Order which sustained the complaint and cancelled Respondent's certificate of public convenience. The Default Order was published on September 30, 2000, at 30 Pa.B. 5099.

Since the issuance of the Default Order, it has come to the Commission's attention that the amount had been paid on May 12, 2000; *Therefore, It Is Ordered That:*

1. The Default Order entered September 13, 2000 at Docket No. C-00003834 is hereby rescinded.

2. The certificate of public convenience held by As Telecommunications at Docket No. A-310537 is hereby reinstated.

3. A copy of this order be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 00-2015. Filed for public inspection November 17, 2000, 9:00 a.m.]

Rescission Order

Commissioners Present: John M. Quain, Chairperson; Robert K. Bloom, Vice-Chairperson; Nora Mead Brownell; Terrance J. Fitzpatrick

Public Meeting held
October 25, 2000

*Pennsylvania Public Utility Commission Law Bureau
Prosecutory Staff v. Laurel Highland Long Distance;
Doc. No. C-00003837; A-310371*

Rescission Order

By the Commission:

On June 28, 2000, the Law Bureau Prosecutory Staff instituted a complaint against Laurel Highland Long Distance (the Respondent), an IXC reseller certificated at A-310371 for failure to remit payment for its 1999-2000 Annual Assessment. Subsequently, on September 13, 2000, the Commission entered a Default Order which sustained the complaint and cancelled Respondent's certificate of public convenience. The Default Order was published on September 30, 2000, at 30 Pa. B. 5100.

Since the issuance of the Default Order, it has come to the Commission's attention that the amount had been paid on July 19, 2000; *Therefore, It Is Ordered That:*

1. The Default Order entered September 13, 2000 at Docket No. C-00003837 is hereby rescinded.

2. The certificate of public convenience held by Laurel Highland Long Distance at Docket No. A-310371 is hereby reinstated.

3. A copy of this order be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 00-2016. Filed for public inspection November 17, 2000, 9:00 a.m.]

Rescission Order

Commissioners Present: John M. Quain, Chairperson; Robert K. Bloom, Vice-Chairperson; Nora Mead Brownell; Terrance J. Fitzpatrick

Public Meeting held
October 25, 2000

*Pennsylvania Public Utility Commission Law Bureau
Prosecutory Staff v. Telec, Inc.; Doc. No. C-00003843;
A-310446*

Rescission Order

By the Commission:

On June 28, 2000, the Law Bureau Prosecutory Staff instituted a complaint against Telec, Inc. (the Respondent), an IXC reseller certificated at A-310446 for failure to remit payment for its 1999-2000 Annual Assessment. Subsequently, on September 13, 2000, the Commission entered a Default Order which sustained the complaint and cancelled Respondent's certificate of public convenience. The Default Order was published on September 30, 2000, at 30 Pa.B. 5102.

Since the issuance of the Default Order, it has come to the Commission's attention that the amount was paid on July 17, 2000; *Therefore, It Is Ordered That:*

1. The Default Order entered September 13, 2000 at Docket No. C-00003843 is hereby rescinded.

2. The certificate of public convenience held by Telec, Inc. at Docket No. A-310446 is hereby reinstated.

3. A copy of this order be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 00-2017. Filed for public inspection November 17, 2000, 9:00 a.m.]

Rescission Order

Commissioners Present: John M. Quain, Chairperson; Robert K. Bloom, Vice-Chairperson; Nora Mead Brownell; Terrance J. Fitzpatrick

Public Meeting held
October 25, 2000

*Pennsylvania Public Utility Commission Law Bureau
Prosecutory Staff v. Vista International Commun., Inc.;*
Doc. No. C-00003846; A-310155

Rescission Order

By the Commission:

On June 28, 2000, the Law Bureau Prosecutory Staff instituted a complaint against Vista International Commun., Inc. (the Respondent), an IXC reseller certificated at A-310155 for failure to remit payment for its 1999-2000 Annual Assessment. Subsequently, on September 13, 2000, the Commission entered a Default Order which sustained the complaint and cancelled Respondent's certificate of public convenience. The Default order was published on September 30, 2000, at 30 Pa.B. 5104.

Since the issuance of the Default Order, it has come to the Commission's attention that the amount had been paid on September 27, 2000; *Therefore, It Is Ordered That:*

1. The Default Order entered September 13, 2000 at Docket No. C-00003846 is hereby rescinded.

2. The certificate of public convenience held by Vista International Communications, Inc. at Docket No. A-310155 is hereby reinstated.

3. A copy of this order be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 00-2018. Filed for public inspection November 17, 2000, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Publication of this notice shall be considered as sufficient notice to all carriers holding authority from this Commission. Applications will be considered without hearing in the absence of protests to the application. Protests to the applications published herein are due on

or before December 11, 2000, as set forth at 52 Pa. Code § 3.381 (relating to applications for transportation of property and persons). The protest shall also indicate whether it applies to the temporary authority application or the permanent application or both.

Applications of the following for approval of the beginning of the exercise of the right and privilege of operating as common carriers for transportation of persons as described under each application.

A-00117262. Ralph J. Benner and Mary Ann Benner, Copartners (6 Hemlock Lane, Strasburg, Lancaster County, PA 17579)—persons in paratransit service, between points in the counties of Chester, Lancaster, Lebanon and York, and from points in said counties, to points in Pennsylvania, and vice versa; limited to the transportation of persons whose personal convictions prohibit them from owning or operating motor vehicles.

A-00117309. Superior Ambulance Service, Inc. (620 East Main Street Extension, Grove City, Mercer County, PA 16127), a corporation of the State of New Jersey—persons in paratransit service, between points in the county of Mercer, and from points in said county, to points in Pennsylvania, and vice versa. *Attorney:* Steven R. Wirth, 5002 Lenker Street, Suite 202, Mechanicsburg, PA 17055.

A-00117312. Entertainment Transportation Associates, Inc. (PMB 195, 100 Springdale Road, Suite A-3, Cherry Hill, NJ 08003), a corporation of the State of New Jersey—persons in paratransit service, between points in the counties of Montgomery, Delaware, Philadelphia, Lehigh, Chester and Bucks.

A-00117313. Rodney P. Andrews, t/d/b/a Classic Limousines (251 West Dekalb Pike, B-611, King of Prussia, Montgomery County, PA 19406)—persons in limousine service, between points in the counties of Montgomery and Chester and the city and county of Philadelphia, and from points in said territory, to points in Pennsylvania, and return.

A-00117314. James Joseph Harrington, t/d/b/a Jim Harrington Limo Service (296 Camp Strause Road, Fredericksburg, Lebanon County, PA 17026)—persons in limousine service, between points in the county of Lebanon, and from points in said county, to points in Pennsylvania, and return.

A-00117315. Michael Edward Durant (6339 East Fariston Drive, Philadelphia, Philadelphia County, PA 19120)—persons in paratransit service, from points in the city and county of Philadelphia, to all State Correctional Institutions, located in Pennsylvania, and return.

A-00117316. Warwick Community Ambulance Association (P. O. Box 42, Lititz, Lancaster County, PA 17543), a corporation of the Commonwealth of Pennsylvania—persons in paratransit service, between points in the county of Lancaster, and from points in said county, to points in Pennsylvania, and vice versa. *Attorney:* Douglas M. Wolfberg, 5002 Lenker Street, Suite 202, Mechanicsburg, PA 17055.

A-00117317. National Limousine Service, Inc. (1808 Morris Circle, Southampton, Bucks County, PA 18966), a corporation of the Commonwealth of Pennsylvania—persons in limousine service, between points in the counties of Bucks, Chester, Delaware and Montgomery, and the city and county of Philadelphia, and from points in said territory, to points in Pennsylvania, and return.

Attorney: John J. Gallagher, 1760 Market Street, Suite 1100, Philadelphia, PA 19103.

A-00117323. Harry C. Campbell, Jr., t/d/b/a Campbell Limousine (402 Club 21 Road, McClellandtown, Fayette County, PA 15458)—persons in limousine service, between points in the county of Fayette, and from points in said county, to points in Pennsylvania, and return. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219.

A-00117324. Maria Jacqueline Disen Colon, t/d/b/a Colon Transport (1519 Titania Road, Tobyhanna, Monroe County, PA 18466)—persons upon call or demand in the borough of Mount Pocono, and the townships of Coolbaugh, Tobyhanna, Tunkhannock and Pocono, all located in Monroe County.

Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under each application.

A-00117326. Limo 2000, Inc. (1140 Delene Road, Jenkintown, Montgomery County, PA 19046), a corporation of the Commonwealth of Pennsylvania—persons in limousine service, between points in the counties of Delaware, Chester, Montgomery and Philadelphia, and from points in said counties, to points in Pennsylvania, and return; subject to the following conditions: (1) that no right, power or privilege is granted to provide transportation from points in the boroughs of Pottstown, Colledgeville and Norristown and the townships of Upper Dublin, Whitmarsh, Montgomery, Upper Merion, Plymouth, Upper Moreland and Lower Gwynedd, Montgomery County; or from the city of Coatesville, the townships of Schuylkill and Charlestown and the Valley Forge General Hospital, the Great Valley Industrial Park, Unisys Corporation in Great Valley, M.A.I. Sorbus in Great Valley, the Embassy Hotel in the township of East Whiteland and the Chesterbrook Shopping Center in Chesterbrook, Chester County, to the Philadelphia International Airport, located in the city and county of Philadelphia and Tinicum Township, Delaware County; (2) that no right, power or privilege is granted to originate or terminate transportation in the townships of Media and Newtown Square, Delaware County; Gladwyne (Lower Merion Township), Montgomery County; Paoli, (Tredyffrin and Williston Townships), Berwyn (Tredyffrin Township) and Westtown Township, Chester County; and (3) that no right, power or privilege is granted to render transportation from the Philadelphia International Airport located in the city and county of Philadelphia and the township of Tinicum, Delaware County, to points in the counties of Chester, Delaware, Montgomery and Philadelphia; which is to be a transfer of all of the rights authorized under the certificate issued at A-00116773 to A Priority Transportation Company, t/d/b/a Town & Country Limousine Service, subject to the same limitations and conditions. *Attorney:* John J. Gallagher, Suite 1100, 1760 Market Street, Philadelphia, PA 19103.

Applications of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under each application.

A-00103670, Folder 1, Am-E. S. & S. Taxi Co. (400 Eden Park Boulevard, McKeesport, Allegheny County, PA 15132), a corporation of the Commonwealth of Pennsylvania, inter alia—persons upon call or demand in the

borough of Trafford, Westmoreland and Allegheny Counties: *So as to permit* the transportation of persons upon call or demand in the boroughs of East Pittsburgh, East McKeesport, Wilmerding and Wall, Allegheny County, and the cities of New Kensington, Arnold and Lower Burrell, Westmoreland County. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

A-00114036, Folder 1, Am-A. 7th Ward Civic Association (404 Cedar Street, Johnstown, Cambria County, PA 15902), a corporation of the Commonwealth of Pennsylvania—persons in paratransit service, between points in the county of Cambria, and from points in said county, to points within an airline distance of 70 statute miles of the limits of the city of Johnstown, Cambria County; subject to the following conditions: (1) that service is limited to the use of vehicles equipped with side-opening doors, ramps or lifts, wheelchairs, oxygen tanks and first-out bags; and (2) that the service is limited to equipment operated only by state certified emergency medical technicians: *So as to permit* the removal of the following condition: (1) that service is limited to the use of vehicles equipped with side-opening doors, ramps or lifts, wheelchairs, oxygen tanks and first-out bags. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219-2383.

Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods by transfer as described under each application.

A-00110007, Folder 2. Isaac's Relocation Service, Inc. (285 Newtonville Avenue, Newton, MA 02160), a corporation of the Commonwealth of Pennsylvania—(1) household goods in use, between points in the city and county of Philadelphia, and from points in said city and county, to points within 10 miles by the usually traveled highways of the limits of the said city and county, and vice versa; and (2) property, excluding household goods in use, between points in Pennsylvania; which is to be a transfer of all of the rights authorized under the certificate issued at A-00114583 to MPS Enterprises, Inc., subject to the same limitations and conditions. *Attorney:* James W. Patterson, Centre Square West, 1500 Market Street, 38th Floor, Philadelphia, PA 19102-2186.

Application of the following for the approval of the transfer of stock as described under each application.

A-00109593, Folder 5001. Anderson Transfer, Inc. (231 Burton Avenue, Washington, Washington County, PA 15301), a corporation of the Commonwealth of Pennsylvania—for the approval of the transfer of all of the issued and outstanding shares of stock (1,500 shares) from Judy L. Moore to Barbara E. Moore. *Attorney:* Louise R. Schrage, Vuono & Gray, LLC, 2310 Grant Building, Pittsburgh, PA 15219-2383.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 00-2019. Filed for public inspection November 17, 2000, 9:00 a.m.]

Telecommunications

A-310904F0002. The United Telephone Company of Pennsylvania d/b/a Sprint and Broadband Office Communications, Inc. Joint Petition of The United

Telephone Company of Pennsylvania d/b/a Sprint and Broadband Office Communications, Inc. for approval of a master interconnection and resale agreement under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and Broadband Office Communications, Inc., by its counsel, filed on November 1, 2000, at the Pennsylvania Public Utility Commission, a Joint Petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the The United Telephone Company of Pennsylvania d/b/a Sprint and Broadband Office Communications, Inc. Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 00-2020. Filed for public inspection November 17, 2000, 9:00 a.m.]

Telecommunications

A-310513F0002. United Telephone Company of Pennsylvania d/b/a Sprint and Sprint Spectrum L.P. d/b/a Sprint PCS. Joint Application of United Telephone Company of Pennsylvania d/b/a Sprint and Sprint Spectrum L.P. d/b/a Sprint PCS for approval of a commercial mobile radio services interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

United Telephone Company of Pennsylvania d/b/a Sprint and Sprint Spectrum L.P. d/b/a Sprint PCS, by its counsel, filed on August 25, 2000, at the Pennsylvania Public Utility Commission, a Joint Petition for approval of an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the United Telephone Company of Pennsylvania d/b/a Sprint and Sprint Spectrum L.P. d/b/a Sprint PCS Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 00-2021. Filed for public inspection November 17, 2000, 9:00 a.m.]

Telecommunications

A-310994F0002. The United Telephone Company of Pennsylvania d/b/a Sprint and USA Digital, Inc. d/b/a USA Digital of Nevada, Inc. Joint Petition of The United Telephone Company of Pennsylvania d/b/a Sprint and USA Digital, Inc. d/b/a USA Digital of Nevada, Inc. for approval of a master interconnection and resale agreement under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and USA Digital, Inc. d/b/a USA Digital of Nevada, Inc., by its counsel, filed on November 1, 2000, at the Pennsylvania Public Utility Commission, a Joint Petition for approval of an Interconnection Agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the The United Telephone Company of Pennsylvania d/b/a Sprint and USA Digital, Inc. d/b/a USA Digital of Nevada, Inc. Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 00-2022. Filed for public inspection November 17, 2000, 9:00 a.m.]

Telecommunications

A-310183F0002. Verizon North Inc. f/k/a GTE North Incorporated and Sprint Communications Company L.L.P. Joint Application of Verizon North Inc. f/k/a GTE North Incorporated and Sprint Communications Company L.L.P. for approval of a supplemental interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. f/k/a GTE North Incorporated and Sprint Communications Company L.L.P., by its counsel, filed on October 31, 2000, at the Pennsylvania Public Utility Commission, a Joint Petition for approval of a supplemental interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North Inc. f/k/a GTE North Incorporated and Sprint Communications Company L.L.P. Joint Petition are on file with the Pennsylvania Public Utility Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director,
Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 00-2023. Filed for public inspection November 17, 2000, 9:00 a.m.]

PORT OF PITTSBURGH COMMISSION

Independent Auditors' Report

Board of Directors
Port of Pittsburgh Commission
Pittsburgh, Pennsylvania

We have audited, in accordance with generally accepted auditing standards, the balance sheet of Port of Pittsburgh Commission Special Revenue Fund (Commission), a component unit of the Commonwealth of Pennsylvania, as of June 30, 2000, and the related statement of revenues, expenditures and changes in fund balance for the year ended (not presented herein); and, in our report dated September 13, 2000, we express an unqualified opinion on those financial statements.

As described below, the accompanying summary financial information of the Commission as of and for the year June 30, 2000 is not a presentation in conformity with generally accepted accounting principles. In our opinion, however, the accompanying summary financial information is fairly stated, in all material respects, in relation to the financial statements from which it has been derived.

Terry & Stephenson, P. C.
429 Forbes Avenue, Suite 1600
Pittsburgh, PA 15219

September 13, 2000
Pittsburgh, Pennsylvania

Port of Pittsburgh Commission Special Revenue Fund (A Component Unit of the Commonwealth of Pennsylvania) Balance Sheet June 30, 2000

Assets:	
Cash and investments	\$1,406,297
Other assets	<u>7,581</u>
Total Assets	<u><u>\$1,413,878</u></u>
Liabilities and Fund Balance:	
Liabilities	\$2,021,683
Fund balance (accumulated deficit) - reserved for economic development	<u>(607,805)</u>
Total Liabilities and Fund Balance	<u><u>\$1,413,878</u></u>

Statement of Revenues, Expenditures, and Changes in Fund Balance for the Year Ended June 30, 2000

Revenues and Other Financing Sources:	
Interest, rental, and other income	\$ 159,540
Intergovernmental transfers	<u>901,000</u>
	<u>1,060,540</u>
Expenditures:	
Operating	600,606
Capital	83,564
Other	<u>79,559</u>
	<u>763,729</u>
Excess of revenues and other financing sources over expenditures	296,811
Fund balance, beginning of year	<u>(904,616)</u>
Fund balance, end of year	<u><u>(\$607,805)</u></u>

The summary financial information shown above differs from generally accepted accounting principles. Differences include amounts grouped; captions summarized; footnote disclosures are omitted.

Submitted by:

JAMES R. MCCARVILLE,
Executive Director

[Pa.B. Doc. No. 00-2024. Filed for public inspection November 17, 2000, 9:00 a.m.]

STATE CONTRACTS INFORMATION

DEPARTMENT OF GENERAL SERVICES

Notices of invitations for bids and requests for proposals on State contracts for services and commodities for which the bid amount is reasonably expected to be over \$10,000, are published in the State Contracts Information Section of the *Pennsylvania Bulletin* prior to bid opening date. Information in this publication is intended only as notification to its subscribers of available bidding and contracting opportunities, and is furnished through the Department of General Services, Vendor Information and Support Division. No action can be taken by any subscriber or any other person, and the Commonwealth of Pennsylvania is not liable to any subscriber or any other person, for any damages or any other costs incurred in connection with the utilization of, or any other reliance upon, any information in the State Contracts Information Section of the *Pennsylvania Bulletin*. Interested persons are encouraged to call the contact telephone number listed for the particular solicitation for current, more detailed information.

EFFECTIVE JULY 1, 1985, A VENDOR'S FEDERAL IDENTIFICATION NUMBER (NUMBER ASSIGNED WHEN FILING INCOME TAX DOCUMENTS) OR SOCIAL SECURITY NUMBER IF VENDOR IS AN INDIVIDUAL, MUST BE ON ALL CONTRACTS, DOCUMENTS AND INVOICES SUBMITTED TO THE COMMONWEALTH.

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center

PA Department of Community and Economic Development

374 Forum Building

Harrisburg, PA 17120

800-280-3801 or (717) 783-5700

Reader's Guide

Legal Services & Consultation—26

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services

Location: Harrisburg, Pa.

Duration: 12/1/93-12/30/93

Contact: Procurement Division
787-0000

③ Contract Information

④ Department

⑦

⑤ Location

(For Commodities: Contact:)
Vendor Services Section
717-787-2199 or 717-787-4705

⑥ Duration

REQUIRED DATA DESCRIPTIONS

① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.

② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.

③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.

④ Department: State Department or Agency initiating request for advertisement.

⑤ Location: Area where contract performance will be executed.

⑥ Duration: Time estimate for performance and/or execution of contract.

⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**
 Pennsylvania State Treasury
 Room G13 Finance Building
 Harrisburg, PA 17120
 717-787-2990
 1-800-252-4700

BARBARA HAFER,
State Treasurer

Commodities

ACAD-15 3 EACH - CUSTOM CABINETS, VARIOUS SIZES & DESIGNS, STAIN-LESS STEEL.

Department: State Police
Location: 175 E. HERSHEY PARK DR., HERSHEY, PA. 17033
Duration: JANUARY 31, 2001
Contact: ROBERT D. STARE, (717) 705-5921

E6008 Wildfire retardant liquid polyphosphate 10-34-0. To be delivered to three (3) different locations. 23 tons to Hazleton Airport, Hazleton, Pennsylvania, 11 tons to be delivered to Wilkes-Barre/Scranton Airport, Avoca, Pennsylvania and 11 tons to be delivered to Lycoming County Airport, Montoursville, Pennsylvania. A total of 45 tons.

Department: Conservation and Natural Resources
Location: Hazleton, Avoca, and Montoursville, Pennsylvania.
Duration: one-time purchase
Contact: Pamela Stouffer, (717) 783-0760

7930-08 Floor Finish & Remover. For a copy of the bid package fax request to (717) 787-0725.

Department: General Services
Location: Various
Duration: 05/01/01 - 04/30/02
Contact: Vendor Services, (717) 787-2199

2610-01 Tires: Automotive, Truck & Industrial. For a copy of the bid package fax request to (717) 787-0725.

Department: General Services
Location: Various
Duration: 03/15/01 - 03/14/02
Contact: Vendor Services, (717) 787-2199

P & S 97 EACH - PISTOL LOCK BOXES, TWO COMPARTMENT, AMERICAN LOCKER SECURITY SYSTEMS MODEL LOK-ALL. NO SUBSTITUTE.

Department: State Police
Location: 1800 ELMERTON AVENUE, HARRISBURG, PA. 17110
Duration: JANUARY 31, 2001
Contact: ROBERT D. STARE, (717) 705-5921

8135-01 Fiberboard, Corrugated. For a copy of the bid package fax request to (717) 787-0725.

Department: Corrections/Transportation
Location: Various
Duration: 03/15/01 - 03/14/02
Contact: Vendor Services, (717) 787-2199

7105-05 Furniture, Commercial. For a copy of the bid package fax request to (717) 787-0725.

Department: General Services
Location: Various
Duration: 05/01/01 - 04/30/02
Contact: Vendor Services, (717) 787-2199

6810-08 Chemicals, Soap Plant. For a copy of the bid package fax request to (717) 787-0725.

Department: Corrections
Location: Huntingdon, PA
Duration: 03/01/01 - 02/28/02
Contact: Vendor Services, (717) 787-2199

6605-05 Laboratory Analytical Equipment & Supplies. For a copy of the bid package fax request to (717) 787-0725.

Department: General Services
Location: Various
Duration: 04/01/01 - 03/31/02
Contact: Vendor Services, (717) 787-2199

6530-03 Wheel Chairs & Accessories. For a copy of the bid package fax request to (717) 787-0725.

Department: General Services
Location: Various
Duration: 03/01/01 - 02/29/02
Contact: Vendor Services, (717) 787-2199

6510-01 Medical Supplies. For a copy of the bid package fax request to (717) 787-0725.

Department: General Services
Location: Various
Duration: 04/01/01 - 03/31/02
Contact: Vendor Services, (717) 787-2199

7240-02 Curbside Recycling Containers. For a copy of the bid package fax request to (717) 787-0725.

Department: General Services
Location: Various
Duration: 04/01/01 - 03/31/02
Contact: Vendor Services, (717) 787-2199

6505-06 Laboratory Test Kits. For a copy of the bid package fax request to (717) 787-0725.

Department: Health
Location: Various
Duration: 02/01/01 - 01/31/02
Contact: Vendor Services, (717) 787-2199

4230-01 Breathing Apparatus, Self-Contained. For a copy of the bid package fax request to (717) 787-0725.

Department: General Services
Location: Various
Duration: 03/15/01 - 03/14/02
Contact: Vendor Services, (717) 787-2199

1075220 Boating Safety Certificates. For a copy of bid package fax request to (717) 787-0725.

Department: Fish and Boat Commission
Location: Harrisburg, PA
Duration: FY 2000-01
Contact: Vendor Services, (717) 787-2199

2599-01 Vehicle Lamps. For a copy of the bid package fax request to (717) 787-0725.

Department: General Services
Location: Various
Duration: 03/01/01 - 02/29/02
Contact: Vendor Services, (717) 787-2199

1105-02 Body Armor. For a copy of the bid package fax request to (717) 787-0725.

Department: General Services
Location: Various
Duration: 06/01/01 - 05/31/02
Contact: Vendor Services, (717) 787-2199

0061-11 Lottery Lines. For a copy of the bid package fax request to (717) 787-0725.

Department: Revenue
Location: Various
Duration: 03/01/01 - 02/28/02
Contact: Vendor Services, (717) 787-2199

1251200 Blades, Main Rotor, Bell Model #206-015-001-115. No Substitute. For a copy of bid package fax request to (717) 787-0725.

Department: State Police
Location: New Cumberland, PA
Duration: FY 2000-01
Contact: Vendor Services, (717) 787-2199

8415-04 Uniforms. For a copy of the bid package fax request to (717) 787-0725.

Department: Conservation and Natural Resources
Location: Various
Duration: 04/01/01 - 03/31/02
Contact: Vendor Services, (717) 787-2199

1172110 Stainless Steel Round Seats, 12" Dia. Made from 16GA Stainless Steel, Highly Polish with four studs 3/8" welded to bottom for mounting to the seat support. The studs are on 4 1/2" center. For a copy of bid package fax request to (717) 787-0725.

Department: Corrections
Location: Pittsburgh, PA
Duration: FY 2000-01
Contact: Vendor Services, (717) 787-2199

8129650 Liquid Calcium Chloride for use as a dust palliative. For a copy of bid package fax request to (717) 787-0725.

Department: Transportation
Location: White Mills, PA
Duration: FY 2000-01
Contact: Vendor Services, (717) 787-2199

1213110 Preserve our Heritage License Plates. For a copy of bid package fax request to (717) 787-0725.

Department: Corrections
Location: Pittsburgh, PA
Duration: FY 2000-01
Contact: Vendor Services, (717) 787-2199

8249800 John Deere Diesel Engines, Model #6068T. For a copy of bid package fax request to (717) 787-0725.

Department: Transportation
Location: Harrisburg, PA
Duration: FY 2000-01
Contact: Vendor Services, (717) 787-2199

5710-01 Bituminous Liquid; Incl. Dust Palliatives & AC. For a copy of the bid package fax request to (717) 787-0725.

Department: Transportation
Location: Various
Duration: 03/01/01 - 02/28/02
Contact: Vendor Services, (717) 787-2199

SERVICES

Construction & Construction Maintenance—09

DGS700-39TB PROJECT TITLE: Test Borings and Auger Drillings. We are requesting a proposal from your firm to provide all services required for the test services for the referenced project. Your report must contain sufficient information and make recommendations to complete tasks as specified in the specifications and requirements. Test Borings and Auger Drillings and all other required Testing costs shall be included in your Cost Proposal. Your cost proposal shall indicate separate costs for each task (Test Borings, Auger Drillings) and a lump sum total with both tasks combined. Provide unit costs for adjustment based on actual field conditions. Sealed proposals must be received on or before the close of business (5:00 P.M.) on FRIDAY, November 17, 2000. Mail to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Submit technical questions to Mark Schwager, R.A., Tel: 717/787-4054/787-5597.

Department: General Services
Location: Livestock Evaluation Center, Ferguson Township, Centre County, Pennsylvania
Duration: Indeterminate 2000-2001
Contact: Contract & Bidding Unit, (717) 787-6556L

FDC-017-945 Paving Roads and Parking Areas, Valley Forge Forest District (French Creek State Park) in Berks County. Work includes excavating, compacting, backfilling and grading; paving (750 tons 2A and 2,500 tons ID-3); full depth road reclamation (8,250 S.Y.); Pavement markings and signs; stone mortar inlets; 550 L.F. of 18 inch C. P. Pipe; 1-gate; and seeding & mulching. NOTE: Requests for Bid Documents will be taken ON or AFTER November 20, 2000

Department: Conservation and Natural Resources
Location: Union Township
Duration: Complete all work by May 31, 2001.
Contact: Construction Management Section, (717) 787-5055

DGS572-18PHASE2 PROJECT TITLE: Life Safety Code Improvements. BRIEF DESCRIPTION: General and Electrical Construction in various buildings at the prison complex that is related to life safety code improvements. ESTIMATED RANGE: \$2,000,000.00 to \$5,000,000.00. General and Electrical Construction. PLANS DEPOSIT: \$100.00 per set payable to: DYNAMIC DESIGN ENGINEERING, INC. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check or provide your express mail account number to the office listed below. Mail requests to: Dynamic Design Engineering, Inc., 416 Main Street, Suite 200, Johnstown, PA 15901-1828. Tel: 814/536-1651. BID DATE: WEDNESDAY, December 6, 2000 at 2:00 P.M. A Pre-Bid Conference has been scheduled for Monday, November 20, 2000 at 10:00 A.M. at the State Correctional Institution, Huntingdon, PA in Building #17 in Visitors Area. Contact: Rodney Wolfe, Tel: 814/536-1651. All Contractors who have secured Contract Documents are invited and urged to attend this Pre-Bid Conference. Please contact Dynamic Design Engineering, Inc with your list of attendees no later than November 16, 2000.

Department: General Services
Location: State Correctional Institution, Huntingdon, Huntingdon County, PA
Duration: 365 CALENDAR DAYS FROM DATE OF INITIAL JOB CONFERENCE
Contact: Contract and Bidding Unit, (717) 787-6556

DGS573-19PHASE6 PROJECT TITLE: Renovation of Institution/Boiler House and Update Main Electrical Service. BRIEF DESCRIPTION: Work includes demolition of 50,000 pounds coal boiler. Installation of 50,000 pounds of steam per hour and 15,000 pounds per hour oil fired boiler, ash silo renovation. Conversion of 2,400 volt electrical distribution system to 12,470 volt system. ESTIMATED RANGE: \$2,000,000.00 TO \$5,000,000.00. HVAC and Electrical Construction. PLANS DEPOSIT: \$150.00 per set payable to: L. Robert Kimball and Associates, Inc. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check or provide your express mail account number to the office listed below. Mail requests to: L. Robert Kimball & Associates, Inc., 615 West Highland Avenue, Box 1000, Ebensburg, PA 15931, Tel: 814/472-7700. Bid Date: WEDNESDAY, December 6, 2000 at 2:00 P.M. A Pre-Bid Conference has been scheduled for Wednesday, November 22, 2000 at 10:00 A.M. at the State Correctional Institution, Camp Hill, PA. Meet at the Main Gatehouse. Contact: Marlen Schneck, Tel: 717/737-4531. All Contractors who have secured Contract Documents are invited and urged to attend this Pre-Bid Conference.

Department: General Services
Location: State Correctional Institution, Camp Hill, Cumberland County, PA
Duration: 280 CALENDAR DAYS FROM DATE OF INITIAL JOB CONFERENCE
Contact: Contract and Bidding Unit, (717) 787-6556

DGS577-26PHASE2 PROJECT TITLE: Window and Brick Replacement. BRIEF DESCRIPTION: Remove existing cell windows and exterior brick walls. Install new security windows and new brick walls. ESTIMATED RANGE: \$1,000,000.00 to \$2,000,000.00. General Construction. PLANS DEPOSIT: \$25.00 per set payable to COMMONWEALTH OF PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange for delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check for \$5.00 per set or provide your express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125. Tel: 717/787-3923. Bid Date: WEDNESDAY, December 13, 2000 at 1:00 P.M. A Pre-Bid Conference has been scheduled for Monday, November 20, 2000 at 10:00 A.M. at the State Correctional Institution, Graterford, PA at the Visitor's Center. Contact: George Hiltner, Tel: 610-489-4151, Ext. 2956. All Contractors who have secured Contract Documents are invited and urged to attend this Pre-Bid Conference.

Department: General Services
Location: State Correctional Institution, Graterford, Montgomery County, PA
Duration: 300 CALENDAR DAYS FROM DATE OF INITIAL JOB CONFERENCE
Contact: Contract and Bidding Unit, (717) 787-6556

Court Reporting—10

SP2500005 The PA Board of Probation and Parole (Board) is soliciting bids from prospective contractors to transcribe cassette tapes of Board hearing testimony as recorded by Board staff on either conventional or high speed cassette recorders. The average transcript will consist of approximately 700 lines. The total number of lines of typing for the initial term of this contract is estimated to be 160,000 lines.

Department: Probation and Parole Board
Location: PA Board of Probation and Parole, 1101 South Front Street, Suite 5500, Harrisburg, PA 17104-2521
Duration: Two Years with two, one-year options to renew.
Contact: Dawn Eshenour, (717) 787-1989

Demolition—Structural Only—11

Contracting for Demolition and/or Removal of Structures Notice is hereby given by the Department of Transportation, that it is seeking bids for the Demolition and/or Removal of certain residential and commercial structures in conjunction with the construction of SR 222, Section 001/002 in the County of Lehigh Townships of Upper Macungie and Lower Macungie. There is asbestos in some or all of the structures. The bidding will be open to the pre-qualified contractors only. For bid forms, date of inspection, specifications and further information, contact the office listed below.

Department: Transportation
Location: Presnell Associates, Inc., 5930 Hamilton Blvd., Suite 6, Wescosville, PA 18106
Duration: As specified in contract
Contact: David Eckhardt, (610) 336-4840

Drafting & Design Services—12

B0000363 Millersville University is seeking qualified bidders who can provide the University with an Ideal Scanner Model FSC 8010 DSP or approved equal. Any equal must meet or exceed all of the specifications of the Ideal model. Interested vendors must fax their requests to be placed on a bidders list to Anna Stauffer (FAX: 717/871-2000) no later than 11AM on Monday, November 27, 2000.

Department: State System of Higher Education
Location: Millersville University
Duration: Dec 2000 - Jan 2001
Contact: Anna Stauffer, (717) 872-3041

Engineering Services & Consultation—14

08430AG2641 To provide supplementary construction inspection staff for S.R. 0865, Sections 002 and 003 in Blair County. Details concerning this project may be found under Department of Transportation - Retention of Engineering Firms in the Pennsylvania Bulletin, or www.statecontracts.com under via Retention of Firm Data.

Department: Transportation
Location: Engineering District 9-0
Duration: Thirty (30) days after construction completion
Contact: N/A, N A

Environmental Maintenance Services—15

BF 432-101.1 Abandoned Mine Land Reclamation, Quinn Coal and Clay Mines involves approximately 926,000 c.y. grading, 1,650 c.y. ditch excavation, 910 s.y. rock lining with filter material, 1,270 s.y. high velocity erosion control mulch blanket, 1,130 l.f. subsurface drain, dewatering impoundments, and clearing and grubbing. Federal funds are available for this project from the \$28.5 million 1998 AML Grant. This project issues November 17, 2000; payment in the amount of \$15.00 must be received before bid documents will be sent.

Department: Environmental Protection
Location: Noyes and Leidy Townships, Clinton County
Duration: 460 calendar days after notice to proceed
Contact: Construction Contracts Section, (717) 787-7817

Food—19

11012 Milk and Cream Products
Department: Military Affairs
Location: PA Soldiers and Sailors Home, 560 East 3rd Street, P. O. Box 6239, Erie, PA 16512-6239
Duration: January 1, 2001 thru December 31, 2001
Contact: Jeanette Gualtieri, (814) 878-4936

CI year 2001 Veal Veal trimmings, frozen 75/25 approximately 60,000 lbs.
Department: Corrections
Location: State Correctional Inst., Camp Hill Correctional Industries, Meat Processing Plant, 2500 Lisburn Road, Camp Hill, PA 17011
Duration: 12 months
Contact: Russ Ilgenfritz, (717) 975-4988

CI year 2001 Beef/Pork Pork primal cuts, approximately 365,000 lbs. Beef primal cuts, approximately 1,225,000 lbs.
Department: Corrections
Location: State Correctional Inst., Camp Hill Correctional Industries, Meat Processing Plant, 2500 Lisburn Road, Camp Hill, PA 17011
Duration: 12 months
Contact: Russ Ilgenfritz, (717) 975-4988

7800 Perishable Foods: Meats, Poultry, Seafood/Fish, Miscellaneous, Juice, Prepared Salads, Prepared Produce, Fresh Fruits/Vegetables, Bread/Rolls, Ice Cream, Dairy Products, Frozen Fruits/Vegetables, Fresh Eggs, Cheese, Fresh Pies/Cakes, and Fresh Pastry.
Department: Public Welfare
Location: Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821
Duration: January 1, 20001 - March 31, 2001
Contact: Pamela Bauman, (570) 271-4578

6099 Poultry & Poultry Products. Specifications and delivery dates available upon request from Agency. Vendors requesting bid packages are requested to supply an address, telephone number, and fax number when contacting the agency.
Department: Public Welfare
Location: Harrisburg State Hospital, Central Storeroom, P. O. Box 61260, Cameron and Maclay Streets, Harrisburg, PA 17106-1260
Duration: January through March 2001
Contact: Jack W. Heinze, (717) 772-7435

6097 Miscellaneous Foods. Specifications and delivery dates available upon request from Agency. Vendors requesting bid packages are requested to supply an address, telephone number, and fax number when contacting the agency.
Department: Public Welfare
Location: Harrisburg State Hospital, Central Storeroom, P. O. Box 61260, Cameron and Maclay Streets, Harrisburg, PA 17106-1260
Duration: January through March 2001
Contact: Jack W. Heinze, (717) 772-7435

6096 Prepared Salads, Fresh. Specifications and delivery dates available upon request from Agency. Vendors requesting bid packages are requested to supply an address, telephone number, and fax number when contacting the agency.
Department: Public Welfare
Location: Harrisburg State Hospital, Central Storeroom, P. O. Box 61260, Cameron and Maclay Streets, Harrisburg, PA 17106-1260
Duration: January through March 2001
Contact: Jack W. Heinze, (717) 772-7435

6092 Fruits & Vegetables, Fresh. Specifications and delivery dates available upon request from Agency. Vendors requesting bid packages are requested to supply an address, telephone number, and fax number when contacting the agency.
Department: Public Welfare
Location: Harrisburg State Hospital, Central Storeroom, P. O. Box 61260, Cameron and Maclay Streets, Harrisburg, PA 17106-1260
Duration: January through March 2001
Contact: Jack W. Heinze, (717) 772-7435

6093 Fruits & Vegetables, Frozen. Specifications and delivery dates available upon request from Agency. Vendors requesting bid packages are requested to supply an address, telephone number, and fax number when contacting the agency.
Department: Public Welfare
Location: Harrisburg State Hospital, Central Storeroom, P. O. Box 61260, Cameron and Maclay Streets, Harrisburg, PA 17106-1260
Duration: January through March 2001
Contact: Jack W. Heinze, (717) 772-7435

CI year 2001 Beef Coarse Ground Beef 81% fresh, USDA inspected, 19% trimmable fat, coarse ground through 3/8" grinder plate, approximately 2,000,000 lbs.
Department: Corrections
Location: State Correctional Inst., Camp Hill Correctional Industries, Meat Processing Plant, 2500 Lisburn Road, Camp Hill, PA 17011
Duration: 12 months
Contact: Russ Ilgenfritz, (717) 975-4988

6087 Pies & Cakes, Fresh. Specifications and delivery dates available upon request from Agency. Vendors requesting bid packages are requested to supply an address, telephone number, and fax number when contacting the agency.

Department: Public Welfare
Location: Harrisburg State Hospital, Central Storeroom, P. O. Box 61260, Cameron and Maclay Streets, Harrisburg, PA 17106-1260
Duration: January through June 2001
Contact: Jack W. Heinze, (717) 772-7435

6086 Bread & Bread Products, Fresh. Specifications and delivery dates available upon request from Agency. Vendors requesting bid packages are requested to supply an address, telephone number, and fax number when contacting the agency.

Department: Public Welfare
Location: Harrisburg State Hospital, Central Storeroom, P. O. Box 61260, Cameron and Maclay Streets, Harrisburg, PA 17106-1260
Duration: January through June 2001
Contact: Jack W. Heinze, (717) 772-7435

6085 Juices, Frozen of various flavors. Specifications and delivery dates available upon request from Agency. Vendors requesting bid packages are requested to supply an address, telephone number, and fax number when contacting the agency.

Department: Public Welfare
Location: Harrisburg State Hospital, Central Storeroom, P. O. Box 61260, Cameron and Maclay Streets, Harrisburg, PA 17106-1260
Duration: January through June 2001
Contact: Jack W. Heinze, (717) 772-7435

6084 Iced Tea, Diet, Decaffeinated. Specifications and delivery dates available upon request from Agency. Vendors requesting bid packages are requested to supply an address, telephone number, and fax number when contacting the agency.

Department: Public Welfare
Location: Harrisburg State Hospital, Central Storeroom, P. O. Box 61260, Cameron and Maclay Streets, Harrisburg, PA 17106-1260
Duration: January through June 2001
Contact: Jack W. Heinze, (717) 772-7435

CI year 2001 Collagen Casing 30 mm Collagen for fresh products, approximately 1,000,000 ft. for the next 12 months.

Department: Corrections
Location: State Correctional Inst., Camp Hill Correctional Industries, Meat Processing Plant, 2500 Lisburn Road, Camp Hill, PA 17011
Duration: 12 months
Contact: Russ Ilgenfritz, (717) 975-4988

6098 Meat & Meat Products. Specifications and delivery dates available upon request from Agency. Vendors requesting bid packages are requested to supply an address, telephone number, and fax number when contacting the agency.

Department: Public Welfare
Location: Harrisburg State Hospital, Central Storeroom, P. O. Box 61260, Cameron and Maclay Streets, Harrisburg, PA 17106-1260
Duration: January through March 2001
Contact: Jack W. Heinze, (717) 772-7435

Hazardous Material Services—21

FLB00-1 Grant applications are being accepted for the Forest Lands Beautification Grant Program. The purposes of the act are to deter illegal waste disposal practices on State Forest and State Park lands and provide for its removal, recycling and proper disposal. Grant funds are to be used for activities that cleanup active and inactive illegal dump sites and prevent further unauthorized disposal of waste on State Forest and State Park lands. Local agencies and nonprofit organizations are eligible for funding for large and small projects. Contact Eileen Showers, Program Coordinator, by e-mail at eshowers@dnr.state.pa.us or 717-772-9104 to request a Policy and Procedures Manual.

Department: Conservation and Natural Resources
Location: Harrisburg, PA
Duration: 2 year grant
Contact: Eileen Showers, (717) 772-9104

HVAC Services—22

6000-06989 Vendor to provide one (1) Titan Air Make-Up Unit. CFM: 8,000, ESP 0.75, Temperature Rise (degree F): 80, Heat Medium: Steam Coil: 10 PSI Steam, Cool Medium: DX Coil: 7.5 tons, 45 degree F Suction Temp., R22 OR APPROVED EQUAL.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Ave., P. O. Box 99901, Pittsburgh, PA 15223
Duration: Sixty days after award of bid
Contact: Carol Schaeffer/Purchasing Agent II, (412) 761-1955, Ext. 291

Janitorial Services—23

SP2500004 The PA Board of Probation and Parole is requesting bids from prospective vendors to provide daily janitorial and rubbish removal services at the Williamsport District Office.

Department: Probation and Parole Board
Location: Williamsport District Office, 450 Little League Boulevard, Williamsport, PA 17701
Duration: 2 Years
Contact: Dawn M. Eshenour, (717) 787-1989

110003 Window Cleaning Service: Contractor to furnish all labor, materials and equipment to clean glass windows and/or glass door panels at both the Ebensburg Center and the Altoona Center.

Department: Public Welfare
Location: Ebensburg Center, Rt. 22 West, PO Box 600, Ebensburg, PA 15931 (Cambria County); Altoona Center, 1515 Fourth St., Altoona, PA 16601 (Blair County).
Duration: Contract is anticipated to begin March 1, 2000 and end June 30, 2003.
Contact: Cora M. Davis, Purchasing Agent, (814) 472-0288

Lodging/Meeting Facilities—27

RFP #2000-11 The Pennsylvania Academy for the Profession of Teaching and Learning, State System of Higher Education, is soliciting proposals from institutions of higher education in the Pittsburgh, Pennsylvania area to host its Governor's Urban Academy in June 2001. Proposals must be submitted by December 4, 2000. Interested institutions may obtain a copy of the RFP by contacting Linda Venneri, Procurement Manager, State System of Higher Education, Office of the Chancellor, at: Phone: 717-720-4135 Fax: 717-720-7135 Email: lvenneri@sshechan.edu Internet: <http://www.sshechan.edu/Procurement/opportpage.htm>

Department: State System of Higher Education
Location: Pittsburgh, PA
Duration: 1 Year
Contact: Linda Venneri, (717) 720-4135

Medical Services—29

LBP-2000-35 VENDOR TO SUPPLY COMPLETE DENTAL SERVICES TO THE RESIDENTS OF THE NORTHEASTERN VETERANS CENTER. FOR COMPLETE SPECIFICATIONS PLEASE SEND FAX REQUEST TO (570)961-4400.

Department: Military Affairs
Location: Northeastern Veterans Center, 401 Penn Avenue, Scranton, PA 18503-1213
Duration: July 1, 2001 through June 30, 2004 with renewal option
Contact: Barbara Partyka, Purchasing Agent, (570) 961-4354

00973210 Chief of Clinical Services for mental health hospital to provide administrative, medical and psychiatric direction for clinical services. Responsible for insuring all clinical programs are patient-need based and all efforts are targeted toward providing optimum patient treatment.

Department: Public Welfare
Location: Torrance State Hospital, State Route 1014, Torrance, PA 15779
Duration: March 1, 2001, through June 30, 2005
Contact: Linda J. Zoskey, (724) 459-4547

10973403 Oral Surgeon services including anesthesia. Must have license from Pennsylvania Dentistry Board in the medical specialty of dentistry/oral surgery.

Department: Public Welfare
Location: Torrance State Hospital, State Route 1014, Torrance, PA 15779
Duration: July 1, 2001, through June 30, 2005
Contact: Linda J. Zoskey, (724) 459-4547

Personnel, Temporary—31

SP1107500017 Vendor to provide Islamic Chaplaincy Services for the inmate population located at the State Correctional Institution at Smithfield. Interested bidders should contact the Purchasing Department, in writing to request a bid package or by fax (814) 946-7339.

Department: Corrections
Location: State Correctional Institution at Smithfield, P. O. Box 999, 1120 Pike Street, Huntingdon, PA 16652
Duration: March 1, 2001 through June 30, 2003
Contact: Peggy Chilcote, Purchasing Agent, (814) 643-6520, ext. 125

Property Maintenance & Renovation—33

Bid #8206 Furnish all labor, materials and equipment to remove snow, salting & cindering from the sidewalks, driveways and parking areas, as required at the PA State Police, Gibson Station. Detailed Work Schedule & Bid must be obtained from Facility Management Division, 717-783-5484.

Department: State Police
Location: Gibson Station, R. D. # 1, Box 227B, New Milford, PA 18834
Duration: 12/1/00 to 6/30/03
Contact: Donna Enders, (717) 783-5484

KUCC-0027 Kutztown University is seeking qualified contractors for installation of a roof coating on the Field House roof at Kutztown University. Proposals are available for a non-refundable fee of \$30.00 from: Virginia Stoudt, STV Architects, 205 West Welsh Drive, Douglassville, PA 19508, Phone: (610) 385-8325. Bid packages are available November 27, 2000 through pre-bid. A pre-bid meeting has been scheduled for December 7, 2000 at 10:00 AM in Room OM-26 in the Office of Planning and Construction, Room 229, Kutztown University. Bids will be opened on December 22, 2000 at 1:00 PM. Non-discrimination and Equal Opportunity are the policies of the Commonwealth and the State System of Higher Education.

Department: State System of Higher Education
Location: Kutztown University, Kutztown, Berks County, PA
Duration: Work to commence no sooner than May 14, 2001 and to be completed on or before August 24, 2001.
Contact: Barbara Barish, (610) 683-4602

00700-000-00-AS-1 ADA parking improvements to include regrading, paving, concrete sidewalk, and signage to the existing parking lot and entrance walk at the Landis Valley Museum. All work to be completed by June 30, 2001. For directions contact the Project Manager, Kent Steinbrunner at (717) 783-9931 or the site at 717-569-0401. All interested bidders should submit a \$25.00 (non-refundable) check and a request for a bid package in writing to: PA, Historical & Museum Commission, Division of Architecture, 400 North Street, Plaza Level, Room N118, Harrisburg, PA 17120-0053--ATTENTION: Judi Yingling (717) 772-2401. All proposals are due on Friday, December 1, 2000 at 11:45 am. Bid opening will be held in Room N118, Plaza Level of the Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0053

Department: Historical and Museum Commission
Location: Landis Valley Museum, 2451 Kissel Hill Road, Lancaster, PA 17601
Duration: January 1, 2001 to October 31, 2001
Contact: Judi Yingling, (717) 772-2401

110002 PROVIDE FREESTANDING PORTABLE PARTITIONS, VARIOUS SIZES, AS MANUFACTURED BY SCREENFLEX PORTABLE PARTITIONS, INC., LAKE AURICH, IL. OR APPROVED EQUAL.

Department: Public Welfare
Location: EBENSBURG CENTER, DEPARTMENT OF PUBLIC WELFARE, RT 22 WEST, PO BOX 600, EBENSBURG, PA 15931
Duration: DECEMBER 20, 2000
Contact: CORA M. DAVIS, PUR. AGENT, (814) 472-0259

Real Estate Services—35

93137 LEASE OFFICE SPACE TO THE COMMONWEALTH OF PA 16,446 sq. ft. of office space, in Pittsburgh, Allegheny County, within the following boundaries: Allegheny River at 16th St. Bridge, SW along river to Point State Park, SE along Monongahela River to Liberty Bridge; N/NE to Boulevard of the Allies; E along Boulevard to Allies to Marion St.; N/NW to Bedford Ave.; W/SW to Washington Place to Seventh Ave.; W/NW to Grant St.; N/NE on Grant St. until it turns into Liberty Ave.; NE to 16th St.; NW to the Allegheny River. The Department of Public Welfare, Bureau of Hearing and Appeals; Office of Income Maintenance Field Offices of Quality Control; Child Support and Corrective Action will occupy the space. Downtown locations will be considered. For more information on Solicitation #93137 which is due on December 18, 2000 visit www.dgs.state.pa.us or call (717) 787-4394.

Department: Public Welfare
Location: 505 North Office Building, Harrisburg, PA 17125
Duration: Indeterminate 2000-2001
Contact: Mrs. Cynthia T. Lentz, (717) 787-0952

93136 STATE-OWNED REAL ESTATE FOR SALE SELINGSGROVE STATE FARM (PARCEL 1)The Department of General Services will auction for the purchase of a 93.94-acre parcel of the Selingsgrove State Farm located on Old Colony Road. The property is located in Penn Township, Snyder County. The auction is scheduled for December 7, 2000. Interested parties wishing to receive a copy of solicitation #93136 should view the Department of General Services' website at www.dgs.state.pa.us or call (717) 705-5764.

Department: General Services
Location: 505 North Office Building, Harrisburg, PA 17125
Duration: Indeterminate 2000-2001
Contact: Bradley J. Swartz, (717) 705-5764

93119 LEASE SPACE TO THE COMMONWEALTH OF PA Proposals are invited to provide the Department of Health with 5485 useable square feet of office space in Dauphin County, PA. with a minimum parking for 35 vehicles. The offered space must be located within the following boundaries: North: Division Street & Elmerton Avenue; South: Walnut, Market, 13th, & Derry Streets; East: Progress Avenue; West: Front Street. Downtown locations will be considered. In areas where street or public parking is not available, an additional 3 spaces will be required. For information on SFP #93119 which is due on January 16, 2001 visit www.dgs.state.pa.us or call 717-787-4394

Department: Health
Location: Room 505, North Office Building, Harrisburg, Pa. 17125
Duration: Indeterminate 2000-2001
Contact: John Hocker, (717) 787-4396

93127 LEASE SPACE TO THE COMMONWEALTH OF PA Proposals are invited to provide the Department of Agriculture with 5361 useable square feet of office space in Blair County, PA. with a minimum parking for 17 vehicles, within an 8 mile radius of the Plank Road Exit of I-99. Downtown locations will be considered. For more information on SFP #93127 which is due on January 29, 2001 visit www.dgs.state.pa.us or call 717-787-4394.

Department: Agriculture
Location: Room 505, North Office Building, Harrisburg, Pa. 17125
Duration: Indeterminate 2000-2001
Contact: John Hocker, (717) 787-4396

Sanitation—36

SP641300GB1 Bid for solid waste collection and disposal at Tuscarora and Locust Lake State Parks, Schuylkill County, Pennsylvania. Contract will include dumpsters for trash and recyclable materials. Complete list of sizes and schedule for pickup available with bid package.

Department: Conservation and Natural Resources
Location: Tuscarora and Locust Lake State Parks, Schuylkill County
Duration: January 1, 2001 to December 31, 2003
Contact: Leo G. Davidovich, Park Manager, (570) 467-2404

SP3863000002 Solid Waste collection and disposal.

Department: Conservation and Natural Resources
Location: Gifford Pinchot State Park, 2200 Rosstown Road, Lewisberry, PA 17339-9787
Duration: 4-1-01 to 3-31-04
Contact: William Rosevear, (717) 432-5011

SP3863000003 Solid Waste Collection and Disposal

Department: Conservation and Natural Resources
Location: Susquehannock State Park, RR 1, Box 64, Drumore, PA 17518
Duration: 4-1-01 to 3-31-06
Contact: William Rosevear, (717) 432-5011

Miscellaneous—39

2608 Software: Drive Image Pro Level E License - 2,500 Workstation Licenses; and Drive Image Pro Level E Upgrade Protection for 1 Year - 2,500 Workstation

Department: Revenue
Location: Bureau of Information Systems, 8th Floor, Strawberry Square, Harrisburg, PA 17128
Duration: The Upgrade Protection will cover 1 Year from delivery of Software.
Contact: Carol A. Kirkpatrick, (717) 772-0506

RE-BID 00776039 TO PROVIDE THE LIBRARY AT THE ALLENTOWN STATE HOSPITAL WITH THE MOST RECENT MAGAZINE PUBLICATIONS, ALSO TO INCLUDE MEDICAL PUBLICATIONS. ADDITIONAL INFORMATION CAN BE OBTAINED BY CONTACTING THE PURCHASING DEPARTMENT AT 610-740-3425 OR FAX AT 610-740-3424.

Department: Public Welfare
Location: ALLENTOWN STATE HOSPITAL, 1600 HANOVER AVENUE, ALLENTOWN, PA 18109-2498
Duration: 1-01-01 TO 12-31-01
Contact: ROBERT MITCHELL, (610) 740-3425

1501 Repair to Military Vehicle Storage Compound (2500 SY) and security fence located at the PA Army National Guard Armory, 411 North Findley Street, Punxsutawney, PA.

Department: Military Affairs
Location: PA Army National Guard Armory, 411 North Findley Street, Punxsutawney, PA 15767
Duration: Work must be completed by June 30, 2001.
Contact: Aimmee/Brenda, (717) 861-8519/2118

#110001 Mity Lite Tables: Various sizes; Mity Host Chairs: Oval Sidechairs and Armchairs. Specifications available from Purchasing Office, Ebensburg Center, Rt. 22 West, PO Box 600, Ebensburg, PA 15931. SUBSTITUTIONS NOT ACCEPTABLE.

Department: Public Welfare
Location: Public Welfare, Ebensburg Center, Rt. 22 West, PO Box 600, Ebensburg, PA 15931
Duration: Indeterminate 2000-2001
Contact: Marilyn Cartwright, Purchasing Agent, (814) 472-0259

ADV-96 Indiana University of Pennsylvania (IUP) is seeking for Chemical Water Treatment and Services for Cogeneration Plant and Power Plant. Requests for copies of bid package should be made in writing referencing advertisement #ADV-96 and directed to Roxie Johnson, Purchasing Agent, IUP, Robertshaw Building, 650 South 13th Street, Indiana, PA 15705; Fax (724) 357-2670; Email: rmjohnsgrove.iup.edu. Requests for bid package will be accepted until November 28, 2000. The University encourages responses from small and disadvantaged, minority and woman-owned firms.

Department: State System of Higher Education
Location: Indiana University of Pennsylvania, Indiana, PA 15705
Duration: January 2001 - December 2002 (with option to renew one (1) year)
Contact: Roxie M. Johnson, (724) 357-3077

RFP 00-07-07 The Department of Health, Bureau of Managed Care is seeking qualified vendors for conducting a statewide managed care consumer satisfaction survey using the Consumer Assessment of Health Plans Survey (CAHPS) methodology on adults enrolled in HMOs in Pennsylvania. The scope of work includes but is not limited to: project management, sample design, data collection, entry and cleaning, data analysis, report and educational brochure preparation, and web site design.

Department: Health
Location: Statewide
Duration: Up to 6 months
Contact: Bill Wiegmann, (717) 787-5193

350R04 The Department of Transportation is issuing a Request for Proposals to solicit contractors interested in developing, coordinating, conducting, and providing "Training and Coordination Services for Highway Maintenance-Related Operations." The selected contractor's responsibilities will include, but are not limited to, obtaining training sites; coordinating on-site activities; providing classroom instruction; providing on-site equipment and demonstrations; securing offsite training facilities for specialized instruction; arranging overnight, on-site hotel accommodations for students to be paid by each attendee; coordinating meals; providing transportation; providing examinations and administering results; maintaining certification records; developing course materials and; providing training aids and materials for all of the highway maintenance-related academy training and specialized highway maintenance-related training projects. Interested contractors may request a copy of the RFP by FAXING their name, company name, address, telephone number, and FAX number to Vikki Mahoney at 717-783-7971. Please reference RFP #350R04 on your request.

Department: Transportation
Location: Throughout the 67 counties of the Commonwealth
Duration: 5 years
Contact: Darlene Greenawald, (717) 705-6476

SP3881040008 SERVICES REQUIRED FOR THE INSTALLATION OF A WOVEN WIRE FENCE IN WHARTON TOWNSHIP, FAYETTE COUNTY.

Department: Conservation and Natural Resources
Location: FORBES FOREST DISTRICT #4, P. O. BOX 519, LAUGHLINTOWN, PA 15655-0519
Duration: UPON EXECUTION OF THE CONTRACT AND TERMINATE 6/30/01. WORK MUST BE COMPLETED BY 4/30/01.
Contact: PAUL WHIPKEY, (724) 437-7983

RFP 00-015-01 Centralized Automated Mail Processing Services for Commonwealth Agencies in Harrisburg. Pre-proposal conference to be held at 18 th and Herr Street Arsenal Building Board Room on Wednesday, November 29, 2000 at 10:00 AM.

Department: General Services
Location: Harrisburg and Vicinity
Duration: 3 years with two (2) 1-year renewal options
Contact: Vendor Services, (717) 787-2199

[Pa.B. Doc. No. 00-2025. Filed for public inspection November 17, 2000, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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GARY E. CROWELL,
Secretary

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
1095130-01	11/07/00	Buller Fix- ture Co	45,593.10
1112070-01	11/7/00	Hamilton Uniforms	10,458.00
1120120-01	11/7/00	Corp Express Document & Print Mgt Inc	18,621.75
8211820-01	11/7/00	Eastern Metal of Elmira Inc	22,267.29

GARY E. CROWELL,
Secretary

[Pa.B. Doc. No. 00-2026. Filed for public inspection November 17, 2000, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD [25 PA. CODE CHS. 92, 93 AND 95—97]

Water Quality

The Environmental Quality Board (Board) is amending Chapters 92, 93, 95 and 97, and adding new Chapter 96, as set forth in Annex A. This notice is given under Board order at its meeting of June 20, 2000.

A. *Effective Date*

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

B. *Contact Persons*

For further information on Chapters 92 and 97 (relating to National Pollutant Discharge Elimination System; and industrial wastes), contact Milton Lauch, Chief, Division of Wastewater Management, Bureau of Water Quality Management, 11th Floor, Rachel Carson State Office Building, P. O. Box 8465, Harrisburg, PA 17105-8465, (717) 787-8184, or William J. Gerlach and William S. Cummings, Jr., Assistant Counsels, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060.

For further information on Chapters 93, 95 and 96 (relating to water quality standards; wastewater treatment requirements; and water quality standards implementation), contact Edward R. Brezina, Chief, Division of Water Quality Assessment and Standards, Bureau of Watershed Conservation, 10th Floor, Rachel Carson State Office Building, P. O. Box 8555, Harrisburg, PA 17105-8555, (717) 787-9637 or William J. Gerlach, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) and request that the call be relayed. These final-form regulations are available electronically through the Department of Environmental Protection's (Department) website (<http://www.dep.state.pa.us>).

C. *Statutory Authority*

These amendments are made under the authority of the following acts: sections 5(b)(1) and 402 of The Clean Streams Law (35 P. S. §§ 691.5(b)(1) and 691.402) and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which grant to the Board the authority to develop and adopt rules and regulations to implement the provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

D. *Background and Summary*

This final rulemaking revises water quality management regulations including Chapters 92, 93, 95 and 97, and creates a new Chapter 96 to incorporate Total Maximum Daily Loads (TMDLs) into the regulatory calculus, all as part of the Regulatory Basics Initiative (RBI). The RBI is a multistep process to evaluate regulations considering several factors including whether re-

quirements are more stringent than Federal regulations without good reason; impose economic costs disproportionate to the environmental benefit; are prescriptive rather than performance-based; inhibit green technology and pollution prevention strategies; are obsolete or redundant; lack clarity; or are written in a way that causes significant noncompliance.

These regulatory revisions streamline and clarify regulatory requirements, update the regulations to be consistent with Federal regulatory changes where indicated, consolidate certain chapters, and preserve Pennsylvania-specific requirements to serve the citizens of this Commonwealth. These final-form regulations may affect persons who discharge wastewater into surface waters of this Commonwealth or otherwise conduct activities which may impact these waters.

The Air and Water Quality Technical Advisory Committee (AWQTAC) and its successor committee, the Water Resources Advisory Committee (WRAC), provided input on the proposed amendments. The proposal was adopted by the Board as proposed rulemaking at its June 16, 1998, meeting. The proposal appeared at 28 Pa.B. 4431 (August 29, 1998), with provisions for a 60-day public comment period and three public hearings. The public comment period concluded on October 28, 1998. In response to the public comments received on the proposal, the Department revised the proposal in the form of an Advance Notice of Final Rulemaking (ANFR) proposal. Notice of the availability of the ANFR appeared at 29 Pa.B. 4872 (September 18, 1999) with provisions for a public comment period open until November 17, 1999, and three public meetings/hearings. The Department received approximately 1,500 public comments on the ANFR. The comments received on the proposed regulations and on the draft final regulations are summarized in Section E of the Preamble.

The Board has considered all of the public comments received on both its proposed rulemaking and the Department's ANFR in preparing these final-form regulations. Those portions of the draft final-form regulations that would potentially affect agriculture were presented to the Agricultural Advisory Board (AAB) on February 16, 2000. Following the meeting, the AAB sent a letter to Secretary Seif in opposition to the existing regulatory requirements concerning public hearings for individual NPDES permit applications for existing concentrated animal feeding operations (CAFOs) in High Quality and Exceptional Value Waters. The draft final-form regulations were discussed with and approved by WRAC on March 8, 2000. WRAC also submitted minutes of its meeting to document its comments on the regulations. The valuable input from the public and the collective knowledge and experience drawn from advisory committees and others on these proposals has been utilized to develop a regulation which carefully balances the needs of citizens and the regulated community in assuring the protection of this Commonwealth's waters.

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

These regulatory revisions streamline, clarify and consolidate the regulatory requirements. Specifically, Chapter 92 has been modified to incorporate portions from other chapters to address the permitting of wastewater discharges into surface waters. The water quality standards implementation provisions in Chapter 93 and por-

tions of Chapter 95 are moved to Chapters 96 and 92, as appropriate. Chapter 96 incorporates existing and modified provisions of Chapters 93, 95 and 97, and includes language describing TMDLs and individual water quality-based effluent limitations. The provisions of Chapter 97 have been relocated to Chapters 92, 95 and 96.

The preamble to the proposed rulemaking asked for comment on three specific issues. 1) A few comments were received on the question of additional public participation for NPDES permitting. The comments were split on the issue, and no change has been made to the current requirements. 2) The question of whether or not the potable water supply use should continue to be a State-wide use, or if it should be changed so that applicable water quality criteria are only applied at existing or planned potable water supply intakes, received several comments on both sides. Some comments stated that additional burdens were placed on dischargers to meet criteria more stringent than necessary, and other comments believed that protection of human health and water supplies were the most important factors in the decision. Based on an analysis of public comments and on the basis that the potable water supply use has been protected Statewide for many years and will impose no new requirements on dischargers, no change is being made to the potable water supply use, and the current language is retained. 3) No one commented on the request seeking alternative methods of analysis for color.

Because portions of this regulatory package constitute the Triennial Review of Water Quality Standards mandated by Environmental Protection Agency (EPA) regulations in 40 CFR Part 131 (relating to water quality standards), the following considerations were made. Part of the review requires that states reexamine waterbody segments that do not meet the fishable or swimmable uses specified in section 101(a)(2) of the Federal Clean Water Act (33 U.S.C.A. § 1251(a)(2)). The Department evaluated the two waterbodies where the uses are not met: (1) the Harbor Basin and entrance channel to Outer Erie Harbor/ Presque Isle Bay and (2) several zones in the Delaware Estuary.

The swimmable use designation was deleted from the Harbor Basin and entrance channel demarcated by United States Coast Guard buoys and channel markers on Outer Erie Harbor/Presque Isle Bay because boat and shipping traffic pose a serious safety hazard in this area. This decision was based on a use attainability study in 1985. Because the same conditions exist today, no change to the designated use for Outer Erie Harbor/Presque Isle Bay is made.

The Department cooperated with the Delaware River Basin Commission (DRBC), EPA and other DRBC signatory states on a comprehensive use attainability study in the lower Delaware River and Delaware Estuary. This study resulted in appropriate recommendations relating to the swimmable use, which the DRBC included in water use classifications and water quality criteria for portions of the tidal Delaware River in May 1991. Criteria for enterococcus and changes in application to the fecal coliform criteria in this area reflect the use. The changes were incorporated into §§ 93.9e and 93.9g (relating to Drainage Lists E and G) in 1994. The primary water contact use remains excluded from the designated uses for river miles 108.4 to 81.8 because of continuing significant impacts from combined sewer overflows.

The Department is also incorporating §§ 92.8a(c), 92.13(b), 92.21(b)(5) and 92.55 into its water quality standards. This clarifies the Department's ability to incor-

porate schedules of compliance in NPDES permits when a Federal statutory deadline has passed pursuant to the decision in *In the Matter of Star-Kist Caribe, Inc.*, NPDES Appeal No. 88-5, 1990 NPDES LEXIS 4 (April 16, 1990).

In addition, an error in § 93.9p (relating to Drainage List P) for Tunungwant Creek in McKean County, which states that the water contact sport use (WC) should be deleted for the main stem portion from the confluence of the East and West Branches to the PA-NY State border, has been corrected. The Department conducted a use attainability study for Tunungwant Creek in 1985 and concluded that, while there were existing land use and man-made activities adversely affecting the quality of water and limiting recreational uses in the stream, these man-induced conditions were not considered irretrievable. Accordingly, the water contact sports use was added as a designated use to Tunungwant Creek at the November 15, 1988, Board meeting, and this final-form rulemaking was published at 17 Pa.B. 968 (March 11, 1989). This regulatory revision was not, however, incorporated into the *Pennsylvania Code* until now.

A detailed description of the revisions to the proposal by chapter and section follows:

General

Many comments objected that the proposal weakened water quality protection in this Commonwealth and that the comment period was insufficient to address the wide scope of changes. In response, the Department prepared an ANFR and offered an additional comment period and a series of three public informational meetings and public hearings. The change of most concern in Chapter 92 was § 92.81(a)(5) (relating to toxic or hazardous pollutants and general NPDES permits). In response to comments, the current language of the section, prohibiting the use of general NPDES permits in High Quality and Exceptional Value Waters, is retained.

Other comments suggested that the Department should make its water quality standards more stringent than Federal regulations or as stringent as practicable. The RBI only allows for more stringent standards when a compelling state interest is established.

A commentator stated that State regulations cannot become effective until receipt of EPA approval, based on a Federal case in Alaska. First, this case applied only to water quality standards, and not other State regulations which regulate water quality in some way, such as implementation regulations. Moreover, the Commonwealth has the duty and obligation under State statutes to promulgate and implement regulations, including water quality standards regulations, to protect this Commonwealth's water quality regardless of Federal action, delay or inaction. The revisions to the Federal regulations which became final on April 27, 2000 (64 Fed. Reg. 37072) only apply to water quality standards "for Clean Water Act" (CWA) purposes. The Commonwealth will continue to issue NPDES permits based on the best available scientific information in its water quality standards, which may or may not be included in a water quality standards regulation approved by the EPA for CWA purposes. The Department, not the EPA, must defend the permits it issues in this Commonwealth, and has an obligation to apply applicable State water quality standards regulations in issuing the permits. The EPA has the legal right to object to an NPDES permit if they believe the state water quality standard used as a basis for the permit limit is insufficient for CWA purposes.

Concern was expressed that the public comment period was insufficient. The Department provided an additional

60-day public comment period following the 30-day comment period to obtain additional input on the regulations. Over 300 commentators took advantage of the extended comment period.

Chapter 92. National Pollutant Discharge Elimination System

The provisions of this chapter incorporate by reference portions of Federal regulations. This was done to limit the verbatim transfer of lengthy Federal regulations into this chapter. For this reason, it may be necessary for permittees to refer to Chapter 92 and 40 CFR Parts 122, 124 and 125 (relating to EPA administered permit programs: the National Pollutant Discharge Elimination System; procedures for decisionmaking; and criteria and standards for the National Pollutant Discharge Elimination System) to determine applicable requirements.

§ 92.1. Definitions.

The following definitions contained in the proposal were deleted in the final-form regulations: "average annual discharge limitation," "average monthly discharge limitation," "average weekly discharge limitation," "bypass," "complete application," "LA-Load allocation," "loading capacity," "major facility," "natural quality," "operator," "owner," "separate storm sewer overflow," "TMDL" and "WLA-Wasteload allocation." Deletions were based on comments received regarding the need for or clarity of these definitions.

Definitions for "agricultural operation," "AEU—animal equivalent unit (AEU)," "CAO—concentrated animal operation," "indirect discharger," "intermittent stream," "perennial stream" and "small municipal separate storm sewer system" were added and the proposed definition of "CAFO—concentrated animal feeding operation" was modified based on comments recommending that the Department's CAFO Strategy be incorporated in the final-form regulations.

Commentators recommended that a number of definitions be modified to be more consistent with Federal definitions. A number of definitions were modified in the final rule as follows:

The definition of "BAT—Best available technology" was modified to make the definition more consistent with the Federal definition.

The definition of "BMPs—Best Management Practices" was modified by deleting the phrase "pollution prevention measures; source reduction procedures; water conservation practices; erosion and sedimentation control plans, stormwater management measures; and" to be more consistent with the Federal definition.

The definition of "conventional pollutant" has been modified by deleting "nitrites, nitrate nitrogen and phosphorous" to make the definition consistent with the Federal definition.

The term "facility or activity" is modified to be consistent with the Federal definition.

The word "used" has been deleted from the definition of "effluent limitation guideline" to make the definition consistent with the Federal definition.

The eight permit categories listed within the definition of "point source" were deleted to simplify the definition. The word "or" was deleted and "and" inserted in lieu thereof to make the definition more consistent with the Federal definition.

Commentators proposed revisions to definitions for clarity. The following changes were made to definitions in the final-form regulations:

The definition of "CCW—Contact cooling water" was amended by deleting the phrase ", or which otherwise has the potential to become contaminated" because it was unclear.

The definition of "CSO—Combined sewer overflow" was amended to make it clear that these overflows occur "prior to reaching the headworks of the sewage treatment facility."

Definitions for "intermittent stream" and "perennial stream" were added because these terms are used in the definition of surface waters.

The definition of "NPDES reporting form" is clarified by deleting "which includes" from the definition and adding "and" in lieu thereof.

The last sentence in the definition of "process wastewater" was deleted as unnecessary.

The definition of "stormwater discharges associated with construction activities" was revised to provide consistency with the definition of "NPDES permit for stormwater discharges associated with construction activities" in § 102.1 (relating to definitions).

Recommended changes to the definitions of "best available technology," "applicable effluent limitations" and "toxic pollutant" were not made because the definitions are based on Federal definitions.

§ 92.2. Incorporation of Federal regulations by reference.

A commentator stated that incorporation of Federal regulations by reference violates State law. This practice is not a violation of any State law and has been done before.

In response to comments requesting clarity, the last sentence of § 92.2(a) (relating to incorporation of Federal regulations by reference) has been deleted and new language added to clarify that if there is a conflict among Federal and State regulatory provisions, the provision in Chapter 92 shall be used unless the Federal provision is more stringent.

A typographical error was corrected by changing "(h)(1)" to "(h), (i)(2), (j), (k), (l)" in subsection (b)(5).

In response to comments received, subsection (b)(6) was deleted in the final-form regulations to incorporate the Department's CAFO Strategy into the regulations. The Federal references are inconsistent with the strategy.

Several commentators suggested sections of the Federal regulations that should have been incorporated by reference because they are not addressed in Chapter 92. Subsection (b)(19), (22) and (23) was added in the final-form regulations to identify these additional Federal provisions incorporated by reference.

Commentators questioned the meaning of the qualifying term "substantive and procedural." Subsection (c) was amended in the final-form regulations by deleting the words "substantive or procedural" to make the section more clear.

§ 92.2a. Treatment requirements.

Subsection (a) was modified in the final-form regulations by deleting the last sentence limiting treatment requirements and effluent limits to those established under the Federal Clean Water Act (33 U.S.C.A. §§ 1251—1376).

Commentators questioned the protection of threatened species not yet listed in the Pennsylvania Natural Diversity Inventory but included on Federal listings. The reference to the "Pennsylvania Natural Diversity Inventory" (PNDI) in subsection (c) has been deleted to allow for consideration of threatened species not yet included on that list, but established as threatened when someone identifies and documents the presence of these to the Department. The PNDI will still be used as the source of information for threatened species in this Commonwealth.

§ 92.2b. Pollution prevention.

The proposed pollution prevention amendments were deleted based on comments questioning the inclusion of guidelines that are not regulatory requirements, and the potential for these recommendations to take on regulatory meaning. This section was revised to provide that the Department will encourage pollution prevention and provide assistance to permittees in the consideration of pollution prevention measures. Comments were received opposing this change during the ANFR comment period. Commentators stated that the change weakened the regulations. The changes to this section proposed during the ANFR were retained in the final-form regulations. The Department believes that the regulations should place the burden of encouraging pollution prevention on the Department and that this program functions best when a voluntary approach is used. Recommendations related to pollution prevention activities for permittees are not appropriate for regulation. The language in this section is based on language in recent revisions to Chapter 91 that became effective on January 29, 2000. See 30 Pa.B. 521 (January 29, 2000).

§ 92.2c. Minimum Sewage and Industrial Waste Treatment Requirement.

Subsection (a) was modified to specify that secondary treatment is applicable to all sewage discharges, except sanitary sewer overflows (SSOs) which are prohibited in accordance with § 92.73(8), and combined sewer overflows (CSOs), which need not attain secondary treatment if they implement Department-approved nine minimum controls (NMCs) and a long-term control plan (LTCP).

The phrase "after direct application or encouragement of pollution prevention approaches, including in-process recycling and reuse" was deleted in subsection (b)(4) to be consistent with the changes to § 92.2b, relating to pollution prevention. Additionally, subsection (b)(4) was changed to reference and clarify the applicability of provisions for quality standards and oil-bearing wastewater to NPDES discharges.

A new subsection (c), providing a cross reference to § 95.2 (relating to quality standards and oil-bearing wastewaters) has been added to the final-form regulations. This change was not included in the proposed rulemaking.

§ 92.2d. Technology-based standards.

Paragraph (3)(i)(C) is modified in the final-form regulations by deleting the phrase "other pollution prevention approaches" to be consistent with the changes made to § 92.2b discussed previously.

Some commentators supported the retention of 0.5 mg/l effluent limitation for discharges of total residual chlorine while others felt the regulations were too stringent and suggested a lesser residual chlorine limit. Others objected to the dechlorination provisions in paragraph (3)(iii) in special protection waters. These provisions were modified

in the final-form regulations as a result of terminology changes in the Department's antidegradation regulations in § 93.4c(b)(1)(iii).

There were objections to the transfer of provisions from Chapter 97 to Chapter 92 regarding oils creating a sheen. These provisions were determined to apply to both NPDES and non-NPDES discharges and were consequently moved to Chapter 95 in the final-form regulations. A reference to § 95.2 was added to paragraph (4) of the final-form regulations. Comments were received in support of this change.

§ 92.4. Exclusions from Permit Requirements.

There was a request that natural gas and oil producing activities receive a permit exemption because it was asserted that these operations are similar to agricultural and silviculture activities that have such a permit exemption. The exemptions are based on Federal regulations and they do not include oil and gas producing activities. The change was not made.

A commentator objected to the proposed pollution prevention language in subsection (a)(6). The phrase was deleted for reasons described in a response related to § 92.2b. Other clarifying changes were also made to this provision.

§ 92.5a. Concentrated animal feeding operations.

As proposed, this section would have authorized a "permit by rule" for CAFOs meeting certain requirements. The Department issued a "Final Strategy for Meeting Federal Requirements for Controlling the Water Quality Impacts of Concentrated Animal Feeding Operations" in March 1999. A notice of the availability of that strategy was published at 29 Pa.B. 1439 (March 13, 1999). The strategy does not provide for coverage under a permit by rule. Commentators recommended incorporation of the final strategy into the regulations. Accordingly, the proposed language of § 92.5a was deleted and replaced in the final-form regulations with regulations consistent with the published strategy.

§ 92.6a. Persons required to apply.

The proposed language was supported by one commentator, while another recommended it be changed to require the person with financial control over the operation to be the permittee. This entire provision was deleted in the final-form regulations as unnecessary. The Department will continue to permit persons with point source discharges, which includes owners, operators and others, as appropriate, as it has done for many years.

§ 92.7. New or increased discharges or change of wastestreams.

The final-form regulations replace the word "director" with the word "Department" for clarity. Commentators objected to the lack of clarity of the phrase "or which would include any new pollutant not covered by the NPDES permit" at the end of the last sentence in the section as part of the ANFR. The language has been amended in the final-form regulations to more clearly limit this requirement to those pollutants not identified in a previous permit application.

§ 92.8a. Changes in treatment requirements.

The proposed pollution prevention language in the last sentences of subsections (a) and (b) has been deleted to be consistent with the changes made to § 92.2b.

A commentator asserted that the provisions of subsection (a) are violations of due process protections, more stringent than Federal regulations and beyond the power

of the Department. This provision was transferred intact from two other chapters that were previously approved as to form and legality by the Office of the Attorney General. Actions taken under these provisions may be appealable to the Environmental Hearing Board (EHB). The provisions were retained in the final-form regulations.

Commentators expressed concern regarding the proposed 90-day time period to complete an extensive report. They suggested 180 days and opposed the language allowing the Department to unilaterally shorten the time frame without any regulatory restraints or procedures. Subsection (b) has been modified in the final-form regulations rule to increase the time allowed for submission of the required report from 90 to 180 days. In addition, the phrase "or within a lesser period as the Department may specify" was deleted. The last part of the following sentence was also changed to ensure consistency with a previous reference in the sentence to water quality standards by inserting the word "standards" following the phrase "water quality."

A commentator was concerned that this section did not include authority to impose permit modifications with compliance schedules. Subsection (c) was modified in the final-form regulations to add a phrase that provides the option of imposing permit modifications with compliance schedules to achieve compliance.

§ 92.11. Duration of standards for certain new sources.

A commentator suggested the more stringent standard of performance be for the lesser of 10 years or during the depreciation period. This suggested change was not made because this regulation is based on Federal regulatory requirements.

Proposed rulemaking included a deletion of the phrase "standards of performance shall" and insertion of the phrase "requirements will" in lieu thereof. The final-form regulations reestablishes the original language based on comments opposing the new language as unclear.

§ 92.13. Reissuance or renewal of permits.

With respect to subsection (a), commentators expressed concern that the Department's Money-Back Guarantee time limits are inconsistent with the regulatory permit review limits. The Money-Back Guarantee does not influence the Department's ability to process permits in a shorter time frame. No changes were made to this section.

Some commentators suggested that recent case law would require incorporation of a broad compliance review for all permitting activities. The scope of the compliance evaluation in subsection (b)(1) was expanded in the final-form regulations to include all Department issued permits, regulations and orders. A reference to other appropriate regulations was included at the end of the subsection to allow consideration of compliance schedules outside of the requirements of Chapter 92.

§ 92.21. Applications.

Some commentators requested the reinsertion of the phrase "not less than" in the final-form regulations to eliminate a perception that the proposed language required submittal at exactly 180 days. The recommended phrase has been reinserted in the final rule to provide clarity. Other commentators expressed concern that the time limits in the regulation were inconsistent with Department's Money-Back Guarantee. No change was made because the Money-Back Guarantee does not impact the Department's ability to process applications in a shorter period of time.

Based on comments received, a new paragraph (5) is added in the final-form regulations which includes a requirement for documentation that the applicant is in compliance with all existing Department permits, regulations, orders and schedules of compliance, consistent with similar changes made in § 92.13 (relating to reissuance or renewal of permits). Commentators suggested requiring the newspaper publication in subsection (b)(3) only for major modifications of the facility. No change was made because The Clean Streams Law requires this.

Subsection (c)(2) was deleted in the final-form regulations to be consistent with the revisions made to § 92.2b (relating to pollution prevention).

Comments on subsection (c) stated that some of the required information for a new facility application is generally available only after the commencement of a discharge, not when an application for a facility is being prepared. Accordingly, the provisions of subsection (c)(3)—(5) were transferred to a new subsection (d) which states that the Department may require an applicant for a modification, renewal or reissuance of a permit under § 92.13, or when required under 40 CFR Part 122 to provide this information. In addition, proposed subsection (c)(6) is renumbered as subsection (c)(2) and proposed subsections (d)—(f) are renumbered as subsections (e)—(g).

§ 92.21a. Additional application requirements for classes of discharges.

A commentator requested that the provisions related to the determination that aquatic communities are excluded be clarified. Subsection (e) has been modified in the final-form regulations to state that water quality data confirming a lack of improvement will be the measure of the exclusion of aquatic communities.

Subsection (d) is clarified to cross reference the requirements in Chapter 102 for stormwater dischargers associated with construction activities.

Subsection (e)(2)(iii) is revised by providing a cross reference to the definition of "TMDL" in § 96.1 to provide clarity.

Proposed language in subsection (f) relating to discharges with approved pretreatment programs was deleted in the final rule. Subsections (g) and (h) of the proposal were renumbered as subsections (f) and (g) respectively.

Commentators stated that the elimination of CSOs is impossible, that the time required is too extensive to make this requirement a prerequisite to a permit renewal, that identifying all points of influent is impossible, and that elimination should only be required where the discharge will not meet water quality based effluent limitations. Subsection (f) of the final-form regulations includes provisions to allow for submitting a long-term control plan to "minimize" or "eliminate" CSO discharges. These changes are consistent with Department's published CSO Strategy. Additional revisions delete proposed subsections (g)(3)(i)—(v) and, in lieu thereof, reference a Federal publication rather than listing its content in summary in the regulations. Subparagraph (vi) was renumbered (ii) and a requirement for an implementation schedule was added to the final-form regulations (third element of an approvable CSO program). The provisions relating to the identification of points of inflow into combined sewers is retained in the final-form regulations. This activity is a necessary part of compliance with the nine minimum controls related to the minimization or elimination of CSOs.

Editorial changes were made to subsection (h) (now (g)) in the final-form regulations.

§ 92.22. Application fees.

A new subsection (f) was added to provide an exemption from permit fees for certain CAFOs consistent with the Department's CAFO Strategy. Existing subsection (f) was renumbered as (g).

§ 92.25. Incomplete applications or notice of intent.

A minor editorial change to the proposal is made. The proposal references a notice of intent "to participate in" an NPDES general permit. The phrase "participate in" is replaced with "be covered by" since that is a more accurate description of the general permit process.

§ 92.31. Effluent limitations or standards.

An editorial change was made to subsection (a). Subsection (a)(9) was added to cross reference water quality protection requirements in Chapter 96 and subsection (a)(10) was added to cross reference antidegradation requirements.

§ 92.41. Monitoring.

A number of commentators objected to the addition of proposed subsection (b), asserting that the provisions allow arbitrary requirements and time limits to be set by the Department. The proposed subsection was proposed for deletion in the ANFR. After reconsideration, this language was rewritten to eliminate those portions of the provision on which objections were received. References to requests for additional information by the Department, which were perceived as arbitrary were deleted, and provisions retained which establish monitoring and reporting requirements to be incorporated in permit documents. The last two sentences of proposed subsection (b) (relating to monitoring pollutants not limited in the permit) are deleted in the final-form regulations. Commentators asserted that these provisions were overly broad, inconsistent with Federal requirements or not in the spirit of the RBI.

The amendments to subsections (c) and (g) make it clear that the monitoring requirements of subsection (g) also apply to stormwater discharges associated with construction activities and that subsection (c) is not applicable to stormwater discharges associated with industrial activity. No comments were received on this change. The proposed change is retained in the final-form regulations.

§ 92.51. Standard conditions in permits.

Some commentators suggested that the language in proposed paragraph (6) was confusing and should be simplified to say that compliance with all water quality standards is required. The proposed subsection was clarified in the ANFR by breaking it up into two sentences. Additional comments were received asserting that the changes made the provisions less clear. The final-form regulations incorporate the provisions into a single sentence and retains language that is consistent with the intent of the original regulation. A new paragraph (7) was added to the final-form regulations in response to comments to clearly state that dischargers must comply with applicable water quality standards.

§ 92.52a. Site specific permit conditions.

The final-form regulations delete the last sentence proposing pollution prevention measures. This change is consistent with the position described in response to comments made on § 92.2b. Commentators stated that the proposed provisions were too broad and that BMPs

should be established through the regulatory process. The final-form regulations includes a provision that requires permittees to identify BMPs reasonably necessary to achieve effluent limitations and standards or to carry out the purpose and intent of the Federal Act (the Clean Water Act) and to implement toxic reduction activities, effluent limitations based on WETT and other measures which eliminate or substantially reduce pollutants at their source. These final-form regulations provide the permittee with the opportunity to take an active role in establishing sufficient BMPs to achieve protection of surface waters.

§ 92.61. Public notice of permit application and public hearing.

WRAC recommended that the Department seek public comment on the need for an additional public notice when an NPDES application is renewed or when an applicant intends to apply for an NPDES permit, before an application is completed. Comments on this issue ranged from support for the notice of intent to support for no additional public notice. The Department believes the existing requirements for public notice are sufficient and no change has been made in the final-form regulations.

A new subsection (a)(9) was added to cross reference regulations promulgated at 29 Pa.B. 3720 (July 17, 1999) which provide that the notice shall include the antidegradation classification of the receiving surface water.

§ 92.71a. Transfer of permit.

Based on comments received regarding the need to include compliance evaluations as a part of permit actions, a new paragraph (4) has been added to the final-form regulations that requires compliance with all Department permits prior to approval of permit transfers.

§ 92.72a. Cessation of discharge.

Commentators stated that the 180-day notice should be reduced to 90 days to be consistent with State mandated notification requirements. The final-form regulations establishes the 90-day notification requirement.

§ 92.73. Prohibition of certain discharges.

This section is revised to provide that a permit will not be issued, modified, renewed or reissued under any of the conditions enumerated.

Paragraph (8) of the proposal provided that a permit will not be issued to a "discharger with a sanitary sewer overflow unless the discharger can demonstrate that it is taking measures to eliminate any overflows as soon as practicable, including, but not limited to a complete evaluation of the sanitary sewer system, the reduction of infiltration and inflow into the sanitary sewer system, the elimination of illegal hookups to the system, the institution of a ban or prohibition on sewer hookups to the sanitary sewer, and any other measures which will eliminate the overflows." The quoted portion of this subsection was deleted in the final rule because it is inconsistent with applicable State and Federal policy. The final-form regulations states that a permit will not be issued for a sanitary sewer overflow, except as provided for in the Federal regulations.

§ 92.81. General NPDES permits.

A large number of commentators objected to the proposed revisions to subsection (a)(5) because of a perception that this provision would allow discharge of toxic substances under a general permit. While the Department had no such intent when these amendments were

drafted, the existing language prohibiting issuance of an NPDES general permit for the discharges has been reinstated in the final-form regulations.

Subsection (a)(8) of the proposal would have authorized issuance of a general permit for discharges to High Quality Waters, but not to Exceptional Value Waters. A large number of commentators objected to this provision at proposed rulemaking. Accordingly, as part of the ANFR it was proposed to reinstate existing language that prohibits the issuance of general NPDES permits for activities in High Quality Waters. In response to the ANFR, the Department received a very large number of comments on both sides of this issue. The final-form regulations retain the reinstated (or existing) language prohibiting the issuance of general permits in High Quality Waters. This provision supports the Department's overriding State interest in the protection of High Quality Waters and in the provision of a broad opportunity for public comment when permit applications are received for facilities proposed in these watersheds. In addition, a recently developed individual NPDES permit for existing CAFOs in High Quality Waters clearly demonstrates the ability to create a simplified permit application process under the individual NPDES regulations while protecting the environment. A conforming change was made in § 92.83(b)(9) (relating to denial of coverage under a general NPDES permit).

The Board received comments objecting to the proposed deletion of a provision that general NPDES permits are to comply with of §§ 92.59 and 92.83(a)(1) (relating to documentation of permit conditions; and inclusion of individual discharges in general NPDES permits) that dischargers "certify" rather than "demonstrate" that the discharge will not result in a violation of an applicable water quality standard. Accordingly, the reference to § 92.59 was reinstated in § 92.81(b) and the existing term "demonstrate" reinserted in lieu of "certify" in § 92.83(a)(1) in the final-form regulations.

Some commentators opposed the proposed revisions to subsections (c) and (d) because they believed some of the options eliminated the opportunity for public comment. Two subsections proposed the inclusion of language from the Federal regulations that would have allowed discharges to commence: (1) on a date specified in the general permit; and (2) upon receipt of the notice of intent by the Department. These proposals have been deleted in the final-form regulations because they create circumstances that would make it impossible for the Department to keep a record of these discharges and they would have provided no opportunity for public comment. In addition, the proposal provided that a discharge under a general NPDES permit would be authorized after a waiting period specified in the general permit. This provision is retained, but clarifying language is added stating that the discharge may only commence following receipt of a Notice of Intent (NOI) by the Department. In addition, the provision authorizing the commencement of discharges "upon receipt of the notification of inclusion by the Department" is revised in the final rule to provide that the discharge may commence upon receipt of notification of approval of coverage under the general NPDES permit from the Department. Subsection (d) of the proposal relating to when an NOI would not be required was deleted in the final-form regulations for the same reasons outlined. Proposed subsection (e) was renumbered as subsection (d).

Commentators questioned the need for proposed subsection (e). This section was modified as subsection (d) in the

final-form regulations to provide that the Department "will" notify a discharger that it is "or is not" covered under a general NPDES permit. In addition, the clause, "even if the discharger has not submitted a notice of intent to be covered" was deleted.

§ 92.83. Inclusion of individual dischargers in general NPDES permits.

Subsection (a)(3)(iii) has been deleted because it would have, consistent with the approach allowed under the Federal regulations, authorized the Department to provide no public notice of applications for general permits or approvals of coverage. This provision was not carried forward in the final-form regulations because it did not allow for sufficient public notice. Subsection (a)(1) was amended to clarify applicable requirements for NOIs.

A number of commentators commented that the EHB recently issued a ruling stating that compliance history review is not limited to prior NPDES permits, but to all permits issued by the Department. A commentator also asserted that the list of items to be considered was inconsistent with The Clean Streams Law. Accordingly, subsection (b) was revised to include violations of Department-issued permit as grounds for denial of the general permit coverage and to reference the entire list of items to be considered under The Clean Streams Law. The remainder of the subsection was renumbered.

§ 92.92. Method of seeking civil penalty.

A commentator objected to the regulation on the basis that it removes a right to a prehearing for alleged violations. A discussion of the due process protections provided by the procedures established in the regulation is provided in the comment and response document.

§ 92.93. Procedure for civil penalty assessments.

There were several comments requesting clarifying language regarding delivery of notices, the specifics of the hearing procedure, the scheduling of hearings, posting notice, and provision of notice from the Department concerning EHB rules of practice. A change was made in the final rule to subsection (c) regarding the posting of notice. An explanation is provided in the comment and response document regarding the remaining comments.

Also in subsection (c), a clause is added clarifying that a person requesting a hearing has a right to be represented by counsel, and a change is made providing that the Department need not make a decision at the hearing.

§ 92.94. Disbursement of funds pending resolution of appeal.

Subsection (a) of the final-form regulations has been modified to replace the word "law" with "section 605 of The Clean Streams Law (35 P. S. § 691.605)."

A commentator stated that preclusion of permit issuance should only be imposed on a specific facility when a company has more than one facility in this Commonwealth. This provision is not mandatory and would be imposed only when there is a continued pattern of failure to pay final assessments. No change was made in the final-form regulations.

Chapter 93. Water Quality Standards

Section 93.4. Statewide water uses.

WWF (warm water fishes) has been reinserted in Table 2 as the default aquatic life protection because several comments made the point that there would be no default aquatic life protection of waters inadvertently not listed in the chapter.

Many comments addressed the question of retaining the Statewide potable water supply use, some offering distinct reasons why it should be eliminated, but many others expressing support for keeping it. The use is retained without change.

A few comments suggested that the aesthetic water quality criteria for manganese and dissolved iron be applied at the point of potable water intake, as are other aesthetic criteria, under § 96.3 (relating to general water quality). The Department will analyze the impacts/benefits of this issue as part of its next triennial review of water quality standards.

A few comments were directed toward the Department adopting amended wildlife protection and protection of hydrologic regimes and habitat. At this time, there is no National guidance to assist the Department in moving forward with changes to wildlife protection. The Department is working with the Fish and Boat Commission on new habitat and stream flow criteria development, but it is premature to make changes at this time. These issues are all likely to be considered in future water quality standards reviews.

Section 93.7. Specific water quality criteria.

Comments concerning Table 3 included the following:

Alkalinity—The site-specific exception to the alkalinity criterion was reinstated because it was noted that many of this Commonwealth's streams may naturally violate the criterion, and without the exception, there would have to be regulation changes made for a very large number of site-specific criteria to amend the listings in §§ 93.9a—93.9z if the language were removed.

Aluminum—In the proposal, the aluminum criterion was amended and moved to Table 1, Chapter 16—Water Quality Toxics Management Strategy—Statement of Policy, where other water quality criteria for toxics are listed. The EPA and others commented that there was not adequate justification for the Commonwealth to not also adopt the chronic criterion. The Department believes that the chronic criterion of 87 µg/l should not be adopted because it is based on chronic toxicity test results that show inconsistencies within tests and between studies. The chronic studies described in the EPA's 1988 Ambient Water Quality Criteria for Aluminum document do not show a consistent pattern of toxicological response to the different exposure concentrations within or between the various tests described. The final chronic value developed following the EPA's procedures and based on available acute-chronic ratios is 750 µg/l, the same value as the acute criterion. However, the EPA then lowered the final chronic value to 87 µg/l, claiming it to be necessary to protect brook trout and striped bass. The EPA's justification for this adjustment was data derived from studies that the EPA later described as data that should not be used in the criteria development. The EPA staff have agreed that the aluminum toxicity is very complex due, in part, to the complexity of its chemistry and interactions with local water quality conditions and biological community. The EPA also agrees that the studies that were used in driving the derivation of the chronic criterion are limited in their application and should receive additional review. The Department cannot adopt the flawed chronic criterion for use in this Commonwealth without better justification. As recently as December 1999, the EPA reiterated that aluminum criteria issues are not a priority for the agency. Therefore, the Department believes that aluminum toxicity to fish and aquatic life will be adequately managed using the acute criterion of 750 µg/l.

The Department will also continue to monitor the scientific literature and the EPA's evaluations of aluminum toxicity and amend the criterion or add a chronic criterion, if indicated. The criterion is unchanged from the proposal.

Ammonia—The ammonia criteria is not changed to match the new the EPA criteria finalized in December 1999, but will be considered in the next Triennial Review.

Bacteria—In response to an EPA comment, language is added to Bac1 which limits to no more than 10% the samples that may exceed 400 fecal coliform per 100 ml in a 30-day period for the criteria to be attained.

DO (dissolved oxygen)—The language for DO₃ (for trout stocking fishes (TSF)) is clarified to state that the criteria for lakes, ponds and impoundments apply to the epilimnion in response to a comment.

Phenolics—To respond to comments expressing concern for protecting water supplies, the Statewide criterion for phenolics (Phen - 0.005 mg/l) is retained. This criterion is applied under new § 96.3(d).

Temperature—Language inadvertently struck from the new listing of temperature criteria in the proposal was reinserted to assure protection of aquatic life. The language states that in addition to the temperature criteria, wastes may not cause more than a 2°F rise in temperature in any 1-hour period.

Subsection (e), which was proposed to be deleted, is reinserted as (b) and the accompanying table is renamed Table 4 in response to comments that pointed out that the Table provides a ready reference to the criteria applicable to aquatic life uses, including High Quality and Exceptional Value Waters. The table has been modified to acknowledge the removal of the list of Statewide criteria (former Table 4) and the numbering change to DO criteria.

Accordingly, numbering changes are made to the remaining subsections. Subsection (c) is amended to the original language that provides that additional criteria will (not may as proposed) be developed using best scientific information. New subsection (d) is clarified to state that when the Department determines that the natural quality of a surface water is lower than the applicable aquatic life water quality criterion, the natural quality will become the aquatic life criterion for that segment following public notice and comment.

Section 93.9. Designated water uses and water quality criteria.

Section 93.9e (relating to Drainage List E) is modified to correct the turbidity criteria symbols from Tur 3 and 4 to Tur 1 and 2. The change is not substantive.

In § 93.9o (relating to Drainage List O), several comments on the proposal and ANFR addressed the issue of the color criterion for the Codorus Creek in York County. Some comments gave lengthy reasons why 50 pcu was the appropriate criterion and should remain in place, and others questioned the scientific basis for that criterion, stating the Statewide criterion should apply. Following consideration of all the comments, the site-specific color criterion for the Main Stem, Codorus Creek in York County is removed and the Statewide color criterion (75 platinum cobalt units) will apply to the stream. When it is achieved, the criterion will enhance water quality in the stream.

In § 93.9p (relating to Drainage List P), an error for Tunungwant Creek in McKean County, which deleted the

water contact sport use (WC) for the main stem from the confluence of the East and West Branches to the PA-NY State border, has been corrected. The Department conducted a use attainability study in 1985 which supported the correction and the water contact sports use was added as a designated use at the November 15, 1988, Board meeting, and published at 17 Pa.B. 968 (March 11, 1989). This regulatory revision was not, however, incorporated into the *Pennsylvania Code* until now.

Chapter 95. Wastewater Treatment Requirements

Section 95.1 (relating to special protections), which has recently been amended at 29 Pa.B. 3720 (July 17, 1999) is deleted as unnecessary in light of the inclusion of the language in § 92.2a(a).

Commentators objected to the incorporation of provisions in § 97.15 into § 95.2 of the final-form regulations. These provisions incorporate quality standards for industrial wastes including the prohibition of discharges that are acid, a pH requirement and an iron limit of no more than 7 milligrams per liter of dissolved iron. These provisions were retained in the final-form regulations as necessary to protect water quality from pollutants not regulated as point sources under the NPDES regulations.

Commentators objected to the elimination of §§ 95.4 and 95.5 from proposed rulemaking. This error occurred at the Legislative Reference Bureau, and was corrected at 28 Pa.B. 577 (November 7, 1998).

Chapter 96. Water Quality Standards Implementation (new chapter)

Section 96.1. Definition.

The following definitions are deleted from the proposal because the terms are not used in the final-form regulation: "allowable discharge concentration," "continuous point source discharge," "design discharge flow," "dilution ratio," "impaired surface water," "nonpoint source best management practice," "precipitation induced point source discharge," "significant pollutant source," "steady state modeling" and "water quality protection levels."

Definitions for "conservative substance," "lake pond or impoundment," "LA—load allocation," "nonpoint source," "nonpoint source restoration plan" and "TMDL—total maximum daily load" are amended in response to comments or for clarity and for consistency with other regulations.

Finally, definitions are added for "factor of safety," "reserve factor" and "WQBEL—water quality based effluent limitation" because § 96.4 is amended to address both TMDLs and WQBELs, and factor of safety and reserve factors, as used by the Department in modeling for WQBELs, are included in the regulation in § 96.4. Commentators pointed out that the proposed definitions for "LA" and "TMDL" were not consistent with the Federal definitions, and the final definitions address the issues raised. Some other comments recommending language changes to other terms were addressed either by deleting the terms because they are not used, or by explanation in the comment and response document that the recommendation did not clarify the term.

Section 96.3. Water quality protection requirements.

This section incorporates, and in some cases, contains modified provisions from previous § 93.5. The proposed title of the section (Water Quality Protection Levels) was changed because the term water quality protection levels is not contained in the chapter.

Commentators on subsections (a) and (b) said that the language should include "maintain and protect" as in the antidegradation policy and noted that antidegradation must apply to all waters, not only High Quality and Exceptional Value Waters. In response, subsection (b) is amended to apply to all surface waters and adds the specific sections of Chapters 93 and 105 that address antidegradation requirements.

Some commentators said the 99% level of protection in proposed subsection (c) was not as protective as the EPA's requirements for frequency, duration and magnitude standards. There are no Federal regulatory specifications for a level of protection, but the EPA guidance sets a series of conditions that would predict a level of protection greater than 99%. The EPA recommends an averaging period of 1 hour for acute aquatic life criteria and 4 days for the chronic criteria. The error band that surrounds the 99.91% level of protection implied by the EPA's recommended "one excursion in three years" has both upper and lower bounds. The 99% level of protection lies within that error band and is, therefore, protective of water quality. In practice, for cases involving point source discharges, the actual level of protection is greater than 99% because a combination of design factors (such as design flows, mixing considerations, temperature, pH, and hardness) is used to determine effluent limitations. As part of its response to the Great Lakes Initiative (GLI), the Department performed a series of modeling simulations that compared actual levels of protection achieved using the Department specifications, with the levels of protection that would be obtained using the GLI specifications, which are more stringent than those the EPA recommends nationally. These simulations demonstrated that Department's specifications yield levels of protection equivalent to those achieved using the GLI specifications. More recently, the Department submitted a TMDL for dealing with abandoned mine drainage in the Swatara Creek Watershed to EPA Region III. This TMDL was predicated on achieving applicable water quality criteria in all portions of the watershed at least 99% of the time. This TMDL was accepted and approved by the EPA. The 99% protection level has not been changed.

Other comments noted that 99% could not apply to the general water quality criteria which Federal guidance says must be achieved at all times. In response, general criteria are deleted from the first part of the subsection and a statement is added that general criteria must be achieved at design conditions.

Based on many comments, which questioned the "mixing zone" policy of the regulation, subsection (d) is amended to make clear that it is an exception to (c) (which subsection is applicable to all other water quality criteria) of special provisions for the applicability of water quality criteria for total dissolved solids, nitrite-nitrate, fluoride and phenolics for the protection of the potable water supply use. "Phenolics" is reinserted to the list of substances included in the section in response to a comment that was concerned with protection of water supplies from its esthetic effects.

Previous § 93.5(e), which this subsection replaces, was never applied as a "mixing zone" policy. It was adopted to differentiate between the relative points of application for the criteria for the specific pollutants discussed in the section (that is, at the point of potable water supply intakes) and the point of application for other criteria (such as fish and aquatic life) for these same pollutants. Section 96.3(d) is the same exception. It is an exception because all other criteria are applicable at all points

instream where a use is protected. It is not correct to interpret the section as allowing mixing zones in some cases and thereby forbidding them in others. The Department has a mixing procedure for point source discharges of toxics and other substances. A full explanation of the approach is available in the Department guidance documents. The way the Department considers discharge mixing is subject to public review and comment every time a draft NPDES permit that contains effluent limitations for toxic substances is published in the *Pennsylvania Bulletin*. Federal regulations allow, but do not require, states to adopt regulatory mixing zone policies, which can be submitted to the EPA for Federal review and approval. This Commonwealth position is compatible with the Federal requirement.

Comments on subsection (e) stated that the proposed language allowed substituting an evaluation of physical conditions to replace water quality observations in determining natural quality. In recognition of this comment, and that natural quality cannot replace human health criteria, the subsection was amended to clarify that water quality observations are the basis for natural quality determinations, and that natural quality may be used, when appropriate, as site-specific criteria only for aquatic life protection.

Subsection (g) is amended to include Chapter 93 in addition to Chapter 105 as protective of wetlands in response to a comment that noted the omission.

Section 96.4. TMDLs and WQBELs.

Section 96.4 and its heading have been amended to distinguish between TMDLs, which are developed for impaired waters, and the development of WQBELs for point source discharges. Because there are many similarities in developing TMDLs and WQBELs, some portions of the section remain combined. Many commentators asserted that nonpoint sources were not sufficiently addressed or regulated in the regulation. In response to the comments on nonpoint sources, it should be noted that there is no more specific guidance on nonpoint source impacts from the EPA. For example, design flows for point sources are specified, but a design flow for nonpoint sources is problematic. The Department is currently developing and using other methodologies to develop TMDLs where nonpoint sources are the cause of impairment. A public comment period is held on each TMDL to allow interested parties to provide input.

The final language of subsection (b) provides that WQBELs for NPDES point source discharges will be developed under this chapter when technology-based requirements will not meet water quality protection requirements.

Subsection (c) specifies that both TMDLs and WQBELs must meet the requirements of § 96.3.

Minor word changes to subsection (d) clarify that WLAs serve as the basis for WQBELs for point source discharges and LAs form the basis for nonpoint source restoration plans.

Subsection (e) provides for conditions that apply to developing TMDLs and WQBELs. Paragraph (1) adds physical characteristics of a watershed as a design factor to acknowledge a comment that variations associated with nonpoint sources should be included. Comments on the proposal and on the ANFR pointed out that margin of safety and natural quality are included in the definition of TMDL. In response, paragraph (1) is further amended to state that reserve factors, factors of safety (both of which are terms used in the Department's modeling of

WQBELs) and pollutant contributions from other sources are considered in developing WQBELs.

Subsection (f) is modified to describe the allocation procedure for WLAs, LAs and effluent limitations.

Proposed subsection (g) concerning effluent trading is deleted. Many commentators on the proposal opposed effluent trading and more ANFR comments supported removal of the section. Some commentators wanted a clearly defined program on effluent trading. The Department will develop a more complete pollutant trading program with the assistance of affected and interested parties in the future, including the issues expressed in the comments, and with extensive public involvement.

Subsection (h), now subsection (g), was clarified to tie the design flows, as applicable, to point source TMDLs and WQBELs. The design flow conditions for point source discharges are retained in Table 1, although commentators said those flows were not as restrictive as the EPA's requirements. The Department conducted flow analyses to compare the EPA's Q1-10 flow to Pennsylvania's use of Q7-10 for aquatic life criteria. The results showed that in most cases, there is no substantial difference in the level of protection afforded by using Q7-10 in place of Q1-10. Table 1 is amended to include the design flow for the acute ammonia-nitrogen criterion which was inadvertently omitted.

Several commentators expressed that only point sources were addressed in the regulation and that models and requirements for nonpoint sources should be added. The language on the nonpoint source LA is amended in the final regulation. The best available information on nonpoint sources and natural quality is used in developing TMDLs. If possible, the LA may be disaggregated based on the quality and spatial resolution of the available data. If nonpoint source data cannot be disaggregated based on available data, the LA may be for a total allotment. The Department is currently developing and using methodologies to develop TMDLs for nonpoint sources. A public participation process, including a comment period on every TMDL, allows for public input. The Department will continue to refine its methodologies in the foreseeable future.

Proposed subsection (i) is renumbered as (h), and proposed subsection (j) is deleted because the legal requirement that methods used should be accepted in the scientific community would apply in court proceedings even without regulatory language. Omitting the language provides more flexibility to the Department in using new approaches to TMDL development in this rapidly changing field. The proposed subsection (l), placing the burden of proof on a person who challenges a TMDL, is deleted in response to comments.

Commentators on § 96.7 said that the comment period provided for the list of impaired waters and for TMDLs is too short. The comment period is not changed because it is set only as a minimum and the Department strives to provide longer comment periods when not constrained by Federal deadlines or other circumstances. A minor wording change in subsection (b) clarifies that the comment periods on both may be combined when a TMDL is prepared concurrent with NPDES permits.

Chapter 97. Industrial Wastes

A commentator objected to the deletion of § 97.14 from the final-form rulemaking because the commentator supported the mandatory pollution prevention provisions included in this section. This section has not been retained in the final-form regulations for the reasons

discussed in the response to comments received about pollution prevention in § 92.2b.

F. Benefits, Costs and Compliance

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

Benefits

Overall, the citizens of this Commonwealth will benefit from these changes because they provide appropriate protection of designated and existing uses of surface waters in this Commonwealth in a more efficient and easily administrable manner. The final-form regulations reorganize and consolidate existing water management regulations in a more understandable manner, and should help to assure that pollution control actions are as cost-effective as possible and that pollution control costs are equitably distributed. The language should also make it easier for citizens to understand how NPDES permits are developed and administered, and how water quality standards are developed and implemented.

These revisions also assure compliance with applicable Federal requirements. Under the revisions to Chapter 92, persons required to obtain a new or renew an existing NPDES permit may benefit because of the clarification provided in the amendments, as well as improved consistency with Federal regulations. In addition, these persons may benefit by the modification of some requirements which are more stringent than Federal regulations without a compelling public interest. Among the sections modified to make them more closely mirror Federal requirements are § 92.4 (relating to exclusions from permit requirements), which adds a number of activities which would be excluded from the requirement to obtain an NPDES permit; § 92.11 (relating to duration of standards for certain new sources), which adds a third event, the date the discharge begins in the calculation of the 10-year period during which a point source would not be subject to a more stringent treatment technology standard; existing § 92.41(d) and (e) (relating to monitoring) by providing that the retention period for maintaining monitoring records may be extended during the course of any unresolved litigation (as opposed to the current requirement that the records shall be maintained) and incorporating the language of 40 CFR 122.44(i)(4) (relating to the establishment of monitoring requirements for stormwater discharges not subject to an effluent limitation on a case-by-case basis) into a new subsection (g); § 92.55 (relating to schedules of compliance), which is revised to provide a 1-year window for compliance before a compliance schedule is required in a permit as opposed to the current 9-month window; § 92.65 (relating to notice to other government agencies), which is revised to limit the circumstances in which the District Engineer of the Corps of Engineers may object to the issuance of a permit consistent with section 402(b)(6) of the Federal Clean Water Act (33 U.S.C.A. § 1342(b)(6)); and § 92.83 (relating to inclusion of individual discharges in general NPDES permits) which has been revised to provide some options for notification of coverage under the general permit consistent with 40 CFR 122.28(b) (relating to general permits).

Compliance Costs

The amendments to Chapters 92 and 93 are not expected to impose any significant additional compliance costs on the regulated community. Under the revisions to Chapter 96, it is possible that some activities, including some point source and nonpoint source activities, may experience additional compliance costs. In addition,

§ 96.4(i) may impose some additional monitoring costs on NPDES discharges and other persons subject to regulation under The Clean Streams Law if data are needed to develop or evaluate TMDLs. Decisions on when to require additional monitoring will be made on a case-by-case basis and, therefore, cannot be estimated in advance.

Since the TMDLs and WQBELS developed under these final-form regulations will be used as the basis for addressing point and nonpoint pollutant discharges, the regulations may impose additional costs on some entities. Other entities may experience a reduction in treatment costs as a result of these final-form regulations; the final-form regulations have been designed to equitably allocate the responsibility for pollution control among both point and nonpoint source pollutant contributors. Overall, these regulatory changes are not expected to increase total pollution control expenditures over that which would otherwise be required under existing regulations.

Compliance Assistance Plan

The amendments to Chapter 92 are primarily intended to consolidate existing requirements into a single chapter, clarify existing requirements and make the State regulations more closely mirror Federal regulations. Compliance assistance is provided to applicants through numerous guidance documents the Department has made available for permit applicants and permittees, and by Department staff through contacts with permittees.

Chapter 96 is primarily aimed at describing how and when the Department will develop TMDLs and WQBELS. The Department is currently undertaking efforts to develop program guidance to address the various issues relating to TMDL development. Other guidance is in place for conducting additional monitoring, and for allocating pollution treatment costs equitably when more stringent treatment costs are required. Guidance is being developed for the achievement of TMDLs. These guidances should aid regulated entities in complying with the regulatory requirements.

Paperwork Requirements

These regulatory revisions should have no significant paperwork impact on the Commonwealth, its political subdivisions or the private sector. The development of TMDLs by the Department under Chapter 96 may require some additional paperwork.

G. Pollution Prevention

In keeping with Governor Ridge's interest in encouraging pollution prevention solutions to environmental problems, Chapter 92 incorporates language encouraging the use of pollution prevention techniques, and suggesting measures to be taken to achieve environmental benefits. The existing mandatory pollution prevention language contained in existing § 97.14 has been deleted and replaced with other language which requires the Department to encourage pollution prevention. Additionally, Chapter 93 prevents pollution by incorporating the latest science into the water quality standards. Finally, Chapter 96 prevents pollution by more closely addressing point and nonpoint pollutant sources and measures to achieve water quality standards in waters which are threatened or impaired.

H. 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. In addition, revisions

to water quality standards are required to be reviewed by the Department at least once every 3 years, with the results of the review to be submitted to the EPA. The revisions to portions of Chapters 92, 93 and 96, constitute the major portion of the Commonwealth's triennial water quality standards review.

I. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 11, 1998, the Department submitted a copy of the proposed rulemaking published at 28 Pa.B. 4431, to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Environmental Resources and Energy Committees. In addition to submitting the proposed amendments, the Department has provided IRRC and Committees with a copy of all comments received on the proposed amendments, as well as other documentation.

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

These final-form regulations were deemed approved by the House Environmental Resources and Energy Committee on and by the Senate Environmental Resources and Energy Committee on August 21, 2000. IRRC met on August 24, 2000, and approved the final-form regulations in accordance with section 5(c) of the Regulatory Review Act.

J. Findings of the Board

The Board finds that:

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

(2) A public comment period 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 28 Pa.B. 4431. These final-form regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this Preamble.

K. Order of the Board

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

(a) The regulations of the Department, 25 Pa. Code Chapters 92, 93, 95, 96 and 97, are amended by amending §§ 92.1, 92.3, 92.4, 92.7, 92.9, 92.11, 92.13, 92.15, 92.17, 92.21—92.23, 92.25, 92.31, 92.41, 92.51, 92.53, 92.55, 92.57, 92.59, 92.61, 92.63, 92.65, 92.73, 92.75, 92.77, 92.79, 92.81—92.83, 93.1—93.8, 93.8a, 93.9, 93.9a, 93.9c, 93.9e, 93.9g, 93.9i, 93.9l—93.9r, 93.9u—93.9z, 95.2, deleting §§ 92.6, 95.1, 95.3, 95.6—95.9, 97.1, 97.2, 97.14, 97.15, 97.63, 97.81—97.83, 97.91—97.95; and adding §§ 92.2, 92.2a, 92.2b, 92.2c, 92.2d, 92.5a, 92.8a, 92.13a, 92.21a, 92.52a, 92.71a, 92.72a, 92.91—92.94; and §§ 96.1—96.7, to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

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

JAMES M. SEIF,
Chairperson

Fiscal Note: Fiscal Note 7-338 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE II. WATER RESOURCES

CHAPTER 92. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITTING, MONITORING AND COMPLIANCE

GENERAL PROVISIONS

§ 92.1. Definitions.

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

AEU—Animal equivalent unit—One thousand pounds live weight of livestock or poultry animals, regardless of the actual number of individual animals comprising the unit, as defined in section 3 of the Nutrient Management Act (3 P. S. § 1703).

Administrator—The Administrator of the EPA.

Agricultural operation—The management and use of farming resources for the production of crops, livestock or poultry as defined in section 3 of the Nutrient Management Act.

Applicable effluent limitations or standards—State, interstate and Federal effluent limitations or standards to which a discharge is subject under the State and Federal Acts, including, but not limited to, water quality-based and technology-based effluent limitations, standards of performance, toxic effluent standards and prohibitions, BMPs and pretreatment standards.

Applicable water quality standards—Water quality standards to which a discharge is subject under the State and Federal Acts, and regulations promulgated thereunder.

Application—The Department's form for applying for approval to discharge pollutants to surface waters of this Commonwealth under a new NPDES permit, or renewal or reissuance of an existing NPDES permit, or the modification, revision or transfer of an existing NPDES permit.

BAT—Best available technology—

(i) The maximum degree of effluent reduction attainable through the application of the best treatment technology economically achievable within an industrial category or subcategory, or other category of discharger, taking into account:

(A) The age of equipment and facilities involved.

(B) The process employed.

(C) The engineering aspects of the application of various types of control techniques and process changes (including in-plant source reduction measures in addition to end of pipe controls).

(D) The cost of achieving the effluent reduction.

(E) Nonwater quality environmental impacts (including energy requirements).

(F) Other factors the Department deems appropriate.

(ii) The term includes categorical ELGs promulgated by the EPA under section 304(b) of the Federal Act (33 U.S.C.A. § 1314(b)).

BMP— Best management practices—

(i) Schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce pollution to surface waters of this Commonwealth.

(ii) The term includes:

(A) Treatment requirements.

(B) Operating procedures.

(C) Practices to control plant site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw material storage.

*CAFO— Concentrated animal feeding operation—*A CAO with greater than 300 AEUs, any agricultural operation with greater than 1,000 AEUs or an agricultural operation with a discharge to surface waters during a storm event of less than a 25-year/24-hour storm.

*CAO— Concentrated animal operation—*An agricultural operation where the animal density exceeds 2 AEUs per acre, as defined in section 3 of the Nutrient Management Act.

*CCW— Contact cooling water—*Cooling water that comes into contact with any raw material, intermediate product, finished product, byproduct or waste product.

*CSO— Combined sewer overflow—*Any intermittent overflow or other untreated discharge from a municipal combined sewer system (including domestic, industrial and commercial wastewater and stormwater) prior to reaching the headworks of the sewage treatment facility which results from a flow in excess of the dry weather carrying capacity of the system.

*Combined sewer system—*A sewer system which has been designed to serve as both a sanitary sewer and a storm sewer.

*Concentrated aquatic animal production facility—*A hatchery, fish farm or other facility which meets the criteria in 40 CFR Part 122, Appendix C (relating to criteria for determining a concentrated aquatic animal production facility), or which the Department designates under the criteria in 40 CFR 122.24(c) (relating to concentrated aquatic animal production facilities).

*Conventional pollutant—*Biochemical oxygen demand, carbonaceous biochemical oxygen demand, suspended solids, pH, fecal coliform, oil or grease.

*Daily discharge—*The discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably and accurately represents the calendar day for purposes of sampling:

(i) For pollutants with limitations expressed in terms of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day.

(ii) For pollutants with limitations expressed in other units of measurement, daily discharge is calculated as the average measurement of that pollutant during the day.

*Discharge—*An addition of any pollutant to surface waters of this Commonwealth from a point source, including:

(i) Additions of pollutants from surface runoff and stormwater which is collected or channelized.

(ii) Discharges through pipes, sewers or other conveyances which do not lead to a treatment works.

(iii) Discharges through pipes, sewers or other conveyances.

*Draft permit—*A document prepared by the Department indicating the Department's tentative decision to issue or deny, modify, revoke, renew or reissue a permit.

*ELG— Effluent Limitations Guideline—*A regulation published by the Administrator under section 304(b) of the Federal Act (33 U.S.C.A. § 1314(b)), or by the Department, to revise or adopt effluent limitations.

*Effluent Limitation or Standard—*A restriction established by the Department or the Administrator on quantities, rates and concentrations of chemical, physical, biological and other constituents which are discharged from point sources into surface waters, including BMP's and schedules of compliance.

*Existing discharge—*A discharge which is not a new discharge or a new source.

*Facility or activity—*Any NPDES point source or any other facility or activity including land or appurtenances thereto that is subject to regulation under the NPDES Program.

*Federal Act—*The Federal Water Pollution Control Act (33 U.S.C.A. §§ 1251—1376), also known as the Clean Water Act or CWA.

*General NPDES permit or general permit—*An NPDES permit that is used for a clearly described category of point source discharges, when those discharges are substantially similar in nature and do not have the potential to cause significant adverse environmental impact.

*Indirect discharger—*A person who discharges sewage, industrial waste or other pollutants into a treatment works.

*Industrial user—*Those industries identified in the Standard Industrial Classification Manual, Office of Management and Budget, 1987, as amended and supplemented, under the category "Division D-Manufacturing" and other classes of significant waste producers, as by regulation, the Administrator deems appropriate.

Industrial waste—

(i) A liquid, gaseous, radioactive, solid or other substance, not sewage, resulting from manufacturing or industry, or from an establishment, and mine drainage, refuse, silt, coal mine solids, rock, debris, dirt and clay from coal mines, coal collieries, breakers or other coal processing operations.

(ii) The term includes all of these substances whether or not generally characterized as waste.

*Instantaneous maximum effluent limitation—*The highest allowable discharge of a concentration or mass of a substance at any one time as measured by a grab sample.

*Intermittent stream—*A body of water flowing in a channel or bed composed primarily of substrates associ-

ated with flowing water, which, during periods of the year, is below the local water table and obtains its flow from both surface runoff and groundwater discharges.

Interstate agency—An agency of two or more states established by or under an agreement or compact approved by the Congress, or another agency of two or more states, having substantial powers or duties pertaining to the control of pollution as determined and approved by the Administrator.

Large municipal separate storm sewer system—A municipal separate storm sewer system defined in 40 CFR 122.26(b)(4) (relating to stormwater discharge (applicable to state NPDES programs)).

Log sorting and log storage facilities—Facilities whose discharges result from the holding of unprocessed wood, for example, logs or roundwood with bark or after removal of bark held in self-contained bodies of water (mill ponds or log ponds) or stored on land where water is applied intentionally on the logs (wet decking). See 40 CFR Part 429, Subpart J (relating to log washing), including the effluent limitations guidelines.

Maximum daily discharge limitation—The highest allowable daily discharge.

Medium municipal separate storm sewer system—A municipal separate storm sewer system as defined in 40 CFR 122.26(b)(7).

Minor discharge—A discharge which has a total volume of less than 50,000 gallons on every day of the year, does not affect the waters of another state, and is not identified by the Department, the Regional Administrator or by the Administrator in regulations issued under section 307(a) of the Federal Act (33 U.S.C.A. § 1317(a)) as a discharge which is not a minor discharge. If there is more than one discharge from a facility and the sum of the volumes of all discharges from the facility exceeds 50,000 gallons on any day of the year, no discharge from the facility is a minor discharge.

Municipal separate storm sewer system—A separate storm sewer (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels or storm drains) which is all of the following:

(i) Owned or operated by a state, city, town, borough, county, district, association or other public body (created by or under State law) having jurisdiction over disposal of sewage, industrial wastes, stormwater or other wastes, including special districts under State law such as a sewer district, flood control district or drainage district, or similar entity, or a designated and approved management agency under section 208 of the Federal Act (33 U.S.C.A. § 1288) that discharges to surface waters of this Commonwealth.

(ii) Designed or used for collecting or conveying stormwater.

(iii) Not a combined sewer.

(iv) Not part of a POTW.

NOI—Notice Of Intent—A complete form submitted for NPDES general permit coverage which contains information required by the terms of the permit and by §§ 92.81—92.83 (relating to general permits). An NOI is not an application.

NPDES form—An issued NPDES permit and a National form developed for use in the NPDES, including the application and the NPDES reporting form.

NPDES permit—A permit or equivalent document or requirements issued by the Administrator, or, when appropriate, by the Department after enactment of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C.A. §§ 1281 and 1361), to regulate the discharge of pollutants under section 402 of the Federal Act (33 U.S.C.A. § 1342).

NPDES primary industry categories—The primary industry categories in 40 CFR Part 122, Appendix A (relating to NPDES primary industry categories), which is incorporated by reference.

NPDES reporting form—The form for reporting monitoring results approved by the Administrator for use in this Commonwealth, also referred to as a discharge monitoring report (DMR), and any supplemental forms provided by the Department.

New discharger—A building, structure, facility, activity or installation from which there is or may be a discharge of pollutants that did not commence the discharge at a particular site prior to August 13, 1979, which is not a new source, and which has never received a final effective NPDES permit for discharges at that site.

New source—A building, structure, facility, activity or installation from which there is or may be a discharge of pollutants, the construction of which commenced after promulgation of standards of performance under section 306 of the Federal Act (33 U.S.C.A. § 1316) which are applicable to the source, or after proposal of standards of performance in accordance with section 306 of the Federal Act which are applicable to the source.

Noncontact cooling water—Cooling water that does not contact any raw material, intermediate product, finished product, byproduct or waste product.

Nonconventional pollutant—A pollutant which is not a conventional or toxic pollutant.

POTWs—Publicly Owned Treatment Works—

(i) A device or system used in the treatment (including recycling and reclamation) of municipal sewage or industrial wastes of a liquid nature which is owned by a state or municipality.

(ii) The term includes sewers, pipes or other conveyances only if they convey wastewater to a POTW providing treatment.

Perennial stream—A body of water flowing in a channel or bed composed primarily of substrates associated with flowing waters and capable, in the absence of pollution or other manmade stream disturbances, of supporting a benthic macroinvertebrate community which is composed of two or more recognizable taxonomic groups of organisms which are large enough to be seen by the unaided eye and can be retained by a United States Standard No. 30 sieve (28 meshes per inch, 0.595 mm openings) and live at least part of their life cycles within or upon available substrates in a body of water or water transport system.

Person—Any individual, public or private corporation, partnership, association, municipality or political subdivision of this Commonwealth, institution, authority, firm, trust, estate, receiver, guardian, personal representative, successor, joint venture, joint stock company, fiduciary; department, agency or instrumentality of State, Federal or local government, or an agent or employe thereof; or any other legal entity.

Point source—Any discernible, confined and discrete conveyance, including, but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container,

rolling stock, CAFO, landfill leachate collection system, or vessel or other floating craft, from which pollutants are or may be discharged.

Pollutant—Any contaminant or other alteration of the physical, chemical, biological or radiological integrity of surface water which causes or has the potential to cause pollution as defined in section 1 of the State Act (35 P. S. § 691.1).

Pollution prevention—Source reduction and other practices that reduce or eliminate the creation of pollutants through increased efficiency in the use of raw materials, energy, water or other resources, or protection of natural resources by conservation.

Primary industrial facility—An industrial facility in a primary industry category, as defined in 40 CFR 122.2 (relating to definitions).

Process wastewater—Water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct or waste product.

Regional Administrator—The EPA Regional Administrator for Region III.

Rock crushing and gravel washing facilities—Facilities which process crushed and broken stone, gravel and riprap (see 40 CFR Part 436, Subpart B (relating to crushed stone subcategory), including the effluent limitations guidelines).

SSO—Sanitary Sewer Overflow—An intermittent overflow of wastewater, or other untreated discharge from a separate sanitary sewer system (which is not a combined sewer system), which results from a flow in excess of the carrying capacity of the system or from some other cause prior to reaching the headworks of the sewage treatment facility.

Schedule of compliance—A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with effluent limitations, prohibition, other limitations of standard.

Separate storm sewer—A conveyance or system of conveyances (including pipes, conduits, ditches and channels) primarily used for collecting and conveying stormwater runoff.

Sewage—A substance that contains any of the waste products or excrementitious or other discharge from the bodies of human beings or animals.

Silvicultural point source—

(i) A discernible, confined and discrete conveyance related to rock crushing, gravel washing, log sorting or log storage facilities which is operated in connection with silvicultural activities and from which pollutants are discharged into waters of this Commonwealth.

(ii) The term does not include nonpoint source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is runoff.

Single residence sewage treatment plant—A system of piping, tanks or other facilities serving a single family residence located on a single family residential lot, which collects, disposes and treats solely direct or indirect sewage discharges from the residence into surface waters of this Commonwealth.

Small municipal separate storm sewer system—A municipal separate storm sewer system as defined in 40 CFR 122.26(b)(16)—(18).

State Act—The Clean Streams Law (35 P. S. §§ 691.1—691.1001).

Stormwater—Runoff from precipitation, snow melt runoff and surface runoff and drainage.

Stormwater discharge associated with construction activity—The discharge or potential discharge of stormwater into waters of this Commonwealth from construction activities including clearing and grubbing, grading and excavation activities involving 5 acres (2 hectares) or more of earth disturbance, or an earth disturbance on any portion, part of or during any stage of a larger common plan of development or sale that involves 5 acres (2 hectares) or more of earth disturbance over the life of the project.

Stormwater discharge associated with industrial activity—The discharge from any conveyance which is used for collecting and conveying stormwater and which is directly related to manufacturing, processing or raw materials storage areas at an industrial area, as defined in 40 CFR 122.26(b)(14) which is incorporated by reference.

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

Toxic pollutant—Those pollutants, or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, may, on the basis of information available to the Administrator or Department, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformations in these organisms or their offspring.

WETT—Whole Effluent Toxicity Testing—

(i) A test, survey, study, protocol or assessment which includes the use of aquatic, bacterial, invertebrate or vertebrate species to measure acute or chronic toxicity, and any biological or chemical measure of bioaccumulation, bioconcentration or impact on established aquatic and biological communities.

(ii) The term includes any established, scientifically defensible method which is sufficiently sensitive to measure toxic effects.

Water quality-based effluent limitation—An effluent limitation based on the need to attain or maintain the water quality criteria and to assure protection of designated and existing uses.

Water quality standards—The combination of water uses to be protected and the water quality criteria necessary to protect those uses.

Wetlands—Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

Whole effluent toxicity—The total toxic effect of an effluent measured directly with a toxicity test.

PERMITS

§ 92.2. Incorporation of Federal regulations by reference.

(a) Except as specified in subsection (c), the Federal NPDES regulations in subsection (b), including all appendices, future amendments and supplements thereto, are incorporated by reference to the extent that these provisions are applicable and not contrary to Pennsylvania law. In the event of any conflict among Federal and Pennsylvania regulatory provisions, the provision expressly set out in this chapter shall be utilized unless the Federal provision is more stringent.

(b) The following Federal regulatory provisions in 40 CFR Parts 122, 124 and 125 (relating to EPA administered permit programs: the National Pollutant Discharge Elimination System; procedures for decisionmaking; and criteria and standards for the National Pollutant Discharge Elimination system) are incorporated by reference:

- (1) 122.2 (relating to definitions).
- (2) 122.4 (relating to prohibitions).
- (3) 122.5 (relating to effect of a permit).
- (4) 122.7(b) (relating to confidentiality of information).
- (5) 122.21(g)(1)—(7), (9)—(13), (h), (i)(2), (j), (k), (l), (m)(6) and (p) (relating to application for a permit).
- (6) 122.24 (relating to concentrated aquatic animal production facilities).
- (7) 122.25 (relating to aquaculture projects).
- (8) 122.26(a)—(b), (c)(1), (d), (e)(1), (3)—(7) and (f)—(g) (relating to stormwater discharges).
- (9) 122.27 (relating to silvicultural activities).
- (10) 122.29 (relating to new sources and new discharges).
- (11) 122.41(a)—(m) (relating to conditions applicable to all permits).
- (12) 122.42 (relating to additional conditions applicable to specific categories of NPDES permits).
- (13) 122.43 (relating to establishing permit conditions).
- (14) 122.44 (relating to establishing limitations, standards, and other permit conditions).
- (15) 122.45 (relating to calculating NPDES permit conditions).
- (16) 122.48 (relating to requirements for recording and reporting monitoring results).
- (17) 122.50 (relating to disposal of pollutants into wells, into publicly owned treatment works or by land application).
- (18) 122.61—122.64 (relating to transfer, modification or revocation and reissuance of permits; and termination of permits).
- (19) 124.57(a) (relating to public notice of section 316 requests).
- (20) 125.1—125.3 (relating to purpose and scope; definitions; and technology-based treatment requirements in permits).
- (21) 125.10 and 125.11 (relating to purpose and scope; and criteria).

(22) 125.30—125.32 (relating to purpose and scope; criteria and method of application).

(23) 124.62(a)(3), (e)(1) and (f) (relating to attainment or maintenance of water quality which assures protection of public water supplies; assures the protection and propagation of a balanced indigenous population of shellfish, fish, and wildlife; and allows recreational activities).

(24) 125.70—125.73 (relating to purpose and scope; early screening of applications for section 316(a) variances criteria and standards for determining alternative effluent limitations under section 316(a) of the act).

(25) 125.100—125.104 (relating to criteria and standards for best management practices authorized under section 304(e) of the act).

(c) Any new or amended Federal regulation enacted after November 18, 2000, which creates a variance to existing NPDES permitting requirements is not incorporated by reference.

§ 92.2a. Treatment requirements.

(a) Specific treatment requirements and effluent limitations for each discharge shall be established based on the more stringent of the following:

(1) Requirements specified in Chapters 93, 95 and 96 (relating to water quality standards; wastewater quality standards; and water quality standards implementation).

(2) The applicable treatment requirements and effluent limitations to which a discharge is subject under this chapter and the Federal Act.

(3) The treatment requirements and effluent limitations of this title.

(b) When interstate or international agencies under an interstate compact or international agreement establish applicable effluent limitations or standards for dischargers of this Commonwealth to surface waters which are more stringent than those required by this title, the more stringent standards and limitations apply.

(c) If the Department has confirmed the presence or critical habitat of endangered or threatened species under Federal or State law or regulation, discharges to these waters shall be limited to ensure protection of these species and critical habitat.

§ 92.2b. Pollution prevention.

The Department will encourage pollution prevention by providing assistance to the permittee and users of the permittee's facilities in the consideration of pollution prevention measures such as process changes, materials substitution, reduction in volume of water use, in-process recycling and reuse of water and general measures of "good housekeeping" within the plant or facility. The Department will encourage consideration of the following measures, in descending order of preference, for environmental management of wastes: reuse, recycling, treatment and disposal.

§ 92.2c. Minimum sewage and industrial waste treatment requirements.

(a) *Sewage discharges.*

(1) Sewage, except that discharged from a CSO which is in compliance with § 92.21a(f) (relating to additional application requirements for classes of dischargers) under paragraph (2), or as provided in paragraph (3), shall be given a minimum of secondary treatment.

(2) Dischargers of sewage from a CSO that meets the requirements of § 92.21a(f) shall implement, as approved by the Department, nine minimum controls (NMCs) and a long-term control plan (LTCP) to minimize or eliminate the CSO discharge impact on receiving surface water quality.

(3) Discharges from an SSO are prohibited under § 92.73(8) (relating to prohibition of certain discharges).

(b) Secondary treatment for sewage is that treatment which accomplishes the following:

(1) Compliance with the requirements of secondary treatment as defined by the administrator under section 304 of the Federal Act (33 U.S.C.A. § 1314). The regulations promulgated by the EPA in 40 CFR Part 133 (relating to secondary treatment regulations) including amendments thereto, are incorporated by reference.

(2) Provision of effective disinfection to control disease-producing organisms during the swimming season—May 1 through September 30. Effective disinfection to control disease-producing organisms shall be defined as the product of an effluent which will contain a concentration not greater than 200/100 milliliters of fecal coliform organisms as a geometric mean value nor greater than 1,000/100 milliliters of these organisms in more than 10% of the samples tested.

(3) Provision for the disposal or beneficial use of sludge in accordance with applicable Department regulations.

(4) Compliance with § 95.2(1)–(3) (relating to quality standards and oil-bearing wastewaters).

(c) Industrial wastes regulated by this chapter shall meet the requirements in § 95.2 (relating to quality standards and oil-bearing wastes).

§ 92.2d. Technology-based standards.

Discharges that are regulated by this chapter shall meet the following minimum requirements when applicable:

(1) EPA-promulgated effluent limitation guidelines established under section 304 of the Federal Act (33 U.S.C.A. § 1314).

(2) For those industrial categories for which no effluent limitations have been established under paragraph (1), Department-developed technology-based limitations established in accordance with 40 CFR 125.3 (relating to technology-based treatment requirement in permits).

(3) For facilities utilizing chlorine, the following apply:

(i) For those facilities utilizing chlorine which discharge to surface waters, an effluent limitation representing the BAT for the discharge of total residual chlorine (TRC). If the EPA adopts a National categorical ELG for TRC for a specific industry or activity under section 301 or 304(b) of the Federal Act (33 U.S.C.A. §§ 1311 and 1314(b)), that ELG constitutes BAT for the industry or activity. If the EPA has not promulgated a National ELG for an industry or activity, the Department may develop a facility-specific BAT effluent limitation. Factors which will be considered in developing a facility-specific BAT effluent limitation include the following:

(A) The age of equipment and facilities involved.

(B) The engineering aspects of the application of various types of control techniques and alternatives to the use of chlorine or reductions in the volume of chlorine used during the disinfection process.

(C) The cost of achieving the effluent reduction.

(D) Nonwater quality environmental impacts (including energy requirements).

(E) Other factors the Department deems appropriate.

(ii) For facilities where the EPA has not promulgated a National ELG for an industry or activity, and the Department has not developed a facility-specific BAT effluent limitation under the factors in this subparagraph, an effluent limitation for TRC of 0.5 mg/l (30-day average) shall constitute BAT.

(iii) Facilities utilizing chlorine which discharge to Exceptional Value Waters, or High Quality Waters where economic or social justification under § 93.4c(b)(1)(iii) (relating to implementation of antidegradation requirements) has not been demonstrated under applicable State or Federal law or regulations, shall discontinue the use of chlorine or dechlorinate their effluents prior to discharge into the waters.

(4) Oil-bearing wastewaters shall meet the requirements in § 95.2 (relating to water quality standards and oil-bearing wastewaters).

§ 92.3. Permit requirement.

A person may not discharge pollutants from a point source into surface waters except as authorized under an NPDES permit.

§ 92.4. Exclusions from permit requirements.

(a) The following are excluded from the requirement of obtaining an NPDES permit under this chapter:

(1) Introduction of pollutants from nonpoint source agricultural activities and irrigation return flows. As used in this paragraph, "irrigation return flows" means pollutants discharged into surface waters from a discernible, confined and discrete conveyance which results from the controlled application of water by any person to land used primarily for crops, forage growth or nursery operations.

(2) Silviculture activities, except that this exclusion does not apply to silvicultural point sources.

(3) Sewage from vessels within the meaning of section 312 of the Federal Act (33 U.S.C.A. § 1322).

(4) Water, gas or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well is used either to facilitate production or for disposal purposes, is approved by authority of the Department, and if the Department determines that the injection or disposal will not result in the degradation of ground or surface water resources.

(5) Discharges of dredged or fill material into waters of the United States which are regulated under section 404 of the Federal Act (33 U.S.C.A. § 1344).

(6) Indirect discharges subject to the following requirements:

(i) Except as provided in subparagraph (ii), the discharge of sewage, industrial wastes or other pollutants into a POTW or privately owned treatment works which is, or will be when connected, conveying and treating the discharge into the treatment works, and is operated and maintained in accordance with the State Act, rules and regulations promulgated thereunder, the permit and any applicable orders.

(ii) The Department may require that an indirect discharger of sewage, industrial waste or other pollutants obtain a permit under the State Act to discharge into a POTW or privately owned treatment works where neces-

sary to assure protection of waters of this Commonwealth in situations including, but not limited to, one or more of the following:

(A) When the indirect discharger has failed to take adequate measures to prevent, reduce or otherwise eliminate the discharge.

(B) When the indirect discharger has failed to take adequate measures to pretreat its discharge prior to conveying the discharge to the POTW.

(C) When the discharge would otherwise result in interference with proper operations of the POTW, upsets at the POTW or pass-throughs of pollutants.

(7) A discharge in compliance with the instructions of the Department in an environmental emergency cleanup situation remediating a one time spill or release of pollutants, or the instructions of an on-scene coordinator under 40 CFR Part 300 or 33 CFR Part 153 (relating to National Oil and Hazardous Substances Pollution Contingency Plan; and control of pollution by oil and hazardous substances, discharge removal), where necessary to abate an imminent threat to the public health or safety.

(b) The specification of exclusion under subsection (a) may not relieve any person of any requirement imposed by the State Act or the regulations, other than this chapter, promulgated thereunder, including State permit requirements.

§ 92.5a. CAFOs.

(a) Each CAFO shall apply for an NPDES permit on the following schedule:

(1) By May 18, 2001, for any CAFO in existence on November 18, 2000, with greater than 1,000 AEUs.

(2) By February 28, 2002, for any other CAFO in existence on November 18, 2000.

(3) Prior to beginning operation for any CAFO that begins operation after November 18, 2000.

(b) The NPDES permit for each CAFO shall include conditions requiring the following:

(1) A nutrient management plan meeting the requirements of Chapter 83 (relating to State Conservation Commission).

(2) An erosion and sediment control plan meeting the requirements of Chapter 102 (relating to erosion and sediment control).

(3) For earth disturbances of 5 acres or more, an NPDES permit for stormwater discharges associated with a construction activity meeting the requirements of Chapter 102.

(c) In addition to the requirements of subsection (b), the NPDES permit for each CAFO with greater than 1,000 AEUs shall include conditions requiring the following:

(1) A water quality management permit under § 91.36(a) (relating to pollution control and prevention at agricultural operations).

(2) A preparedness, prevention and contingency plan for chemicals related to the CAFO operation.

(3) Written agreements with importers or brokers related to the land application of manure and nutrient balance sheets for all exported manure.

§ 92.6. (Reserved).

§ 92.7. New or increased discharges, or change of wastestreams.

Facility expansions, production increases or process modifications, which result in new or increased discharges of pollutants, which discharges do not violate effluent limitations specified in the NPDES permit, shall be reported by submission to the Department of notice of the new or increased discharges. A new permit application shall be submitted and a new permit obtained before commencing a new or increased discharge, or change of the wastestream, which would violate effluent limitations in the NPDES permit or which would include any new or increased pollutant not identified in a previous permit application.

§ 92.8a. Changes in treatment requirements.

(a) Whenever there is a change in Chapters 93, 95 and 96 (relating to water quality standards; wastewater treatment requirements; and water quality standards implementation), or this chapter, or whenever the Department adopts a plan or makes a determination which would change existing or impose additional water quality criteria or treatment requirements, it shall be the duty of the permittee of facilities affected thereby, upon notice from the Department, to promptly take steps necessary to plan, obtain a permit or other approval and construct facilities that are required to comply with the new water quality standards or treatment requirements.

(b) Within 180 days of the receipt of the notice, the permittee shall submit to the Department either a report establishing that its existing facilities are capable of meeting the new water quality standards or treatment requirements, or a schedule setting forth the nature and date of completion of steps that are necessary to plan, obtain a permit or other approval, and construct facilities to comply with the new water quality standards or treatment requirements. The permittee shall comply with the schedule approved by the Department.

(c) Whenever a point of projected withdrawal for a new potable water supply not previously considered is identified by an update to the State Water Plan or a river basin commission plan, or by the application for a water allocation permit from the Department, the Department will notify a discharger of total dissolved solids, nitrite-nitrate nitrogen and fluoride of more stringent effluent limitations needed to protect the point of withdrawal. The discharger shall meet more stringent effluent limitations in accordance with a schedule approved by the Department. The Department will issue orders directing dischargers to achieve compliance or will impose permit modifications with compliance schedules, when necessary.

§ 92.9. Duration of permits.

(a) NPDES permits shall have a fixed term not to exceed 5 years.

(b) The terms and conditions of an expired permit are automatically continued when the following conditions are met:

(1) The permittee has submitted a timely application for a new permit in accordance with § 92.13 (relating to reissuance of permits).

(2) The Department is unable, through no fault of the permittee, to issue or deny a new permit before the expiration date of the previous permit.

(c) Permits continued under subsection (b) shall remain effective and enforceable against the discharger until the Department takes final action on the pending permit application.

§ 92.11. Duration of standards for certain new sources.

Any point source the construction of which is commenced after the date of enactment of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C.A. §§ 1281 and 1361) (October 18, 1972) and which is so constructed as to meet the applicable standards of performance, may not be subject to any more stringent treatment technology standard of performance during a 10-year period beginning on the date of completion of the construction during the period of depreciation or amortization of the facility for the purpose of section 167 or section 169, or both, of the Internal Revenue Code of 1954 (26 U.S.C.A. §§ 167 and 169), or 10 years from the date the source begins to discharge process or other nonconstruction related wastewater, whichever period ends first. A more stringent standard may be imposed if the imposition is allowed under section 510 of the Federal Act (33 U.S.C.A. § 1370). This section does not apply to water quality based effluent limitations.

§ 92.13. Reissuance or renewal of permits.

(a) A permittee who wishes to continue to discharge after the expiration date of its NPDES permit shall submit a new application for reissuance or renewal of the permit at least 180 days prior to the expiration of the permit unless permission has been granted for a later date by the Department. The application fees specified in § 92.22 (relating to application fees) apply.

(b) Upon completing review of the new application, the Department may reissue or renewal the permit if, based on up-to-date information on the permittee's waste treatment practices and the nature, contents and frequency of the permittee's discharge, the Department determines that the:

(1) Permittee is in compliance with all existing Department-issued permits, regulations, orders and schedules of compliance, or that any noncompliance with an existing permit has been resolved by an appropriate compliance action or by the terms and conditions of the permit (including a compliance schedule set forth in the permit) consistent with § 92.55 (relating to schedules of compliance) and other applicable Department regulations.

(2) Discharge is, or will be under a compliance schedule issued under § 92.55 and other applicable regulations, consistent with the applicable water quality standards, effluent limitations or standards and other legally applicable requirements established under this title, including revisions or modifications of the standards, limitations and requirements which may have occurred during the term of the existing permit.

§ 92.13a. Effect of modification of permit.

When an NPDES permit is modified, only those permit conditions which are new or are materially changed in the modified permit are reopened. All other conditions of the permit remain in full force and effect and remain administratively final.

§ 92.15. Regional Administrator's right to object to the issuance or modification of certain permits.

The EPA Administrator has a right to review or object to issuance of certain permits. The scope of EPA review and the procedures for its exercise are described in a

Memorandum of Agreement which was incorporated in the Program Description submitted to the EPA by the Department. A copy of the Memorandum of Agreement is on file with the Department and with the Administrator of EPA Region III.

§ 92.17. Other chapters applicable.

To the extent that Chapters 91, 93, 95, 96, 102 and 105 pertain to a discharge for which an NPDES permit is required, Chapters 91, 93, 95, 96, 102 and 105 shall govern whenever their application produces a more stringent effluent limitation than would be produced by application of Federal requirements. Effluent limitations resulting from the application of these chapters shall be expressed in an NPDES permit issued under this chapter.

APPLICATION FOR PERMITS

§ 92.21. Applications.

(a) Persons wishing to commence discharges of pollutants shall file a complete application not less than 180 days before the date on which it is desired to commence the discharge of pollutants or within another period of time which the Department determines is sufficient to insure compliance with State and Federal law, including applicable water quality standards and applicable effluent limitations or standards.

(b) At a minimum, the following are required to be submitted by all applicants for an individual permit, except as otherwise specified:

(1) A permit application fee and other fees as set forth in § 92.22 (relating to application fees).

(2) Except for mining activity water quality permits, proof that written notice of an application has been submitted to the municipality in which the activity is or will be located at least 30 days before the Department may take action on the application.

(3) For discharges of industrial waste, including process wastewaters, CCWs and noncontact cooling waters, proof that public notice of the application has been published in a newspaper of general circulation in the locality in which the activity is or will be located once a week during a consecutive 4-week period.

(4) A description of the activities conducted by the applicant which require an NPDES permit; name, mailing address and location of the facility; up to four standard industrial codes (SIC) which best reflect the principal products or services provided by the facility; the operator's name, address, telephone number, ownership status and entity status; a listing of all Department and EPA environmental quality permits for the facility; a topographic or other map extending 1 mile beyond the boundaries of the facility or activity; and a brief description of the nature of the business.

(5) Documentation that the applicant is in compliance with all existing Department permits, regulations, orders and schedules of compliance, or that any noncompliance with an existing permit has been resolved by an appropriate compliance action or by the terms and conditions of the permit (including a compliance schedule set forth in the permit) consistent with § 92.55 (relating to schedules of compliance) and other applicable Department regulations.

(c) In addition to the information required under subsection (b), the Department may require an applicant to submit other information or data the Department may need to assess the discharges of the facility and any impact on receiving waters, and to determine whether to

issue an NPDES permit, or what conditions or effluent limitations (including water quality based effluent limitations) to place in the permit. The additional information may include, but is not limited to:

(1) The results of an effluent assessment (or estimate for new dischargers or new sources), including a list of the mass and concentration of pollutants found (or estimated to be for new discharges or new sources) in the wastewater discharge, under Department protocols.

(2) The results of any pollutant source or waterbody monitoring conducted under this title.

(3) Information relating to the biological, physical and chemical characteristics of waters and habitat immediately upstream and downstream of the proposed discharge conducted under a Department approved protocol.

(d) In addition to the information required under subsections (b) and (c), the Department may require an applicant for a modification, renewal or reissuance of a permit under § 92.13 (relating to reissuance or renewal of permits) or when required under 40 CFR Part 122 (relating to EPA administered programs: the National Pollutant Discharge Elimination System), to provide the following information:

(1) The results of a waterbody assessment, under Department protocols, setting forth the impact (or potential impact) of the discharges on surface waters of this Commonwealth.

(2) The results of whole effluent toxicity testing, an instream cause/effect survey, or other tests or surveys as needed to determine the impact of a discharge on a waterbody conducted under a Department-approved protocol.

(3) Additional quantitative data and bioassays to assess the relative toxicity of discharges to aquatic life, and to determine the cause of the toxicity, and information relating to the biological, physical and chemical characteristics of waters and habitat immediately upstream and downstream of the facility conducted under a Department-approved protocol.

(e) Three copies of complete applications shall be submitted, one of which shall be attested by a notary public, justice of the peace, alderman or district justice. The Department may require additional copies of the application to be filed.

(f) The Department will publish at least annually a list of addresses to which applications and their accompanying papers shall be submitted.

(g) A person required to file an application shall also file additional modules, forms and applications, and supply data as specified by the Department. Additional modules, forms, applications and data shall be considered a part of the application.

§ 92.21a. Additional application requirements for classes of dischargers.

(a) *Existing industrial discharges.* Dischargers of industrial waste from sources other than new sources or new discharges subject to subsection (b), nonprocess wastewater discharges subject to subsection (c) and stormwater discharges associated with industrial activity subject to subsection (d), shall submit the applicable information required to be submitted under 40 CFR 122.21(g)(1)—(7) and (g)(9)—(13) (relating to application for a permit), which is incorporated by reference.

(b) *New sources and new discharges.* Except for new discharges of industrial facilities which discharge

nonprocess wastewater subject to subsection (c) and new discharges of stormwater associated with industrial activity subject to subsection (d), new discharges and new sources applying for NPDES permits shall submit the information required to be submitted, as applicable, under 40 CFR 122.21(k), which is incorporated by reference.

(c) *Nonprocess industrial waste discharges.* Except for stormwater discharges associated with industrial activity subject to subsection (d), industrial waste dischargers applying for NPDES permits which discharge only nonprocess wastewater not regulated by an effluent limitation guideline or new source performance standard shall submit the information required to be submitted, as applicable, under 40 CFR 122.21(h), which is incorporated by reference.

(d) *Stormwater discharges associated with industrial activity.* Applicants for individual NPDES permits for the discharge of stormwater associated with industrial activity shall submit the information required to be submitted, as applicable, under 40 CFR 122.21(g)(7) and 122.26(c)(1) (relating to storm water discharges (applicable to state NPDES program)), which are incorporated by reference. In addition, stormwater dischargers associated with construction activity shall submit information required in § 102.4 (relating to erosion and sediment control requirements) as appropriate.

(e) *New and existing sewage dischargers.* The following additional application requirements apply to new and existing sewage dischargers (including POTWs and privately owned treatment works), as applicable except where aquatic communities are essentially excluded as documented by water quality data confirming the absence of the communities and confirming the lack of a trend of water quality improvement in the waterbody:

(1) The following sewage dischargers shall provide the results of whole effluent toxicity testing to the Department:

(i) Sewage dischargers with design influent flows equal to or greater than 1 million gallons per day.

(ii) Sewage dischargers with approved pretreatment programs or required to develop a pretreatment program.

(2) In addition to the sewage dischargers in paragraph (1), the Department may require other sewage dischargers to submit the results of toxicity tests with their permit applications, based on consideration of the following factors:

(i) The variability of the pollutants or pollutant parameters in the sewage effluent (based on chemical-specific information, the type of treatment facility and types of industrial contributors).

(ii) The dilution of the effluent in the receiving water (ratio of effluent flow to receiving stream flow).

(iii) Existing controls on point or nonpoint sources, including calculations of total maximum daily loads (TMDLs), as defined in § 96.1 (relating to definitions), for the waterbody segment, and the relative contribution of the sewage discharger.

(iv) Receiving surface water characteristics, including possible or known water quality impairment, and whether the sewage discharges to an estuary, one of the Great Lakes or a Water which is classified as a High Quality Water or an Exceptional Value Water under Chapter 93 (relating to water quality standards).

(v) Other considerations including, but not limited to, the history of toxic impact and compliance problems at

the sewage discharge facility, which the Department determines could cause or contribute to adverse water quality impacts.

(3) For sewage dischargers required under paragraph (1) or (2) to conduct toxicity testing, the EPA's methods or other protocols approved by the Department, which are scientifically defensible and sufficiently sensitive to detect aquatic toxicity and approved by the Department, shall be utilized. The testing shall have been conducted since the last NPDES permit reissuance or when requested by the Department, whichever occurred later.

(f) CSOs. CSO dischargers shall submit the following information:

(1) The results of an evaluation determining the frequency, extent and cause of the CSO discharge, including identifying the points of inflow into combined systems.

(2) An evaluation of the water quality impacts of the CSO discharge on receiving waters.

(3) A description of:

(i) The nine minimum controls (NMCs) described in the EPA publication entitled "Combined Sewer Overflows—Guidance for Nine Minimum Controls" (EPA publication number 832-B-9-003 (September 1995) as amended or updated) utilized or proposed to be utilized at the facility to minimize or eliminate the CSO discharge impact on receiving water quality.

(ii) A long-term control plan (LTCP) to minimize or eliminate the CSO discharge.

(iii) An implementation schedule for the NMCs and LTCP.

(g) *Large, medium or small municipal separate storm sewers.* The operator of a discharge from a large, medium or small municipal separate storm sewer shall submit in its application the information required to be submitted under 40 CFR Part 122 (relating to EPA administered programs: the National Pollutant Discharge Elimination System).

§ 92.22. Application fees.

(a) A sewage application, except those submitted for single residence sewage treatment plants, shall be accompanied by a check for \$500 payable to "Commonwealth of Pennsylvania."

(b) Sewage applications for single residence sewage treatment plants require no application fee.

(c) Industrial wastes applications, except those submitted for mining operations, shall be accompanied by a check for \$500 payable to "Commonwealth of Pennsylvania."

(d) Industrial wastes applications submitted for mining operations shall be accompanied by a check for \$250 payable to "Commonwealth of Pennsylvania."

(e) An NOI for coverage under a general NPDES permit under § 92.83(a) (relating to inclusion of individual dischargers in general NPDES permits) shall be accompanied by a check payable to "Commonwealth of Pennsylvania" in the amount set forth in the public notice for the general permit. The amount may not exceed \$500.

(f) Applications for individual NPDES permits for new or expanded CAFOs with more than 1,000 AUEs require an application fee of \$500. Other CAFOs require no application fee.

(g) The application fee specified in § 91.22 (relating to fees) applies to all other applications.

§ 92.23. Identity of signatories to NPDES forms.

An NPDES form submitted to the Department shall be signed as follows:

(1) In the case of corporations, by a principal executive officer of at least the level of vice president, or an authorized representative, if the representative is responsible for the overall operation of the facility from which the discharge described in the NPDES form originates.

(2) In the case of a partnership, by a general partner.

(3) In the case of a sole proprietorship, by the proprietor.

(4) In the case of a municipal state, or other public facility, by either a principal executive officer, ranking elected official or other authorized employe.

§ 92.25. Incomplete applications or NOIs.

The Department will not complete processing of an application or NOI which is incomplete or otherwise deficient. An application for an individual NPDES permit is complete when the Department receives an application form and supplemental information which are completed in accordance with this chapter. An NOI to be covered by an NPDES general permit issued by the Department is complete when the Department receives an NOI setting forth the information specified by the terms of the general permit.

APPROVAL OF APPLICATIONS

§ 92.31. Effluent limitations or standards.

(a) Except as set forth in subsection (b), a permit will not be issued for the discharge of pollutants unless the proposed discharge is in compliance with the following, when applicable:

(1) Effluent limitations under sections 301 and 302 of the Federal Act (33 U.S.C.A. §§ 1311 and 1312).

(2) Standards of performance for new sources under section 306 of the Federal Act (33 U.S.C.A. § 1316).

(3) Effluent standards, effluent prohibitions or pretreatment standards under section 307 of the Federal Act (33 U.S.C.A. § 1317).

(4) If the NPDES permit is for the discharge of pollutants into the navigable waters from a vessel or other floating craft, any applicable regulations promulgated by the Secretary of the Department in which the Coast Guard is operating, establishing specifications for safe transportation, handling, carriage, storage and stowage of pollutants.

(5) Any more stringent limitation required to implement any applicable water quality standard. The limitations are to include any legally applicable requirements necessary to implement TMDLs defined and established under Chapter 96 (relating to water quality standards), or section 303(d) of the Federal Act (33 U.S.C.A. § 1313(d)).

(6) Any more stringent legally applicable requirements necessary to comply with a plan approved under section 208(b) of the Federal Act (33 U.S.C.A. § 1288).

(7) Any more stringent limitation established under any other Federal law or regulation.

(8) Any more stringent limitation established under any law of the Commonwealth.

(9) Water quality protection requirements under § 96.3 (relating to water quality protection requirements).

(10) Antidegradation requirements under this title.

(b) Existing dischargers not currently attaining a requirement in subsection (a) may meet the requirements of subsection (a) under a compliance schedule in a reissued, renewed or amended permit which is consistent with § 92.55 (relating to schedules of compliance).

MONITORING BY PERMITTEE

§ 92.41. Monitoring.

(a) The Department may impose reasonable monitoring requirements on any discharge.

(b) Each person who discharges pollutants, with the exception of sewage discharges from single family residence sewage treatment plants, may be required to monitor and report all toxic, conventional, nonconventional and other pollutants in its discharge, at least once a year, and on a more frequent basis if required by a permit condition. The results of this monitoring shall be submitted to the Department as required by a permit condition.

(c) Except for stormwater discharges subject to the requirements of subsection (g), a discharge authorized by an NPDES permit which is not a minor discharge or contains toxic pollutants for which an effluent standard has been established by the Administrator under section 307(a) of the Federal Act shall be monitored by the permittee for at least the following:

- (1) Flow (in gallons per day or million gallons per day).
- (2) All of the following pollutants:

(i) Pollutants (either directly or indirectly through the use of accepted correlation coefficients or equivalent measurements) which are subject to abatement under the terms and conditions of the permit.

(ii) Pollutants which the Department finds, on the basis of information available to it, could have an impact on the quality of this Commonwealth's waters.

(iii) Pollutants specified by the Administrator, in regulations issued under the Federal Act, as subject to monitoring.

(iv) Pollutants in addition to those in subparagraphs (i)—(iii) which the Regional Administrator requests, in writing to be monitored.

(d) Each effluent flow or pollutant required to be monitored under subsections (b) and (c) shall be monitored at intervals sufficiently frequent to yield data which reasonably characterize the nature of the discharge of the monitored effluent flow or pollutant. Variable effluent flows and pollutant levels shall be monitored at more frequent intervals than relatively constant effluent flows and pollutant levels which may be monitored at less frequent intervals.

(e) The permittee shall maintain records of the information resulting from any monitoring activities required of it in its NPDES permit as follows:

- (1) Records of monitoring activities and results shall include for all samples:
 - (i) The date, exact place and time of sampling.
 - (ii) The dates analyses were performed.
 - (iii) Who performed the analyses.
 - (iv) The analytical techniques/methods used.
 - (v) The results of the analyses.

(2) The permittee shall also be required to retain for a minimum of 3 years any records of monitoring activities and results including all original strip chart recordings

for continuous monitoring instrumentation and calibration and maintenance records. This period of retention may be extended during the course of any unresolved litigation regarding the discharge of pollutants by the permittee or when requested by the Department or Regional Administrator.

(f) The permittee shall periodically report, at a frequency of at least once per year, on the proper NPDES reporting form monitoring results obtained by a permittee pursuant to monitoring requirements. In addition to the NPDES reporting form, the Department may require submission of other information regarding monitoring results it determines to be necessary.

(g) Requirements to report monitoring results from stormwater discharges associated with industrial activity (including a construction activity), except those subject to an effluent limitation guideline or an NPDES general permit, shall be established in a case-by-case basis with a frequency dependent on the nature and effect of the discharge.

(h) The monitoring requirements under this section shall be consistent with any National monitoring, recording and reporting requirements specified by the Administrator in regulations issued under the Federal Act.

PERMIT CONDITIONS

§ 92.51. Standard conditions in all permits.

The issued NPDES permit shall provide for and insure the following:

(1) That all discharges authorized by the NPDES permit shall be consistent with the terms and conditions of the permit; that facility expansions, production increases or process modifications which result in new or increased discharges of pollutants shall be reported by submission of a new application or, if the discharge does not violate effluent limitations specified in the NPDES permit, by submission to the Department of notice of the new or increased discharges of pollutants, that the discharge of any pollutant more frequently than or at a level in excess of that identified and authorized by the permit shall constitute a violation of the terms and conditions of the permit.

(2) That the permit may be modified, suspended or revoked in whole or in part during its term for cause including, but not limited to, the following:

- (i) Violation of any terms or conditions of the permit.
- (ii) Obtaining a permit by misrepresentation or failure to disclose fully relevant facts.
- (iii) A change in a condition that requires either a temporary or permanent reduction or elimination of the permitted discharge.

(3) That the permittee shall permit the Director or an authorized representative, upon presentation of that representative's credentials, to:

- (i) Enter upon permittee's premises in which an effluent source is located or in which records are required to be kept under terms and conditions of the permit.
- (ii) Have access to and copy records required to be kept under terms and conditions of the permit.
- (iii) Inspect monitoring equipment or method required in the permit.
- (iv) Sample a discharge of pollutants.

(4) That the permittee shall maintain in good working order and operate as efficiently as possible facilities or

systems of control installed by the permittee to achieve compliance with the terms and conditions of the permit.

(5) That if a toxic effluent standard or prohibition, including any schedule of compliance specified in the effluent standard or prohibition, is established under section 301(b)(2)(C) or (D), 304(b) or 307(a) of the Federal Act (33 U.S.C.A. §§ 1311(b)(2)(C) or (D), 1314(b) or 1317(a)) for a toxic pollutant which is present in the permittee's discharge and the standard or prohibition is more stringent than any limitation upon the pollutant in the NPDES permit, the Department will revise or modify the permit in accordance with the toxic effluent standard or prohibition and so notify the permittee.

(6) That the discharger may not discharge floating materials, oil, grease, scum, foam, sheen and substances which produce color, taste, turbidity or settle to form deposits in concentrations or amounts sufficient to be, or creating a danger of being, inimical to the water uses to be protected or to human, animal, plant or aquatic life.

(7) That dischargers comply with applicable water quality standards.

§ 92.52a. Site specific permit conditions.

The Department may establish and include in an NPDES permit, any permit condition, as needed on a case-by-case basis, to assure protection of surface waters. These conditions may include a requirement to identify and implement the following:

(1) BMPs reasonably necessary to achieve effluent limitations or standards or to carry out the purpose and intent of the Federal Act.

(2) Toxic reduction activities, effluent limitations based on WETT, and other measures which eliminate, or substantially reduce releases of pollutants at their source.

§ 92.53. Additional standard conditions in permits for publicly-owned treatment works which serve industrial users.

(a) Standard conditions in permits for POTWs shall require the permittee to give notice to the Department of the following:

(1) A new introduction of pollutants into the treatment works from a source which would be a new source as defined in section 306 of the Federal Act (33 U.S.C.A. § 1316) if the source was directly discharging pollutants.

(2) Except as to categories and classes of point sources or discharges specified by the Department, a new introduction of pollutants into the treatment works from a source which would be subject to section 301 of the Federal Act (33 U.S.C.A. § 1311) if the source was directly discharging pollutants.

(3) A substantial change in volume or character of pollutants being introduced into the treatment works by a source introducing pollutants into the works at the time of issuance of the permit.

(b) The notice shall include information on the quality and quantity of effluent to be introduced into the treatment works and the anticipated impact of the change in the quantity or quality of effluent to be discharged from the publicly owned treatment works.

(c) The permittee shall identify the industrial users served by the POTWs which are subject to pretreatment standards adopted under section 307(b) of the Federal Act (33 U.S.C.A. § 1317(b)) and shall specify the total volume of discharge and estimated concentration of each pollutant discharged into the POTWs by the industrial users.

The permittee shall require an industrial user of the treatment works to comply with the reporting requirements of sections 204(b), 307 and 308 of the Federal Act (33 U.S.C.A. §§ 1284(b), 1317 and 1318) and regulations thereunder.

§ 92.55. Schedules of compliance.

(a) With respect to an existing discharge which is not in compliance with the water quality standards and effluent limitations or standards in § 92.31(a) (relating to effluent limitations or standards), the applicant shall be required in the permit to take specific steps to remedy a violation of the standards and limitations in accordance with a legally applicable schedule of compliance, in the shortest, reasonable period of time, the period not to be inconsistent with the Federal Act. If a deadline specified in section 301 of the Federal Act has passed, any schedule of compliance specified in the permit shall require compliance with final enforceable effluent limits as soon as practicable, but in no case longer than 3 years, unless a court of competent jurisdiction issues an order allowing a longer time for compliance.

(b) If the period of time for compliance specified in subsection (a) exceeds 1 year, a schedule of compliance shall be specified in the permit which will set forth interim requirements and the dates for their achievement. If the time necessary for completion of the interim requirement such as the construction of a treatment facility is more than 1 year and is not readily divided into stages for completion, interim dates shall be specified for the submission of reports of progress towards completion of the interim requirement. For each NPDES permit schedule of compliance, interim dates and the final date for compliance shall, to the extent practicable, fall on the last day of the months of March, June, September and December.

(c) Either before or up to 14 days following each interim date and the final date of compliance, the permittee shall provide the Department with written notice of the permittee's compliance or noncompliance with the interim or final requirement.

§ 92.57. Effluent limitations.

NPDES permits shall specify average and maximum daily quantitative limitations for the level of pollutants in the authorized discharge in terms of weight except pH, temperature, radiation and any other pollutants not appropriately expressed by weight. Permits may in addition impose limitations on frequency of discharge, concentrations or percentage removal, and may include instantaneous maximum limits, BMPs or any other limitations, as necessary.

§ 92.59. Documentation for permit conditions.

When an NPDES permit applies the effluent limitations or standards described in § 92.31 (relating to effluent limitations or standards), the Department will prepare documentation demonstrating that the permit will not violate applicable water standards. When an issued NPDES permit applies any more stringent effluent limitation based upon applicable water quality standards, a waste load allocation shall be prepared to insure that the discharge authorized by the permit is consistent with applicable water quality standards.

§ 92.61. Public notice of permit application and public hearing.

(a) Public notice of every complete application for an NPDES permit will be published by the Department in the *Pennsylvania Bulletin*. The public notice will also be

posted by the applicant near the entrance to the premises of the applicant and in nearby places. The contents of public notice of applications for NPDES permits will include at least the following:

(1) The name, address, phone number of agency issuing the public notice.

(2) The name and address of each applicant.

(3) A brief description of each applicant's activities or operations which result in the discharge described in the application.

(4) The name of the waterway to which each discharge is made and a short description of the location of each discharge on the waterway indicating whether the discharge is a new or an existing discharge.

(5) A statement of the tentative determination to issue or deny an NPDES permit for the discharge described in the application. If there is a tentative determination to issue a permit, the determination will include proposed effluent limitations for those effluents proposed to be limited, a proposed schedule of compliance including interim dates and requirements for meeting the proposed effluent limitations and a brief description of any proposed special conditions which will have a significant impact upon the discharge described in the application.

(6) The location of the nearest downstream potable water supply considered in establishing proposed effluent limitations under this title, or a finding that no potable water supply will be affected by the proposed discharge.

(7) A brief description of the procedures for the formulation of final determinations, including the 30-day comment period required by subsection (d) and any other means by which interested persons may influence or comment upon those determinations.

(8) The address and phone number of State or interstate agency premises at which interested persons may obtain further information, request a copy of the fact sheet described in subsection (c) and inspect and copy NPDES forms and related documents.

(9) The antidegradation classification of the receiving surface water under § 93.4c(b)(1)(ii)(B) (relating to implementation of antidegradation requirements).

(b) The Department will organize the tentative determination prepared under subsection (a)(5) into a draft NPDES permit.

(c) For every discharge which has a total volume of more than 500,000 gallons on any day of the year, the Department will prepare and following public notice, will send to any person, upon request, a fact sheet with respect to the application described in the public notice. The contents of the fact sheets will include at least the following information:

(1) A sketch or detailed description of the location of the discharge described in the application.

(2) A quantitative description of the discharge described in the application which includes at least the following:

(i) The rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow in gallons per day or million gallons per day.

(ii) For thermal discharges subject to limitation under the Federal Act, the average summer and winter temperatures in degrees Fahrenheit.

(iii) The average daily discharge in pounds per day of any pollutants which are present in significant quantities or which are subject to limitations or prohibition under section 301, 302, 306 or 307 of the Federal Act (33 U.S.C.A. §§ 1311, 1312, 1316 and 1317) and regulations promulgated thereunder.

(3) The tentative determinations required under subsection (a).

(4) A brief citation, including a brief identification of the uses for which the receiving waters have been classified, of the water quality standards and effluent standards and limitations applied to the proposed discharge.

(5) A fuller description of the procedures for the formulation of final determinations than that given in the public notice including:

(i) The 30-day comment period required by subsection (d).

(ii) Procedures for requesting a public hearing and the nature thereof.

(iii) Other procedures by which the public may participate in the formulation of the final determinations.

(d) There will be a 30-day period following publication of notice during which written comments may be submitted by interested persons before the Department makes its final determination on a permit application. All written comments submitted during the 30-day comment period will be retained by the Department and considered in the formulation of the final determinations with respect to the application. The period for comment may be extended at the discretion of the Department for one additional 15-day period. The Department will provide an opportunity for the applicant, any affected state, any affected interstate agency, the Regional Administrator or any interested agency, person or group of persons to request or petition for a public hearing with respect to the application. The request or petition for public hearing shall be filed within the 30 day period allowed for filing of written comments and shall indicate the interest of the party filing the request and the reasons why a hearing is warranted. A hearing will be held if there is a significant public interest, including the filing of requests or petitions for the hearing; in holding the hearing. Instances of doubt should be resolved in favor of holding the hearing. Any hearing brought under this subsection will be held in the geographical area of the proposed discharge or other appropriate area and may, as appropriate, consider related groups of permit applications.

(e) If a public hearing is requested, notice of the hearing will be published in the *Pennsylvania Bulletin*, and in at least one newspaper of general circulation within the geographical area of the discharge and will be sent to all persons or government agencies which received a copy of the notice or the fact sheet for the application. All of the notices of a public hearing will be published at least 30 days before the hearing. Notice of public hearing will include at least the following:

(1) The name, address and phone number of agency holding the public hearing.

(2) The name and address of each applicant whose application will be considered at the hearing.

(3) The name of the waterway to which each discharge is made and a short description of the location of each discharge on the waterway.

(4) A brief reference to the public notice issued for each application, including identification number and date of issuance.

(5) Information regarding the time and location for the hearing.

(6) The purpose of the hearing.

(7) A concise statement of the issues raised by the persons requesting the hearing.

(8) The address and phone number of premises at which interested persons may obtain further information, request a copy of each fact sheet prepared under subsection (c), and inspect and copy NPDES forms and related documents.

(9) A brief description of the nature of the hearing, including the rules and procedures to be followed.

(f) A copy of the notice of an application or a hearing and relevant fact sheets will be mailed to any person or group upon request. A person or group desiring to receive fact sheets, notices of applications, or notices of hearings on a routine basis may request to be placed on a mailing list to receive copies of all notices. The Department will annually review mailing lists, contact recipients and terminate mailings unless the recipient indicates desire to continue receiving the mailings.

(g) When the determination of the Department to issue or deny an NPDES permit is appealed to the EHB, notice of the appeal, and notice of the hearing date, if any, will be published in the *Pennsylvania Bulletin*. In addition, notice of the Department's final action, arrived at either through settlement or as the result of a decision of the Hearing Board, will be published in the *Pennsylvania Bulletin*.

§ 92.63. Public access to information.

(a) Any NPDES forms and public comment will be available to the public for inspection and copying.

(b) The Department may protect any information, other than effluent data, contained in NPDES forms, or other records, reports or plans pertaining to the NPDES permit program as confidential upon a showing by any person that the information is not a public record for the purposes of section 607 of the State Act (35 P. S. § 691.607). Documents which may be protected as confidential and are not public records are those which if made public would divulge an analysis of chemical and physical properties of coal (excepting information regarding the mineral or elemental content which is potentially toxic in the environment), and those which are confidential commercial information or methods or processes entitled to protection as trade secrets under State or Federal law. If, however, the information being considered for confidential treatment is contained in an NPDES form, the Department will forward the information to the Regional Administrator for concurrence in any determination of confidentiality. If the Regional Administrator does not concur that some or all of the information being considered for confidential treatment merits the protection and so notifies the Department in writing, the Department will make available to the public that information determined by the Regional Administrator in consultation with the EPA Office of General Counsel not entitled to protection in accordance with 40 CFR Part 2 (relating to public information).

(c) Information accorded confidential status, whether or not contained in an NPDES form, will be disclosed, upon

request, to the Regional Administrator, or an authorized representative, who shall maintain the disclosed information as confidential.

(d) Facilities for the inspection of information relating to NPDES permits will be provided and State employees will honor requests for inspection promptly without undue requirements or restrictions. Either a machine or device for the copying of papers and documents will be available for a reasonable fee, or other copying facilities or services will be provided.

§ 92.65. Notice to other government agencies.

The Department will do the following:

(1) Provide a subscription to the *Pennsylvania Bulletin* for any other states whose waters may be affected by the issuance of an NPDES permit, to any interstate agency having water quality control authority over water which may be affected by the issuance of an NPDES permit, and to all Pennsylvania District Engineers of the Army Corps of Engineers.

(2) At the time of issuance of public notice under § 92.61(a) (relating to public notice of permit application and public hearing), transmit to any other states, whose waters may be affected by the issuance of an NPDES permit a copy of fact sheets prepared under § 92.61(c). Upon request, the Department will provide the states with a copy of the application and a copy of the draft permit prepared under § 92.61(b). Each affected state shall be afforded an opportunity to submit written recommendations to the Department and to the Regional Administrator which the Department may incorporate into the permit if issued. If the Department decides not to incorporate any written recommendations thus received, it will provide to the affected states and to the Regional Administrator a written explanation of its reasons for deciding not to accept any of the written recommendations.

(3) At the time of issuance of public notice under § 92.61(a), transmit to any interstate agency having water quality control authority over waters which may be affected by the issuance of a permit a copy of fact sheets prepared under § 92.61(c). The interstate agency shall have the same opportunity to submit recommendations and to receive explanations in paragraph (2).

(4) At the time of issuance of public notice under § 92.61(a), transmit to the appropriate District Engineer of the Army Corps of Engineers a copy of fact sheets prepared under § 92.61(c). An NPDES permit will not be issued if a district engineer objects to the issuance of the permit because anchorage and navigation of any of the surface waters would be impaired.

(5) Provide a subscription to the *Pennsylvania Bulletin* and transmit fact sheets prepared under § 92.61(c) for any other Federal, State or local agency upon request, and provide these agencies an opportunity to respond or comment.

MISCELLANEOUS

§ 92.71a. Transfer of permit.

An NPDES permit may be automatically transferred to a new permittee if the following conditions are met:

(1) The current permittee notifies the Department at least 30 days in advance of the proposed transfer date.

(2) The notice includes a written agreement between the existing permittee and the new permittee containing a specific date for transfer of permit responsibilities, coverage and liability between them.

(3) The Department does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. If this notice is not received, the transfer is effective on the transfer date specified in the agreement required under paragraph (2).

(4) The new permittee is in compliance with existing Department issued permits, regulations, orders and schedules of compliance, or that any noncompliance with the existing permits has been resolved by an appropriate compliance action or by the terms and conditions of the permit (including a compliance schedule set forth in the permit), consistent with § 92.55 (relating to schedules of compliance) and other appropriate Department regulations.

§ 92.72a. Cessation of discharge.

If a permittee intends to cease operations or cease a discharge for which a permit has been issued under this chapter, the permittee shall notify the Department in writing of its intent at least 90 days prior to the cessation of operations or the cessation of the discharge, unless permission has been granted for a later date by the Department.

§ 92.73. Prohibition of certain discharges.

A permit will not be issued, modified, renewed or reissued under any of the following conditions:

(1) Authorizing the discharge of any radiological, chemical, biological warfare agent or high-level radioactive waste.

(2) Authorizing any discharge which is in conflict with a plan or amendment thereto approved under section 208(b) of the Federal Act (33 U.S.C.A. § 1288(b)).

(3) When the applicant is required to obtain a State water quality certification or other appropriate certification under section 401 of the Federal Act (33 U.S.C.A. § 1341) and that certification has not been obtained or waived.

(4) When the Regional Administrator has objected to the issuance of a permit.

(5) When the imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected states.

(6) When, in the judgment of the Administrator, a district engineer of the Army Corps of Engineers or the Department, anchorage and navigation in or on any surface waters would be substantially impaired by the discharge.

(7) To a new source or a new discharger, if the discharge from its construction or operation will cause or contribute to the violation of water quality standards.

(8) For a sanitary sewer overflow, except as provided for in the Federal regulations.

§ 92.75. Transmission of NPDES forms.

The Department will transmit to the Regional Administrator and the National data bank complete copies of all NPDES forms and other information received, and in the manner the Department and the Regional Administrator shall agree.

§ 92.77. Requirement of additional data in certain cases.

If, after transmission of information to the Administrator under § 92.75 (relating to transmission of NPDES forms), the Administrator notifies the Department that any discharge which has a total volume of less than

50,000 gallons on every day of the year is not a minor discharge, the Department will require the applicant for the discharge to submit additional NPDES forms or other information requested by the Regional Administrator in the notification to the Department.

§ 92.79. Reports of violations.

The Department will prepare a quarterly report listing permittees who have violated final or interim requirements in their NPDES permits, stating the nature of the violation, describing any enforcement action which is proposed or has been taken, and giving a brief description, if appropriate, of any circumstances which explain the violation. A copy of the report shall be forwarded on the last day of the months of February, May, August and November to the EPA Regional Administrator.

GENERAL PERMITS

§ 92.81. General NPDES permits.

(a) *Coverage and purpose.* The Department may issue a general NPDES permit, in lieu of issuing individual NPDES permits, for a clearly and specifically described category of point source discharges, if the point sources meet the following conditions:

(1) Involve the same, or substantially similar, types of operations.

(2) Discharge the same types of wastes.

(3) Require the same effluent limitations or operating conditions, or both.

(4) Require the same or similar monitoring.

(5) Do not discharge toxic or hazardous pollutants as defined in sections 307 and 311 of the Federal Act (33 U.S.C.A. §§ 1317 and 1321) or any other substance which—because of its quantity; concentration; or physical, chemical or infectious characteristics—may cause or contribute to an increase in mortality or morbidity in either an individual or the total population, or pose a substantial present or future hazard to human health or the environment when discharged into the surface waters.

(6) In the opinion of the Department, are more appropriately controlled under a general permit than under individual permits.

(7) Individually and cumulatively do not have the potential to cause significant adverse environmental impact.

(8) Do not discharge to waters classified as “special protection” under Chapter 93 (relating to water quality standards).

(b) *Administration of general permits.* General permits may be issued, amended, suspended, revoked, reissued or terminated under this chapter. Issuance of a general NPDES permit does not exempt a person from compliance with this title. General NPDES permits shall have a fixed term not to exceed 5 years, and shall comply with §§ 92.31, 92.41, 92.51, 92.57 and 92.59 and other applicable provisions of this title.

(c) *Department specification.* The Department may specify in the general permit that an eligible person who has submitted a timely and complete notice of intent is authorized to discharge in accordance with the terms of the permit under one of the following:

(1) After a waiting period following receipt of the notice of intent by the Department as specified in the general permit.

(2) Upon receipt of notification of approval of coverage under a general NPDES permit from the Department.

(d) *Department notification.* The Department will, as applicable, notify a discharger that it is or is not covered by a general permit. A discharger so notified may request an individual permit.

§ 92.82. Public notice and public hearing.

(a) Public notice of every proposed general NPDES permit will be published by the Department in the *Pennsylvania Bulletin*. The contents of the public notice will include at least the following:

(1) The name, address and phone number of the agency issuing the public notice.

(2) A clear and specific description of the category of point source discharges eligible for coverage under the proposed general NPDES permit.

(3) The standards in § 92.81(a) (relating to general NPDES permits), and a brief description of the reasons for the Department's determination that the category of point source discharges is eligible for coverage under a general NPDES permit in accordance with these standards.

(4) A brief description of the terms and conditions of the proposed general NPDES permit, including applicable effluent limitations, BMPs and special conditions.

(5) A brief description of the procedures for the formulation of final determinations, and other means by which interested persons may influence or comment on those determinations. Except as provided in § 92.81(c) and (d) (relating to general NPDES permits), the procedures shall comply, at a minimum, with the public notice and hearing requirements in § 92.61(c)—(e) (relating to public notice of permit application and public hearing).

(6) The address and phone number of Commonwealth agency premises at which interested persons may obtain further information and a copy of the proposed general NPDES permit.

(7) The NOI fee for coverage under the general NPDES permit.

(b) Upon issuance of a general permit, the Department will place a notice in the *Pennsylvania Bulletin* of the availability of the general permit.

§ 92.83. Inclusion of individual dischargers in general NPDES permits.

(a) *NOI for coverage under the general permit.*

(1) Eligible dischargers, who wish to be covered by the general permit, shall file an NOI which complies with §§ 92.21(b)(4) and (5), 92.22 and 92.23 (relating to applications; application fees; and identity of signatures to NPDES forms). At a minimum, the NOI shall identify each point source for which coverage under the general permit is requested; demonstrate that each point source meets the eligibility requirements for inclusion in the general permit; demonstrate that the discharge from the point sources, individually or cumulatively, will not result in a violation of an applicable water quality standard established under Chapter 93 (relating to water quality standards) and include other information the Department may require. The NOI shall be accompanied by a signed and notarized statement that the discharger agrees to accept all conditions and limitations imposed by the general NPDES permit.

(2) If the NOI is acceptable for one or more point sources, the Department, except as provided in § 92.81(c)

and (d) (relating to general permits), will formally notify the discharger of the coverage for each point source, and shall transmit a copy of the general permit to each discharger covered. Each copy of the general permit issued to a discharger shall bear an individual identification number.

(3) The Department will indicate in the publication of the notice of availability of a general permit in the *Pennsylvania Bulletin* whether it will provide one of the following:

(i) Notice in the *Pennsylvania Bulletin* of each NOI under an applicable general NPDES permit, and of each approval for coverage under a general NPDES permit.

(ii) Notice of every approval of coverage only.

(b) *Denial of coverage.* The Department will deny any NOI when one or more of the following conditions exist:

(1) The discharge, individually or in combination with other similar discharges, is or has the potential to be a contributor of pollution, as defined in the State Act, which is more appropriately controlled under an individual permit.

(2) The discharger is not, or will not be, in compliance with any of the conditions of the general permit.

(3) The applicant has failed and continues to fail to comply or has shown a lack of ability or intention to comply with a regulation, permit, schedule of compliance or order issued by the Department.

(4) A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source.

(5) Categorical point source effluent limitations are promulgated by the EPA for those point sources covered by the general permit.

(6) The discharge is not, or will not, result in compliance with applicable effluent limitation or water quality standard.

(7) Other point sources at the facility require issuance of an individual NPDES permit, and issuance of both an individual and a general NPDES permit for the facility would constitute an undue administrative burden on the Department.

(8) The Department determines that the action is necessary for any other reason to ensure compliance with the Federal Act, the State Act or this title.

(9) The discharge would be to waters classified as "special protection" under Chapter 93 (relating to water quality standards).

(c) *Requiring an individual permit.* The Department may amend, revoke, suspend or terminate previously issued coverage under a general NPDES permit, and require the point source discharger to apply for and obtain an individual NPDES permit for any of the reasons in subsection (b). An interested person may petition the Department to take action under this subsection. Upon notification by the Department under this subsection that an individual NPDES permit is required for a point source, the discharger shall submit a complete NPDES application, in conformance with this chapter, within 90 days of receipt of the notification, unless the discharger is already in possession of a valid individual NPDES permit. Failure to submit the application within 90 days shall result in automatic termination of coverage of the applicable point sources under the general permit. Timely submission of a complete application shall result

in continuation of coverage of the applicable point sources under the general permit, until the Department takes final action on the pending individual permit application.

(d) *Action of the Department.* Action of the Department denying coverage under a general permit under subsection (b), or requiring an individual NPDES permit under subsection (c), is not a final action of the Department until the discharger submits and the Department takes final action on an individual NPDES permit application.

(e) *Termination of general permit.* When an individual NPDES permit is issued for a point source which is covered under a general NPDES permit, the applicability of the general permit to that point source is automatically terminated on the effective date of the individual permit.

(f) *Coverage under general permit.* A point source excluded from a general permit solely because it already has an individual permit may submit an NOI under subsection (a). If the NOI is acceptable, the Department will revoke the individual permit and notify the source that it is covered under the general permit.

CIVIL PENALTIES FOR VIOLATIONS OF NPDES PERMITS

§ 92.91. Applicability.

This section and §§ 92.92—92.94 apply to civil penalty assessments by the Department under section 605(a) of the State Act (35 P. S. § 691.605(a)).

§ 92.92. Method of seeking civil penalty.

The Department may do either one of the following:

- (1) File a complaint for civil penalties before the EHB.
- (2) Assess a civil penalty, after hearing under § 92.93 (relating to procedure for civil penalty assessments).

§ 92.93. Procedure for civil penalty assessments.

(a) The Department, if it assesses a civil penalty for a State Act violation, will serve a copy of the proposed civil penalty assessment on the discharger. Service will be by registered or certified mail, or by personal service. If the mail is tendered at the address in the permit, or at an address where the discharger is located, and delivery is refused, or mail is not collected, the requirements of this section shall be deemed to have been complied with upon the tender.

(b) The discharger who has been served with a proposed assessment in accordance with subsection (a) has 30 days to request that the Department hold an informal hearing on the proposed assessment by serving the Department by registered or certified mail with the request. If no timely request for an informal hearing is submitted, the failure to submit a timely request will operate as a waiver of the opportunity for a hearing, and the proposed assessment will become a final assessment of the Department upon the expiration of the 30 day period unless the Department determines to hold a hearing on the proposed assessment under the procedures in subsection (c).

(c) If a timely request for hearing on the proposed assessment is received by the Department, the Department will assign a representative to hold an informal hearing regarding the assessment. The informal hearing will not be governed by requirements for formal adjudicatory hearings. The Department will establish a hearing date and notify the person requesting the hearing in accordance with the service procedures in subsection (a) and post notice of the time and place of the hearing at the Department office where the hearing is to be held at least

5 days prior to the hearing. The person requesting the hearing has the right to attend and participate in the hearing and to be represented by counsel. The Department will consider the relevant information presented and either affirm, raise, lower or vacate the proposed assessment. The Department representative's decision will constitute the Department's final assessment.

(d) The person subject to a final assessment by the Department may contest the penalty assessment by filing a timely appeal with the EHB.

§ 92.94. Disbursement of funds pending resolution of appeal.

(a) If the person subject to a final assessment fails to file a timely appeal to the EHB as provided in the Environmental Hearing Board Act (35 P. S. §§ 7511—7516), the penalty assessed shall become due and payable upon expiration of the time allowed to file an appeal. If the person fails to pay, the amount shall be collected in the manner provided by section 605 of the State Act. The Department may preclude persons who fail to pay in full from obtaining or renewing any Department permits.

(b) If the final decision in the administrative and judicial review process results in an order increasing the penalty, the person to whom the notice or order was issued shall pay the amount specified in the final decision to the Department within 30 days after the order is mailed to the person. If the person fails to pay the amount specified in the final decision, the amount shall be collected in the manner provided by law. The Department may preclude persons who fail to pay in full from obtaining or renewing any Department permits.

(c) Upon completion of the administrative and judicial review process, any funds collected under §§ 92.91—92.93 (relating to applicability; method of seeking civil penalty; and procedure for civil penalty assessments) and this section will be deposited into the Clean Water Fund.

CHAPTER 93. WATER QUALITY STANDARDS

§ 93.1. Definitions.

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

BMP— Best management practices—

(i) Schedules of activities, prohibitions of practices, maintenance procedures and other management practices to prevent or reduce pollution to surface waters of this Commonwealth.

(ii) The term includes:

- (A) Treatment requirements.
- (B) Operating procedures.

(C) Practices to control plant site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw material storage.

*Carcinogen—*A substance that causes an increased incidence in benign or malignant neoplasms, or a substantial decrease in the latency period between exposure and the onset of neoplasms in man or other species as evidenced by toxicological or epidemiological studies, or both.

*Class A wild trout water—*A surface water classified by the Fish and Boat Commission, based on species-specific biomass standards, which supports a population of naturally produced trout of sufficient size and abundance to support a long-term and rewarding sport fishery.

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

Clean Water Act—The Federal Water Pollution Control Act (33 U.S.C.A. §§ 1251—1376).

Coordinated water quality protective measures—

(i) Legally binding sound land use water quality protective measures coupled with an interest in real estate which expressly provide long-term water quality protection of a watershed corridor.

(ii) Sound land use water quality protective measures include: surface or groundwater source protection zones, enhanced stormwater management measures, wetland protection zones or other measures which provide extraordinary water quality protection.

(iii) Real estate interests include:

- (A) Fee interests.
- (B) Conservation easements.
- (C) Government owned riparian parks or natural areas.
- (D) Other interests in land which enhance water quality in a watershed corridor area.

Critical use—The most sensitive designated or existing use the criteria are designed to protect.

Daily average—The arithmetic average of the samples collected during a continuous 24-hour period.

Designated uses—Those uses specified in §§ 93.4(a) and 93.9a—93.9z for each water body or segment whether or not they are being attained.

Epilimnion—Warm upper layer of nearly uniform temperature in a stratified body of water, such as a lake or impoundment.

Exceptional Value Waters—Surface waters of high quality which satisfy § 93.4b(b) (relating to antidegradation).

Existing uses—Those uses actually attained in the water body on or after November 28, 1975, whether or not they are included in the water quality standards.

Four-day average—The arithmetic average of the samples collected during a consecutive 4-day period.

High Quality Waters—Surface waters having quality which exceeds levels necessary to support propagation of fish, shellfish, and wildlife and recreation in and on the water by satisfying § 93.4b(a).

Margin of safety—The combination of uncertainty and modifying factors applied to the results of toxicity tests to compensate for incomplete characterization of the effect on the population to be protected.

Monthly average—The arithmetic average on the samples collected during a calendar month.

Natural quality—The water quality conditions that exist or that would reasonably be expected to exist in the absence of human related activity.

Nonpoint source—A pollution source which is not a point source discharge.

Nonthreshold effect—An adverse impact, including carcinogenic effects, for which no exposure greater than zero assures protection to the exposed individual.

One-hour average—The arithmetic average of the samples collected during a continuous 1-hour period.

Osmotic pressure—The pressure which, when applied to a solution, will just prevent the passage of solvent—

usually water—from an area of low solute concentration through a semipermeable membrane to an area of high solute concentration.

Outstanding National, State, regional or local resource water—A surface water for which a National or State government agency has adopted water quality protective measures in a resource management plan, or regional or local governments have adopted coordinated water quality protective measures along a watershed corridor.

Point source discharge—A pollutant source regulated under the National Pollutant Discharge Elimination System (NPDES) as defined in § 92.1 (relating to definitions).

Priority pollutants—The chemicals identified by the EPA for priority in water pollution control, under section 307(a)(1) of the Clean Water Act (33 U.S.C.A. § 1317(a)(1)).

Risk assessment—The characterization of the potential adverse effects of exposure to environmental hazards. The term includes hazard identification, dose-response assessment, exposure assessment and risk characterization.

Risk management—The process of evaluation and selection between alternative regulatory options. Risk management decisions may include consideration of risk assessment, analytical, socio-economic and political factors.

State game propagation and protection area—An area established by the Game Commission for the propagation and protection of game or wildlife wherein game or wildlife may not be hunted, pursued, disturbed, molested, killed or taken at any time except as authorized by the Game Commission.

Surface water of exceptional ecological significance—A surface water which is important, unique or sensitive ecologically, but whose water quality as measured by traditional parameters (for example, chemical, physical or biological) may not be particularly high, or whose character cannot be adequately described by these parameters. These waters include:

- (i) Thermal springs.
- (ii) Wetlands which are exceptional value wetlands under § 105.17(1) (relating to wetlands).

Surface water of exceptional recreational significance—A surface water which provides a water-based, water quality-dependent recreational opportunity (such as fishing for species with limited distribution) because there are only a limited number of naturally occurring areas and waterbodies across the State where the activity is available or feasible.

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

Threshold effect—An adverse impact that occurs in the exposed individual only after a physiological reserve is depleted. For these effects there exists a dose below which no adverse response will occur.

Thirty-day average—The arithmetic average of the samples collected during a consecutive 30-day period.

Toxic substance—A chemical or compound in sufficient quantity or concentration which is, or may become, harmful to human, animal or plant life. The term in-

cludes, but is not limited to, priority pollutants and those substances which are identified in Chapter 16 (relating to water quality toxic management strategy—statement of policy).

Water quality criteria—Numeric concentrations, levels or surface water conditions that need to be maintained or attained to protect existing and designated uses.

Wetlands—Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

Wilderness trout stream—A surface water designated by the Fish and Boat Commission to protect and promote native trout fisheries and maintain and enhance wilderness aesthetics and ecological requirements necessary for the natural reproduction of trout.

§ 93.2. Scope.

(a) This chapter sets forth water quality standards for surface waters of this Commonwealth, including wetlands. These standards are based upon water uses which are to be protected and will be considered by the Department in its regulation of discharges.

(b) When an interstate or international agency under an interstate compact or international agreement establishes water quality standards regulations applicable to surface waters of this Commonwealth, including wetlands, more stringent than those in this title, the more stringent standards apply.

§ 93.3. Protected water uses.

Water uses which shall be protected, and upon which the development of water quality criteria shall be based, are set forth, accompanied by their identifying symbols, in Table 1:

TABLE 1

<i>Symbol</i>	<i>Protected Use</i>
Aquatic Life	
CWF	<i>Cold Water Fishes</i> —Maintenance or propagation, or both, of fish species including the family Salmonidae and additional flora and fauna which are indigenous to a cold water habitat.
WWF	<i>Warm Water Fishes</i> —Maintenance and propagation of fish species and additional flora and fauna which are indigenous to a warm water habitat.
MF	<i>Migratory Fishes</i> —Passage, maintenance and propagation of anadromous and catadromous fishes and other fishes which ascend to flowing waters to complete their life cycle.
TSF	<i>Trout Stocking</i> —Maintenance of stocked trout from February 15 to July 31 and maintenance and propagation of fish species and additional flora and fauna which are indigenous to a warm water habitat.
Water Supply	
PWS	<i>Potable Water Supply</i> —Used by the public as defined by the Federal Safe Drinking Water Act, 42 U.S.C.A. § 300F, or by other water users that require a permit from the Department under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.18), or the act of June 24, 1939 (P. L. 842, No. 365) (32 P. S. §§ 631—641), after conventional treatment, for drinking, culinary and other domestic purposes, such as inclusion into foods, either directly or indirectly.
IWS	<i>Industrial Water Supply</i> —Use by industry for inclusion into nonfood products, processing and cooling.
LWS	<i>Livestock Water Supply</i> —Use by livestock and poultry for drinking and cleansing.
AWS	<i>Wildlife Water Supply</i> —Use for waterfowl habitat and for drinking and cleansing by wildlife.
IRS	<i>Irrigation</i> —Used to supplement precipitation for growing crops.
Recreation and Fish Consumption	
B	<i>Boating</i> —Use of the water for power boating, sail boating, canoeing and rowing for recreational purposes when surface water flow or impoundment conditions allow.
F	<i>Fishing</i> —Use of the water for the legal taking of fish. For recreation or consumption.
WC	<i>Water Contact Sports</i> —Use of the water for swimming and related activities.
E	<i>Esthetics</i> —Use of the water as an esthetic setting to recreational pursuits.
Special Protection	
HQ	<i>High Quality Waters</i>
EV	<i>Exceptional Value Waters</i>
Other	
N	<i>Navigation</i> —Use of the water for the commercial transfer and transport of persons, animals and goods.

§ 93.4. Statewide water uses.

(a) *Statewide water uses.* Except when otherwise specified in law or regulation, the uses set forth in Table 2 apply to all surface waters. These uses shall be protected in accordance with this chapter, Chapter 96 (relating to water quality standards implementation) and other applicable State and Federal laws and regulations.

TABLE 2

Symbol	Use
	Aquatic Life
WWF	Warm Water Fishes
	Water Supply
PWS	Potable Water Supply
IWS	Industrial Water Supply
LWS	Livestock Water Supply
AWS	Wildlife Water Supply
IRS	Irrigation
	Recreation
B	Boating
F	Fishing
WC	Water Contact Sports
E	Esthetics

(b) *Less restrictive uses.* Less restrictive uses than those currently designated for particular waters listed in §§ 93.9a—93.9z may be adopted when it is demonstrated that the designated use is more restrictive than the existing use, the use cannot be attained by implementing effluent limits required under sections 301(b) and 306 of the Federal Clean Water Act (33 U.S.C.A. §§ 1311(b) and 1316) or implementing cost-effective and reasonable BMPs for nonpoint source control, and one or more of the following conditions exist:

- (1) Naturally occurring pollutant concentrations (natural quality) prevent the attainment of the use.
- (2) Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use, unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating State water conservation requirements to enable uses to be met.

(3) Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place.

(4) Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate the modification in a way that would result in the attainment of the use.

(5) Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of aquatic life uses.

(6) Controls more stringent than those required by sections 301(b) and 306 of the Federal Clean Water Act would result in substantial and widespread economic and social impact.

(c) *Redesignation of water.* Waters considered for redesignation may not be redesignated to less restrictive uses than the existing uses.

§ 93.5. (Reserved).

§ 93.6. General water quality criteria.

(a) Water may not contain substances attributable to point or nonpoint source discharges in concentration or amounts sufficient to be inimical or harmful to the water uses to be protected or to human, animal, plant or aquatic life.

(b) In addition to other substances listed within or addressed by this chapter, specific substances to be controlled include, but are not limited to, floating materials, oil, grease, scum and substances which produce color, tastes, odors, turbidity or settle to form deposits.

§ 93.7. Specific water quality criteria.

(a) Table 3 displays specific water quality criteria and associated critical uses. The criteria associated with the Statewide water uses listed in § 93.4, Table 2 apply to all surface waters, unless a specific exception is indicated in §§ 93.9a—93.9z. Other specific water quality criteria quality to surface waters as specified in §§ 93.9a—93.9z. All applicable criteria shall be applied in accordance with this chapter, Chapter 96 (relating to water quality standards implementation) and other applicable State and Federal laws and regulations.

TABLE 3

Parameter	Symbol	Criteria	Critical Use*
Alkalinity	Alk	Minimum 20 mg/l as CaCO ₃ , except where natural conditions are less. Where discharges are to waters with 20 mg/l or less alkalinity, the discharge should not further reduce the alkalinity of the receiving waters.	CWF, WWF, TSF, MF
Ammonia Nitrogen	Am	The maximum total ammonia nitrogen concentration at all times shall be the numerical value given by: un-ionized ammonia nitrogen (NH ₃ -N) × (log ⁻¹ [pK _T -pH] + 1), where: un-ionized ammonia nitrogen = 0.12 × f(T)/f(pH) f(pH) = 1 + 10 ^{1.03(7.32-pH)} f(T) = 1, T ≥ 10°C f(T) = 1 + 10 ^(9.73-pH) , T < 10°C $\frac{1}{1 + 10^{(pK_T - pH)}}$	1

Parameter	Symbol	Criteria	Critical Use*
		and $pK_T = \left[\frac{2730}{(T + 273.2)} \right]$, the dissociation constant for ammonia in water. $0.090 + \left[\frac{2730}{(T + 273.2)} \right]$ The average total ammonia nitrogen concentration over any 30 consecutive days shall be less than or equal to the numerical value given by: un-ionized ammonia nitrogen (NH_3-N) $\times (\log^{-1}[pK_T - pH] + 1)$, where: un-ionized ammonia nitrogen = $0.025 \times f(T)/f(pH)$ $f(pH) = 1, pH \geq 7.7$ $f(pH) = 10^{0.74(7.7 - pH)}, pH < 7.7$ $f(T) = 1, T \geq 10^\circ C$ $f(T) = \frac{1 + 10^{(9.73 - pH)}}{1 + 10^{(pK_T - pH)}}, T < 10^\circ C$ The pH and temperature used to derive the appropriate ammonia criteria shall be determined by one of the following methods: 1) Instream measurements, representative of median pH and temperature—July through September. 2) Estimates of median pH and temperature—July through September—based upon available data or values determined by the Department. For purposes of calculating effluent limitations based on this value the accepted design stream flow shall be the actual or estimated lowest 30-consecutive-day average flow that occurs once in 10 years.	
Bacteria	Bac ₁	(Fecal coliforms/ 100 ml)—During the swimming season (May 1 through September 30), the maximum fecal coliform level shall be a geometric mean of 200 per 100 milliliters (ml) based on a minimum of five consecutive samples each sample collected on different days during a 30-day period. No more than 10% of the total samples taken during a 30-day period may exceed 400 per 100 ml. For the remainder of the year, the maximum fecal coliform level shall be a geometric mean of 2,000 per 100 milliliters (ml) based on a minimum of five consecutive samples collected on different days during a 30-day period.	WC
	Bac ₂	(Coliforms/100 ml)—Maximum of 5,000/100 ml as a monthly average value, no more than this number in more than 20 of the samples collected during a month, nor more than 20,000/100 ml in more than 5% of the samples.	PWS
Chloride	Ch	Maximum 250 mg/l.	PWS
Color	Col	Maximum 75 units on the platinum-cobalt scale; no other colors perceptible to the human eye.	PWS
Dissolved Oxygen	DO ₁	Minimum daily average 6.0 mg/l; minimum 5.0 mg/l. For lakes, ponds and impoundments only, minimum 5.0 mg/l at any point.	CWF, HQ-WWF, HQ-TSF
	DO ₂	Minimum daily average 5.0 mg/l; minimum 4.0 mg/l. For the epilimnion of lakes, ponds and impoundments, minimum daily average of 5.0 mg/l, minimum 4.0 mg/l.	WWF
	DO ₃	For the period February 15 to July 31 of any year, minimum daily average of 6.0 mg/l, minimum 5.0 mg/l. For the remainder of the year, minimum daily average of 5.0 mg/l, minimum 4.0 mg/l. For lakes, ponds and impoundments, the criteria apply to the epilimnion.	TSF
	DO ₄	Minimum 7.0 mg/l.	HQ-CWF
Fluoride	F	Daily average 2.0 mg/l.	PWS
Iron	Fe ₁	30-day average 1.5 mg/l as total recoverable.	CWF, WWF, TSF, MF
	Fe ₂	Maximum 0.3 mg/l as dissolved.	PWS
Manganese	Mn	Maximum 1.0 mg/l, as total recoverable.	PWS
Nitrite plus Nitrate	N	Maximum 10 mg/l as nitrogen.	PWS
Osmotic Pressure	OP	Maximum 50 milliosmoles per kilogram.	CWF, WWF, TSF, MF

<i>Parameter</i>	<i>Symbol</i>	<i>Criteria</i>	<i>Critical Use*</i>
pH	pH	From 6.0 to 9.0 inclusive.	CWF, WWF, TSF, MF
Phenolics (except § 307(a)(1) (33 U.S.C.A. § 1317(a)(1)), Priority Pollutants)	Phen	Maximum 0.005 mg/l.	PWS
Sulfate	Sul	Maximum 250 mg/l.	PWS
Temperature		Maximum temperatures in the receiving water body resulting from heated waste sources regulated under Chapters 92, 96 and other sources where temperature limits are necessary to protect designated and existing uses. Additionally, these wastes may not result in a change by more than 2°F during a 1-hour period.	See the following table.

<i>SYMBOL: CRITICAL USE: PERIOD</i>	<i>TEMP₁ CWF</i>	<i>TEMP₂ WWF TEMPERATURE °F</i>	<i>TEMP₃ TSF</i>
January 1-31	38	40	40
February 1-29	38	40	40
March 1-31	42	46	46
April 1-15	48	52	52
April 16-30	52	58	58
May 1-15	54	64	64
May 16-31	58	72	68
June 1-15	60	80	70
June 16-30	64	84	72
July 1-31	66	87	74
August 1-15	66	87	80
August 16-30	66	87	87
September 1-15	64	84	84
September 16-30	60	78	78
October 1-15	54	72	72
October 16-31	50	66	66
November 1-15	46	58	58
November 16-30	42	50	50
December 1-31	40	42	42

<i>Parameter</i>	<i>Symbol</i>	<i>Criteria</i>	<i>Critical Use</i>
Total Dissolved Solids	TDS	500 mg/l as a monthly average value; maximum 750 mg/l.	PWS
Total Residual Chlorine	TRC	Four-day average 0.011 mg/l; 1-hour average 0.019 mg/l.	CWF, WWF, TSF, MF

*Critical use: The most sensitive designated or existing use the criteria are designed to protect.

(b) Table 4 contains specific water quality criteria that apply to the water uses to be protected. When the symbols listed in Table 4 appear in the Water Uses Protected column in § 93.9, they have the meaning listed in the second column of Table 4. Exceptions to these standardized groupings will be indicated on a stream-by-stream or segment-by-segment basis by the words "Add" or "Delete" followed by the appropriate symbols described elsewhere in this chapter.

TABLE 4

<i>Symbol</i>	<i>Water Uses Protected</i>	<i>Specific Criteria</i>
WWF	Statewide list	DO ₂ and Temp ₂
CWF	Statewide list plus Cold Water Fish	DO ₁ and Temp ₁
TSF	Statewide list plus Trout Stocking	DO ₃ and Temp ₃
HQ-WWF	Statewide list plus High Quality Waters	DO ₁ and Temp ₂
HQ-CWF	Statewide list plus High Quality Waters and Cold Water Fish	DO ₄ and Temp ₁
HQ-TSF	Statewide list plus High Quality Waters and Trout Stocking	DO ₁ and Temp ₃
EV	Statewide list plus Exceptional Value Waters	Existing quality

(c) The list of specific water quality criteria does not include all possible substances that could cause pollution. For substances not listed, the general criterion that these substances may not be inimical or injurious to the designated water uses applies. The Department will develop a criterion for any substance not listed in Table 3 that is determined to be inimical or injurious to existing or designated water uses using the best available scientific information, as determined by the Department.

(d) If the Department determines that natural quality of a surface water segment is of lower quality than the applicable aquatic life criteria in Table 3, the natural quality shall constitute the aquatic life criteria for that segment. All draft natural quality determinations shall be published in the *Pennsylvania Bulletin* and be subject to a minimum 30-day comment period. The Department will maintain a publicly available list of surface waters and parameters where this subsection applies, and shall, from time to time, submit appropriate amendments to §§ 93.9a–93.9z.

§ 93.8. Development of site-specific water quality criteria for the protection of aquatic life.

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

(1) Defining the areal boundaries for application of the site-specific criteria which will include the potentially affected wastewater dischargers identified by the Department, through various means, including, but not limited to, the total maximum daily load (TMDL) process described in Chapter 96 (relating to water quality standards implementation) or biological assessments.

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

(b) Scientific studies shall be performed in accordance with the procedures and guidance in the Water Quality Standards Handbook (EPA 1994), as amended and upgraded, guidance provided by the Department or other scientifically defensible methodologies approved by the Department.

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

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

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

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

§ 93.8a. Toxic substances.

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

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

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

(d) Nonthreshold carcinogenic effects of toxic substances, will be controlled to a risk management level of one excess case of cancer in a population of 1 million (1×10^{-6}) over a 70-year lifetime. Other nonthreshold effects of toxic substances will be controlled at a risk management level as determined by the Department.

(e) Water quality criteria for toxics shall be applied in accordance with Chapter 96 (relating to water quality standards implementation) and any other applicable State and Federal laws and regulations. For carcinogens, the design conditions shall result in a lifetime—70 years—average exposure corresponding to the risk management level specified in subsection (d).

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

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

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

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

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

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

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

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

are listed in 40 CFR 132.6, Table 6, Subpart A (relating to pollutants of initial focus in the Great Lakes Water Quality Initiative).

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

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

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

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

(4) If, for any BCC, the quality of the surface water exceeds the levels necessary to support the propagation of fish, shellfish and wildlife and recreation in and on the waters, that quality shall be maintained and protected, unless the Department finds that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the surface water is located.

§ 93.9. Designated water uses and water quality criteria.

(a) The tables in §§ 93.9a—93.9z display designated water uses and water quality criteria in addition to the water uses and criteria specified in Tables 2 and 3. Designated uses shall be protected in accordance with Chapters 95 and 96 (relating to wastewater treatment requirements; and water quality standards implementation) and any other applicable State and Federal laws and regulations. The tables also indicate specific exceptions to Tables 2 and 3 on a stream-by-stream or segment-by-segment basis by the words “add” or “delete” followed by the appropriate symbols described elsewhere in this chapter. The county column in §§ 93.9a—93.9z

indicates the county in which the mouth of the stream is located. Abbreviations used in the “Zone” column are as follows:

- T — Township Road
- LR — Pennsylvania Legislative Route
- SR — Pennsylvania State Route
- FAS — Federal Aid Secondary Highway
- US — United States Federal Route
- I — Interstate Highway
- RM — River Mile; river miles are used to indicate the distance from a point on the waterbody to its mouth and are based on the Department’s River Mile Index

(b) When appropriate, “Exceptions to Specific Criteria” provide reference to the Delaware River Basin Commission (DRBC) water quality regulations, Orsanco (Ohio River Valley Water Sanitation Commission) pollution control standards and the Great Lakes Water Quality Agreement (GLWQA) which specify the criteria that apply. The applicable criteria can be obtained from the following:

Delaware River Basin Commission
 P. O. Box 7360
 West Trenton, New Jersey 08628
 (609) 883-9500

Ohio River Valley Water Sanitation Commission
 5735 Kellogg Ave.
 Cincinnati, Ohio 45228
 (513) 231-7719

GLWQA: International Joint Commission
 Great Lakes Regional Office
 100 Ouellette Ave., 8th Floor
 Windsor Ontario, Canada N9A 6T3
 (519) 257-6700

(c) With respect to hydrological order, the numbers appearing on the left-hand column of the drainage lists represent stream entries to aid in identifying hydrological order: 1 identifies the most downstream hydrologic order; 2 is tributary to 1; 3 is tributary to 2, and so on.

(d) An overview appears as follows:

* * * * *

§ 93.9a. Drainage List A.

Delaware River Basin in Pennsylvania								
<i>Delaware River</i>								
<i>Stream</i>	<i>Zone</i>	<i>County</i>					<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
		*	*	*	*	*		
2-West Branch Delaware River	Main Stem, PA-NY State Border to Confluence with East Branch		Wayne				CWF, MF	See DRBC regulations—Water Quality Zone 1A
		*	*	*	*	*		

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1-Delaware River	Main Stem, Confluence of East and West Branches to PA 652 Bridge (Narrowsburg, NY)	Wayne	<i>Water Uses</i> CWF, MF	<i>Exceptions</i> See DRBC regulations—Water Quality Zone 1A
		* * * * *		
1-Delaware River	Main Stem, PA 652 Bridge to Lackawaxen River	Pike	WWF, MF	See DRBC regulations—Water Quality Zone 1B
		* * * * *		

§ 93.9c. Drainage List C.

Delaware River Basin in Pennsylvania
Delaware River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1-Delaware River	Main Stem, Lackawaxen River to Tocks Island	Pike	WWF, MF	See DRBC regulations—Water Quality Zone 1B/1C
		* * * * *		
1-Delaware River	Main Stem, Tocks Island to Lehigh River	Northampton	WWF, MF	See DRBC regulations—Water Quality Zone 1D
		* * * * *		

§ 93.9e. Drainage List E.

Delaware River Basin in Pennsylvania
Delaware River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1-Delaware River	Main Stem, Lehigh River to Head of Tide	Bucks	WWF; MF	See DRBC regulations—Water Quality Zone 1E
		* * * * *		
1-Delaware Estuary	Tidal Portions of Basin, Head of Tide to Burlington-Bristol Bridge	Bucks	WWF, MF	See DRBC regulations—Water Quality Zone 2
		* * * * *		

2-Neshaminy Creek

The following criteria are specific to waters in the Neshaminy Creek Basin where indicated, based on special studies.

<i>Parameter</i>	<i>Symbol</i>	<i>Criteria</i>	<i>Critical Use</i>
Turbidity	Tur ₁	Not more than 100 NTU.	PWS, WWF, MF
	Tur ₂	For the period May 15—September 15 of any year, not more than 40 NTU; for the period September 16—May 14 of any year, not more than 100 NTU.	PWS, CWF, WWF, MF

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<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
3-West Branch Neshaminy Creek	Basin, Source to Confluence with North Branch	Bucks	WWF, MF	Add Tur ₂
3-North Branch Neshaminy Creek	Basin, Source to Tailwaters of Lake Galena	Bucks	WWF	Add Tur ₂
3-North Branch Neshaminy Creek	Basin, Lake Galena	Bucks	WWF	Add Tur ₂
3-North Branch Neshaminy Creek	Basin, Lake Galena Dam to Confluence with West Branch	Bucks	TSF, MF	Add Tur ₂
2-Neshaminy Creek	Main Stem, Confluence of West and North Branches to PA 614 Dam	Bucks	TSF, MF	Add Tur ₂
3-Unnamed Tributaries to Neshaminy Creek	Basins, Confluence of West and North Branches of PA 614 Dam	Bucks	TSF, MF	Add Tur ₂
3-Cooks Run	Basin	Bucks	WWF, MF	Add Tur ₂
3-Mill Creek	Basin	Bucks	TSF, MF	Add Tur ₂
3-Country Club Creek	Basin	Bucks	WWF, MF	Add Tur ₂
2-Neshaminy Creek	Non-Tidal Portion of Main Stem, PA 614 Dam to Mouth	Bucks	WWF, MF	Add Tur ₁
3-Unnamed Tributaries to Neshaminy Creek	Non-Tidal Portions of Basins, PA 614 Dam to Mouth	Bucks	WWF, MF	Add Tur ₁
3-Little Neshaminy Creek	Basin	Bucks	WWF, MF	Add Tur ₁
3-Mill Creek	Basin, Source to Watson Creek	Bucks	CWF, MF	Add Tur ₂
4-Watson Creek	Basin	Bucks	CWF, MF	Add Tur ₂
3-Mill Creek	Basin, Watson Creek to Mouth	Bucks	WWF, MF	Add Tur ₃
3-Core Creek	Basin, Source PA Rte 620 Dam	Bucks	CWF, MF	Add Tur ₂
3-Core Creek	Basin, PA Rte 620 Dam to Mouth	Bucks	WWF, MF	Add Tur ₁
3-Mill Creek	Basin	Bucks	WWF, MF	Add Tur ₁
1-Delaware Estuary	Tidal Portions of Basin, Burlington-Bristol Bridge to RM 108.4	Philadelphia	WWF, MF	See DRBC regulations—Water Quality Zone 2
	* * * * *			
1-Delaware Estuary	Tidal Portions of Basin, RM 108.4 to Big Timber Creek (NJ)	Philadelphia	WWF (Maintenance Only); MF (Passage Only); Delete WC	See DRBC regulations—Water Quality Zone 3
	* * * * *			

RULES AND REGULATIONS

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1-Delaware Estuary	Tidal Portions of Basin, Big Timber Creek (NJ) to Philadelphia-Delaware County Border	Philadelphia-Delaware	WWF (Maintenance Only); MF (Passage Only); <i>Delete</i> WC, PWS, LWS and IRS	See DRBC regulations—Water Quality Zone 4
		* * * * *		

§ 93.9g. Drainage List G.

Delaware River Basin in Pennsylvania
Delaware River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1-Delaware Estuary	Tidal Portions of Basin, Philadelphia-Delaware County Border to PA-DE State Border	Delaware	WWF (Maintenance Only); MF (Passage Only); <i>Delete</i> PWS, LWS, IRS. <i>Delete</i> WC above RM 81.8	See DRBC regulations—Water Quality Zone 4
		* * * * *		
3-Brandywine Creek	Main Stem, Confluence of East and West Branches to PA-DE State Border	Delaware	WWF, MF	None
		* * * * *		

§ 93.9i. Drainage List I.

Susquehanna River Basin in Pennsylvania
Susquehanna River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1-Susquehanna River	Main Stem, PA-NY State Border near Milltown to Lackawanna River	Luzerne	WWF	None
		* * * * *		

§ 93.9l. Drainage List L.

Susquehanna River Basin in Pennsylvania
West Branch Susquehanna River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
		* * * * *		

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
3-Bald Eagle Creek	Main Stem, Nittany Creek to Mouth	Centre	WWF	None
		* * * * *		
3-Chatham Run	Basin, Chatham Water Co. Intake to Mouth	Clinton	CWF	None
		* * * * *		

§ 93.9m. Drainage List M.

Susquehanna River Basin in Pennsylvania
Susquehanna River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1-Susquehanna River	Main Stem, West Branch Susquehanna River to Juniata River	Perry	WWF	None
		* * * * *		

§ 93.9n. Drainage List N.

Susquehanna River Basin in Pennsylvania
Juniata River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
		* * * * *		
4-Halter Creek	Basin	Blair	WWF	None
3-Frankstown Branch Juniata River	Main Stem, Halter Creek to Piney Creek	Blair	WWF	None
		* * * * *		
3-Frankstown Branch Juniata River	Main Stem, Piney Creek to US 22 Bridge	Huntingdon	TSF	None
		* * * * *		
3-Frankstown Branch Juniata River	Main Stem, US 22 Bridge to Confluence with Little Juniata River	Huntingdon	WWF	None
		* * * * *		
3-Little Juniata River	Main Stem, South Bald Eagle Creek to Spruce Creek	Huntingdon	TSF	None
		* * * * *		
3-Little Juniata River	Main Stem, Spruce Creek to Confluence with Frankstown Branch	Huntingdon	CWF	None
		* * * * *		

§ 93.9o. Drainage List O.

Susquehanna River Basin in Pennsylvania
Susquehanna River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1-Susquehanna River	Main Stem, Juniata River to PA-MD State Border	York Lancaster	WWF	None
		* * * * *		
2-Yellow Breeches Creek	Main Stem, LR 21012 to Mouth	Cumberland York Dauphin	CWF	Delete DO ₁ Add DO ₄
		* * * * *		
2-Codorus Creek	Main Stem, Oil Creek to Mouth	York	WWF	None
		* * * * *		

§ 93.9p. Drainage List P.

Ohio River Basin in Pennsylvania
Allegheny River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1-Ohio River				
2-Allegheny River	Main Stem, Source to PA-NY State Border	McKean	CWF	None
		* * * * *		
3-Knapp Creek	Main Stem	McKean	CWF	None
		* * * * *		
3-Indian Creek	Main Stem, PA-NY State Border to Mouth	McKean	CWF	None
		* * * * *		
3-Tunungwant Creek	Main Stem, Confluence of East and West Branches to PA-NY State Border	McKean	WWF	None
		* * * * *		
3-Oswayo Creek	Main Stem, Source to Honeoye Creek	McKean	CWF	None
		* * * * *		
4-Honeoye Creek	Main Stem, PA-NY State Border to Mouth	Potter	CWF	None
		* * * * *		
3-Oswayo Creek	Main Stem, Honeoye Creek to PA-NY State Border	McKean	WWF	None
		* * * * *		

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
3-Tunungwant Creek	Main Stem, Confluence of East and West Branches to PA-NY State Border	McKean	WWF	None
		* * * * *		

§ 93.9q. Drainage List Q.

Ohio River Basin in Pennsylvania
Allegheny River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
		* * * * *		
2-Allegheny River	Main Stem, PA-NY State Border to Clarion River	Clarion	WWF	None
		* * * * *		
3-Brokenstraw Creek	Main Stem, PA-NY State Border to Mouth	Warren	CWF	None
		* * * * *		
3-Oil Creek	Main Stem, Source to Cherrytree Run	Venango	CWF	None
4-Unnamed Tributaries to Oil Creek	Basins, Source to Cherrytree Run	Crawford-Venango	CWF	None
4-West Shreve Run	Basin	Crawford	CWF	None
4-East Shreve Run	Basin	Crawford	CWF	None
4-Mosey Run	Basin	Crawford	CWF	None
4-Bloomfield Run	Basin	Crawford	CWF	None
4-East Branch Oil Creek	Basin	Crawford	CWF	None
4-Marsh Run	Basin	Crawford	CWF	None
4-Thompson Creek	Basin	Crawford	CWF	None
4-Church Run	Basin	Crawford	CWF	None
4-Pine Creek	Main Stem	Crawford	CWF	None
5-Unnamed Tributaries to Pine Creek	Basins	Warren-Crawford	CWF	None
5-Campbell Creek	Basin	Warren	CWF	None
5-Dunham Run	Basin	Warren	CWF	None
5-Caldwell Creek	Basin	Crawford	HQ-CWF	None
5-Henderson Run	Basin	Crawford	CWF	None
4-Benninghof Run	Basin	Venango	CWF	None
4-Cherrytree Run	Basin	Venango	CWF	None
3-Oil Creek	Main Stem, Cherrytree Run to Mouth	Venango	WWF	None
4-Unnamed Tributaries to Oil Creek	Basins, Cherrytree Run to Mouth	Venango	CWF	None

RULES AND REGULATIONS

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
4-Cherry Run	Basin, Source to Rouseville Corporate Boundary	Venango	HQ-CWF	None
4-Cherry Run	Basin, Rouseville Corporate Boundary to Mouth	Venango	CWF	None
4-Cornplanter Run	Basin	Venango	CWF	None
		* * * * *		
3-French Creek	Main Stem, PA-NY State Border to Mouth	Venango	WWF	None
		* * * * *		

§ 93.9r. Drainage List R.

Ohio River Basin in Pennsylvania
Clarion River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1-Ohio River				
2-Allegheny River				
3-Clarion River				
4-East Branch Clarion River	Basin, Source to Confluence with West Branch	Elk	HQ-CWF	None
4-West Branch Clarion River	Main Stem, Source to Confluence with East Branch	Elk	CWF	None
5-Unnamed Tributaries to West Branch Clarion River	Basins, Source to Confluence with East Branch	McKean-Elk	CWF	None
5-Windfall Run	Basin	McKean	CWF	None
5-Sicily Run	Basin	McKean	CWF	None
5-Buck Run	Basin	McKean	CWF	None
5-Rocky Run	Basin	Elk	CWF	None
5-Nearing Run	Basin	Elk	CWF	None
5-Wilson Run	Basin	Elk	CWF	None
5-Oil Creek	Basin	Elk	CWF	None
5-Wolf Run	Basin	Elk	HQ-CWF	None
5-Meffert Creek	Basin	Elk	CWF	None
5-Silver Creek	Basin	Elk	HQ-CWF	None
3-Clarion River	Main Stem, Confluence of East and West Branches to Mouth	Clarion	CWF	None
4-Unnamed Tributaries to Clarion River	Basins, Confluence of East and West Branches to Mouth	Elk- Forest-Jefferson-Clarion	CWF	None
4-Johnson Run	Basin	Elk	CWF	None
4-Powers Run	Basin	Elk	CWF	None
4-Riley Run	Basin	Elk	WWF	None
4-Little Mill Creek	Basin	Elk	HQ-CWF	None

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<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
4-Mason Creek	Basin	Elk	CWF	None
4-Island Run	Basin	Elk	CWF	None
4-Big Mill Creek	Basin	Elk	HQ-CWF	None
4-Connerville Run	Basin	Elk	CWF	None
4-Dog Hollow Run	Basin	Elk	CWF	None
4-Gillis Run	Basin	Elk	CWF	None
4-Little Toby Creek	Main Stem	Elk	CWF	None
5-Unnamed Tributaries to Little Toby Creek	Basins	Elk-Jefferson	CWF	None
5-Limestone Run	Basin	Elk	CWF	None
5-Kyler Run	Basin	Elk	CWF	None
5-McCauley Run	Basin	Elk	CWF	None
5-Sawmill Run	Main Stem	Elk	CWF	None
6-Unnamed Tributaries to Sawmill Run	Basins	Elk	CWF	None
6-Lost Run	Basin, Source to Fox Township Municipal Authority Dam	Elk	HQ-CWF	None
6-Lost Run	Basin, Fox Township Municipal Authority Dam to Mouth	Elk	CWF	None
5-Brandy Camp Creek	Basin	Elk	CWF	None
5-Johnson Run	Basin	Elk	CWF	None
5-Bear Run	Basin	Elk	CWF	None
5-Oyster Run	Basin	Elk	CWF	None
5-Mead Run	Basin	Elk	CWF	None
5-Boggy Run	Basin	Elk	HQ-CWF	None
5-Whetstone Branch	Basin, Source to Brockway Municipal Authority No. 1 Dam	Elk	HQ-CWF	None
5-Whetstone Branch	Basin, Brockway Municipal Authority No. 1 Dam to Mouth	Elk	CWF	None
5-Walburn Run	Basin	Jefferson	CWF	None
5-Rattlesnake Creek	Basin, Source to Brockway Municipal Authority Dam	Jefferson	HQ-CWF	None
5-Rattlesnake Creek	Basin, Brockway Municipal Authority Dam to Mouth	Jefferson	CWF	None
5-Baghdad Run	Basin	Jefferson	CWF	None
5-Jenkins Run	Basin	Jefferson	CWF	None
5-Little Vineyard Run	Basin	Jefferson	CWF	None
5-Vineyard Run	Basin	Jefferson	CWF	None
5-Coward Run	Basin	Elk	CWF	None
5-Laurel Run	Basin	Elk	CWF	None
5-Bearmouth Run	Basin	Elk	CWF	None
4-Bear Creek	Basin	Elk	HQ-CWF	None

RULES AND REGULATIONS

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
4-Mahood Run	Basin	Elk	CWF	None
4-Beech Bottom Run	Basin	Elk	CWF	None
4-Lake City Run	Basin	Elk	CWF	None
4-Cole Run	Main Stem	Elk	CWF	None
5-Unnamed Tributaries to Cole Run	Basins	Elk	CWF	None
5-Crow Run	Basin	Elk	HQ-CWF	None
4-Irwin Run	Basin	Elk	CWF	None
4-Spring Creek	Basin	Elk	HQ-CWF	None
4-Maxwell Run	Basin	Elk	HQ-CWF	None
4-Elliott Run	Basin	Elk	CWF	None
4-Daugherty Run	Basin	Jefferson	CWF	None
4-Raught Run	Basin	Elk	CWF	None
4-Painter Run	Basin	Elk	CWF	None
4-Church Run	Basin	Elk	CWF	None
4-Callen Run	Basin	Jefferson	HQ-CWF	None
4-Cline Run	Basin	Elk	CWF	None
4-Wyncoop Run	Basin	Elk	HQ-CWF	None
4-Leeper Run	Basin	Elk	CWF	None
4-Pine Run	Basin	Elk	CWF	None
4-Mill Stone Creek	Basin	Elk	HQ-CWF	None
4-Shippen Run	Basin	Forest	CWF	None
4-Clear Creek	Basin	Jefferson	HQ-CWF	None
4-Tadler Run	Basin	Jefferson	CWF	None
4-Cherry Run	Basin	Forest	HQ-CWF	None
4-Maple Creek	Basin	Forest	HQ-CWF	None
4-Coleman Run	Basin	Forest	HQ-CWF	None
4-Troutman Run	Basin	Forest	HQ-CWF	None
4-Henry Run	Basin	Forest	CWF	None
4-Toms Run	Basin	Forest	CWF	None
4-Cather Run	Basin	Clarion	HQ-CWF	None
4-Maxwell Run	Basin	Clarion	HQ-CWF	None
4-Blyson Run	Basin	Clarion	EV	None
4-Mill Creek	Main Stem, Source to Little Mill Creek	Clarion	HQ-CWF	None
5-Unnamed Tributaries to Mill Creek	Basins, Source to Little Mill Creek	Clarion-Jefferson	HQ-CWF	None
4-Mill Creek				
5-Parks Run	Basin	Jefferson	HQ-CWF	None
5-Martin Run	Basin	Jefferson	HQ-CWF	None
5-Rankin Run	Basin	Jefferson	HQ-CWF	None
5-Updike Run	Basin	Jefferson	HQ-CWF	None
5-McCanna Run (Pendleton Run)	Basin	Clarion	EV	None
5-Little Mill Creek	Basin	Clarion	CWF	None

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
4-Mill Creek	Main Stem, Little Mill Creek to Mouth	Clarion	CWF	None
5-Unnamed Tributaries to Mill Creek	Basins, Little Mill Creek to Mouth	Clarion	HQ-CWF	None
5-Douglass Run	Basin	Clarion	CWF	None
5-Woods Run	Basin	Clarion	HQ-CWF	None
5-Stroup Run	Basin	Clarion	HQ-CWF	None
5-Trap Run	Basin	Clarion	HQ-CWF	None
5-Whites Run	Basin	Clarion	CWF	None
4-Reeds Run	Basin	Clarion	CWF	None
4-Toby Creek	Basin	Clarion	CWF	None
4-Trout Run	Basin	Clarion	CWF	None
4-Courtleys Run	Basin	Clarion	CWF	None
4-Piney Creek	Basin	Clarion	CWF	None
4-Deer Creek	Basin	Clarion	CWF	None
4-Canoe Creek	Basin	Clarion	HQ-CWF	None
4-Beaver Creek	Basin	Clarion	HQ-CWF	None
4-Licking Creek	Basin	Clarion	CWF	None
4-Turkey Creek	Basin	Clarion	HQ-CWF	None

§ 93.9u. Drainage List U.

**Ohio River Basin in Pennsylvania
Allegheny River**

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1-Ohio River				
2-Allegheny River	Main Stem, Kiskiminetas River to Confluence with Monongahela River	Allegheny	WWF; Add N	None
		* * * * *		
3-Unnamed Tributaries to Allegheny River	Basins, Plum Creek to Confluence with Monongahela River	Allegheny	WWF; Delete PWS	None
3-Powers Run	Basin	Allegheny	WWF; Delete PWS	None
3-Indian Creek	Basin	Allegheny	WWF; Delete PWS	None
3-Quigley Creek	Basin	Allegheny	WWF; Delete PWS	None
3-Sandy Creek	Basin	Allegheny	WWF; Delete PWS	None
3-Squaw Run	Basin	Allegheny	HQ-WWF; Delete PWS	None
3-Shades Run	Basin	Allegheny	WWF; Delete PWS	None
3-Guyasuta Run	Basin, Source to PA 28	Allegheny	HQ-WWF; Delete PWS	None
3-Guyasuta Run	Basin, PA 28 to Mouth	Allegheny	WWF; Delete PWS	None

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
3-Pine Creek	Basin, Source to North Park Lake Dam	Allegheny	CWF	None
3-Pine Creek	Basin, North Park Lake Dam to Mouth	Allegheny	TSF	None
3-Girtys Run	Basin	Allegheny	WWF; <i>Delete PWS</i>	None

§ 93.9v. Drainage List V.

Ohio River Basin in Pennsylvania
Monongahela River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1-Ohio River				
2-Monongahela River (WV)				
3-Unnamed Tributaries to Monongahela River	Basins (all sections in PA), Source to PA-WV State Border	Greene-Fayette	WWF	None
2-Monongahela River	Main Stem, PA-WV State Border to Confluence with Allegheny River	Allegheny	WWF; <i>Add N</i>	None
	* * * * *			
3-Unnamed Tributaries to Monongahela River	Basins, Youghiogheny River to Mouth	Allegheny	WWF; <i>Delete PWS</i>	None
3-Crooked Run	Basin	Allegheny	WWF; <i>Delete PWS</i>	None
3-Thompson Run	Basin	Allegheny	WWF; <i>Delete PWS</i>	None
3-Turtle Creek	Main Stem, Source to Brush Creek	Allegheny	TSF; <i>Delete PWS</i>	None
4-Unnamed Tributaries to Turtle Creek	Basins, Source to Brush Creek	Westmoreland-Allegheny	TSF; <i>Delete PWS</i>	None
4-Steels Run	Basin	Westmoreland	HQ-CWF <i>Delete PWS</i>	None
4-Haymakers Run	Basin	Westmoreland	HQ-CWF <i>Delete PWS</i>	None
4-Abers Creek	Basin	Allegheny	TSF; <i>Delete PWS</i>	None
4-Lyons Run	Basin	Westmoreland	TSF; <i>Delete PWS</i>	None
4-Simpson Run	Basin	Allegheny	TSF; <i>Delete PWS</i>	None
4-Brush Creek	Basin	Allegheny	TSF; <i>Delete PWS</i>	None
3-Turtle Creek	Main Stem, Brush Creek to Mouth	Allegheny	WWF; <i>Delete PWS</i>	None
4-Unnamed Tributaries to Turtle Creek	Basins, Brush Creek to Mouth	Allegheny	WWF; <i>Delete PWS</i>	None
4-Thompson Run	Basin	Allegheny	WWF; <i>Delete PWS</i>	None

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
3-Homestead Run	Basin	Allegheny	WWF; Delete PWS	None
3-Ninemile Run	Basin	Allegheny	TSF; Delete PWS	None
3-West Run	Basin	Allegheny	WWF; Delete PWS	None
3-Streets Run	Basin	Allegheny	WWF; Delete PWS	None

§ 93.9w. Drainage List W.

Ohio River Basin in Pennsylvania
Ohio River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1-Ohio River	Main Stem, Confluence of Allegheny and Monongahela Rivers to PA-OH State Border	Beaver	WWF; Add N	See Orsanco Pollution Control Standards
		* * * * *		
3-Mahoning River	Main Stem, PA-OH State Border to Confluence with Shenango River	Lawrence	WWF	None
		* * * * *		
3-Shenango River	Main Stem (all sections in PA), Pymatuning Reservoir	Crawford	WWF	None
		* * * * *		
3-Shenango River	Main Stem, Pymatuning Reservoir Dam to Shenango Reservoir Dam	Mercer	WWF	None
		* * * * *		
3-Shenango River	Main Stem, Shenango Reservoir Dam to Point 1.0 River Mile Downstream	Mercer	TSF	None
		* * * * *		
4-Unnamed Tributaries to Shenango River	Basins, Shenango Reservoir Dam to Point 1.0 River Mile Downstream	Mercer	CWF	None
		* * * * *		
3-Shenango River	Main Stem (all sections in PA), 1.0 River Mile Downstream of Shenango Reservoir Dam to Confluence with Mahoning River	Lawrence	WWF	None
		* * * * *		

RULES AND REGULATIONS

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
2-Beaver River	Main Stem, Confluence of Mahoning and Shenango Rivers to Mouth	Beaver	WWF, Add N	None
		* * * * *		

§ 93.9x. Drainage List X.

Lake Erie

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
1-Lake Erie	All sections of lake in PA except Outer Erie Harbor and Presque Isle Bay	Erie	CWF	Delete Fe, pH1, DO1 and Bac1 See GLWQA
1-Lake Erie (Outer Erie Harbor and Presque Isle Bay)	Portion of lake bordered by Presque Isle on west, longitude 80° 10' 18" on north, except harbor area and central channel dredged and maintained by United States Army Corps of Engineers.	Erie	WWF	Delete pH Add pH between 7 and 9
1-Lake Erie (Outer Erie Harbor and Presque Isle Bay)	Harbor area and central channel dredged and maintained by United States Army Corps of Engineers	Erie	WWF, Delete WC	Delete pH and Bac1 Add pH between 7 and 9, Bac2
		* * * * *		

§ 93.9y. Drainage List Y.

Lake Ontario Basin in Pennsylvania

Genesee River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
		* * * * *		

§ 93.9z. Drainage List Z.

Potomac River Basin in Pennsylvania

Potomac River

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
		* * * * *		
3-East Branch Antietam Creek	Main Stem, Vineyard Run to Confluence with West Branch	Franklin	CWF	None

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
4-Unnamed Tributaries to East Branch Antietam Creek	Basins (all sections in PA) Vineyard Run to Confluence with West Branch	Franklin	CWF	None
4-Deer Lick Run	Basin	Franklin	CWF	None
4-Biesecker Run	Basin	Franklin	CWF	None
4-Red Run	Main Stem	Franklin	CWF	None
5-Unnamed Tributaries to Red Run	Basins (all sections in PA)	Franklin	CWF	None
5-Devils Run	Basin	Franklin	CWF	None
5-Mackey Run	Basin	Franklin	CWF	None
5-Falls Creek	Basin (all sections in PA)	Franklin	WWF	None
3-West Branch Antietam Creek	Basin, Source to Confluence with East Branch	Franklin	CWF	None
2-Antietam Creek	Basin, Confluence of East and West Branches to PA-MD State Border	Franklin	WWF	None
2-Antietam Creek (MD)				
3-Unnamed Tributaries to Antietam Creek	Basins (all sections in PA), PA-MD State Border to Mouth	Franklin	WWF	None

* * * * *

CHAPTER 95. WASTEWATER TREATMENT REQUIREMENTS

§ 95.1. (Reserved).

§ 95.2. Quality standards and oil-bearing wastewaters.

Industrial waste shall meet the following quality standards:

(1) There may be no discharge of wastes which are acid.

(2) Wastes shall have a pH of not less than 6 and not greater than 9, except where:

(i) The wastes are discharged to an acid stream, in which case the pH may be greater than 9.

(ii) The discharger affirmatively demonstrates, in writing, to the Department that biological respiration in the wastewater treatment system will cause the discharge to exceed the limits in this paragraph and that exceeding these limits will not result in a violation of applicable water quality standards or of the applicable treatment requirements and effluent limitations to which a discharge is subject under the Federal Act, in which case the Department may grant a variance, in writing, from the limitation set forth in this paragraph.

(3) Oil-bearing wastewaters, except those subject to paragraph (4), shall comply with all of the following:

(i) At no time cause a film or sheen upon or discoloration of the waters of this Commonwealth or adjoining shoreline.

(ii) At no time contain more than 15 milligrams of oil per liter as a daily average value nor more than 30 milligrams of oil per liter at any time, or whatever lesser amount the Department may specify for a given discharge or type of discharge as being necessary for the proper protection of the public interest or to meet any requirements based upon the State Act or the Federal Act, as defined in § 92.1 (relating to definitions).

(4) Petroleum marketing terminals shall:

(i) Be provided with facilities to remove oil from waters, including stormwater runoff, before discharge into waters of this Commonwealth. Compliance with this paragraph shall constitute compliance with paragraph (3)(i) except to the extent that the State Act or Federal Act or regulations promulgated thereunder impose a more stringent requirement.

(ii) Develop, implement and keep up to date pollution incident prevention plans as described in § 91.34 (relating to activities utilizing pollutants).

(iii) Design, maintain and utilize oil removal facilities that consist of an American Petroleum Institute (A.P.I.) listed oil separator, unless the person operating the facility can demonstrate to the Department that an alternate design is equivalent or better in removing oil from water to maintain and protect the waters of this Commonwealth, including all existing and designated uses established under to Chapter 93 (relating to water quality standards).

(5) Waste may not contain more than 7 milligrams per liter of dissolved iron.

(6) When surface waters are used in the industrial plant, the quality of the effluent need not exceed the quality of the raw water supply if the source or supply would normally drain to the point of effluent discharge, unless otherwise required under the State Act or Federal Act or regulations promulgated thereunder.

§ 95.3. (Reserved).

§§ 95.6– 95.9. (Reserved).

**CHAPTER 96. WATER QUALITY STANDARDS
IMPLEMENTATION**

Sec.	Definitions.
96.1.	Definitions.
96.2.	Purpose.
96.3.	Water quality protection requirements.
96.4.	TDMLs and WQBELs.
96.5.	Nutrient discharges.
96.6.	Heated wastewater discharges.
96.7.	Public participation.

§ 96.1. Definitions.

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

Concentration—The amount of a substance, expressed in mass units, in a unit volume of water or wastewater.

Conservative substance—A pollutant that undergoes no or minimal transformation or decay in a water system, except by dilution.

Cumulative loading—The sum of pollutant loadings from individual pollutant sources.

Factor of safety—A margin to take into account uncertainty concerning the relationships between effluent limitations and water quality.

Harmonic mean flow—The flow that is determined by taking the reciprocal of the arithmetic mean of reciprocals of daily flow values.

LA— Load allocation—The portion of a surface water's loading capacity that is assigned or allocated to existing and future nonpoint sources and natural quality.

Lake, pond or impoundment—A surface water with a hydraulic residence time of 14 days or more based on average annual daily stream flow. Residence time shall be determined at average annual daily stream flow and normal pool volume. In the absence of actual records, an average annual daily discharge rate of 1.5 CFS per square mile shall be used.

Loading capacity—The greatest amount of loading that a surface water can receive without violating a water quality standard.

Margin of safety—The portion of a surface water's loading capacity that is set aside to account for uncertainty about the relationship between pollutant loadings and resulting surface water quality, including any uncertainty or imprecision in mathematical models used to determine these relationships. For nonconservative substances, any imprecision or uncertainty concerning the mechanisms by which the substance decays or is transformed shall be considered.

Mass load—The pollutant loading expressed in units of mass per unit time.

NPDES or National Pollutant Discharge Elimination System Permit—A permit issued under Chapter 92 (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance) for the discharge or potential discharge of pollutants from a point source to surface waters.

Natural quality—The water quality conditions that exist or that would reasonably be expected to exist in the absence of human related activity.

Nonconservative substance—A pollutant whose concentration in the water column changes as a result of volatilization, photolysis, hydrolysis, biodegradation, transformation, or other processes, except dilution.

Nonpoint source—A pollutant source which is not a point source discharge.

Nonpoint source restoration plan—A nonpoint source management plan which describes needed actions to restore and improve water quality in a watershed or stream.

Point source discharge—A pollutant source regulated under the NPDES permit system as defined in § 92.1 (relating to definitions).

Pollutant—Any contaminant or other alteration of the physical, chemical, biological, or radiological integrity of surface water which causes or has the potential to cause pollution as defined in section 1 of The Clean Streams Law (35 P. S. § 691.1).

Potable water supply—A water source that is used by humans after conventional treatment for drinking, culinary and other purposes such as inclusion in food products.

Q7-10 flow—The actual or estimated lowest 7 consecutive-day average flow that occurs once in 10 years for a stream with unregulated flow, or the estimated minimum flow for a stream with regulated flow.

Q30-10 flow—The actual or estimated lowest 30 consecutive-day average flow that occurs once in 10 years for a stream with unregulated flow, or the estimated 30 day average minimum flow for a stream with regulated flow.

Reserve factor—A portion of the effluent flow held to provide for projected future wasteloads.

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

TMDL— Total maximum daily load—The sum of individual waste load allocations for point sources, load allocations for nonpoint sources and natural quality and a margin of safety expressed in terms of mass per time, toxicity or other appropriate measures.

WLA— Wasteload allocation—The portion of a surface water's loading capacity that is allocated to existing and future point source discharges.

WQBEL— Water quality based effluent limitation—An effluent limitation based on the need to attain or maintain the water quality criteria and to assure protection of existing and designated uses.

Water quality criteria duration—The averaging period associated with a water quality criterion.

Water quality standards—The combination of water uses to be protected and the water quality criteria necessary to protect those uses.

Wetlands—Areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circum-

stances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

§ 96.2. Purpose.

The purpose of this chapter is to establish the process for achieving and maintaining water quality standards.

§ 96.3. Water quality protection requirements.

(a) Existing and designated surface water uses shall be protected.

(b) Antidegradation requirements in §§ 93.4a—93.4d and 105.1, 105.15, 105.17, 105.18a, 105.20a and 105.451 shall apply to surface waters.

(c) To protect existing and designated surface water uses, the water quality criteria described in Chapter 93 (relating to water quality standards), including the criteria in §§ 93.7 and 93.8a(b) (relating to specific water quality criteria; and toxic substances) shall be achieved in all surface waters at least 99% of the time, unless otherwise specified in this title. The general water quality criteria in § 93.6 (relating to general water quality criteria) shall be achieved in surface waters at all times at design conditions.

(d) As an exception to subsection (c), the water quality criteria for total dissolved solids, nitrite-nitrate nitrogen, phenolics and fluoride established for the protection of potable water supply shall be met at least 99% of the time at the point of all existing or planned surface potable water supply withdrawals unless otherwise specified in this title.

(e) When a water quality criterion described in Chapter 93, including the criteria in §§ 93.7 and 93.8a(b), cannot be attained at least 99% of the time due to natural quality, as determined by the Department under § 93.7(d) based on water quality observations in that waterbody or at one or more reference stations of similar physical characteristics to the surface water, the natural quality that is achieved at least 99% of the time shall be the applicable water quality criterion for protection of fish and aquatic life.

(f) When the minimum flow of a stream segment is determined or estimated to be zero, applicable water quality criteria shall be achieved at least 99% of the time at the first downstream point where the stream is capable of supporting existing or designated uses.

(g) Functions and values of wetlands shall be protected pursuant to Chapters 93 and 105 (relating to water quality standards; and dam safety and waterway management).

§ 96.4. TMDLs and WQBELs

(a) The Department will identify surface waters or portions thereof that require the development of TMDLs, prioritize these surface waters for TMDL development, and then develop TMDLs for these waters.

(b) The Department will develop WQBELs for point source discharges using applicable procedures described in this chapter when the Department determines that water quality protection requirements specified in § 96.3 (relating to water quality protection requirements) are or would be violated after the imposition of applicable technology based limitations required under sections 301(b), 306, 307 or other sections of the Federal Clean Water Act (33 U.S.C.A. §§ 1311(b), 1316 and 1317) and The Clean Streams Law (35 P. S. §§ 691.1—691.1001) to the point source.

(c) TMDLs and WQBELs shall be developed to meet the requirements of § 96.3.

(d) WLAs developed in accordance with this chapter shall serve as the basis for the determination of WQBELs for point source discharges regulated under Chapter 92 (relating to National Pollutant Discharge Elimination System). When LAs are developed in accordance with this chapter, they shall serve as the basis for the development of nonpoint source restoration plans.

(e) In developing TMDLs and WQBELs, the Department will:

(1) As appropriate consider, relevant design factors, including, but not limited to: water quality criteria duration, flow duration and frequency, natural seasonal variability in water temperature, the natural variability of pH and hardness, the physical characteristics of a watershed, reserve factors, factors of safety and pollutant contributions from other sources.

(2) Treat all pollutants as conservative unless it finds based on scientifically valid information that the substance is not conservative and adequate information is available to characterize the substance's fate or transformation, or both.

(f) The allocation procedure is as follows:

(1) WLAs, LAs and effluent limitations assigned or allocated to individual pollutant sources shall be the more stringent of the following:

(i) The pollutant loading authorized to be discharged under applicable technology-based requirements.

(ii) Where applicable, the pollutant loading determined under §§ 96.5 and 96.6 (relating to nutrient discharges; and heated wastewater discharges).

(iii) The pollutant loading that will achieve the water quality protection requirements specified in § 96.3.

(2) WLAs, LAs and effluent limitations shall be made more stringent if the cumulative loading determined after the application of paragraph (1) does not meet the requirements of § 96.3.

(g) Mathematical modeling at the design flow conditions listed in Table 1 shall be used as applicable to develop TMDLs and WQBELs for point source discharges.

TABLE 1

<i>Water Quality Criteria</i>	<i>Steady State Design Flow</i>
Fish and Aquatic Life, Except Ammonia-Nitrogen	Q ₇₋₁₀
Ammonia-Nitrogen	Q ₃₀₋₁₀
Threshold Human Health	Q ₇₋₁₀
Nonthreshold Human Health (Carcinogens)	Harmonic Mean Flow

The LA portion of the TMDL will be allotted to nonpoint source pollutant loadings and natural quality.

(h) The Department will revise WLAs and LAs because of new or increased pollutant loadings. WLAs shall be revised at or before the expiration date of the current point source discharge permit term.

(i) The Department may require NPDES dischargers and other persons subject to regulation under The Clean Streams Law (35 P. S. §§ 691.1—691.1001) to conduct appropriate monitoring of pollutant sources and waters and report the results and data, to obtain data needed to develop TMDLs and effluent limitations and to determine their effectiveness.

§ 96.5. Nutrient discharges.

(a) Whenever technically and financially feasible, and environmentally sound, land disposal of wastewater shall be used on a continuous or seasonal basis to prevent or minimize to the maximum extent practicable the discharge of nutrients to surface waters, including tributaries thereof, that are determined to be either threatened or impaired by nutrient enrichment.

(b) When necessary to control eutrophication in a lake, pond, or other impoundment, the Department will develop a TMDL and associated WLAS and LAS based on average annual loading estimates.

(c) When it is determined that the discharge of phosphorus, alone or in combination with the discharge of other pollutants, contributes or threatens to impair existing or designated uses in a free flowing surface water, phosphorus discharges from point source discharges shall be limited to an average monthly concentration of 2 mg/l. More stringent controls on point source discharges may be imposed, or may be otherwise adjusted as a result of a TMDL which has been developed.

§ 96.6. Heated wastewater discharges.

(a) WLAs established for the discharge of heated wastewater shall comply with applicable State and Federal requirements.

(b) Heated wastewater discharges may not cause a change of surface water temperature of more than 2°F during any 1-hour period.

(c) In addition to subsection (b), the allowable heat content of heated wastewater discharges shall be limited to one of the following:

(1) A calculated amount that will raise the temperature of the receiving surface water to no more than the applicable criteria specified in § 93.7 (relating to specific water quality criteria).

(2) An amount based on an evaluation conducted in accordance with section 316(a) of the Federal Clean Water Act (33 U.S.C.A. § 1326(a)).

§ 96.7. Public participation.

(a) The Department will publish a notice in the *Pennsylvania Bulletin* of the availability of draft and final lists of surface waters requiring TMDLs under § 96.4(a) (relating to TMDLs and WQBELs). The notice of the draft list shall set forth a minimum 30-day public comment period.

(b) The Department will publish a notice in the *Pennsylvania Bulletin* of the availability of any draft and final TMDL prepared under this chapter. Draft TMDL notices shall be subject to a minimum 30-day comment period. The Department may hold a public hearing on a draft TMDL if there is significant public interest. When the TMDL is prepared concurrent with or as part of an NPDES permit application, the notice may be included in the notice of permit application prepared under § 92.61 (relating to public notice of permit application and public hearing).

CHAPTER 97. (Reserved)**§ 97.1. (Reserved).****§ 97.2. (Reserved).****§ 97.14. (Reserved).****§ 97.15. (Reserved).****§ 97.63. (Reserved).****§§ 97.81—97.83. (Reserved).****§§ 97.91—97.95. (Reserved).**

[Pa.B. Doc. No. 00-2027. Filed for public inspection November 17, 2000, 9:00 a.m.]

STATEMENTS OF POLICY

Title 25—ENVIRONMENTAL PROTECTION

DEPARTMENT OF ENVIRONMENTAL PROTECTION

[25 PA. CODE CH. 16]

Water Quality Toxics Management Strategy

The Department of Environmental Protection (Department) is amending Chapter 16 (relating to Water Quality Toxics Management Strategy—Statement of Policy). These proposed amendments were developed by the Department as part of the Regulatory Basics Initiative (RBI) and compliment the comprehensive review and revision of water quality management regulations Chapters 92, 93 and 95 (relating to National Pollutant Discharge Elimination System; water quality standards; and wastewater treatment requirements) and the addition of new Chapter 96 (relating to water quality standards implementation).

Effective Date

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

Contact Person

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

Statutory Authority

These amendments are made under the authority of the following acts: sections 5(b)(1) and 402 of The Clean Streams Law (35 P. S. §§ 691.5(b)(1) and 691.402); and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which grant to the Environmental Quality Board (Board) the authority to develop and adopt rules and regulations to implement the provisions of The Clean Streams Law. The Commonwealth's Water Quality Standards at Chapter 93 implement the provisions of these acts. Chapter 16 is a water quality policy for regulating toxic pollutants. It sets the guidelines for development of criteria for toxic substances, and lists the water quality criteria and the analytical methods and detection limits for toxic substances. Chapter 16 is directly referenced as a support policy document in the Department's toxic substances regulation in § 93.8a (relating to toxic substances).

Background and Summary

These final amendments revise the water quality management statement of policy as part of Governor Ridge's Regulatory Basics Initiative (RBI). The RBI is a multistep process to evaluate regulations and guidances considering several factors including whether requirements: are more stringent than Federal regulations without good reason;

impose economic costs disproportionate to the environmental benefit; are prescriptive rather than performance-based; inhibit green technology and pollution prevention strategies; are obsolete or redundant; lack clarity; or are written in a way that causes significant noncompliance.

These revisions streamline and clarify requirements, update the policy to be consistent with Federal requirements, and preserve Pennsylvania-specific requirements to serve our citizens. These amendments may affect persons who discharge wastewater into surface waters of the Commonwealth, or otherwise conduct activities which may impact the waters.

The Air and Water Quality Technical Advisory Committee (AWQTAC) and its successor committee, the Water Resources Advisory Committee (WRAC) provided input on the proposed amendments. The proposal was published at 28 Pa.B. 4289 (August 29, 1998) with provisions for a 60-day public comment period and three public hearings. The public comment period concluded on October 28, 1998. In response to the public comments received on the proposal, the Department revised the proposal in the form of an Advance Notice of Final Rulemaking (ANFR) proposal. Notice of the availability of the ANFR appeared at 29 Pa.B. 4872 (September 18, 1999) with provisions for a public comment period open until November 17, 1999, and three public meetings/hearings. The Department received approximately 1,500 public comments on the ANFR, which addressed both the regulations and this statement of policy.

The comments received on the proposal and on the draft final amendments are summarized in Section E of this Preamble.

The Department considered all of the public comments received on both its proposal and the ANFR in preparing this final statement of policy. The draft final amendments were discussed with and approved by WRAC on March 8, 2000. WRAC also submitted minutes of their meeting to document their comments. The valuable input from the public and the collective knowledge and experience drawn from advisory committees and others on these proposals has been utilized to develop a regulation which carefully balances the needs of citizens and the regulated community in assuring the protection of the Commonwealth's waters.

Summary of Comments and Responses on the Proposed Amendments and the ANFR

The statement of policy contain changes from the proposal in the following major areas:

General—Many comments objected that the proposal weakened water quality protection in the Commonwealth and that the comment period was insufficient to address the wide scope of changes. In response, the Department prepared an ANFR and offered an additional comment period and a series of three public informational meetings and public hearings. The ANFR reinstated 75 aquatic life criteria in Chapter 16, in response to the specific concern about weakening protection by proposing to eliminate the criteria.

§ 16.11. Toxic substances.

In response to a comment that proposed deletions to this section provided valuable background information, the language has been reinstated.

§ 16.21. Acute and chronic protection.

Comments suggested updating language of this section and in response, language relating to aquatic life protection in the title and text is revised to clarify that "acute and chronic protection" is used in place of "long and short term concepts." Additional minor language changes reflect amendments to Chapter 96.

§ 16.22. Criteria development.

In response to extensive public comments, the Department has deleted the discussion of, and the methodology for development of guidance values in the final changes. There is a revised description that the Department will develop criteria in the cases where EPA has not developed water quality criteria and when there are adequate data to comply with the National guidance requirements for developing water quality criteria.

§ 16.24. Metals Criteria.

A comment that asked for more detail on development of water effect ratios did not result in any changes to the section.

§ 16.32. Threshold level toxic effects.

A comment requested, and the language of this section is amended, to allow for the use of teratology and other sources of data in criteria development that may become available in the future. The language also states that the Department will develop criteria when data become available for substances identified or *expected* in a discharge, as noted by commentators.

§ 16.33. Nonthreshold effects (cancer).

In the final amendments to Chapter 16, no changes are made to the proposed changes to this section. The proposed changes are carried over as final amendments.

§ 16.51. Human health and aquatic life criteria.

In response to a comment that water quality criteria are used for other purposes than included, the uses of criteria are amended to be for NPDES effluent limitations and other purposes. Subsection (b) is amended to limit the use of natural quality in place of criteria for aquatic life criteria, because a comment pointed out that natural quality cannot be used for human health protection.

§ 16.52. Whole effluent toxicity testing (WETT).

Subsection (b) is not needed because of the elimination of guidance values. Therefore, the proposed subsection (b) is not adopted as a change to existing § 16.52.

§ 16.61. Special Provisions for the Great Lakes System (Table).

Although inadvertently missed in the proposal and ANFR, amendments were made to the table in § 16.61 (relating to Great Lakes System) containing the Great Lakes Aquatic Life and Human Health Criteria. In response to EPA comments on the GLI adopted by the Department and published in the *Pennsylvania Bulletin* of December 28, 1998, the Department had committed to the Environmental Protection Agency (EPA) to change those criteria less stringent than the GLI. The final amendments to Chapter 16 include adding criteria for the parameter Chromium III and modifying the human health criteria for several of the listed parameters. The human health criteria revisions include changing to two significant figures for criteria expression and deletion of taste and odor criteria. These changes directly parallel the changes made in Table 1 for the Statewide criteria. A typographical error in the criterion for PCBs had listed it

as 3 E-6 ug/L. The one in one million cancer risk criterion is 3.9 E-7 ug/L, as reflected in the amended table.

§ 16.102. Approved EPA Analytical Methods and Detection Limits.

The reference to Standard Methods is updated and, in response to a comment that suggested clarifying the language of paragraph, (ii), the commentator's language is used to replace the previous wording.

Appendix A. Table 1

To respond to many public comments, the aquatic life criteria for 75 substances that had been proposed for use as "guidance values" have been reinstated as criteria. In addition, in response to the EPA's comments, several criteria for human health and aquatic life protection are amended to reflect the most recent scientific data and the EPA's recommended criteria. Criteria changes are made for the following substances: arsenic, chromium III, copper, mercury, nickel, selenium, zinc, pentachlorophenol, isophorone, gamma-BHC (Lindane), dieldrin, endosulfan sulfate, endrin, endrin aldehyde, and heptachlor epoxide.

The EPA's human health criteria for copper, selenium and zinc are not adopted. Pennsylvania deleted these criteria on the EPA's recommendation in the National Toxics Rule (1992). Although requested, the EPA has given no new data or cogent explanation of why they reversed that decision in the publication of recommended criteria in 63 *Fed. Reg.* 68354 (December 10, 1998). We again requested that the EPA explain the reasons for this change so that we may evaluate the validity of the criteria.

There is no data in the EPA's Integrated Risk Information System (IRIS) that supports the criterion the EPA suggests for 1,2-dichloropropane, and it is, therefore, not adopted.

The EPA adopted a new health criterion for 1,2-dichlorobenzene based on new data in IRIS, but continued to recommend health criteria for 1,3 and 1,4-dichlorobenzene based on the previous (1980) criterion for 1,2-dichlorobenzene. We requested that the EPA explain the rationale behind these seemingly contradictory criteria. Pennsylvania's health criteria for these compounds are based on the new data in IRIS.

Several other human health criteria are made equal to the EPA's recommendations by rounding to 2 significant figures.

Table 2. Approved EPA analytical methods and detection limits.

Table 2 had been proposed to be renumbered as Table 3 because a new Table 2 was proposed for "Guidance Values." The proposed Guidance Values are reinserted in Table 1 as criteria. Accordingly, in the final amendments, the "Approved EPA Analytical Methods and Detection Limits" revert to Table 2.

A comment correctly noted that the proposal replaced the units of measurement as mg/L; this has been corrected to ug/L. In addition, the detection level for chrysene using method 625 is corrected from 5.3 ug/L to 2.5 ug/L, as also noted in a comment.

The Department has prepared Comment and Response documents for the proposed amendments and the ANFR changes. Copies are available from the Division of Water Quality Assessment and Standards at the address in the "Contact Persons" section of this preamble.

JAMES M. SEIF,
Secretary

(Effective Date: The amendments to this chapter take effect upon publication as final in the *Pennsylvania Bulletin*.)

(Editor's Note: The regulations of the Department, 25 Pa. Code Chapter 16, are amended by amending §§ 16.1, 16.11, 16.21—16.24, 16.32, 16.33, 16.41, 16.51, 16.52, 16.61, 16.102 and Appendix A and be deleting § 16.42 to read as set forth in Annex A, with ellipses referring to the existing text.)

Fiscal Note: 7-509. No fiscal impact; (8) recommends adoption. This Statement of Policy (SOP) is being revised as part of the Governor's Regulatory Basics Initiative (RBI) in order to streamline, clarify and consolidate the Department of Environmental Protection's policies and regulations to more closely mirror Federal requirements. The SOP is scheduled to be published concurrently with Final Regulation 7-388.

Annex A

TITLE 25. ENVIRONMENTAL PROTECTION

PART I. DEPARTMENT OF ENVIRONMENTAL PROTECTION

Subpart A. PRELIMINARY PROVISIONS

ARTICLE II. STATEMENTS OF POLICY

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

Subchapter A. GUIDELINES FOR DEVELOPMENT OF CRITERIA FOR TOXIC SUBSTANCES AND WATER QUALITY CRITERIA FOR TOXIC SUBSTANCES

INTRODUCTION

§ 16.1. General.

Water quality criteria are the numeric concentrations, levels or surface water conditions that need to be maintained or attained to protect existing and designated uses. They are designed to protect the water uses listed in Chapter 93 (relating to water quality standards). The most sensitive of these protected uses are generally water supply, recreation and fish consumption, and aquatic life related. Therefore, criteria designed to protect these uses will normally protect the other uses listed in Chapter 93. This chapter specifies guidelines and procedures for development of criteria for toxic substances and also lists those criteria which have been developed.

DISCUSSION

§ 16.11. Toxic substances.

(a) These guidelines cover the Federal Clean Water Act section 307(a) priority pollutants and other toxic substances which the Department determines to be of concern due to their verified presence in wastewater discharges. Priority pollutants are the primary focus of concern because the EPA has determined them to be the most commonly used, persistent and toxic substances in wastewater discharges. They include many heavy metals and solvents.

(b) In November 1980, the EPA published criteria for protection of human health and aquatic life for 104 of the 129 priority pollutants. (There are currently 126 priority pollutants since three have subsequently been deleted.) These criteria were developed in accordance with National guidelines summarized in 45 FR 79318 (1980). In several instances, the EPA has updated the criteria or issued new criteria based upon new data. The Department's procedures for establishing criteria for aquatic life and human health protection for priority pollutants, and other toxics of concern are discussed in this subchapter.

GUIDELINES FOR DEVELOPMENT OF AQUATIC LIFE CRITERIA

§ 16.21. Acute and chronic protection.

To provide for protection of aquatic life, it is necessary to consider both chronic, that is, long-term (reproduction, growth, survival) and acute or short-term (survival) concepts. Aquatic life can generally survive excursions of elevated concentrations of a pollutant as long as the excursion is of relatively short duration and does not frequently recur. However, to provide protection over a lifetime, a lower concentration shall be maintained. Thus, each aquatic life criterion consists of two components. The EPA defines these as a criterion maximum concentration (CMC) for acute protection and a criterion continuous concentration (CCC) for chronic protection. Each component is further defined in terms of magnitude (a scientifically derived number), duration (the period of time over which the number must be achieved), and the maximum desired frequency (the number of repetitions per unit time) of occurrence. Consistent with this approach, the Department whenever possible develops acute and chronic criteria and specifies the applicable magnitude and duration. The frequency of occurrence is accounted for through the specification of factors appropriate to the criteria in Chapter 96 (relating to water quality standards implementation).

§ 16.22. Criteria development.

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

(1) For those toxics for which the EPA has developed criteria in accordance with the National guidelines as set forth in "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses" (1985), the Department will review and evaluate the criteria. If the Department determines that the criteria are adequate to protect indigenous aquatic communities in the State's waters, these criteria will serve as the basis for establishing total maximum daily loads (TMDLs) under Chapter 96 or NPDES effluent limitations under Chapter 92 (relating to National Pollutant Discharge Elimination System). If the Department determines that the EPA National criteria are inappropriate, the Department will adjust these criteria in accordance with National guidelines to reflect the levels required for protection of aquatic life in this Commonwealth's waters.

(2) For those toxics identified or expected in a discharge for which the EPA has not developed criteria, the Department will develop criteria using the EPA's National Guidelines.

§ 16.23. Sources of information.

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

(1) United States EPA 1986 Quality Criteria for Water (Goldbook).

(2) United States EPA Ambient Water Quality Criteria Development Documents and updates.

(3) Aquatic life toxicity data available in the published scientific literature.

(4) Aquatic life toxicity data available on EPA computerized databases (for example, aquire, Great Lakes Initiative (GLI) Clearinghouse).

§ 16.24. Metals criteria.

(a) The criteria are established to control the toxic portion of a substance in the water column. Depending upon available data, aquatic life criteria for metals are expressed as either dissolved or total recoverable. As information develops, the chemical identifiers for the toxic portion may be added, changed or refined. The criteria form one of the bases for water quality-based effluent limitations, which are expressed as total recoverable metal.

(b) Dissolved criteria are indicated in Appendix A, Table 1 with "*", and have been developed by applying the most current EPA conversion factors to the total recoverable criteria. The EPA factors are listed in the following Conversion Factors Table.

Conversion Factors Table

	<i>Chronic</i>	<i>Acute</i>	<i>Source</i>
Arsenic	1.000 (As3+)	1.000 (As3+)	1,2
Cadmium	1.101672- (ln[H]x0.041838)	1.136672- (ln[H]x0.041838)	2
Chromium VI	0.962	0.982	1,2
Copper	0.960	0.960	1,2
Lead*	1.46203-(ln[H])x0.145712)		2
Mercury	NA**	0.85	1,2
Nickel	0.997	0.998	1,2
Selenium	0.922	0.922	1
Silver	NA	0.85	2
Zinc	0.986	0.978	1,2

*Conversion factor is for both acute and chronic criteria

**The Great Lakes Guidance includes a conversion factor for the Great Lakes-specific chronic mercury criterion which is based on chronic effects to fish and aquatic life. The factor is not applicable to the PA (and NTR) criterion, which was developed by the EPA as a Nationally applicable criterion, because it is residue based.

Source 1—Final Water Quality Guidance for the Great Lakes System (60 FR 15366, March 23, 1995)

2—Establishment of Numeric Criteria for Priority Pollutants; Revision of Metals Criteria—Interim Final Rule (60 FR 22229, May 4, 1995)

(c) Chemical translators are used to convert dissolved criteria into effluent limitations which are required by Federal regulations to be expressed as total recoverable metal. The default chemical translator used by the Department is the reciprocal of the conversion factor (listed in the Conversion Factors Table) that was used to determine the dissolved criterion.

(d) NPDES dischargers may request alternate effluent limitations by using site-specific water quality characteristics. This is accomplished by performing a site-specific chemical translator study for a dissolved criterion. A

water effect ratio (WER) study may also be conducted, based on either total recoverable or dissolved criteria, depending on the form of the criterion.

(e) A WER is a factor that expresses the difference between the measures of the toxicity of a substance in laboratory water and the toxicity in site water. The WER provides a mechanism to account for that portion of a metal which is toxic under certain physical, chemical or biological conditions. At this time, WERs are applicable only to certain metals, which are listed by the EPA in "Guidance on the Determination and Use of Water-Effect Ratios for Metals" (February 1994), as amended and updated. Subject to Departmental approval of the testing and its results, the Department will use the WER to establish an alternate site-specific criterion.

(f) Chemical translator studies must be conducted in accordance with the EPA's interim final document, "The Metals Translator: A Guidance for calculating a total recoverable permit limit from a dissolved criterion" (June 1996), as amended and updated.

(g) Final reports on the studies shall be submitted to the Department within 60 days of completion. Upon approval of the study results, the Department will use the chemical translator or WER, or both, to determine revised effluent limitations.

GUIDELINES FOR DEVELOPMENT OF HUMAN HEALTH-BASED CRITERIA

§ 16.32. Threshold level toxic effects.

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

(b) Control of threshold toxics is based upon animal testing or epidemiological studies that report no- or lowest-observed adverse effect levels of the substance (NOAEL or LOAEL). In evaluating a particular toxic, toxicologists weigh the merits of all the tests, and choose, in their best professional judgment, the safe level. By applying standard margins of safety to the NOAEL, extrapolations from the laboratory animals to humans (factor of 10), for sensitive subpopulations (10), and from short-term to chronic studies (10) can be taken into account. An additional factor of 10 is used if only a LOAEL is available. Modifying factors (1-10), which account for deficiencies in the toxicity studies, are also considered in determining an acceptable exposure level. The current term for this acceptable level is reference dose (RfD); it was previously called the acceptable daily intake (ADI). The RfD is adjusted for protection of an average (70 Kg) person. It is then divided by expected exposure condition to result in an applicable criterion. Except as provided in § 16.61(b)(2) (relating to special provisions for the Great Lakes System), exposure conditions via water include 2 liters per day of drinking water and consumption of 6.5 grams of fish per day. Bioaccumulation of toxics in edible portions of fish is accounted for by use of bioaccumulation factors (BAF). BAF is the ratio in liters per kilogram of a substance's concentration in tissues of an aquatic organism to its concentration in the ambient water, in situations where both the organism and its food are exposed and the ratio does not change substantially over time.

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

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

(2) If the EPA criteria have been evaluated, and have been determined to be inadequate to protect designated uses, or when no criteria have been developed for a substance identified or expected in a discharge, the Department will develop criteria following EPA's standard toxicological procedures outlined in Exhibit 3-1 of the *Water Quality Standards Handbook, Second Edition*, EPA 823-0-94-005A, August, 1994, as amended and updated.

(3) If no data are available to characterize the human health hazard of a chemical, no criterion will be developed. A criterion to protect the next most sensitive use will be used. A threshold criterion will be developed at a future date if information becomes available.

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

(1) Verified reference doses, listed in the EPA agency-wide supported data system known as IRIS (Integrated Risk Information System).

(2) Maximum Contaminant Level Goals (MCLGs).

(3) The EPA's CWA § 304(a) health criteria listed under the National Toxics Rule at 40 CFR 131.36 (57 FR 80848, December 22, 1992) (relating to toxics criteria for those States not complying with Clean Water Act section 303(c)(2)(B)), as amended and updated and other final criteria published by the EPA and the Great Lakes Initiative Clearinghouse.

(4) Teratology and other data that have been peer-reviewed may provide information for criteria development.

§ 16.33. Nonthreshold effects (cancer).

(a) A nonthreshold effect is defined as an adverse impact, including cancer, for which no exposure greater than zero assures protection to the exposed individual. Thus, in contrast to the threshold concept discussed in § 16.32 (relating to threshold level toxic effects), the nonthreshold approach to toxics control is based upon the premise that there is no safe concentration of the toxic.

(b) The Department has determined that the regulation of carcinogens from a water quality perspective in accordance with the procedure specified in the following subsections will adequately and reasonably protect human health.

(c) The Department accepts the evaluation and extrapolation modeling used by the EPA to quantitate the carcinogenic risk of particular chemicals. Cancer risk level criteria are, therefore, adaptations of the EPA's cancer potency (slope) factors. Criteria based on cancer risk levels are average lifetime exposure values.

(d) The Department's water quality toxics management program controls carcinogens to an overall risk management level of one excess case of cancer in a population of one million (1×10^{-6}). Expressing this another way, the probability of an individual getting cancer from an ambient water exposure to a carcinogen is increased by a factor of one in one million. This level appears to be protective of human health to a significant degree when compared to other risks encountered in life.

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

(f) The Department will use the following guidelines in establishing criteria for nonthreshold toxics:

(1) The determination as to whether a substance is a carcinogen will be its identification by the EPA.

(2) For toxics for which (cancer potency) slope factors have been developed as evidenced by listing on IRIS the Department will either use the EPA developed criteria or will develop criteria based upon these potency factors using the EPA's Standard Toxicological Procedures outlined in Exhibit 3-2 of the *Water Quality Standards Handbook, Second Edition*, EPA 823-0-94-005A, August, 1994, as amended and updated.

(3) For carcinogens for which cancer potency (slope) factors have not been developed, the Department will use an additional margin of safety (factor of 10) with threshold toxicity data to develop a protective health criterion.

CRITERIA MODIFICATION

§ 16.41. Changes and additions.

The criteria in Appendix A, Table 1 for toxic substances are based on the best scientific information currently available. These criteria may, however, be modified if the Department determines upon evaluation of new scientific findings and information that a change is warranted. Submittal of data and information will be considered by the Department for this purpose. Changes and additions to the table will be published annually in the *Pennsylvania Bulletin*.

§ 16.42. (Reserved).

WATER QUALITY CRITERIA FOR TOXIC SUBSTANCES

§ 16.51. Human health and aquatic life criteria.

(a) Appendix A, Table 1 lists the human health and aquatic life criteria for toxic substances which the Department uses in development of effluent limitations in NPDES Permits and for other purposes. The human health criteria, which include exposures from drinking water and fish consumption, are further defined as to the specific effect (that is, cancer or threshold health effects). For those aquatic life criteria which are hardness related and specified as a formula, such as several of the heavy metals, the Department will use the specific hardness of the receiving stream after mixing with the waste discharge in calculating criteria on a case-by-case basis. The priority pollutant numbers (PP NO) used by the EPA to identify priority pollutants are included in Table 1 for reference purposes. Some of these criteria may be superseded for the Delaware Estuary, Ohio River Basin, Lake Erie Basin, and Genesee River Basin under interstate and international compact agreements with the Delaware River Basin Commission, Ohio River Valley Sanitation Commission and International Joint Commission respectively. The criteria in Table 1 do not apply to the Great Lakes System. Water quality criteria for the Great Lakes System are contained in § 16.61 (relating to special provisions for the Great Lakes System). Criteria may be

developed for the Great Lakes System for substances other than those listed in § 16.61 under the methodologies in § 16.61(b).

(b) If the Department determines that the natural quality of a surface water segment is of lower quality than the applicable criteria listed in Table 1, the natural quality shall constitute the aquatic life criterion for that segment. All draft natural quality determinations shall be published in the *Pennsylvania Bulletin* and be subject to a minimum 30 day comment period. The Department will maintain a publicly available list of surface waters and parameters where this subsection applies, and will, from time to time, submit appropriate amendments to this chapter.

§ 16.52. Whole Effluent Toxicity Testing (WETT).

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

§ 16.61 Special provisions for the Great Lakes System.

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

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

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

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

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

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

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

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

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

GREAT LAKES AQUATIC LIFE AND HUMAN HEALTH CRITERIA

PP NO	Chemical Name	CAS Number	Fish and Aquatic Life Criteria		Human Health Criteria (ug/L)
			Criteria Continuous Concentrations (ug/L)	Criteria Maximum Concentration (ug/L)	
2M	Arsenic	07440382	*148 (As3+)	*340_(As3+)	N/A
4M	Camdium	07440439	*{1.101672-(ln[H]x0.041838)}x Exp(0.7852xln[H]-2.715)	*{1.136672-(ln[H]x0.041838)}x Exp(1.128xln[H]-3.6867)	N/A
			(ex: @H=100, CCC=2.24)	(ex: @H=100, CMC=4.26)	
5M	Chromium, III	16065831	*0.860xExp(0.819xln[H]+0.6848)	*0.316xExp(0.819xln[H]+3.7256)	N/A

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PP NO	Chemical Name	CAS Number	Fish and Aquatic Life Criteria		Human Health Criteria (ug/L)	
			Criteria Continuous Concentrations (ug/L) (ex: @H=100, CCC=74)	Criteria Maximum Concentration (ug/L) (ex: @H=100, CMC=570)		
5M	Chromium, VI	18540299	*10.56	*15.73	N/A	-
6M	Copper	07440508	*0.960xExp(0.8545xln[H]-1.702) (ex: @H=100, CCC=8.96)	*(0.960xExp(0.9422xln[H]-1.700) (ex: @H=100, CMC=13.44)	N/A	
8M	Mercury	07439976	*0.77	*1.44	0.0031	H
9M	Nickel	07440020	*0.997xExp(0.846xln[H]+0.0584) (ex: @H=100, CCC=52.01)	*[0.998xExp(0.846xln[H]+2.255) (ex: @H=100, CMC=468.24)	N/A	H
10M	Selenium	07782492	*4.61	N/A	N/A	-
13M	Zinc	07440666	*0.986xExp(0.8473xln[H]+0.884) (ex: @H=100, CCC=118.14)	*0.978xExp(0.8473xln[H]+0.884) (ex: @H=100, CMC=117.18)	N/A	
14M	Cyanide, Free	00057125	5.2	22	600	H
3A	2,4-Dimethyl-phenol	00105679	N/A	N/A	450	H
5A	2,4-Dinitro-phenol	00051285	N/A	N/A	55	H
9A	Pentachloro-phenol	00087865	Exp(1.05[pH]-5.134) @pH= 6.5 7.8 9.0 Crit= 4.05 14.95 49.95	Exp(1.005[pH]-4.869) @pH= 6.5 7.8 9.0 Crit= 5.28 19.49 65.10	N/A	
3V	Benzene	00071432	N/A	N/A	1.2	CRL
7V	Chloro-benzene	00108907	N/A	N/A	470	H
22V	Methylene Chloride	00075092	N/A	N/A	4.7	CRL
25V	Toluene	00108883	N/A	N/A	5600	H
29V	Trichloro-ethylene	00079016	N/A	N/A	2.9	CRL
33B	Hexachloro-benzene	00118741	N/A	N/A	0.000045	CRL
36B	Hexachloro-ethane	00067721	N/A	N/A	0.53	CRL
4P	gamma-BHC (Lindane)	00058899	N/A	0.95	0.47	CRL
6P	Chlordane	00057749	N/A	N/A	0.000025	CRL
7P	4,4'-DDT	00050293	N/A	N/A	0.000015	CRL
10P	Dieldrin	00060571	0.056	0.24	0.0000065	CRL
14P	Endrin	00072208	0.036	0.086	N/A	
18P	PCBs	53469219	N/A	N/A	0.0000039	CRL

PP NO	Chemical Name	CAS Number	Fish and Aquatic Life Criteria		Human Health Criteria (ug/L)
			Criteria Continuous Concentrations (ug/L)	Criteria Maximum Concentration (ug/L)	
25P	Toxaphene	08001352	N/A	N/A	0.0000068 CRL
PP	2,3,7,8-TCDD	01746016	N/A	N/A	8.6 E-10 CRL
—	Parathion	00056382	0.013	0.065	N/A

(5) *Wildlife criteria.* Wildlife criteria will be developed for the BCCs in the Great Lakes System using methodologies contained in the Great Lakes guidance in 40 CFR Part 132, Appendix D (relating to Great Lakes Water Quality Initiative methodology for the development of wildlife criteria). The wildlife criteria are contained in the following table:

GREAT LAKES WILDLIFE CRITERIA TABLE

PP NO.	CHEMICAL NAME	CRITERION (ug/L)
7-9P 8M 18-24P PP	DDT & METABOLITES MERCURY PCBs (TOTAL) 2,3,7,8-TCDD	0.000011 0.0013 0.00012 3.1 E-9

(6) *Additional requirements.* Additivity of toxic effects for chlorinated dibenzo-p-dioxins and chlorinated dibenzofurans will be accounted for under 40 CFR Part 132, Appendix F, Procedure 4 (relating to Great Lakes Water Quality Initiative implementation procedures).

(c) *Minimum protections.* The Department will follow guidance that is as protective as the final water quality guidance for the Great Lakes System in 40 FR 15366 (March 23, 1995), as updated and amended.

§ 16.102. Approved EPA Analytical Methods and Detection Limits.

(a) Appendix A, Table 2 contains the following data elements and is to be used as follows:

(1) Parameter + (CAS) is the chemical name preceded by an alphanumeric code for the priority pollutants. Other inorganics (metals) listed on the application form have also been included. The Chemical Abstracts Service (CAS) number, a unique chemical identifier, is also listed for completeness of identification. The CAS number should always be verified to ensure proper identification, particularly with chemicals with ambiguous or unfamiliar names, or both.

(2) Method number + (description) includes the approved EPA procedures by identifying number and an abbreviated description of each. The methods are detailed in one or more of the following sources:

(i) *Methods for Chemical Analysis of Water and Wastes*, EPA 600/4-79-020, Revised March 1984.

(ii) 40 CFR Part 136 (relating to guidelines establishing test procedures). The EPA provides a list of still other sources for these methods in 40 CFR Part 136. Methods that were not developed by the EPA, that is, have no EPA identifying method number, but are approved by the EPA for use in NPDES related analyses are marked with an asterisk (*) in Appendix A, Table 2.

(iii) *Standard Methods for the Examination of Water and Wastewater*, 20th Edition, APHA-AWWA-JWPCF, 1998.

(iv) *Hach Handbook of Wastewater Analysis*, Hach Chemical Company, 1979.

(v) *Direct Current Plasma (DCP) Optical Emission Spectrometric Method for Trace Elemental Analysis of Water and Wastes, Method AES0029*. Applied Research Laboratories, Inc., 1986—Revised 1991, Fison Instruments, Inc.

(vi) *ASTM Annual Book of Standards, Section 11, Water*. American Society for Testing and Materials, 1991.

(3) MDL is the method detection limit for each chemical for each method. The MDL is defined as the minimum concentration that can be measured and reported with 99% confidence that the value is above zero—that is, something is really there. The MDL concentrations listed were obtained using reagent water. Similar results were achieved using representative wastewaters. The MDL achieved in a given analysis will vary depending on instrument sensitivity and matrix effects.

(i) When MDLs are not available, detection limits based on other criteria, such as instrument signal to noise ratios, are included in Appendix A, Table 3. Detection limits for metals are generally instrument detection limits.

(ii) For any pollutant with an effluent limitation below the method detection limit, the permittee is expected to generally achieve the detection limit of the most sensitive method that is below detection available.

(iii) If two approved analytical methods for the same parameter have detection limits that differ by less than 1 ug/l or a factor of 2 (whichever is greater), the permit may be written designating either method as acceptable. The permittee also has the option of using an alternate method approved by the Department and the EPA that the permittee selects as long as he achieves the level of detection of the cited method or the numerical water quality-based limit.

(iv) The primary source for detection limits in Appendix A, Table 2 is EPA MDL studies. However, when the EPA has not performed an MDL study or reported the detection limit, other sources—particularly, Standard Methods—are consulted. When there is no literature on detection limit, the Department's Bureau of Laboratories may be asked to determine the detection limit based on an MDL study.

(4) Permittees will be required to meet the detection limits listed in Appendix A, Table 2. If the detection limit is not listed, a permittee shall develop a detection limit using an MDL study.

(5) When permittees cannot meet a listed detection limit, they may be granted case-specific MDLs if they submit complete documentation demonstrating a matrix effect in their particular effluent. The permittees shall follow the procedure for determining MDLs published as

Appendix B of 40 CFR Part 136 (relating to guidelines establishing test procedures). The Bureau of Laboratories will evaluate the data and advise the regional office of their decision.

(b) Appendix A, Table 3 gives a more detailed description of the EPA 600-series of analytical procedures for organic pollutants. Further detail is contained in 40 CFR Part 136.

APPENDIX A
TABLE 1
WATER QUALITY CRITERIA FOR TOXIC SUBSTANCES

PP NO	Chemical Name	CAS Number	<i>Fish and Aquatic Life Criteria</i>		Human Health Criteria (ug/L)	
			<i>Criteria Continuous Concentrations (ug/L)</i>	<i>Criteria Maximum Concentration (ug/L)</i>		
1M	Antimony	07440360	220	1100	14	H
2M	Arsenic	07440382	150 (As3+)	340 (As3+)	50	H
3M	Beryllium	07440417	N/A	N/A	N/A	-
4M	Cadmium	07440439	*{1.101672-(In[H]x0.041838)}x Exp(0.7852xIn[H]-2.715) (ex: @H=100, CCC=2.2)	*{1.136672-(In[H]x0.041838)}x Exp(1.128xIn[H]-3.6867) (ex: @H=100, CMC=4.3)	N/A	-
5M	Chromium, III	16065831)	*0.860xExp(0.819xIn[H]+0.6848) (ex: @H=100, CCC=74)	*0.316Exp(0.819xIn[H]+3.7256) (ex: @H=100, CMC=570)	N/A	-
5M	Chromium VI	18540299	*10	*16	N/A	-
6M	Copper	07440508	0.960xExp(0.8545xIn[H]-1.702) (ex: @H=100, CCC=9.0)	0.960xExp(0.9422xIn[H]-1.700) (ex: @H=100, CMC=13)	N/A	-
7M	Lead	07439921	*{1.46203-(In[H]x0.145712)}x Exp(1.273xIn[H]-4.705) (ex: @H=100, CCC=2.5)	*{1.46203-(In[H]x0.145712)}x Exp(1.273xIn[H]-1.460) (ex: @H=100, CMC=65)	N/A	-
8M	Mercury	07439976	*0.77 (Hg2+)	*1.4 (Hg2+)	0.05	H
9m	Nickel	07440020	0.997xExp(0.846xIn[H]+0.0584) (ex: @H=100, CCC=52)	0.998xExp(0.846xIn[H]+2.255) (ex: @H=100, CMC=470)	610	H
10M	Selenium	07782492	*4.6	N/A	N/A	-
11M	Silver	07440224	N/A	*0.850xExp(1.72xIn[H]-6.520) (ex: @H=100, CMC=3.5)	N/A	-
12M	Thallium	07440280	13	65	1.7	H
13M	Zinc	07440666	0.986xExp(0.8473xIn[H]+0.884) (ex: @H=100, CCC=120)	0.978xExp(0.8473xIn[H]+0.884) (ex: @H=100, CMC=120)		
14M	Cyanide, Free	00057125	5.2	22	700	H
1A	2-Chlorophenol	00095578	110	560	120	H
2A	2,4-Dichloro- phenol	00120832	340	1700	93	H
3A	2,4-Dimethyl- phenol	00105679	130	660	540	H
4A	4,6-Dinitro-o- Cresol	00534521	16	80	13.4	H

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PP NO	Chemical Name	CAS Number	Fish and Aquatic Life Criteria			Human Health Criteria (ug/L)		
			Criteria Continuous Concentrations (ug/L)					Criteria Maximum Concentration (ug/L)
5A	2,4-Dinitro- phenol	00051285	130			660	70	H
6A	2-Nitrophenol	00088755	1600			8000	N/A	-
7A	4-Nitrophenol	00100027	470			2300	N/A	-
8A	p-Chloro-m- Cresol	00059507	30			160	N/A	-
9A	Pentachloro- phenol	00087865	Exp(1.005x[pH]-5.134) @pH= 6.5 7.8 9.0 Crit= 4.1 15 50			Exp(1.005x[pH]-4.869) @pH= 6.5 7.8 9.0 Crit= 5.3 19 65	0.28	CRL
10A	Phenol	00108952	N/A			N/A	21000	H
11A	2,4,6-Trichloro- phenol	00088062	91			460	2.1	CRL
1V	Acrolein	00107028	1			5	320	H
2V	Acrylonitrile	00107131	130			650	0.059	CRL
3V	Benzene	00071432	130			640	1.2	CRL
5V	Bromoform	00075252	370			1800	4.3	CRL
6V	Carbon Tetrachloride	00056235	560			2800	0.25	CRL
7V	Chloro- benzene	00108907	240			1200	680	H
8V	Chlorodibromo- methane	00124481	N/A			N/A	0.41	CRL
9V	Chloroethane	00075003	N/A			N/A	N/A	-
10V	2-Chloroethyl Vinyl Ether	00110758	3500			18,000	N/A	-
11V	Chloroform	00067663	390			1900	5.7	CRL
12V	Dichlorobromo- methane	00075274	N/A			N/A	0.56	CRL
14V	1,1-Dichloro- ethane	00075343	N/A			N/A	N/A	-
15V	1,2-Dichloro- ethane	00107062	3100			15,000	0.38	CRL
16V	1,1-Dichloro- ethylene	00075354	1500			7500	0.057	CRL
17V	1,2-Dichloro- propane	00078875	2200			11,000	N/A	-
18V	1,3-Dichloro- propylene	00542756	61			310	10	H
19V	Ethylbenzene	00100414	580			2900	3100	H

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PP NO	Chemical Name	CAS Number	<i>Fish and Aquatic Life Criteria</i>		Human Health Criteria (ug/L)	
			<i>Criteria Continuous Concentrations (ug/L)</i>	<i>Criteria Maximum Concentration (ug/L)</i>		
20V	Methyl Bromide	00074839	110	550	48	H
21V	Methyl Chloride	0074873	5500	28,000	N/A	-
22V	Methylene Chloride	00075092	2400	12,000	4.7	CRL
23V	1,1,2,2-Tetra- chloroethane	00079345	210	1000	0.17	CRL
24V	Tetrachloro- Ethylene	00127184	140	700	0.8	CRL
25V	Toluene	00108883	330	1700	6800	H
26V	1,2-trans- Dichloro- Ethylene	00156605	1400	6800	700	H
27V	1,1,1-Trichloro- ethane	00071556	610	3000	N/A	
28V	1,1,2-Trichloro- ethane	00079005	680	3400	0.60	CRL
29V	Trichloro- ethylene	00079016	450	2300	2.7	CRL
31V	Vinyl Chloride	00075014	N/A	N/A	2	CRL
1B	Acenaphthene	00083329	17	83	1200	H
2B	Acenaphthylene	00208968	N/A	N/A	N/A	-
3B	Anthracene	00120127	N/A	N/A	9600	H
4B	Benzidine	00092875	59	300	0.00012	CRL
5B	Benzo(a)- Anthracene	00056553	0.1	0.5	0.0044	CRL
6B	Benzo(a)Pyrene	00050328	N/A	N/A	0.0044	CRL
7B	3,4-Benzo- Fluoranthene	00205992	N/A	N/A	0.0044	CRL
8B	Benzo(ghi)- Perylene	00191242	N/A	N/A	N/A	-
9B	Benzo(k)- Fluoranthene	00207089	N/A	N/A	0.0044	CRL
10B	Bis(2-Chloro- ethoxy)Methane	00111911	N/A	N/A	N/A	-
11B	Bis(2-Chloro- ethyl)Ether	00111444	6000	30,000	0.031	CRL
12B	Bis(2-Chloro- Isopropyl)Ether	39638329	N/A	N/A	1400	H

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PP NO	Chemical Name	CAS Number	<i>Fish and Aquatic Life Criteria</i>		Human Health Criteria (ug/L)	
			<i>Criteria Continuous Concentrations (ug/L)</i>	<i>Criteria Maximum Concentration (ug/L)</i>		
13B	Bis(2-Ethyl- hexyl)phthalate	00117817	910	4500	1.8	CRL
14B	4-Bromophenyl Phenyl Ether	00101553	54	270	N/A	-
15B	Butylbenzyl Phthalate	00085687	35	140	300	H
16B	2-Chloro- Naphthalene	00091587	N/A	N/A	1700	H
17B	4-Chlorophenyl Phenyl Ether	07005723	N/A	N/A	N/A	-
18B	Chrysene	00218019	N/A	N/A	0.0044	CRL
19B	Dibenzo(a,h)- Anthracene	00053703	N/A	N/A	0.0044	CRL
20B	1,2-Dichloro- Benzene	00095501	160	820	2700 for dichloro- benzene	H
21B	1,3-Dichloro- Benzene	00541731	69	350	See 20B	H
22B	1,4-Dichloro- Benzene	00106467	150	730	See 20B	H
23B	3,3'-Dichloro- Benzidine	00091941	N/A	N/A	0.04	CRL
24B	Diethyl Phthalate	00084662	800	4000	23,000	H
25B	Dimethyl Phthalate	00131113	500	2500	313,000	H
26B	Di-N-Butyl Phthalate	00084742	21	110	2700	H
27B	2,4-Dinitro- toluene	00121142	320	1600	0.05 for dinitro- toluene	CRL
28B	2,6-Dinitro- toluene	00606202	200	990	See 27B	CRL
29B	Di-N-Octyl Phthalate	00117840	N/A	N/A	N/A	-
30B	1,2-Diphenyl- Hydrazine	00122667	3	15	0.04	CRL
31B	Fluoranthene	00206440	40	200	300	H
32B	Fluorene	00086737	N/A	N/A	1300	H
33B	Hexachloro- benzene	00118741	N/A	N/A	0.00075	CRL
34B	Hexachloro- butadiene	00087683	2	10	0.44	CRL

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PP NO	Chemical Name	CAS Number	<i>Fish and Aquatic Life Criteria</i>		Human Health Criteria (ug/L)	
			<i>Criteria Continuous Concentrations (ug/L)</i>	<i>Criteria Maximum Concentration (ug/L)</i>		
35B	Hexachloro- cyclopentadiene	00077474	1	5	240	H
36B	Hexachloro- Ethane	00067721	12	60	1.9	CRL
37B	Indeno(1,2,3- cd)Pyrene	00193395	N/A	N/A	0.0044	CRL
38B	Isophorone	00078591	2100	10,000	36	H
39B	Naphthalene	00091203	43	140	N/A	-
40B	Nitrobenzene	00098953	810	4000	17	H
41B	N-Nitroso- Dimethylamine	00062759	3400	17,000	0.00069	CRL
42B	N-Nitrosodi-N- Propylamine	00621647	N/A	N/A	0.005	CRL
43B	N-Nitroso- Diphenylamine	00086306	59	300	5	CRL
44B	Phenanthrene	00085018	1	5	N/A	-
45B	Pyrene	00129000	N/A	N/A	960	H
46B	1,2,4-Trichloro- benzene	00120821	26	130	330	H
1P	Aldrin	00309002	0.1	3	0.00013	CRL
2P	alpha-BHC	00319846	N/A	N/A	0.0039	CRL
3P	beta-BHC	00319857	N/A	N/A	0.014	CRL
4P	gamma-BHC (Lindane)	00058899	N/A	0.95	0.019	CRL
5P	delta-BHC	00319868	N/A	N/A	N/A	-
6P	Chlordane	00057749	0.0043	2.4	0.0021	CRL
7P	4,4'-DDT	00050293	0.0001	1.1	0.00059	CRL
8P	4,4'-DDE	00072559	0.001	1.1	0.00059	CRL
9P	4,4'-DDD	00072548	0.001	1.1	0.00083	CRL
10P	Dieldrin	00060571	0.056	0.24	0.00014	CRL
11P	alpha-Endosul- fan	00959988	0.056	0.22	110 for endosulfan	H
12P	beta-Endosulfan	33213659	0.056	0.22	See 11P	H
13P	Endosulfan Sulfate	01031078	N/A	N/A	N/A	-
14P	Endrin	00072208	0.036	0.086	0.76	H
15P	Endrin Aldehyde	07421934	N/A	N/A	0.76	-

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PP NO	Chemical Name	CAS Number	<i>Fish and Aquatic Life Criteria</i>		<i>Human Health Criteria (ug/L)</i>	
			<i>Criteria Continuous Concentrations (ug/L)</i>	<i>Criteria Maximum Concentration (ug/L)</i>		
16P	Heptachlor	00076448	0.0038	0.52	0.00021	CRL
17P	Heptachlor Epoxide	01024573	0.0038	0.5	0.0001	CRL
18P	PCB-1242	53469219	0.014	N/A	0.000044 for PCBs	CRL
19P	PCB-1254	11097691	0.014	N/A	See 18P	CRL
20P	PCB-1221	11104282	0.014	N/A	See 18P	CRL
21P	PCB-1232	11141165	0.014	N/A	See 18P	CRL
22P	PCB-1248	12672296	0.014	N/A	See 18P	CRL
23P	PCB-1260	11096825	0.014	N/A	See 18P	CRL
24P	PCB-1016	12674112	0.014	N/A	See 18P	CRL
25P	Toxaphene	08001352	0.0002	0.73	0.00073	CRL
PP	2,3,7,8-TCDD	01746016	N/A	N/A	1.3 E-8	CRL
—	Aluminum	07429905	N/A	750	N/A	-
—	Barium	07440393	4100	21,000	2400	H
—	Boron	07440428	1600	8100	3100	H
—	Cobalt	07440484	19	95	N/A	-
—	Lithium	07439932	N/A	N/A	N/A	-
—	Vanadium	07440622	100	510	N/A	-
—	Acetone	00067641	86,000	450,000	3500	H
—	p-Cresol	00106445	160	800	N/A	-
—	2-Hexanone	00591786	4300	21,000	N/A	-
—	Methylethyl Ketone	00078933	32,000	230,000	21,000	H
—	Methylisobutyl Ketone	00108101	5000	26,000	N/A	-
—	I-Propanol	00071238	46,000	230,000	N/A	-
—	2-Propanol	00067630	89,000	440,000	N/A	-
—	1,2,3-Trichloro- Propane	00096184	N/A	N/A	210	H
—	Xylene	01330207	210	1100	70,000	H
—	Formaldehyde	00050000	440	2200	700	H

APPENDIX A

TABLE 1

WATER QUALITY CRITERIA FOR TOXIC SUBSTANCES

Acronyms and Footnotes to Table 1

* Indicates dissolved metal criterion; others are total recoverable metals. Each listed dissolved criterion in Table 1 is equal to the corresponding total recoverable criterion before rounding (from the EPA National Ambient Water Quality Criteria Documents) multiplied by the conversion factor (from the Conversions Factors Table); a criterion that is expressed as a hardness (H)-based equation is shown in Table 1 as the conversion factor (listed) multiplied by the hardness criterion equation; an example criterion at hardness=100 mg/l is included.

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

CRL- Cancer risk level at 1×10^{-6}

InH- National Logarithm of the Hardness of stream at mg/l CaCO_3

N/A- Insufficient data to develop criterion.

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TABLE 2

APPROVED EPA ANALYTICAL METHODS AND DETECTION LIMITS: INORGANICS

<i>Parameter (CAS)</i>	<i>Method Number (Description) *Source</i>	<i>Detection Limit (ug/L)</i>
- Aluminum	202.1 (AA, flame)	100

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