

# PENNSYLVANIA BULLETIN

Volume 32

Number 15

Saturday, April 13, 2002 • Harrisburg, Pa.

Pages 1829—1948

**Agencies in this issue:**

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The Courts  
Delaware River Basin Commission  
Department of Banking  
Department of Conservation and  
Natural Resources  
Department of Environmental Protection  
Department of General Services  
Department of Health  
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(Master Transmittal Sheet):**

**No. 329, April 2002**

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**PENNSYLVANIA**



**BULLETIN**

(ISSN 0162-2137)

published weekly by Fry Communications, Inc. for the Commonwealth of Pennsylvania, Legislative Reference Bureau, 647 Main Capitol Building, State & Third Streets, Harrisburg, Pa. 17120, under the policy supervision and direction of the Joint Committee on Documents pursuant to Part II of Title 45 of the Pennsylvania Consolidated Statutes (relating to publication and effectiveness of Commonwealth Documents). Subscription rate \$82.00 per year, postpaid to points in the United States. Individual copies \$2.50. Checks for subscriptions and individual copies should be made payable to "Fry Communications, Inc." Periodicals postage paid at Harrisburg, Pennsylvania.

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Attn: *Pennsylvania Bulletin*  
800 W. Church Rd.  
Mechanicsburg, Pennsylvania 17055-3198  
(717) 766-0211 ext. 2340  
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ISBN 0-8182-0004-9

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

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

## ***Pennsylvania Bulletin***

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

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

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

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

## **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

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2002.

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# THE GENERAL ASSEMBLY

## Recent Actions during the 2002 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2002 Regular Session.

### 2002 GENERAL ACTS ENACTED—ACT 018 through 029

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
018	Apr 2	SB0985	PN1196	immediately	County Code, The—expenses of elected county officers annual association meeting attendance and other meeting expenses paid by counties
019	Apr 2	HB1483	PN1802	60 days	Conveyance—Commonwealth property in Erie County
020	Apr 2	HB1520	PN2684	immediately	Emergency and Law Enforcement Personnel Death Benefits Act—National Guard members inclusion
021	Apr 2	SB0219	PN0225	immediately	Second Class Township Code, The—monthly meetings, quorum and voting
022	Apr 2	SB0218	PN0224	immediately	First Class Township Code, The—monthly meetings, quorum and voting
023	Apr 2	HB1402	PN3035	immediately	Public Utility Code (66 Pa.C.S.)—telecommunications services to State correctional institutions and limousine services in counties of second class
024	Apr 2	HB1469	PN3507	60 days	Telemarketer Registration Act—prohibiting unwanted telephone solicitation calls
025	Apr 2	SB1115	PN1719	immediately	Environmental Laboratory Accreditation Act—enactment
026	Apr 2	SB1012	PN1259	60 days	Chiropractic Practice Act—manipulation/adjustment
027	Apr 2	SB1011	PN1258	60 days	Physical Therapy Practice Act—mobilization/manual therapy
028	Apr 2	SB0220	PN0226	immediately	Borough Code, The—council organization, quorum, voting, compensation and eligibility
029	Apr 2	HB1584	PN1935	60 days	Repeals—obsolete law relating to McKean County lumber dealers regulations and penalties

\* with exceptions

#### Effective Dates of Statutes

The effective dates specified above for laws and appropriation acts were contained in the applicable law or appropriation act. Where no date is specified or where the effective date specified is prior to the date of enactment, the effective date is 60 days after final enactment except for statutes making appropriations or affecting budgets of political subdivisions. See 1 Pa.C.S. §§ 1701—1704 (relating to effective dates of statutes).

#### Advance Copies of Statutes

Section 1106 of Title 1 of the *Pennsylvania Consolidated Statutes* provides that the prothonotaries of each county shall file advance copies of statutes in their offices for public inspection until the Laws of Pennsylvania are generally available. Section 2406(h) of The Administrative Code of 1929 provides that the Department of General Services shall distribute advance sheets of the Laws of Pennsylvania to each law judge of the courts, to every county and public library of this Commonwealth and to each member of the General Assembly. These copies shall be furnished without charge. The Department shall also mail one copy of each law enacted during any legislative session to any person who pays to it the sum of \$20.

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore, State Records Center Building, 1825 Stanley Drive, Harrisburg, PA 17103, accompanied by a check or money order in the sum of \$20, payable to the "Commonwealth of Pennsylvania."

CARL L. MEASE,  
*Director*  
 Legislative Reference Bureau

[Pa.B. Doc. No. 02-560. Filed for public inspection April 12, 2002, 9:00 a.m.]

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CHS. 85, 89 AND 93]

#### Amendments to Rules of Organization and Procedure of the Disciplinary Board of the Supreme Court of Pennsylvania; Order No. 56; Doc. Nos. R-130 and R-131

In this Order, the Disciplinary Board of the Supreme Court of Pennsylvania is amending its Rules of Organization and Procedure to: (i) change the time limitation on complaints against respondent-attorneys alleging ineffective assistance of counsel, and (ii) make conforming amendments as a result of recent orders of the Supreme Court of Pennsylvania amending the Rules of Disciplinary Enforcement.

The Rules of the Board provide that complaints against respondent-attorneys involving alleged misconduct occurring more than four years before the date of the complaint will generally not be considered. See 204 Pa. Code § 85.10. The Board has found that it may take more than four years for some cases of ineffective assistance of counsel or prosecutorial misconduct to come to the attention of the Board. By this Order, the Board is accordingly amending 204 Pa. Code § 85.10 to provide that the generally applicable four year period within which complaints must be submitted will be tolled while there is litigation pending that results in a finding of ineffective assistance of counsel or prosecutorial misconduct. Notice of this proposed change was published in the *Pennsylvania Bulletin* on November 3, 2001 and no comments were received in response.

The Rules of the Board have been drafted to restate in full the substance of the Rules of Disciplinary Enforcement. By Orders dated April 5, 2001, May 18, 2001 and June 28, 2001, the Supreme Court amended Pa.R.D.E. 218 and 219. The Board is taking this opportunity to make conforming changes to its Rules to reflect the changes in the Rules of Disciplinary Enforcement made by those Orders of the Supreme Court.

The Disciplinary Board of the Supreme Court of Pennsylvania finds that:

(1) To the extent that 42 Pa.C.S. § 1702 (relating to rule making procedures) and Article II of the act of July 31, 1968 (P. L. 69, No. 40), known as the Commonwealth Documents Law, would otherwise require notice of proposed rulemaking with respect to some of the amendments adopted hereby, such proposed rulemaking procedures are inapplicable because those amendments relate to agency procedure and are perfunctory in nature.

(2) The amendments to the Rules of Organization and Procedure of the Board adopted hereby are not inconsistent with the Pennsylvania Rules of Disciplinary Enforcement and are necessary and appropriate for the administration of the affairs of the Board.

The Board, acting pursuant to Pa.R.D.E. 205(c)(10), orders:

(1) Title 204 of the *Pennsylvania Code* is hereby amended as set forth in Annex A hereto.

(2) The Secretary of the Board shall duly certify this Order, and deposit the same with the Administrative Office of Pennsylvania Courts as required by Pa.R.J.A. 103(c).

(3) The amendments adopted hereby shall take effect upon publication in the *Pennsylvania Bulletin*.

(4) This Order shall take effect immediately.

ELAINE M. BIXLER,  
*Executive Director and Secretary  
The Disciplinary Board of the  
Supreme Court of Pennsylvania*

#### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart C. DISCIPLINARY BOARD OF THE SUPREME COURT OF PENNSYLVANIA

##### CHAPTER 85. GENERAL PROVISIONS

#### § 85.10. Stale matters.

\* \* \* \* \*

(b) *Exceptions.* The four year limitation in subsection (a) shall:

\* \* \* \* \*

(2) Be tolled during any period when there has been litigation pending that has resulted in a finding that the subject acts or omissions involved civil fraud, **ineffective assistance of counsel or prosecutorial misconduct** by the respondent-attorney.

#### CHAPTER 89. FORMAL PROCEEDINGS

##### Subchapter F. REINSTATEMENT AND RESUMPTION OF PRACTICE

##### REINSTATEMENT OF FORMERLY ADMITTED ATTORNEYS

#### § 89.271. Reinstatement only by Court order.

Enforcement Rule 218(a) provides that no attorney suspended for a period exceeding one year, transferred to inactive status more than three years prior to resumption of practice or transferred to inactive status as a result of the sale of his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct, or disbarred may resume practice until reinstatement by order of the Supreme Court after petition therefor pursuant to the Enforcement Rules.

#### § 89.273. Procedures for reinstatement.

\* \* \* \* \*

(b) *Attorneys suspended for less than one year.* Enforcement Rule 218(f) provides that:

(1) Upon the expiration of any term of suspension not exceeding one year and upon the filing thereafter by the **[suspended] formerly admitted** attorney with the Board of a verified statement showing compliance with all the terms and conditions of the order of suspension and of Chapter 91 of Subchapter E (relating to formerly admitted attorneys), the Board shall certify such fact to the Supreme Court, which shall immediately enter an order

reinstating the formerly admitted attorney to active status, unless such person is subject to another outstanding order of suspension or disbarment.

(2) [ If ] Paragraph (1) of this subsection shall not be applicable and a formerly admitted attorney shall be subject instead to the other provisions of this rule requiring the filing of a petition for reinstatement, if:

(i) other formal disciplinary proceedings are then pending or have been authorized against the formerly admitted attorney[, paragraph (1) shall not be applicable and such person shall file a petition for reinstatement. ];

(ii) the formerly admitted attorney has been on inactive status for more than three years; or

(iii) the order of suspension has been in effect for more than three years.

\* \* \* \* \*

(c) Attorneys on inactive status for less than three years. Enforcement Rule 218(g) provides that attorneys who have been on inactive status for three years or less may be reinstated pursuant to § 93.145 (relating to reinstatement) or § 93.146(b) (relating to [ voluntarily retired or inactive attorneys ] reactivation) as appropriate. This subsection (c) does not apply to any attorney who has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct.

**CHAPTER 93. ORGANIZATION AND ADMINISTRATION**

**Subchapter G. FINANCIAL MATTERS**

**ANNUAL ASSESSMENT OF ATTORNEYS**

**§ 93.141. Annual assessment.**

(a) General rule. Enforcement Rule 219(a) provides that every attorney admitted to practice in any court of this Commonwealth shall pay an annual fee under such rule of [ \$105.00 ] \$130.00; that the annual fee shall be collected under the supervision of the Administrative Office, which shall send and receive, or cause to be sent and received, the notices and statements provided for in this subchapter, and that the fee shall be used to defray the costs of disciplinary administration and enforcement under the Enforcement Rules, and for such other purposes as the Board shall, with the approval of the Supreme Court, from time to time determine.

\* \* \* \* \*

**§ 93.146. Voluntarily retired or inactive attorneys.**

(a) General rule. Enforcement Rule 219(i) provides that an attorney who has retired [ or ], is not engaged in practice or who has sold his or her practice pursuant to Rule 1.17 of the Pennsylvania Rules of Professional Conduct shall file with the Administrative Office a notice in writing (Form DB-28) (Notice of Voluntary Assumption of Inactive Status) that the attorney desires voluntarily to assume inactive status and discontinue the practice of law; that upon the transmission of such notice from the Administrative Office to the Supreme Court, the Court shall enter an order transferring the attorney to inactive status, and the attorney shall no longer be eligible to practice law but shall continue to file the statement specified in § 93.142(b) (relating to filing of annual statement by attorneys) for six years thereafter in

order that the formerly admitted attorney can be located in the event complaints are made about the conduct of such person while such person was engaged in practice; that the formerly admitted attorney will be relieved from the payment of the fee specified in § 93.141 (relating to annual assessment); and that Chapter 91 Subchapter E (relating to formerly admitted attorneys) shall not be applicable to the formerly admitted attorney unless ordered by the Supreme Court in connection with the entry of an order of suspension or disbarment under another provision of the Enforcement Rules.

\* \* \* \* \*

[Pa.B. Doc. No. 02-561. Filed for public inspection April 12, 2002, 9:00 a.m.]

**Title 210—APPELLATE PROCEDURE**

**PART I. RULES OF APPELLATE PROCEDURE [210 PA. CODE CH. 25]**

**Order Amending Rule 2521; No. 137 Appellate Court Rules; Doc. No. 1**

**Order**

*Per Curiam:*

Now, this 26th day of March, 2002, upon recommendation of the Appellate Court Procedural Rules Committee, this proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3) in the interest of justice:

It is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule of Appellate Procedure 2521 is amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b) and shall be effective July 1, 2002.

Chief Justice Zappala files a dissenting statement in which Mr. Justice Nigro joins.

**Annex A**

**TITLE 210. APPELLATE PROCEDURE**

**PART I. RULES OF APPELLATE PROCEDURE**

**CHAPTER 25. POST-SUBMISSION PROCEEDINGS IN GENERAL**

**Rule 2521. Entry of Judgment or Other Orders.**

(a) General Rule. Subject to the provisions of Rule 108 (date of entry of orders), the notation of a judgment or other order of an appellate court in the docket constitutes entry of the judgment or other order. The prothonotary of the appellate court shall prepare, sign and enter the judgment following receipt of the opinion of the court unless the opinion is accompanied by an order signed by the court, or unless the opinion directs settlement of the form of the judgment, in which event the prothonotary shall prepare, sign and enter the judgment following settlement by the court. If a judgment is rendered without an opinion or an order signed by the court, the prothonotary shall prepare, sign and enter the judgment following instruction from the court. The prothonotary shall, on the date a judgment or other order is entered, send by first class mail to all parties a copy of the opinion, if any, or of the judgment or other order if no

opinion was written, and notice of the date of entry of the judgment or other order.

**(b) Notice in Death Penalty Cases.** Pursuant to Pa.R.Crim.P. 900(B), in all death penalty cases upon the Supreme Court's affirmance of the judgment of a death sentence, the prothonotary shall include in the mailing required by subdivision (a) of this Rule the following information concerning the Post Conviction Relief Act and the procedures under Chapter 9 of the Rules of Criminal Procedure. For the purposes of this notice, the term "parties" in subdivision (a) shall include the defendant, the defendant's counsel, and the attorney for the Commonwealth.

(1) A petition for post-conviction collateral relief must be filed within one year of the date the judgment becomes final, except as otherwise provided by statute.

(2) As provided in 42 Pa.C.S. § 9545(b)(3), a judgment becomes final at the conclusion of direct review, which includes discretionary review in the Supreme Court of the United States and the Supreme Court of Pennsylvania, or at the expiration of time for seeking the review.

(3) (A) If the defendant fails to file a petition within the one-year limit, the action may be barred. See 42 Pa.C.S. § 9545(b).

(B) Any issues that could have been raised in the post-conviction proceeding, but were not, may be waived. See 42 Pa.C.S. § 9544(b).

(4) Pursuant to Rule 904 (Appointment of Counsel; In Forma Pauperis), the trial judge will appoint new counsel for the purpose of post-conviction collateral review, unless:

(A) the defendant has elected to proceed pro se or waive post-conviction collateral proceedings, and the judge finds, after a colloquy on the record, that the defendant is competent and the defendant's election is knowing, intelligent and voluntary;

(B) the defendant requests continued representation by original trial counsel or direct appeal counsel, and the judge finds, after a colloquy on the record, that the petitioner's election constitutes a knowing, intelligent and voluntary waiver of a claim that counsel was ineffective; or

(C) the judge finds, after a colloquy on the record, that the defendant has engaged counsel who has entered, or will promptly enter, an appearance for the collateral review proceedings.

**Official Note:** See Pa.R.Crim.P. 900(B), which also includes the identical requirement in death penalty cases that notice of the information concerning the statutory time limitations for filing petitions for post-conviction collateral relief and the right to counsel enumerated in subdivision (b) of this rule be sent by the prothonotary with the order or opinion sent pursuant to subdivision (a) of this rule. Because of the importance of this notice requirement to judges, attorneys and defendants, the requirement that the Supreme Court Prothonotary mail the aforesaid notice has been included in both the Rules of Criminal Procedure and the Rules of Appellate Procedure.

Amended Dec. 11, 1978, effective Dec. 30, 1978; amended March 26, 2002, effective July 1, 2002.

### Dissenting Statement

Mr. Justice Zappala

Decided: March 26, 2002

I dissent from that portion of the amendment that requires the Supreme Court Prothonotary to provide notice of relevant Post Conviction Relief Act provisions to the capital defendant himself, rather than solely to defense counsel, because I believe it creates an unnecessary administrative burden.

The amendment directs the Prothonotary to include such a notice in its mailing of the copy of our Court's opinion affirming the judgment of a death sentence. Currently, however, the Prothonotary only sends a copy of our opinion to the defendant's counsel. Amending the rule to require personal notice raises legitimate concerns over locating the defendant and effectuating service. Also, because copies of the opinion are sent by first class mail, there will be no way of ensuring that the death row inmate in fact received the notice.

I believe a better approach would be to require the Prothonotary to send the notice of PCRA rights to the defendant's counsel and charge counsel with the duty of furnishing such information to the defendant. Personal notice to the defendant, himself, would only be necessary in cases where the defendant is proceeding pro se. This approach would alleviate the administrative burden placed on the Prothonotary's Office while still ensuring that the defendant receives notice of his PCRA rights.

Mr. Justice Nigro joins in this dissenting statement.

[Pa.B. Doc. No. 02-562. Filed for public inspection April 12, 2002, 9:00 a.m.]

## Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 9]

Order Amending Rule 900; No. 280 Criminal Procedural Rules; Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining the amendments to Rule of Criminal Procedure 900 (Scope; Notice in Death Penalty Cases). The rule changes require the Supreme Court's Prothonotary in capital cases to provide in the mailing required by Appellate Rule 2521(a) notice of the information concerning the Post Conviction Relief Act (PCRA) and the procedures under Chapter 9 of the Criminal Rules with regard to the time for filing a PCRA petition and counsel. These changes will ensure defendants in death penalty cases receive timely notice of the PCRA information. The Final Report follows the Court's Order.

### Order

*Per Curiam*

Now, this 26th day of March, 2002, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3) in the interests of justice, and a Final Report to be published with this Order:

*It Is Ordered* pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule of Criminal Procedure 900 is amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective July 1, 2002.

Chief Justice Zappala files a dissenting statement in which Mr. Justice Nigro joins.

**Annex A**

**TITLE 234. RULES OF CRIMINAL PROCEDURE  
CHAPTER 9. POST-CONVICTION COLLATERAL  
PROCEEDINGS**

**Rule 900. Scope; Notice In Death Penalty Cases.**

(A) The rules in Chapter 9 apply to capital and noncapital cases under the Post Conviction Relief Act, 42 Pa.C.S. §§ 9541—9546, as amended by Act 1995-32 (SS1).

**(B) Notice in Death Penalty Cases**

In all death penalty cases upon the Supreme Court's affirmance of the judgment of a death sentence, the Prothonotary shall include in the mailing required by Pa.R.A.P. 2521 (Entry of Judgment or Other Order) the following information concerning the Post Conviction Relief Act and the procedures under Chapter 9 of the Rules of Criminal Procedure. "Parties" as used in Pa.R.A.P. 2521 shall include the defendant, the defendant's counsel, and the attorney for the Commonwealth for the purposes of this rule.

(1) A petition for post-conviction collateral relief must be filed within one year of the date the judgment becomes final, except as otherwise provided by statute.

(2) As provided in 42 Pa.C.S. § 9545(b)(3), a judgment becomes final at the conclusion of direct review, which includes discretionary review in the Supreme Court of the United States and the Supreme Court of Pennsylvania, or at the expiration of time for seeking the review.

(3) (a) If the defendant fails to file a petition within the one-year time limit, the action may be barred. See 42 Pa.C.S. § 9545(b).

(b) Any issues that could have been raised in the post-conviction proceeding, but were not, may be waived. See 42 Pa.C.S. § 9544(b).

(4) Pursuant to Rule 904 (Appointment of Counsel; in Forma Pauperis), the trial judge will appoint new counsel for the purpose of post-conviction collateral review, unless:

(a) the defendant has elected to proceed pro se or waive post-conviction collateral proceedings, and the judge finds, after a colloquy on the record, that the defendant is competent and the defendant's election is knowing, intelligent, and voluntary;

(b) the defendant requests continued representation by original trial counsel or direct appeal counsel, and the judge finds, after a colloquy on the record, that the petitioner's election constitutes a knowing, intelligent, and voluntary waiver of a claim that counsel was ineffective; or

(c) the judge finds, after a colloquy on the record, that the defendant has engaged counsel who has entered, or will promptly enter, an appearance for the collateral review proceedings.

**Comment**

\* \* \* \* \*

Under the 1995 amendments to the PCRA, a petition for post-conviction relief, including second and subsequent petitions, must be filed "within one year of the date the judgment becomes final," 42 Pa.C.S. § 9545(b)(1), unless one of the statutory exceptions applies, see 42 Pa.C.S. § 9545(b)(1)(i)—(iii). Any petition invoking one of these exceptions must be filed within 60 days of the date the claim could have been presented. See 42 Pa.C.S. § 9545(b)(2).

See Rule 904 for the procedures for the appointment of counsel.

Pursuant to paragraph (B), the Supreme Court's Prothonotary must include with the mailing required by Rule of Appellate Procedure 2521 (Entry of Judgment or Other Order) the information set forth in paragraph (B)(1)—(4). Rule 2521 requires, inter alia, on the date a judgment or order is entered, that the prothonotary is to send to all parties by first class mail a copy of any opinion, or judgment, or order.

*Official Note:* Rule 1500 adopted August 11, 1997, effective immediately; Comment revised July 23, 1999, effective September 1, 1999; renumbered Rule 900 and amended March 1, 2000, effective April 1, 2001; amended March 26, 2002, effective July 1, 2002.

*Committee Explanatory Reports:*

\* \* \* \* \*

**Final Report explaining the March 26, 2002 amendments providing for notice in death penalty cases published with the Court's Order at 32 Pa.B. 1841 (April 13, 2002).**

**FINAL REPORT<sup>1</sup>**

*Amendments to Pa.R.Crim.P. 900*

**POST CONVICTION COLLATERAL  
PROCEEDINGS: NOTICE IN DEATH PENALTY  
CASES**

**Introduction**

On March 26, 2002, effective July 1, 2002, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rule of Criminal Procedure 900 (Scope; Notice in Death Penalty Cases). The rule changes require the Supreme Court's Prothonotary in capital cases to provide in the mailing required by Appellate Rule 2521(a) notice of the information concerning the time for filing a PCRA petition under the Post Conviction Relief Act (PCRA) and the procedures concerning counsel under Chapter 9 of the Criminal Rules.<sup>2</sup> The notice is to be given to the defendant, defense counsel, and the attorney for the Commonwealth.<sup>3</sup> These changes will ensure defendants in death penalty cases receive timely notice of the PCRA information.

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

<sup>2</sup> Appellate Rule 2521 (Entry of Judgment or Other Order) also has been amended to include the same notice requirements.

<sup>3</sup> Chief Justice Zappala and Justice Nigro dissented from that portion of the amendments that requires the Prothonotary to provide notice to the defendant, rather than solely to defense counsel.

## Discussion

### 1. Placement

The first consideration concerning the new PCRA notice provision was placement. The Committee agreed that the provision should be in Chapter 9, because this is the first section of rules that concerns post-conviction procedures. In addition, because we had been advised that the Court thought the notice should be given upon the affirmation by the Court of the judgment of a death sentence, we noted that the time for the notice precedes all the procedures in Chapter 9, and therefore should be placed at the beginning of the Chapter. The new procedures have been incorporated into Rule 900: the title has been amended to "Scope; Notice in Death Penalty Cases;" and a new subsection (B) has been added.

### 2. Service of the Notice

The next consideration was who should be required to provide the PCRA notice. The Committee identified four choices: the Supreme Court's Prothonotary, the trial judge, the clerk of courts for the judicial district in which the trial had been held, or the defendant's counsel.

As the Committee evaluated the choices, we noted that Pa.R.A.P. 2521 (Entry of Judgment or Other Order) requires, *inter alia*, that

The prothonotary shall, on the date a judgment or other court order is entered, send by first class mail to all parties a copy of the opinion, if any, or of the judgment or other order if no opinion was written.

Therefore, there already is in place a mechanism for providing the PCRA notice, since the Supreme Court's Prothonotary is required to mail information upon the affirmation of the judgment of a death sentence. The Committee did not think that adding the PCRA notice to the information required by Appellate Rule 2521 would be a significant change from the present practice, and this seemed the most efficient means of getting the notice to the defendant.

In addition to the existing Appellate Rule 2521 mailing requirement, several other considerations persuaded the Committee that the Supreme Court's Prothonotary should serve this PCRA notice. These considerations are:

(1) because the number of death penalty cases is relatively few, the additional requirement of service on the defendant will not place an undue burden on the Prothonotary;<sup>4</sup>

(2) the requirement would reduce the likelihood of confusion, delays, and mistakes that otherwise might arise if the Criminal Rules required the clerk of courts or trial judge to give the PCRA notice, while the Appellate Rules required the Supreme Court's Prothonotary to give notice of the judgment;

(3) the Supreme Court is the last body in which there has been an entry of appearance for defense counsel, so the Prothonotary knows who counsel is, and where to locate him or her for purposes of providing notice;

(4) not all defendants are represented at this stage of the proceedings, which would necessitate an alternative procedure for unrepresented defendants, and having two procedures would lead to confusion;

(5) it has been the experience of some members that the Department of Corrections (DOC) does not forward

<sup>4</sup> The Committee confirmed that annually there are relatively few death penalty cases for which the Rule 900 notice would be sent. In 1999, there were 42 affirmances of the judgment of the sentence of death, in 2000, there were 19, and, as of the end of July 2001, there had been five.

mail from counsel, and the Committee anticipated that mail from the Supreme Court's Prothonotary would receive more respect;<sup>5</sup> and

(6) the reality that service on the attorney unfortunately is no assurance that the defendant will get the notice.<sup>6</sup>

A final consideration examined by the Committee was the impact of Rule 904(F) concerning the appointment of counsel in death penalty cases that was adopted by the Court in 2000. Although in one respect, the immediate appointment of counsel may appear to diminish the need for the notice, because of the timing of the appointment of counsel under Rule 904(F), in fact there is a great need for prompt notice to the defendant.<sup>7</sup> Accordingly, the Committee concluded Rule 904(F) further supports its view that the Prothonotary should serve the defendant because (1) new counsel is likely to be appointed at some point in death penalty cases, which diminishes present counsel's sense of responsibility to ensure the defendant receives the notice, and (2) ensuring the defendant receives prompt notice will encourage the defendant at the earliest time to request counsel, and will promote discussion between the defendant and counsel.

### 3. Coordination with Appellate Rules

Having agreed upon the Supreme Court's Prothonotary as the individual to provide the PCRA notice as part of the Appellate Rule 2521 mailing, the Committee discussed whether this matter should be addressed by the Appellate Rules Committee instead of the Criminal Rules Committee. We considered that this is an area that is an intersection of the scope of the Criminal and Appellate Rules, because the PCRA notice would go out at the completion of direct review, but before collateral review begins. The Committee ultimately agreed that, since the PCRA notice concerned a defendant's rights and requirements under the PCRA and Chapter 9 of the Criminal Rules, and, therefore, was inextricably tied to the PCRA procedures, it was appropriate for the PCRA notice provision to appear in the Criminal Rules.

At the same time, we recognized that because of the close interrelationship with the Appellate Rules, it made sense to coordinate the Rule 900 changes with the Appellate Court Procedural Rules Committee. Given the gravity of death penalty cases, the respective Committees agreed the identical notice requirements should be spelled out in both rules, with correlative cross-references in the Rule 900 Comment and the Rule 2521 Note.

### 4. Description of Rule 900(B) Provisions

New paragraph (B) is titled "Notice in Death Penalty Cases." The introductory paragraph includes an explanation that "[f]or purposes of this rule, 'parties' as used in Pa.R.A.P. 2521 shall include the defendant, defendant's counsel, and the attorney for the Commonwealth." The Committee agreed that this provision was necessary because we had learned during our development of these changes that, although Appellate Rule 2521 provides for

<sup>5</sup> From communications with the DOC, it is the Committee's understanding that the PCRA notices in death penalty cases would be treated in the same manner as the death warrants; they would be delivered by the institutions' personnel directly to the defendants, and a log of the delivery would be kept for purposes of proof of service.

<sup>6</sup> Point (6) is more difficult to quantify, yet is the most troubling and most difficult to correct. The members noted their experience has been that some attorneys are not as conscientious about communicating with their clients, particularly after the client has been sentenced, even in death penalty cases. The members are concerned both about the delay attorneys might create if required to provide the notice, and also about the potential for lack of any transfer of the notice by the attorneys, thereby resulting in a defendant losing the opportunity to pursue collateral review of the death sentence.

<sup>7</sup> It has been the members' experience since Rule 904(F) became effective, that it is not being followed in every case. We believe by promptly serving the defendant with the PCRA notice, the defendant then will request counsel, thus alerting the trial court to the need to proceed pursuant to Rule 904(F).

the mailing to go to the "parties," the Prothonotary ordinarily does not send the Appellate Rule 2521 information to the defendant, and we wanted to ensure the defendant would receive a copy even if represented.

The required contents of the PCRA notice are set forth in new paragraphs (B)(1)-(4), and include the PCRA's time requirements and the Rule 904 notice of the right to counsel for the first petition. Paragraph (B)(1) gives notice of the one-year filing requirements of the PCRA. For purposes of uniformity, the Committee has used the Rule 901(A) wording to explain this one-year time limit for filing, and has added a Comment explanation with a citation to the relevant statutory provisions, comparable to the Rule 901 Comment. The statutory definition of "final judgment" is set forth in paragraph (B)(2).

Paragraph (B)(3) provides the information about the consequences of failing to file a timely petition, and of failing to raise an issue in the petition. Because the statute is silent concerning the consequences of failing to file a PCRA petition within the one-year time limit, subparagraph (B)(3)(a) explains that the PCRA action may be barred if the defendant fails to file a timely petition, with a citation to 42 Pa.C.S. § 9545(b), which provides the time limitations and the exceptions. Similarly, subparagraph (B)(3)(b) explains that issues that were not raised may be waived, with a citation to 42 Pa.C.S. § 9544(b), which addresses waiver of issues.

The Committee also agreed that the PCRA notice should advise the defendant of the Rule 904 counsel provisions for first petitions. The Committee believes, especially in death penalty cases, that the importance of counsel in the preparation of the first PCRA petition cannot be minimized, and the addition of the Rule 904(F) counsel information to the PCRA notice is vital. Furthermore, the counsel notice is consistent with the reason for providing PCRA notice upon the affirmance of the judgment of a sentence of death—the defendant should receive notice of the information concerning time limits on filing and counsel at the earliest time to ensure that first petitions are timely filed and properly prepared. This we believe, in turn, will minimize, if not eliminate, second and subsequent petitions.

[Pa.B. Doc. No. 02-563. Filed for public inspection April 12, 2002, 9:00 a.m.]

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## DISCIPLINARY BOARD OF THE SUPREME COURT

### Notice of Disbarment

Notice is hereby given that Leon Martelli, having been disbarred from the practice of law in the State of New Jersey, the Supreme Court of Pennsylvania issued an Order dated March 26, 2002, disbaring Leon Martelli from the Bar of this Commonwealth. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,  
*Executive Director and Secretary*  
*The Disciplinary Board of the*  
*Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 02-564. Filed for public inspection April 12, 2002, 9:00 a.m.]

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### Notice of Disbarment

Notice is hereby given that Harry W. Scott, Jr., having been disbarred from the practice of law in the State of New York, the Supreme Court of Pennsylvania issued an Order dated March 26, 2002, disbaring Harry W. Scott, Jr. from the Bar of this Commonwealth. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,  
*Executive Director and Secretary*  
*The Disciplinary Board of the*  
*Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 02-565. Filed for public inspection April 12, 2002, 9:00 a.m.]

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# RULES AND REGULATIONS

## Title 22—EDUCATION

### STATE BOARD OF PRIVATE LICENSED SCHOOLS

[22 PA. CODE CH. 73]

#### Definitions; Fees

The State Board of Private Licensed Schools (Board), under the authority granted by the Private Licensed Schools Act (act) (24 P.S. §§ 6501—6518), amends §§ 73.1 and 73.151 (relating to definitions; and fees) to read as set forth in Annex A.

Notice of proposed rulemaking was published at 31 Pa.B. 2017 (April 14, 2001) with an invitation to submit written comments. No public comments were received.

No changes have been made subsequent to proposed rulemaking.

#### *Description of Final-Form Amendments*

Section 73.1 adds a new definition for “seminars” and revises the definition of “nonresident.”

Section 73.151(a) prescribes a new fee for initial licensure of schools that only present seminars, and revises fees for biennial licensure or registration of all schools, and licensure of admissions representatives.

Section 73.151(b) increases the user fees for other services provided by the Board, which services are in addition to the processing and issuance of original or renewal school licenses, registration and admissions representative licenses.

#### *Purpose*

The Board’s current fees are fixed by § 73.151. Section 10 of the act (24 P.S. § 6510) authorizes the Board to increase its fees by regulation if the Board’s revenues from fees, fines and civil penalties are not sufficient to meet Board expenditures over a 2-year period.

The Board recently reviewed its fees and determined that current fees are inadequate to meet anticipated revenue needs. The Board estimates that its expenditures for the biennial period covering Fiscal Years (FY) 2000-01 and 2001-02 will be \$1,172,033. In contrast, the estimated revenues under the existing fee structure are \$1,044,500.

The new fees in § 73.151 should raise sufficient revenue to offset the Board’s projected expenditures for FY 2000-01 and 2001-02 while maintaining a surplus, projected to be about \$259,080 by June 30, 2002, as a cushion against unanticipated expenditures or additional revenue shortfalls.

The Board last increased its fees on July 1, 1991. At that time, the Board’s projections assumed substantial

growth in the number of original and renewal licenses, registrations and program applications submitted. The numbers of license, registration, admission representatives and new program applications have decreased since that time and the Board has operated at a deficit in 5 of the 9 preceding fiscal years under the current fee structure. Although the Board has covered previous deficits by drawing on the year-to-year carryover of unused funds, the carryover will be depleted in FY 2001-02, resulting in a negative balance in the Board’s budget. At the same time, estimated expenditures will exceed revenue projections. The current staffing level will need to be maintained for the foreseeable future.

In regard to the inclusion of seminars, an unlicensed school, business or entity that meets the definition of a seminar will be required to submit an original application for licensure or registration and will pay the \$750 initial application fee. Licensure will discourage a business or entity from bait and switch advertising or solicitation under the term “seminar.” It also will provide protection for the consumer in the areas of advertisements and representation, curriculum standards and qualified instructional staff. The reduced original application fee will benefit smaller schools and businesses presenting only seminars. It will not create an onerous burden for schools seeking initial licensure to offer short-term training courses. This type of school will not be required to submit a lengthy application for initial licensure and will be permitted to offer courses in various locations across this Commonwealth under the revised definition of “nonresident.” After 1 year of operation, biennial renewal fees are on an assessed graduated scale based upon gross tuition revenue. The lower end of the graduated scale will benefit smaller schools when their gross tuition revenue collected is less in comparison to already established private licensed schools.

The fees will meet the anticipated need for additional revenue.

#### *Fiscal Impact*

There is no fiscal impact from the new or modified definitions. If the existing fee structure is not revised, total revenue, combined with current carry-over for FY 1999-00, is expected to be \$1,086,293 for the biennial period ending FY 2001-02. The increased fees, together with fees which will not be increased, and the amount carried over from the FY 1999-00 are expected to generate revenues totaling \$1,389,320 for the Board for the period ending FY 2001-02. The following table shows how much of the Board’s total revenue each fee is expected to generate:

#### *Estimated Number of Fee Payers Biennially Times Amount of Fee*

<i>Board Activity</i>	<i>FY 2000-01</i>	<i>FY 2001-02</i>	<i>Est. Revenue</i>
1. Original School License or Registration	40 × \$1,500a	40 × \$1,500b	\$ 60,000
2. Biennial School Licensure or Registration			\$ 60,000
\$0	6 × \$1,200a	9 × \$1,200b	\$ 7,200
\$150—9,999	8 × \$1,400a	10 × \$1,400b	\$ 10,800
			\$ 11,200
			\$ 14,000



<i>Board Activity</i>	<i>FY 2000-01</i>	<i>FY 2001-02</i>	<i>Est. Revenue</i>
\$10,000—49,999	24 × \$1,500a		\$ 36,000
\$50,000—99,999	25 × \$1,600a	20 × \$2,200b	\$ 44,000
\$100,000—199,999	28 × \$1,800a	26 × \$2,300b	\$ 40,000
\$200,000—499,999	25 × \$2,100a	18 × \$2,600b	\$ 59,800
\$500,000—999,999	25 × \$2,100a	24 × \$3,000b	\$ 90,720
\$1,000,000—1,999,999	17 × \$2,400a	24 × \$3,500b	\$ 46,800
\$2,000,000 and over	12 × \$3,000a	29 × \$4,100b	\$ 52,500
3. Admission Representative License	240 × \$150a	21 × \$4,400b	\$ 72,000
4. New Program Application	150 × \$350a	240 × \$300b	\$ 36,000
5. Change of Ownership	10 × \$600a	150 × \$700b	\$ 72,000
6. New School Orientation Seminar	50 × \$100a	10 × \$1,200b	\$ 52,500
7. School Site Inspection	40 × \$250a	50 × \$200b	\$ 105,000
		40 × \$500b	\$ 6,000
			\$ 12,000
			\$ 5,000
			\$ 10,000
			\$ 10,000
			\$ 20,000.
a—For fees collected July 1, 2000—June 30, 2001.			
b—For fee collected under fee increase July 1, 2001—June 30, 2002.			
8. Estimated Revenue from New Fees			\$ 824,200
9. Estimated Revenue from Fees not Increase			\$ 565,120
Total Estimated Revenue			\$1,389,320
Total Estimate Expenditure			\$1,172,033
Rollover Amount from FY 1999-00			\$ 41,793
Surplus for Unanticipated Expenditures or Revenue Shortfall			\$ 259,080

*Paperwork Requirements*

The final-form amendments require the Board to alter some of its forms to reflect the new fees. The final-form amendments will create no additional paperwork for the private sector.

*Effective Date*

The final-form amendments take effect upon publication in the *Pennsylvania Bulletin*.

*Sunset Date*

The act requires that the Board monitor its revenues and costs on a biennial basis, and revise its regulations as necessary. 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 April 5, 2001, the Department of Education submitted a copy of the notice of proposed rulemaking published at 31 Pa.B. 2017 to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on Education for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with other documentation when requested. In preparing the final-form rulemaking, the Board considered the comments received by IRRC. IRRC requested for a breakdown of the Board staff time, salaries, associated costs and administrative overhead costs for each fee. A copy of this response is available upon request to the office of the Board. IRRC also requested an explanation of how seminars fit into the

definition of “private licensed school” in section 2 of the act (24 P. S. § 6502). In preparing this final-form rulemaking, the Board has considered the comments received from IRRC.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on February 13, 2002, this final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on February 21, 2002, and approved the final-form rulemaking.

*Contact Person*

The official responsible for information on the final-form amendments is Patricia Landis, Coordinating Secretary, State Board of Private Licensed Schools, 333 Market Street, Harrisburg, PA 17126-0333, (717) 787-4645 or TDD (717) 787-7367.

*Findings*

The Board finds that:

(1) Public notice of the intention to adopt these amendments 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 no public comments were received.

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

*Order*

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

(a) The regulations of the Board, 22 Pa. Code Chapter 73, are amended by amending §§ 73.1 and 73.151 to read as set forth in Annex A.

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

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

(d) This order is effective upon final-form publication in the *Pennsylvania Bulletin*.

PATRICIA LANDIS,  
Coordinating Secretary

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 1362 (March 9, 2002).)

**Fiscal Note:** Fiscal Note 6-272 remains valid for the final adoption of the subject regulations.

**Annex A****TITLE 22. EDUCATION****PART III. STATE BOARD OF PRIVATE LICENSED SCHOOLS****CHAPTER 73. GENERAL PROVISIONS****DEFINITIONS****§ 73.1. Definitions.**

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

*Act*—The Private Licensed Schools Act (24 P. S. §§ 6501—6518).

*Acting director*—The individual responsible for assuming the director's duties in the temporary absence of the director.

*Board*—The State Board of Private Licensed Schools.

*Branch facility*—A school facility whether or not located at the administrative headquarters of a school. A school with one school facility has one branch facility.

*Certificate*—A document awarded by a school subject to this chapter upon the successful completion of a particular course.

*Chief executive officer*—The person ultimately responsible for all phases of the school operation, plant and program, including the method of instruction, the employment of instructors, the organization of classes, the equipment, the advertising used, the maintenance of proper administrative records and other matters related to the administration of the school. The chief executive officer and the director may be the same person.

*Clock hour*—A minimum of 50 minutes of instruction.

*Closure*—The situation which results when a school ceases to operate.

*Complaint*—A matter that has been reported to the review and recommendation panel under § 73.184 (relating to reporting of potential violations), has been investigated by Board staff and has been found to constitute a violation of the act or this chapter.

*Correspondence*—A systematic course or program of nonresident instruction.

*Course*—A unit of learning covering specific subject matter.

*Credit hour*—A unit of curricular material which normally can be taught in a minimum of 14 clock hours of instruction. For laboratory instruction, a credit hour represents a minimum of 28 clock hours. For shop instruction and practicum experiences, including externship/internship experiences, a credit hour represents a minimum of 42 clock hours.

*Degree*—A specialized associate degree awarded by a school with the approval of the Secretary under Chapter 42 (relating to program approval).

*Department*—The Department of Education of the Commonwealth.

*Diploma*—A document awarded by the school subject to this chapter upon the successful completion of an approved program.

*Director*—The person designated by a school directly responsible for the day-to-day operation of a school. The director and the chief executive officer may be the same person.

*Educational supervisor*—An individual who reports to the director and supervises all or part of the instructional program in his curricular area.

*Hearing panel*—Three Board members, one of whom shall be a public member as defined by section 3(a) of the act (24 P. S. § 6503(a)), who preside over hearings requested by schools to contest enforcement actions and who submit proposed findings and recommendations to the full Board for its adjudication.

*Internship or externship*—A structured, supervised learning experience which takes place outside of the school and involves the practical application of competencies acquired during school-based instruction.

*Licensee*—A person or entity holding a license issued by the Board in accordance with the act.

*Mail*—Ordinary first class mail, United States Postal Service, ICC approved mail carrier or personal delivery, unless otherwise specified.

*Nonresident*—A student who is receiving instruction by correspondence, telecommunication or similar means including seminar.

*Notice*—A written statement issued by the Board to a licensee or registrant or by a licensee or registrant to the Board.

*Prepaid tuition*—A sum of money received by a school from a student, or on behalf of a student, for which the period of the student's enrollment has not yet begun.

*Private licensed school sales office*—A permanent or temporary facility away from school premises to which an admissions representative reports or from which an admissions representative solicits or procures student enrollments.

*Program*—An approved series of organized courses.

*Registered school sales office*—A permanent or temporary facility in this Commonwealth of a registered school to which an admissions representative reports or from which an admissions representative solicits or procures student enrollments.

*Remote laboratory*—A detached facility for teaching practical application of theoretical instruction, such as a firing range for a security or private investigator program or kitchen facilities for a food service program.

*Reportable event*—A circumstance or occurrence as defined in § 73.201 (relating to reportable events) which takes place at a school or which pertains to the school, within the knowledge of the school's owner, director or chief executive officer.

*Resident*—A student who is regularly scheduled to be present at a school facility for the purposes of instruction, including attendance at approved externships, internships or field experience.

*Review and recommendation panel*—Three Board members, one of whom shall be a public member as defined by section 3(a) of the act, whose role is to perform or direct Board staff in the performance of the prosecutorial functions involved in an enforcement action against a school.

*School*—A private licensed school or registered school as defined in the act. An entity requiring a license or registration under the act. The term includes an instructional facility requiring a license when the facility has a different ownership of more than 25% or has a different director or is a separate and distinct legal entity from a licensee.

*Secretary*—The Secretary of the Department.

*Seminar*—Training or instruction that is one of the following:

(i) Noncumulative short-term training of no more than 15 hours duration, not scheduled in a regular calendar format and offered as an introduction or orientation to an occupation.

(ii) Instruction for an entry-level occupation offered at a total contract price, of less than \$300, which includes all costs charged to students, including, tuition, fees, books and supplies, provided that the total contract price for all courses to any enrolled student is less than \$300 in any one calendar year.

*Student*—A person enrolled in a school for the purpose of instruction.

*Teachout*—The continuation of instruction to complete the program or course, whenever the school's license has been suspended or revoked or a school has advised the Board that it intends to discontinue operations.

*Telecommunications*—Nonresident, systematic instruction by electronic or electromagnetic means.

*Unearned tuition*—The portion of tuition charges billed to students of a school but not yet earned by the school. These amounts represent future educational services to be rendered to presently enrolled students.

**§ 73.151. Fees.**

(a) *License fees.* The fees for school and admissions representative licenses shall accompany both original and renewal license and registration applications. The fee schedule is:

- (1) For an original school license or registration—\$1,500.
- (2) For an original school license or registration of a school that only presents seminars—\$750.
- (3) For a renewal school license or registration-biennial fee based on gross tuition revenue:

<i>Gross Tuition Revenue</i>	<i>Fee</i>
\$0—2,499	\$ 500
\$2,500—4,999	\$1,000
\$5,000—9,999	\$2,000
\$10,000—49,999	\$2,200
\$50,000—99,999	\$2,300
\$100,000—199,999	\$2,600
\$200,000—499,999	\$3,000
\$500,000—999,999	\$3,500
\$1,000,000—1,999,999	\$4,100
\$2,000,000 and over	\$4,400

(4) For an admission representative license—\$300 annually.

(b) *User fees.* Fees will also be assessed for other services provided by the Board, which services are in addition to the processing and issuance of original or renewal school licenses or registration and admissions representative licenses. These user fees are as follows:

(1) A \$700 fee shall accompany each application for approval of a new program.

(2) A \$1,200 fee shall accompany notification to the Board of a change in ownership of the school.

(3) A \$200 fee per participant will be charged for participation in new school orientation seminars.

(4) A \$500 fee will be charged for each site inspection of the following types: new school, change in location, expansion of instructional space, temporary relocation, branch facility and remote training facility. This fee shall be paid before commencement of the visit.

(5) The fee for a Board-directed visit is \$500 per day if the visit is conducted by staff; \$800 per day plus team member expenses for a visit conducted by a team with nonstaff members. The fee for a Board-directed visit shall be paid before commencement of the visit.

[Pa.B. Doc. No. 02-566. Filed for public inspection April 12, 2002, 9:00 a.m.]

## Title 31—INSURANCE

### INSURANCE DEPARTMENT

#### [31 PA. CODE CH. 89]

#### Requirements for All Policies and Forms; Preparation of Forms

The Insurance Department (Department) amends § 89.14 (relating to dismemberment, death or surgical benefits) to read as set forth in Annex A. Sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412) provide the Commissioner with the authority and duty to promulgate regulations governing the enforcement of the laws relating to insurance.

Notice of proposed rulemaking is omitted in accordance with section 204(3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(3)), known as the Commonwealth Documents Law (CDL). In accordance with section 204(3) of the CDL, notice of proposed rulemaking may be omitted when the agency for good cause finds that public notice of its intention to amend an administrative regulation is, under the circumstances, impracticable and unnecessary.

*Purpose*

The final-omitted regulation will bring the Department's regulation into compliance with the Supreme Court's ruling on time period limitations on recovery of accidental death benefits.

*Explanation of Regulatory Requirements*

The Supreme Court decision in *Burne v. Franklin Life Insurance Company*, 301 A.2d 799 (Pa. 1973), Attorney General's opinion No. 22, issued April 26, 1974, published at 4 Pa.B. 962 (May 11, 1974) and the Department's notice published at 4 Pa.B. 1933 (September 7, 1974) prohibited the sale of certain life insurance policies. Specifically, the Supreme Court stated that accidental death benefit policies may not be sold or issued in this Commonwealth if death must occur during a specific time period limitation. This applies regardless of the line of insurance with which it is sold.

The Department has not permitted any policies sold or marketed in this Commonwealth to contain the provision found in § 89.14(b). This final-omitted rulemaking is to reconcile § 89.14 with the decision that was made by the Supreme Court in 1973 and the Attorney General's opinion in 1974.

In addition, § 89.14(b) is in direct conflict with § 89.43 (relating to accidental death benefit).

*Fiscal Impact*

The insurance industry will likely not incur additional costs for complying with the requirement. Insurance companies have not been permitted to use this provision since 1974; therefore, there is no fiscal impact on the insurance industry.

*Effectiveness/Sunset Date*

This final-omitted regulation is effective upon publication in the *Pennsylvania Bulletin*. No sunset date has been assigned.

*Paperwork*

Adoption of this final-omitted regulation should not require significant paperwork for insurance carriers.

*Persons Regulated*

This final-omitted regulation applies to all insurance companies who issue insurance products in this Commonwealth.

*Contact Person*

Questions regarding the final-omitted rulemaking may be addressed to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429. Questions may also be e-mailed to psalvatore@state.pa.us or faxed to (717) 772-1969.

*Regulatory Review*

Under section 5.1(c) of the Regulatory Review Act (71 P. S. § 745.5a(c)), on February 21, 2002, the Department submitted copies of this final-omitted rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Insurance and the Senate Committee on Banking and Insurance. On the same date, the final-omitted rulemaking was submitted to the Office of the Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(d) of the Regulatory Review Act, on March 13, 2002, this final-omitted rulemaking was

deemed approved by the House and Senate Committees. The Attorney General approved the amendment on March 18, 2002. Under section 5.1(e) of the Regulatory Review Act, on March 21, 2002, IRRC met and approved this final-omitted rulemaking.

*Findings*

The Commissioner finds that:

(1) There is good cause to amend Chapter 89, effective upon publication with the proposed rulemaking omitted. Deferral of the effective date of these regulations would be impractical and not serve the public interest. Under section 204(3) of the CDL, there is no purpose to be served by deferring the effective date.

(2) There is good cause to forego public notice of the intention to amend Chapter 89, because notice of the amendment under the circumstances is unnecessary and impractical for the following reasons:

(i) The changes mandated by the Supreme Court ruling have been in effect since 1974.

(ii) Public comment cannot change the fact that this requirement has been required by the Supreme Court ruling.

*Order*

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

(a) The regulations of the Department, 31 Pa. Code Chapter 89, are amended by amending § 89.14 to read as set forth in Annex A.

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

(c) The Department 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 its publication in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
Insurance Commissioner

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 1780 (April 6, 2002).)*

**Fiscal Note:** 11-213. No fiscal impact; (8) recommends adoption.

**Annex A****TITLE 31. INSURANCE****PART IV. LIFE INSURANCE****CHAPTER 89. APPROVAL OF LIFE, ACCIDENT AND HEALTH INSURANCE****Subchapter A. REQUIREMENTS FOR ALL POLICIES AND FORMS****PREPARATION OF FORMS****§ 89.14. Dismemberment, death or surgical benefits.**

In contracts providing specified benefits for dismemberment, death or surgical operations, if the insurer limits its liability to one such loss as a result of a single

accident, the contract shall provide that the insured is entitled to receive the largest amount applicable.

[Pa.B. Doc. No. 02-567. Filed for public inspection April 12, 2002, 9:00 a.m.]

## Title 34—LABOR AND INDUSTRY

### DEPARTMENT OF LABOR AND INDUSTRY

#### [34 PA. CODE CH. 401]

#### Uniform Construction Code; Training and Certification of Code Administrators

The Department of Labor and Industry (Department), Bureau of Occupational and Industrial Safety (BOIS), by this order adopts these final-form regulations to provide detailed requirements for the training and certification of code administrators under the Pennsylvania Construction Code Act (35 P. S. §§ 7210.701—7210.1103) (act), to read as set forth in Annex A.

In response to comments received and meetings with affected parties, the Department made some changes to the proposed rulemaking that was published at 31 Pa.B. 3543 (July 7, 2001).

This notice includes the Department's interpretation of the act of November 10, 1999 (P. L. 491, No. 45) (Act 45) adopting the *1999 BOCA National Building Code, Fourteenth Edition* or its successor codes as the Uniform Construction Code (UCC).

#### *Statutory Authority*

These final-form regulations are adopted under the authority provided in section 701(a) of the act (35 P. S. § 7210.701(a)), which provides that the Department, in consultation with the Accessibility Advisory Board (Board), Building Officials and Code Administrators International, Inc. (BOCA), National Conference of State Building Code Standards (NCSBCS) and other interested parties, adopt regulations providing for a program of required training and certification for all categories of code administrators.

Section 701(e)(1) of the act also requires that the Department adopt regulations setting forth the time period in which current code administrators shall meet the training and certification requirements of the act. Section 701(f) of the act mandates that the Department adopt and implement a continuing education program. The Department is empowered to establish a procedure providing for the notification and hearing process for decertification for just cause under section 701(h) of the act. Authority to adopt and promulgate fees for educational programs, testing and certification of code administrators is contained in section 701(j) of the act. Section 701(k) of the act provides that the Department set minimum levels of liability insurance applicable to third-party agencies.

#### *Background*

The purpose of the act is to establish a Statewide building code, the UCC. This provides uniform standards for builders, and greater protection for building owners and occupants, and the general public. All municipalities in this Commonwealth will utilize the UCC to assure that this Commonwealth has a uniform, modern construction

code that will insure safety, health and sanitary construction, promote state-of-the art techniques and encourage cost-effectiveness. An important facet of the act is "to assure that officials charged with the administration and enforcement of the technical provisions of [the] act are adequately trained and supervised." See section 102(b)(6) of the act (35 P. S. § 7210.102(b)(6)). These officials will be certified in categories appropriate to the work performed. The Department will regulate these officials as code administrators and mandate continuing education.

The UCC takes effect 90 days after the publication of final-form regulations by the Department adopting the required National standards for buildings and energy conservation, and setting forth the administrative provisions under the code. Under section 701 of the act, the Department is required to adopt a program of training and certification for code administrators. Code administrators are municipal code officials, construction code officials, third-party agencies or the Department. Code administrators are generally responsible for plan review of construction documents, inspection of construction or administration and enforcement of codes and regulations under the act or related acts.

Section 701 of the act took effect on November 10, 1999. Since the passage of the act, the Department received numerous requests for guidance on training and certification from current code administrators, municipalities and third-party agencies. Municipalities, current code administrators and third-party agencies need ample time to plan and prepare for the effective date of the UCC and to complete certification. Accordingly, the Department determined it was necessary to promulgate these regulations on training and certification before the regulations establishing the UCC's administrative and enforcement provisions.

At 31 Pa.B. 3543, the Department published the notice of proposed rulemaking, inviting all interested parties to provide written comments. As a result, the Department received comments from the following groups and individuals: Gmerek & Hayden; Joe Pirozzi; Robert E. Duncan, Pennsylvania Association of Code Officials (PACO); Michael A. Perrone, Borough of West Chester; John E. Buzard and J. Thomas Traister, Supervisors, Madison Township; Randy Souders, Director, Community Develop and Code Enforcement, Upper Allen Township; William Hartz, Manager of Certification, BOCA; Cindy L. Davis; Middle Department Inspection Agency, Inc. (MDIA); Dingman Township Board of Supervisors; and Senator Mike Waugh and Senator Charlie Dent. The Department also received written comments from the Independent Regulatory Review Commission (IRRC), in a letter dated September 7, 2001, and met with analysts from IRRC.

The Department submitted a request, under 45 Pa.C.S. § 727(9) (relating to matter not required to be published) for designation of the *International Building Code 2000 and the International Residential Code for One- and Two-Family Dwellings* as a generally available publication approved by the Legislative Reference Bureau. The Department was granted this request on December 28, 2001.

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

Since the passage of the act, extensive outreach and communication efforts have been undertaken to gain input from the various affected parties including representatives from BOCA, three regional Pennsylvania

Chapters of BOCA, Pennsylvania Code Training Consortium (CTC), Pennsylvania Housing Research Center, Building Codes Assistance Project, United States Department of Energy and the Department of Health of the Commonwealth. Department representatives met almost weekly with interested persons to answer questions and solicit comment.

The Department attended the CTC's inaugural meeting in October 1999 and has attended its subsequent quarterly meetings. On December 16, 1999, the Department held a general stakeholders' meeting to discuss the act and identify stakeholders. On June 16, 2000, the Department posted a draft of this training and certification regulation on its website [www.dli.state.pa.us](http://www.dli.state.pa.us) and solicited comments from stakeholders.

The Department received, reviewed and answered numerous e-mails and faxes from stakeholders, construction code officials, trade associations and local governments concerning certification and other aspects of the UCC. On July 19, 2000, the Department held a second stakeholders' meeting on its draft training and certification regulations. On July 26, 2000, the Department posted some proposed changes to its draft regulations on its Internet site. On October 18, 2000, Department representatives met with members of Pennsylvania Building Officials Conference at their annual conference to discuss training and certification requirements. The rulemaking was also discussed with the Department's Board. The Department published the notice of proposed rulemaking at 31 Pa.B. 3543. This notice contained an invitation for all interested parties to provide written comments. It also posted the proposed rulemaking on its website.

#### *Purpose*

The act's purpose is to insure safe, uniform, cost-efficient, modern construction standards throughout this Commonwealth by adopting a Statewide building code governing the construction, alteration, repair and new occupancy of all structures in this Commonwealth. See section 102(b) of the act. Officials charged with the administration and enforcement of the technical provisions of the act shall be adequately trained and supervised. These regulations provide a certification program, based upon consultation with BOCA, and establishes minimum continuing education requirements for code administrators for the specific work that is to be performed. They also contain procedures for decertification of code administrators for just cause. They also provide the insurance requirements for third-party agencies that may be contracted with to act as a construction code official for residential property owners, local governments and the Department. The regulations also set the time period for current code administrators to meet the certification requirements of Act 45, and provide for the registration of current code officials until these requirements are met. The regulations set forth fees for initial certification and registration, certification renewal, third-party agency certification and renewal and identification replacement.

#### *Affected Persons*

Current and prospective code administrators including employees of the Department, municipalities, political subdivisions and third-party agencies are affected by this regulation. These persons are required to meet the certification requirements of Act 45, including the specific category testing to perform their duties. Code administrators will have to complete mandatory continuing education hours to renew certifications. Employers will insure that code administrators meet this chapter's require-

ments. Third-party agencies will have to obtain appropriate insurance coverage. The Department will have to provide staffing requirements to provide the certification and renewal of code administrators. The general public is also affected in that the use of trained and certified building code administrators to perform building inspections will increase public safety.

#### *Fiscal Impact*

The Commonwealth will incur ongoing costs related to the administration of the new certification provisions. These costs will be greater at the onset of the certification program and will decrease over the course of 5 years. These administrative costs are the result of the act's requirements.

The Department will be required to augment its existing staff to review, process and evaluate applications for certification of code administrators. The Department, an employer of code administrators, will be required to train and certify its existing employees. Further, the Department will also incur costs in providing continuing education for its employees.

Local governments will only incur costs if they decide to administer and enforce the UCC. Local governments that conduct building code programs, and third-party agencies which hire code administrators, will incur costs associated with training, certification and continuing education of their employees. To offset these costs, local governments will be able to charge plan review and building permit fees to owners or builders. Third-party agencies will have to pay the costs to obtain appropriate insurance coverage.

#### *Responses to Comments*

The following addresses the common areas of concerns found in the comments received from the public and IRRC:

Some of the definitions in § 401.1 (relating to definitions) were changed in response to a number of comments. Two commentators, Gmerek & Hayden and Joe Pirozzi, objected to the number of occupation certifications for elevator and lifting device inspection found in the proposed rulemaking in §§ 401.6 and 401.7 (relating to certification categories and testing; and certification category specifications). The Department changed §§ 401.6 and 401.7 by deleting the categories for conveyer system inspector, belt manlift inspector and auto lift inspector in response. The changes to these sections also necessitated a change in the definitions found in § 401.1.

IRRC commented that the definitions for "code administrator" and "construction code official" differ from the definitions found in the act and suggested that these definitions contain cross references similar to definitions in the act. IRRC also questioned whether the term "current code administrator" pertains to only employees of third-party agencies. The term current "code administrator" applies to persons currently performing code administration. The Department revised these terms to reflect the act. Upon further review of this rulemaking, the Department determined that the definitions for "code administrator," "current code administrator" and "construction code official" did not include elevator and passenger ropeway inspectors. The Department rewrote the definitions for "code administrator" and "construction code official" to reflect and incorporate the act's definitions. It also rewrote the definitions for "code administrator," "current code administrator" and "construction code official" to include elevator and passenger ropeway inspectors by containing a reference to equipment in the definitions.

Four commentators, IRRC, Robert Duncan, Michael A. Perrone and Cindy L. Davis stated the Department should provide a certification category for BOCA Certified Building Code Official (CBO). The Department addressed this concern in § 401.5(a)(3) (relating to waivers) by adding the CBO category. The changes to that section necessitated the addition of a definition for "certified building code official" in § 401.1

IRRC and the MDIA stated the definition of "third-party agency" should be added to the regulations. The Department added the definition of "third-party agency" from the act as suggested by the MDIA. The MDIA also stated that the Department must determine when an individual who is employed by more than one municipality must be licensed as a third-party agency. The definition of "third-party agency" clearly applies to individuals as well as firms and corporations. Whether an individual is a third-party agency or a municipal employee will be determined on the basis of that individual's contractual or employment relationship with the municipality.

Section 401.2 (relating to Department fees) was changed to clarify how fees will be charged. The final-form regulations state that the Department will charge one fee per application, and an applicant may apply for multiple categories on a single application. The Department has also deleted the requirement for a photo identification card. The Department planned to contract with the Department of Transportation for photo identification cards to make the cards readily available throughout this Commonwealth and to decrease costs. The Department subsequently learned that a separate card would have to be issued for each certification category or the cost of the cards would rise significantly. To reduce costs for construction code officials and the Department, the Department will issue a certification identification card without a photograph.

IRRC questioned how the Department's fees were determined under § 401.2. The Department established its fees based on the actual costs for its asbestos and lead-based paint occupation certification programs. The Department will use the same personnel and procedures for certifying construction code officials.

The Department changed § 401.3 (relating to certification required) to reflect changes made to other sections of this rulemaking. Section 401.3(a) was amended to allow a registered construction code official to perform plan review, inspection and administration and enforcement of the UCC to reflect current code administrators who must register under § 401.15 (relating to registration of current code administrators). Additionally, § 401.3(b) was amended to reflect certification category changes in §§ 401.6 and 401.7. The term "accessibility specialist" was changed to "accessibility inspector/plans examiner" because of BOCA's revisions to its certification categories. Additionally, this section was changed to reflect the certification requirement relating to inspection and plan review of equipment such as elevators.

Section 401.4 (relating to application and identification) was changed to reflect the deletion of photo identification cards. This section now refers to identification cards and not to photo identification cards.

The certification waiver provisions of § 401.5 were changed in response to comments received by the Department. Commentators, Randy Souders and the MDIA objected to the certification requirements for current code administrators. Randy Souders suggested that current code administrators receive credit for actual work experi-

ence. BOCA suggested revising the term "continued employment" in § 401.5(a)(2)(i) to "continuous employment." IRRC and the MDIA questioned whether continued employment in a related field referred to just employment as an inspector or included employment in construction or installation as well.

The Department decided that experience alone was insufficient to waive the testing requirement and will provide some waivers for testing for current code administrators in the final-form regulations. The Department modified § 401.5 to clarify this issue for current code administrators. The Department added the term current code administrator to § 401.5(a)(2)(i). This allows for waiver of the testing requirements for applicants who have passed substantially similar tests at any time as long as they can provide evidence of employment as a current code administrator or 30 hours of continuing education or a college degree program in associated fields.

The MDIA also suggested that the Department modify § 401.5(a)(2)(ii) to include current certification by a National professional association of inspectors as a condition for waiver in addition to certification by a model code organization. The Department did not make this suggested change. Model code organizations have specific training, testing and continuing education requirements for certification. Professional associations generally do not have these requirements.

IRRC questioned what would constitute evidence of substantial education in associated fields under § 401.5(a)(2)(iii) and suggested that the Department clarify this language. The Department modified this subsection to require evidence of completion of 30 hours of continuing education or a college degree program in associated fields.

Four commentators, IRRC, PACO, Michael A. Perrone and Cindy L. Davis objected to the absence of a certification category for BOCA CBO. The Department added § 401.5(a)(3) to allow individuals who passed the CBO examination to waive the examination requirements for the residential building inspector, building inspector and building plans examiner categories.

IRRC sought information on the required application fee for waiver under § 401.5(b). The Department amended this section to cross reference the application fee under § 401.2.

Sections 401.6 and 401.7 were changed in response to the comments received by the Department. The Department changed all the certification category references from one and two family dwellings to residential to conform to the administrative and enforcement provisions of the UCC that the Department is currently drafting. BOCA suggested the revision of the fire prevention inspector category to fire inspector I and the revision of the accessibility specialist to accessibility inspector/plans examiner because of the changes BOCA made to its certification categories. The Department made the suggested changes. However, the Department will use the designation fire inspector without the "I" because the Department will recognize only one certification in this category. The certified building code official category was also added to this section as discussed previously.

Commentators, IRRC, Gmerek & Hayden and Joe Pirozzi, objected to the number of occupation certifications for elevator and lifting device inspection found in the proposed rulemaking in §§ 401.6 and 401.7. The proposed rulemaking contained certification test requirements and specifications for elevator inspector, belt

manlift inspector, conveying system inspector and passenger ropeway inspector. Gmerick & Hayden stated that the Department currently maintains jurisdiction over these types of devices with only one inspector category and that other jurisdictions do not require multiple licenses for lifting device inspection. In addition, Joe Pirozzi commented that categories for elevator inspector and ski-lift/tram inspector would be adequate. In response to these comments, the Department deleted the auto lift, belt manlift and conveying system inspector categories.

IRRC and Robert Duncan questioned the large number of certification categories. Robert Duncan provided the example of a sole inspector in a small municipality requiring 18 certifications. Michael Perrone suggested that a person who is certified as a commercial inspector would be qualified to perform the corresponding inspections for residential structures without additional certification. The Department agrees and redrafted the certification specifications in § 401.7 to allow building, electrical, mechanical, plumbing and energy inspectors certified to perform inspections on commercial buildings to perform these same inspections on residential buildings without obtaining the equivalent residential certification. This may greatly reduce the number of required certifications.

Robert Duncan also objected to the testing requirements for the energy inspector classifications. PACO was concerned over the three separate tests for various energy certification categories. The proposed rulemaking required separate tests for residential, commercial and plan approval. In response to this comment, the Department redrafted the certification specifications in § 401.7 to allow building energy inspectors certified to perform inspections on commercial buildings to perform energy inspections on residential buildings without obtaining the equivalent residential energy inspector certification.

Section 401.8 (relating to certification renewal) was changed in response to IRRC's comments. IRRC asked how the Department would make renewal information and forms available to the public. The Department amended § 401.8(b) to state that the Department will post renewal forms on its website and that it will also provide the form upon request. The Department will also make the forms available through municipal and professional associations, municipalities and the Department of Community and Economic Development (DCED). IRRC also questioned the required renewal fee. The Department amended § 401.8(b) to reference the fees for renewal applications stated in § 401.2. Certificationholders are responsible for monitoring the expiration date of their certification. However, the expiration date will be posted on every certification identification card.

The Department also changed § 401.8(a) to clarify that if a certificationholder receives a certification in an additional category, the expiration date of the existing certification will be the date of expiration for the additional certification category. The Department made this change to avoid redundant renewals and unnecessary expenses and inconvenience to certificationholders. Obtaining additional certification requires the completion of additional examinations and preparation. A certificationholder still must complete required continuing education under this amendment.

BOCA recommended deleting § 401.8(e)(5) which requires a training provider to state the subject matter of a course on the certificate of attendance. BOCA stated that it does not provide this information. However, § 401.9(a) (relating to continuing education) requires at least 1/3 of

an applicant's continuing education credits be in approved courses related to the applicant's certifications. Without having information on course subject matter, the Department would be unable to verify this requirement. Accordingly, the Department did not make this suggested change. The Department will work with BOCA so that this information is available for certification purposes.

Section 401.9 was changed in response to comments received by the Department. BOCA recommended that the Department specify the credit hours that will be awarded for a certification examination and for attendance at code change hearings. The Department revised § 401.9(b) to specify the number of credits awarded in these areas:

1. *General courses*: One credit hour for each 60 minutes actually spent at one course except as otherwise listed in this subsection.
2. *Self-study course*: One credit hour for each 60 minutes of completion time calculated by the sponsor.
3. *Certification examination*: Five credit hours for an examination in an additional certification category.
4. *Model code organization code change hearing*: One credit hour for each 60 minutes actually spent in attendance.

Section 401.10 (relating to Department-approved providers) was changed in response to IRRC's comments. IRRC asked how the Department would notify code administrators and construction code officials of approved training providers. The Department added the provision that it will make approved provider information available on its website and that it will also provide this information upon request in subsection (b). The Department will also make this information available through DCED and CTC.

Section 401.11 (relating to certification of third-party agency) was changed to clarify the process for certification renewal for third-party agencies. The Department added § 401.11(f) which will require a third-party agency to meet all of the following requirements for certification renewal: 1) submission of a completed renewal form; 2) payment of the required fee under § 401.2; 3) submission of proof of liability insurance coverage under § 401.12 (relating to liability insurance); and 4) that it is not decertified under § 401.14 (relating to decertification or refusal to certify).

The MDIA objected to the type of insurance coverage required by proposed § 401.12. The MDIA agreed with the Department's adoption of a minimum of \$1 million of errors and omissions insurance as required in § 401.12(a). However, it suggested that the Department also require an additional \$1 million in general liability insurance coverage.

The Department, under section 701(k) of the act, is requiring professional errors and omissions insurance. It determined that this requirement is more appropriate than compelling general liability insurance coverage. An errors and omissions policy covers plan review and inspection. A general liability policy covers general casualty. Requiring insurance under both policies would be an expense that is not necessary to comply with the act's purpose and actual language.

The Department also amended § 401.13 (relating to list of code administrators) based on IRRC's comment. IRRC stated that the final-form regulations should state how the public and municipalities could access the Department's list of certified code administrators. Section 401.13



was amended and will provide that the Department will maintain a list of code administrators and their certification categories on its website and that the Department will also provide this information upon request.

The Department revised § 401.14(a)(8) to provide for reciprocal action or certification denial based upon certification actions undertaken by the proper authority in Canada in addition to state and Federal jurisdictions.

The Department amended § 401.14(c)(4) in response to IRRC's comments. IRRC commented that this subsection, requiring a presiding officer to promptly transmit a proposed report in a decertification proceeding to the Secretary, is vague. It suggested the insertion of a specific time period. The Department added that the proposed report would be transmitted to the Secretary within 15 days after issuance.

IRRC questioned the requirement in § 401.14(e)(2) which stated that a code administrator who has been convicted of a felony or crime related to code enforcement must demonstrate that he is fully rehabilitated before the Department will reinstate his certification. IRRC stated the regulation had no criteria to determine full rehabilitation and suggested the Department add criteria to the final-form regulations. The Department deleted any references to rehabilitation and replaced it with the requirement that recertification may not be detrimental to public health and safety. This should alleviate the ambiguity noted by IRRC and still provide for public protection.

IRRC and Robert Duncan questioned the time period for registration of current code administrators found in § 401.15. The proposed rulemaking allowed current code administrators engaged in plan review or inspection of residential structures to continue to perform these activities without meeting the training and certification requirements of this regulation for 3 years from the effective date of adoption of this rulemaking. It allowed current code administrators engaged in plan review or inspection of commercial structures to continue to perform these activities without meeting the training and certification requirements of these regulations for 5 years from effective date of adoption of this rulemaking. These current code administrators are required to meet the certification requirements of these regulation at the end of the 3- or 5-year period.

The Department slightly modified § 401.15 from the proposed rulemaking to, in part, reflect IRRC and Robert Duncan's comments. These final-form regulations will allow current code administrators to engage in activities for residential construction for 3 years and 5 years for commercial construction. However, the time period will commence from the effective date of the final-form rulemaking for the administrative and enforcement provisions of the UCC that the Department will submit. This should provide even more time for the training and certification of code administrators. Additionally, this effective date is more reasonable because it reflects a time period when the UCC will be in effect. The UCC also has to be in effect so that the Department may provide testing for the building code official and passenger rope inspector categories.

The Department also promulgated the training and certification regulation before the administrative and enforcement provisions of the UCC. The Department posted its draft training and certification regulation on its website on June 16, 2000, to give municipalities and current code official notice of the anticipated requirements. The 3- and 5- year time periods, in addition to this

previous posting, provide municipalities and current code officials with sufficient time to plan and train for certification. This need for ample notification is balanced against the desire to implement a UCC as soon as possible and within the discretionary time that the General Assembly provided to the Department in section 701(e) of act (Residential: 3-7 years/Commercial: 5-10 years).

IRRC and Robert Duncan questioned whether current code administrators would lose registration and the ability to conduct plan review or inspections during the 3- or 5-year registration period for changing employers during that time period. A current code administrator would not lose registration for a change of employers because the registration is issued to the code administrator and not to the employer. However, the Department added § 401.15(g), which states that a current code administrator is not required to obtain a new registration for a change of employer. The Department also added subsection (h) to clarify that a current code administrator may not perform reviews or inspections relating to accessibility requirements.

BOCA suggested that an additional subsection be added to § 401.15 to clarify that the 5-year registration period for current code administrators does not apply to the accessibility inspector/plans examiner certification category. The Department considered and ultimately rejected this suggestion. Section 701(e)(2) of the act clearly provides that the Department will retain jurisdiction over the accessibility provisions of the UCC until municipal code administrators meet the requirements for certification.

Cindy L. Davis stated that the terms "code administrator," "construction code official" and "building code official" appear to be used interchangeably. A code administrator is the category that covers all persons who perform plan review of construction documents, or administer and enforce regulations. The term includes a municipal code official, construction code official, a third-party agency and the Department. A construction code official is an individual certified by the Department in any category established under section 701(b) of the act. A construction code official will perform plan review of construction documents, inspect construction or enforce and administer codes and regulations. Separate proposed rulemaking for the administrative and enforcement provisions of the UCC will contain a specific definition for building code official. A building code official will be the construction code official that supervises, manages and enforces building enforcement activities. However, the Department reviewed this entire chapter and made changes in the terminology to insure that these terms were used consistently and clearly. Additionally, future rulemaking on the administration and enforcement portion of the UCC will further explain the distinctions between these terms.

Senator Mike Waugh and Senator Charlie Dent wrote to the Department to inform it of issues relating to rehabilitation of existing structures. The letter was informative. However, no change in the regulations was required.

The Dingman Township Board of Supervisors commented that there may a serious shortage of trained and qualified construction code officials during the UCC's initial implementation period. The Dingman Township Board of Supervisors suggested that the Department take adequate steps to insure that there are an adequate number of qualified individuals in all geographic areas of this Commonwealth. The Department is aware of this

potential problem and is attempting to plan for and adequately staff Department personnel to cover any need for qualified personnel.

The Department received a comment on the Board of Appeals requirement under the administrative and enforcement provisions of the UCC from the Dingman Township Board of Supervisors. This is not a matter addressed by this rulemaking. The Department will address this comment in its proposed rulemaking for administration and enforcement.

The Department also received a letter from the Madison Township Supervisors expressing concern over the new building code inspection requirements and stating that rural municipalities cannot afford the hiring of inspectors with all of the required certifications and that implementation of this chapter will significantly impact the township's income and bring challenges from their constituents if they opt out. However, the Department is required by the act to adopt the IBC 2000 and require certification of the building code officials.

IRRC commented that the required number of certifications and related training would place a financial burden on small municipalities that maintain a qualified code administrator. IRRC suggested that the regulations specifically allow municipalities to share code administrators. However, these regulations focus specifically on training and certification requirements. This chapter does not address the manner in which municipalities may administer the UCC program. The Department's future rulemaking for administration and enforcement will address UCC enforcement. The Department will allow joint enforcement by municipalities and sharing of building code officials under section 501(b) of act (35 P. S. § 7210.501(b)).

#### *Effective Date*

This final-form rulemaking takes effect July 12, 2002.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on June 26, 2001, the Department submitted a copy of the notice of proposed rulemaking, published at 31 Pa.B. 3543, to IRRC and to the Chairpersons of the Senate Committee on Labor and Industry and the House Labor Relations Committee for review and comment.

The Department also provided the Committees and IRRC with copies of the comments received as well as other documentation in accordance with section 5(c) of the Regulatory Review Act (71 P. S. § 745.5(c)). In preparing these final-form regulations, the Department considered the comments from IRRC, stakeholders and the public. The Department did not receive comments from the Senate or House Committees.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), these final-form regulations were deemed approved by the House and Senate Committees on February 27, 2002. IRRC met on March 7, 2002, and approved these final-form regulations in accordance with section 5.1(e) of the Regulatory Review Act.

#### *Contact Person*

The contact person is Charles J. Sludden, Director of the Bureau of Occupational and Industrial Safety, Department of Labor and Industry, Room 1613, Labor and Industry Bldg., 7th and Forster Streets, Harrisburg, PA, 17120, csludden@state.pa.us.

#### *Findings*

The Department finds that:

(1) Public notice of intention to promulgate administrative regulations 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 related regulations at 1 Pa. Code §§ 7.1 and 7.2.

(2) The final-form regulations adopted by this order are necessary and appropriate for the administration of the act.

#### *Order*

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

(a) The regulations of the Department, 34 Pa. Code, are amended by adding §§ 401.1—401.16 to read as set forth in Annex A.

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

(c) The Secretary of the Department 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 July 12, 2002.

JOHNNY J. BUTLER,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 1590 (March 23, 2002).)*

**Fiscal Note:** Fiscal Note 12-57 remains valid for the final adoption of the subject regulations.

#### **Annex A**

### **TITLE 34. LABOR AND INDUSTRY**

#### **PART XIV. UNIFORM CONSTRUCTION CODE**

#### **CHAPTER 401. UNIFORM CONSTRUCTION CODE TRAINING AND CERTIFICATION OF CODE ADMINISTRATORS**

Sec.	
401.1.	Definitions.
401.2.	Department fees.
401.3.	Certification required.
401.4.	Application and identification.
401.5.	Waivers.
401.6.	Certification categories and testing.
401.7.	Certification category specifications.
401.8.	Certification renewal.
401.9.	Continuing education.
401.10.	Department-approved providers.
401.11.	Certification of third-party agency.
401.12.	Liability insurance.
401.13.	List of code administrators.
401.14.	Decertification or refusal to certify.
401.15.	Registration of current code administrators.
401.16.	Change of address or employer.

#### **§ 401.1. Definitions.**

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

*ALI*—The Automatic Lift Institute, P. O. Box 33116, Indialantic, Florida, 32903-3116.

*ASME*—The American Society of Mechanical Engineers, Three Park Avenue, New York, New York 10016-5990.

*Accredited academic institution*—A high school, technical or vocational school, private school licensed or regis-

tered with the Department of Education, junior college, community college or university.

*Act*—The Pennsylvania Construction Code Act (35 P. S. §§ 7210.101—7210.1103).

*Certified building official*—A classification administered by the International Code Council or its predecessor organization.

*Code administrator*—A municipal code official, construction code official or third-party agency certified with the Department under the act or the Department under section 103 of the act (35 P. S. § 7210.103). The term includes an individual certified in a category established under this chapter to perform plan review of construction documents or administer and enforce codes and regulations in that category under the act or related acts.

*Construction code official*—An individual certified by the Department in an appropriate category established under section 701(b) of the act (35 P. S. § 7210.701(b)) to perform plan review of construction documents, inspect construction or administer and enforce codes and regulations in that category under the act or related acts under section 103 of the act.

*Current code administrator*—An individual who performed plan review of construction documents, inspections of one-family or two-family residential property or other buildings, structures and equipment or administered and enforced a construction code program, and who was employed by or under contract with the Commonwealth or a municipality prior to the effective date of adoption of the final-form regulations for the Uniform Construction Code. The term includes an individual who performed these duties as an employee, contractor or agent of a person employed by or under contract with the Commonwealth or a municipality of this Commonwealth prior to the effective date of the final-form regulations for the Uniform Construction Code.

*Department*—The Department of Labor and Industry of the Commonwealth.

*Elevator*—Hoisting and lowering devices governed by ASME standards adopted by the Department under the Uniform Construction Code and other lifting devices subject to the requirements of the Uniform Construction Code.

*Passenger ropeway*—An aerial tramway, aerial lift, surface lift, tow, conveyor or other lifting device which carries, pulls or pushes passengers along a level or inclined path by means of a haul rope or other flexible element which is driven by a power unit remaining essentially at a single location.

*Secretary*—The Secretary of the Department.

*Third-party agency*—A person, firm or corporation certified by the Department as a construction code official and contracted to perform plan review of construction documents, inspect construction or administer and enforce codes and regulations under the act.

*Uniform Construction Code*—The *International Building Code First Edition 2000*, the *International Residential Code for One- and Two- Family Dwellings 2000*, available from BOCA International, 4051 W. Flossmoor Rd., Country Club Hills, IL 60478-5795, 1 (800) 214-4231; and any standards adopted by the Department in this chapter under section 301 of the act (35 P. S. § 7210.301).

**§ 401.2. Department fees.**

The following fees apply to the certification of code officials. The Department will charge one fee per certifica-

tion application. An individual may apply for certification for multiple categories on a single application form. Fees are nonrefundable.

- (1) Initial certification and registration—\$50.
- (2) Certification renewal—\$50.
- (3) Third-party agency certification and renewal—\$250.
- (4) Identification card replacement—\$10.

**§ 401.3. Certification required.**

(a) A person may not perform a plan review of construction documents, inspect construction or equipment, or administer and enforce the Uniform Construction Code without being currently certified or registered by the Department in the category applicable to the work that is to be performed.

(b) A person may not approve plans or perform inspections relating to accessibility requirements without being certified by the Department as an accessibility inspector/plans examiner.

**§ 401.4. Application and identification.**

(a) An applicant for certification shall submit a Department-provided application, pay the required fee and submit verification of meeting the requirements of this chapter and passing all of the certification examinations for a specific certification category in § 401.5 (relating to waivers) within the 6 years prior to July 12, 2002.

(b) The Department will issue an identification card to an applicant who meets the certification requirements.

(c) A certification holder shall notify the Department in writing if the identification card is lost or destroyed. The Department will charge a required fee for issuance of a new identification card.

(d) Certification and certification renewal will not be valid until the Department receives the required fee.

(e) The period of certification shall be 3 years from the issuance date of a certification under § 401.8(a) (relating to certification renewal).

(f) The Department may refuse to issue certification for just cause in accordance with § 401.14 (relating to decertification or refusal). The Department will provide written notification of the reasons for the refusal to issue certification.

**§ 401.5. Waivers.**

(a) The Department may grant a request for waiver of the testing requirements of § 401.6 (relating to certification categories and testing) if the applicant meets any of the following criteria:

(1) Passed a test substantially similar to the testing categories in § 401.6 within the 6 years prior to July 12, 2002.

(2) Passed a test substantially similar to the testing categories in § 401.6 within the 6 years prior to July 12, 2002, so long as the applicant submits any of the following to the Department:

(i) Evidence of continued employment as a code administrator in the related field.

(ii) Current certification issued by a model code organization.

(iii) Evidence of completion of 30 hours of continuing education or a college degree program in associated fields.

(3) Passed a certified building official examination. An applicant who passed the examination may be eligible to receive certification in the following categories:

- (i) Residential building inspector.
- (ii) Building inspector.
- (iii) Building plans examiner.

(b) An applicant for waiver shall complete a Department-provided application form and pay the required initial certification fee under § 401.2 (relating to Department fees). If the Department approves the waiver, the applicant shall comply with § 401.4 (relating to application and identification).

#### § 401.6. Certification categories and testing.

The Department will issue a certification for a specific category to an applicant who receives a passing grade in all of the examinations required for that category. The Department will accept the following category examinations or successor examinations administered by the Department, the National Certification Program for Construction Code Inspectors, Assessment Services, Incorporated, the National Association of Elevator Safety Authorities or other Nationally-recognized testing program approved by the Department. The Department will list the approved providers on its Internet website.

<i>Certification Categories</i>	<i>Examination Number and Name</i>
Residential building inspector	1A Building 1 & 2 family dwelling
Residential electrical inspector	2A Electrical 1 & 2 family dwelling
Residential mechanical inspector	4A Mechanical 1 & 2 family dwelling
Residential plumbing inspector	5A Plumbing 1 & 2 family dwelling
Residential energy inspector	E1 Residential energy plan review & inspection
Building inspector	1B Building general 3B Fire protection general
Fire inspector	F1 Fire prevention inspection general I
Electrical inspector	2B Electrical general
Mechanical inspector	4B Mechanical general
Plumbing inspector	5B Plumbing general
Energy inspector	E2 Commercial energy inspection
Accessibility inspector/plan examiner	A1 accessibility inspector/plan examiner
Building plans examiner	1B Building general 1C Building plan review 3B Fire protection general 3C Fire protection plan review
Electrical plans examiner	2B Electrical general 2C Electrical plan review
Mechanical plans examiner	4B Mechanical general 4C Mechanical plan review
Plumbing plans examiner	5B Plumbing general 5C Plumbing plan review

<i>Certification Categories</i>	<i>Examination Number and Name</i>
Energy plans examiner	E3 Commercial energy plan review
Building code official (code administrator)	Department-administered test on State law and application
Elevator inspector	Qualified elevator inspector test or its equivalent
Passenger ropeway inspector	Department administered test on ANSI B77.1-1999 edition

#### § 401.7. Certification category specifications.

An individual certified by the Department in the following categories may perform the duties described in the specific category as a construction code official:

##### (1) *Residential building inspector.*

(i) Inspects one-family and two-family dwellings and jurisdictional accessory structures to ensure that these structures are free from hazardous structural conditions and comply with the Uniform Construction Code.

(ii) Duties include inspection of footings and foundations, concrete slabs, wood decay and termite protection, floor and ceiling framing, wall framing, roof framing, masonry walls, sheathing, roof covering, interior and exterior wall coverings, means of egress system and safety glazing.

##### (2) *Residential electrical inspector.*

(i) Inspects one-family and two-family dwellings and jurisdictional accessory structures to ensure that these structures are free from hazardous electrical installations and comply with the Uniform Construction Code.

(ii) Duties include determining compliance of electrical service, electrical distribution systems, wiring methods, panel boards, control devices, conductors and electrical fixture installation.

##### (3) *Residential mechanical inspector.*

(i) Inspects one-family and two-family dwellings and jurisdictional accessory structures to ensure that these structures are free from hazardous mechanical installations and comply with the Uniform Construction Code.

(ii) Duties include determining compliance of mechanical equipment, gas fuel supply systems, venting of appliances, air ducts, combustion air and comfort cooling.

##### (4) *Residential plumbing inspector.*

(i) Inspects one-family and two-family dwellings and jurisdictional accessory structures to ensure that these structures are free from hazardous plumbing installations and comply with the Uniform Construction Code.

(ii) Duties include determining compliance of water service, building sewer, water distribution, drainage, waste and vents and fixtures.

##### (5) *Residential energy inspector.*

(i) Inspects one-family and two-family dwellings and jurisdictional accessory structures to ensure that energy installations are made in the manner specified in the Uniform Construction Code.

(ii) Duties include determining compliance of conditioned or unconditioned spaces, R-values for roof/ceiling, floor and wall assemblies and insulation placement, installation of materials for the building envelope and its

components, moisture control methods such as caulking, sealing and weather-stripping, duct and dipping insulation and sealing criteria, thermostats for each heating and cooling system, electrical metering, lighting installation and controls and piping insulation, circulation pump controls, heat traps, shower heads and pool cover installations.

(6) *Building inspector:*

(i) Ensures that buildings and structures are constructed in accordance with the Uniform Construction Code.

(ii) Duties include inspection of construction site and building location, footings and foundations, wood and steel framing and connections, masonry construction, precast and cast-in-place concrete, exterior weather boarding, fire-stopping and draft-stopping, building components related to life safety and fire protection systems and building components related to size, installation and workmanship.

(iii) May perform residential inspector duties listed in paragraph (1).

(7) *Electrical inspector:*

(i) Ensures that electrical installations are made in accordance with the Uniform Construction Code regardless of the size or components used in the installation.

(ii) Duties include determining compliance of raceways (installations, size), cables, panel boards and boxes, conductors, control devices, motors and generators, electrical equipment and special occupancies.

(iii) May perform residential electrical inspector duties listed in paragraph (2).

(8) *Mechanical inspector:*

(i) Ensures that mechanical installations are made in the manner specified in the Uniform Construction Code.

(ii) Duties include determining compliance of fuel piping systems, heating, cooling and ventilation, fuel-fired equipment venting, steam and hot water heating systems and piping and energy conservation.

(iii) May perform residential mechanical inspector duties listed in paragraph (3).

(9) *Plumbing inspector:*

(i) Ensures that plumbing installations are made in accordance with the Uniform Construction Code.

(ii) Duties include determining compliance of underground piping installation, rough-in inspections, drain-waste-venting (DWV) systems, pressure testing, water distribution systems, observation and elimination of cross connections, system pumps, tanks and pressure vessels and fixtures, traps and valves and their connections.

(iii) May perform residential plumbing inspector duties listed in paragraph (4).

(10) *Energy inspector:*

(i) Ensures that the building envelope, mechanical systems, electrical power and lighting systems and building service systems and equipment comply with the approved construction documents and the Uniform Construction Code.

(ii) Duties include verifying that building envelope and components meet minimum requirements for installation of materials and that building envelope penetrations are

caulked, sealed and weather-stripped, determining compliance of moisture control methods, installation of and types of mechanical equipment and efficiencies, heating, ventilation and air conditioning (HVAC) equipment, ducts and piping, insulation and sealing, lighting installation and lighting controls for building interiors and exteriors, permanently wired poly-phase motors and their efficiencies, piping insulation, circulation pump controls, heat traps, point-of-use controls and pool cover installations.

(iii) May perform residential energy inspector duties listed in paragraph (5).

(11) *Accessibility inspector/plans examiner:*

(i) Ensures that buildings and structures are constructed in accordance with the accessibility provisions of the Uniform Construction Code and that construction documents submitted as part of a permit application comply with the accessibility provisions of the Uniform Construction Code.

(ii) Duties include inspection of building sites and all interior building components to verify compliance with the accessibility standards or review of construction documents to verify that the design of building sites and all interior components comply with the accessibility standards.

(12) *Building plans examiner:*

(i) Determines that the construction documents submitted as part of a permit application comply with the Uniform Construction Code.

(ii) Duties include determining the degree of compliance necessary for new construction projects, alterations or repairs, proper use group/type of construction classification, determining height and area requirements, minimum means of egress requirements, minimum light and ventilation requirements, minimum design structural loads, adequacy of soils investigations, adequacy of footing and foundation designs, minimum fire-resistance requirements, adequacy of barrier-free designs, minimum energy conservation requirements and adequacy of fire-protection systems.

(13) *Fire inspector:*

(i) Conducts basic fire prevention inspections and has a general knowledge of applicable codes and standards.

(ii) Duties include field inspections, preparation of correspondence and inspection reports, handling complaints, and maintaining files related to inspections that were conducted.

(14) *Electrical plans examiner:*

(i) Determines that the construction documents submitted as part of a permit application comply with the Uniform Construction Code.

(ii) Duties include determining proper number of services, proper location of services, adequacy of emergency systems, proper service size, proper over-current protection, special use applications and proper conductor size and application.

(15) *Mechanical plans examiner:*

(i) Determines that the construction documents submitted as part of a permit application comply with the Uniform Construction Code.

(ii) Duties include determining compliance of fuel piping systems, fuel-burning appliances, mechanical refrigeration

eration systems, incinerators, energy conservation equipment and controls, boilers and pressure vessels, venting systems, hydronic and steam-piping systems and ventilation air systems.

(16) *Plumbing plans examiner.*

(i) Determines that the construction documents submitted as part of a permit application comply with the Uniform Construction Code.

(ii) Duties include determining that water service, building sewer/storm sewer and other underground piping are properly sized and located, determining that proper drainage fixture units, fixture locations and clearances are used, determining the adequacy of drain-waste-venting (DWV) riser diagrams and water distribution systems and determining the proper number of fixtures and proper materials as proposed.

(17) *Energy plans examiner.*

(i) Ensures that the design criteria specified for a building are correct and in accordance with the Uniform Construction Code and that alterations, additions and change of use or occupancy are in compliance with the Uniform Construction Code.

(ii) Duties include determining compliance of the design conditions specified, conditioned or unconditioned spaces, R values for roof/ceiling, floor and wall assemblies and insulation placement, insulation of materials for the building envelope and its components, moisture control methods such as caulking, sealing and weather-stripping, duct and dipping insulation and sealing criteria, thermostats for each heating and cooling system, electrical metering, lighting installation and controls, piping insulation, circulation pump controls, heat raps, shower heads and pool cover installations.

(18) *Building code official.*

(i) Manages, supervises and administers building code enforcement activities. The Department, municipality or a third-party agency that operates an enforcement program under the act will employ at least one person certified or registered as a building code official.

(ii) Duties include management of building code enforcement activities, supervision of building inspectors or plans examiners, issuing building permits, occupancy permits, notice of violations and orders to vacate, and initiation of prosecutions.

(19) *Elevator inspector.*

(i) Inspects electric and hydraulic elevators, conveying systems and other lifting devices to ensure that these installations are free from conditions that would present a life safety or fire hazard to persons using the installations.

(ii) Duties include determining compliance with the Uniform Construction Code regarding door closers, interlocks, car safeties, over-speed governors, safety tests, reshackling, ropes, fireman's recall, brakes and other related elevator equipment and the investigation of accidents.

(20) *Passenger ropeway inspector.*

(i) Inspects passenger ropeways to ensure that the installation is free from conditions that would present a life safety or fire hazard to a person using the installation.

(ii) Duties include investigation of accidents and determining compliances of power units, auxiliary power units,

carriers, cabins, cars, location, vertical and horizontal clearances, haul rope sleeves, guides, haul rope condition and splice, structures and foundations, capacity, speed, acceleration/deceleration, loading and unloading areas, required stopping devices, brakes and rollback devices, tension systems, manual and automatic control devices, haul rope grips, operation and maintenance of equipment, electrical components, emergency shut down circuits, bypass circuits, speed regulating devices, and other related ropeway equipment with the Uniform Construction Code.

**§ 401.8. Certification renewal.**

(a) A certification holder shall renew a certification every 3 years from date of issuance to continue to act as a code administrator. If a certification holder receives certification in an additional category, the expiration date of all his certifications shall be the date of expiration of the certification that was last issued to the certification holder.

(b) To renew a certification, an applicant shall submit a completed Department-provided renewal form, acceptable proof of completion of continuing education and the required certification fee under § 401.2 (relating to Department fees). The Department will post this form on its Internet website ([www.dli.state.pa.us](http://www.dli.state.pa.us)) and provide it upon request.

(c) An applicant for renewal shall obtain identification in accordance with § 401.4 (relating to application and identification).

(d) The Department will not renew a certification that is expired for more than 1 year unless the applicant submits a certification application under § 401.4 and passes the required examinations under § 401.6 (relating to certification categories and testing).

(e) An applicant for certification renewal shall submit proof of completion of each continuing education course. The proof of completion shall be completed by the course provider and contain the following information:

- (1) The name and address of the training provider.
- (2) The dates attended.
- (3) The credit hours claimed.
- (4) The title of the course.
- (5) The subject matter of the course.

(f) The Department will not renew the certification of a person who was decertified in accordance with § 401.14 (relating to decertification or refusal) during the period that the Department ordered the decertification.

**§ 401.9. Continuing education.**

(a) Prior to certification renewal, an applicant shall complete 15 credit hours of continuing education in courses relating to the professional competency of code administrators. An applicant with multiple certification areas shall complete 15 credit hours of continuing education for each category after the issuance of the certification or most recent renewal of certification. The applicant is not required to complete more than 45 credit hours for renewal. At least 1/3 of the applicant's continuing education requirement shall be in approved courses relating to the applicant's certification categories.

(b) The Department will approve credit as follows:

(1) One credit hour for each 60 minutes actually spent at one course except as otherwise listed in this subsection.

(2) One credit hour for each 60-minutes of completion time for a self-study course calculated by the sponsor. The Department may modify credit hours for a self-study course to comply with this section.

(3) Five credit hours for successful completion of an examination for an additional certification category under subsection (c)(5).

(4) One credit hour for each 60 minutes actually spent in attendance at a model code organization code change hearing under subsection (c)(6).

(c) The Department approves the following as acceptable courses of study for continuing education credits:

(1) Attendance at a seminar or technical presentation by an approved provider.

(2) Completion of a self-study course offered by an approved provider.

(3) Completion of a classroom course offered by an accredited academic institution.

(4) Instruction at a continuing education seminar or technical presentation for an approved provider.

(5) Successful completion of an examination for an additional certification category listed in § 401.6 (relating to certification categories and testing)

(6) Attendance at a model code organization code change hearing.

**§ 401.10. Department-approved providers.**

(a) The following providers are approved to offer instruction for continuing education credit hours:

(1) The National Conference of States on Building Codes and Standards.

(2) A Federal, Commonwealth or state agency.

(3) An accredited academic institution.

(4) A model code organization or its accredited local chapter.

(5) A trade association representing design professionals or the construction industry.

(6) A National standards writing organization.

(7) An association serving or representing Commonwealth municipalities.

(8) Approved testing providers under § 401.6 (relating to certification categories and testing) for credit hours under § 401.9(c)(5) (relating to continuing education).

(b) The Department will approve additional providers who demonstrate the competency to provide approved continuing education programs. An applicant for approval as a provider shall submit a completed Department-provided application and appropriate documentation that it meets the requirements of § 401.9. The Department will post a list of approved providers on its Internet website ([www.dli.state.pa.us](http://www.dli.state.pa.us)) and provide the list upon request.

(c) The Department may revoke approval of any provider that does not comply with § 401.9 or this section. Actions will be taken subject to the right of notice, hearing and adjudication in accordance with 2 Pa.C.S. (relating to administrative law and procedure).

**§ 401.11. Certification of third-party agency.**

(a) Current certification as a third-party agency is required to act as a construction code official, perform

plan review of construction documents, inspect construction or administer and enforce codes and regulations in accordance with the act under contract with a person, firm, corporation or the Commonwealth.

(b) An applicant for certification as a third-party agency shall submit a completed Department-provided application to the Department and pay the required fee.

(c) An applicant for certification as a third-party agency shall submit documentation that its employees or agents who act as construction code officials and perform plan review of construction documents, inspect construction or administer or enforce codes and regulations under the act are currently registered or certified in the specific categories applicable to the work performed.

(d) An applicant for certification under this section shall submit acceptable documentation of insurance coverage required under § 401.12 (relating to liability insurance).

(e) A third-party agency shall provide written notification to the Department within 60 days of the hiring or change of employment status of an employee or agent who acts as a construction code official and performs plan review of construction documents, inspects construction or administers or enforces codes and regulations under the act.

(f) A certification expires 3 years after date of issuance. The Department will renew a third-party agency certification when the applicant meets all of the following:

(1) Submits a completed Department-provided renewal form.

(2) Pays the required fee under § 401.2 (relating to Department fees).

(3) Submits proof of liability insurance coverage under § 401.12.

(4) Not decertified under § 401.14 (relating to decertification).

**§ 401.12. Liability insurance.**

(a) A third-party agency shall carry errors and omissions liability insurance in at least the amount of \$1 million for each person and each occurrence to satisfy claims or judgments for property damage or personal injury, or both.

(b) As a condition for obtaining and renewing certification, a third-party agency shall submit to the Department satisfactory evidence that it has obtained errors and omissions liability insurance as required by this section. A certification or renewal will not be issued unless the third-party agency provides proof of insurance which shall consist of a certificate of insurance or copy of the declaration page from the insurance policy setting forth the effective date, expiration date and policy coverage in the amounts required.

(c) A third-party agency shall notify the Department immediately of the cancellation of its errors and omissions liability insurance, the failure or refusal to renew its errors and omissions liability insurance, change of insurance carrier, change of policy dates or changes of coverage amounts. Upon notice of loss or cancellation of insurance coverage, the Department will immediately initiate action to decertify the third party agency under § 401.14 (relating to decertification or refusal to certify).

**§ 401.13. List of code administrators.**

The Department will maintain a list of code administrators indicating their categories of certifications on its Internet website ([www.dli.state.pa.us](http://www.dli.state.pa.us)). The Department will also make the list available to municipalities and, upon request, the public.

**§ 401.14. Decertification or refusal to certify.**

(a) *Decertification or refusal to certify.* The Department may initiate action against a code administrator or refuse to issue certification for just cause. Just cause includes the following:

- (1) Failure to remedy an error or omission specified in a formal warning or to comply with an order issued by the Department under this section.
- (2) Fraud or deceit or making untrue representations in obtaining a certification.
- (3) Failure to remit the required certification fee.
- (4) Violation of the act or this chapter.
- (5) Incompetence or gross negligence.
- (6) Acting in a manner presenting a danger to the public health and safety.
- (7) Pleading guilty, entering a plea of *nolo contendere*, being found guilty, receiving probation without verdict, disposition in lieu of trial or an Accelerated Rehabilitative Disposition to a felony or any crime relating to the business of code administrator in the courts of this Commonwealth, a Federal court or a court of any other state, territory or insular possession of the United States.
- (8) Having a certification or any authorization to engage in the business of code administrator revoked or suspended or having other disciplinary action taken, or an application for certification or authorization to engage in the business of code administrator refused or denied by the proper authority of another state or Federal district, territory or insular possession of the United States, the Federal government or Canada.
- (9) Failing to complete continuing education requirements of the act or engaging in deceit or misrepresentation in the reporting of continuing education requirements.
- (10) Engaging in fraud, deceit or an act of moral turpitude while acting as code administrator.
- (11) Failing to enforce the act or Uniform Construction Code.
- (12) Knowingly aiding and abetting a person engaging in code administrator activity who is not currently certified or registered.
- (13) Being a third-party agency that does not comply with § 401.12 (relating to liability insurance).
- (14) Engaging in the activities of a code administrator or advertising as a code administrator without a current certification required for the work performed, or registration issued by the Department.

(b) *Notice and hearing.* Actions of the Department relating to decertification under this section will be taken subject to the right of notice, hearing and adjudication in accordance with 2 Pa.C.S. (relating to administrative law and procedure). Decertification proceedings shall be con-

ducted under 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure).

(c) *Procedure for decertification.*

(1) The Department will serve the code administrator with an order to show cause under 1 Pa. Code § 35.14 (relating to orders to show cause). The order to show cause shall contain notification that the certification may be subject to action and the grounds for the action. The order to show cause shall contain notification that the code administrator is to respond in writing within 30 days after the date of service of the order. The Department will also serve a copy of the order to show cause upon the supervising official in the municipality where the alleged incidents occurred and upon the code administrator's current employer.

(2) The code administrator may respond in writing to the allegations in the order to show cause in accordance with 1 Pa. Code § 35.37 (relating to answers to orders to show cause). If made, the answer shall be filed with the Department within 30 days after the date of service of the order to show cause.

(3) At the request of the code administrator, the Department will hold a hearing on the matter. The Secretary will designate a presiding officer to conduct the hearing and to issue a proposed report under 1 Pa. Code §§ 35.201—35.207 (relating to proposed reports generally).

(4) The presiding officer shall have the power to conduct hearings under 1 Pa. Code §§ 35.185—35.190 (relating to presiding officers). The presiding officer shall issue a proposed report that shall be served upon counsel of record or to the parties in the hearing. The presiding officer shall transmit the proposed report and the certified record to the Secretary within 15-days after issuance of the proposed report.

(5) A participant desiring to appeal to the Secretary shall, within 30 days after the service of a copy of the proposed report, file exceptions to the proposed report under 1 Pa. Code § 35.211 (relating to procedure to except to proposed report). A response may be filed within 20 days to the exceptions.

(6) The Secretary or a designee will issue a final order under 1 Pa. Code § 35.226 (relating to final orders).

(d) *Types of corrective action.* When the Department is authorized to take action against a code administrator, the Department may:

- (1) Administer a formal warning.
- (2) Require the code administrator to take remedial educational courses.
- (3) Decertify the code administrator for a period set by the Department. The Department will order the code administrator to surrender his certificate after decertification.
- (4) Deny the application for certification.

(e) *Conditions for reinstatement.* Unless ordered to do so by a court of competent jurisdiction, the Department will not reinstate certification to a person who was decertified until the following conditions are met:

- (1) The full period of decertification ordered by the Department has elapsed.
- (2) The person has complied with conditions imposed by the Department's order of decertification and recertifi-



cation would not be detrimental to the public health and safety.

(3) The person complies with § 401.4 (relating to application and identification).

(f) Subsection (c) supplements 1 Pa. Code §§ 35.14, 35.37, 35.201—35.207, 35.185—35.190, 35.211 and 35.226.

**§ 401.15. Registration of current code administrators.**

(a) A current code administrator engaged in plan review or inspection of one-family or two-family residential property may continue to engage in these activities without meeting the training and certification requirements of this chapter until 3 years from effective date of the adoption of the final-form regulations for the Uniform Construction Code. To engage in plan review or inspection of one-family or two-family dwelling units after 3 years from effective date of adoption of the final-form regulations for the Uniform Construction Code, a current code administrator shall meet the certification and training requirements of this chapter.

(b) A current code administrator engaged in plan review or inspection of other buildings and structures that are not one-family or two-family residential structures may continue to engage in these activities without meeting the training and certification requirements of this chapter until 5 years from effective date of adoption of the final-form regulations for the Uniform Construction Code. To engage in plan review and inspection of other buildings and structures after 5 years from the effective date of adoption of the final-form regulations for the Uniform Construction Code, a current code administrator shall meet the training and certification requirements of this chapter.

(c) A current code administrator shall register with the Department by submitting a completed Department-provided form and furnishing required documentation. Documentation is to consist of an affidavit completed by the employer responsible for oversight of the current code administrator's activities and an affidavit completed by the current code administrator containing a description of the current code administrator's duties, employment and length of employment.

(d) The Department will issue an identification card to a current code administrator who meets the requirements of this section, completes a Department-provided form and pays the required fee under § 401.2 (relating to Department fees).

(e) The identification card will expire as registration on the date that the current code administrator must meet the training and certification requirements of this chapter.

(f) A current code administrator shall notify the Department in writing if the identification card is lost or destroyed. The Department will charge a required fee for issuance of a new identification card under § 401.2.

(g) A current code administrator is not required to obtain a new registration for a change of employer.

(h) A current code administrator may not approve plans or perform inspections relating to accessibility requirements without being currently certified by the Department as an accessibility inspector/plans examiner.

**§ 401.16. Change of address or employer.**

A certification or registration holder shall notify the Department of any change of mailing address or employer within 30 days.

[Pa.B. Doc. No. 02-568. Filed for public inspection April 12, 2002, 9:00 a.m.]

**Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS**

**STATE BOARD OF VETERINARY MEDICINE  
[49 PA. CODE CH. 31]**

**Examinations; Application for Licensure and Certification; Fees**

The State Board of Veterinary Medicine (Board) amends §§ 31.3, 31.11, 31.32—31.35, 31.39 and 31.41, concerning applications for licensure and examination, to read as set forth in Annex A.

Notice of proposed rulemaking was published at 30 Pa.B. 6213 (December 2, 2000). Publication was followed by a 30-day public comment period during which the Board received no comments from the general public. The House Professional Licensure Committee (HPLC) submitted comments on February 2, 2001. The Senate Consumer Protection and Professional Licensure Committee made no comments. The Independent Regulatory Review Commission (IRRC) submitted comments to the proposed rulemaking on March 2, 2001.

*Summary of Comments and Responses to Proposed Rulemaking*

*Section 31.32(a)(4) (relating to certification)*

The HPLC and IRRC recommended that the Board clarify the effect that a prior disciplinary action in another state might have on an applicant for licensure in this Commonwealth. Under the current Veterinary Medicine Practice Act (act) (63 P. S. §§ 485.1—485.35) and the Board's regulations, applicants for veterinary licensure must demonstrate that they are in good standing with the licensing board of any other state in which they are licensed. Section 31.32(a)(4) extends this requirement to an applicant for certification as an animal health technician.

The Board agrees with the HPLC and IRRC that this section would benefit from clarification and adopts their recommendation. The Board finds that the clarity of § 31.32 would be improved if it mirrored the language of § 31.11(b) (relating to application for licensure), which requires the applicant to submit documentation as a prerequisite to licensure. Using this language also indicates that the Board reviews applications on a case-by-case basis. Because applications evidencing discipline in another state are reviewed on a case-by-case basis, the Board cannot predetermine what restrictions, if any, may be placed on an applicant with a disciplinary record. The Board may determine that it is appropriate to deny certification or upon certification, restrict the technician's practice upon consideration of factors such as the nature of the prior infraction, whether the individual's practice is limited in another state, and the length of time that has passed since the infraction.

In addition, the Board agrees with the HPLC and IRRC that the section should be amended to clarify that the Board will have the discretion to deny certification when the applicant has a history of disciplinary action. The Board adopts this proposal, and adds language to § 31.39 (relating to grounds for disciplinary proceedings) to indicate that the Board may refuse to certify an applicant or may, upon certification, place restrictions upon an applicant's practice in this Commonwealth based on prior disciplinary action by another state board. As with an applicant who has a criminal history, an applicant who has been disciplined by another state board must come before the Board for a determination of whether the applicant should be granted certification or licensure, should be granted limited or probationary certification or licensure, or should be denied certification or licensure.

*Section 31.32(a)(5)*

With respect to § 31.32(a)(4) and (5), the HPLC questioned how the Board would be able to make a determination that a conviction is more than 10 years old or that an applicant is satisfactorily rehabilitated if the applicant need only provide a statement that the applicant has not been convicted of a drug related felony. IRRC also asked the Board to respond to the questions of the HPLC and, in addition, to explain the need for, and purpose of, an exception for an applicant who otherwise satisfies the qualifications contained in the Board's regulations.

Section 31.32(a)(5) is virtually a verbatim recitation of § 31.11(b)(4), which applies to applicants for veterinary licensure. Section 31.11(b)(4) is taken verbatim from section 9(b)(4) of the act (63 P. S. § 485.9(b)(4)). Section 31.32(a)(5) would apply the same criteria to applicants for certification as an animal health technician as are applied to applicants for veterinary licensure with respect to past criminal convictions for drug-related felonies.

The Board has interpreted and applied section 9(b)(4) of the act and § 31.11(b)(4) to require an applicant for veterinary licensure to disclose whether they have been convicted of a felony under The Controlled Substance, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144) or a felony relating to a controlled substance in a court of law of the United States or other state. An applicant who has not been convicted of a crime is eligible for licensure. An applicant who discloses that they have been convicted of a crime is required to provide a current criminal record history check from the State Police and the state police in any state where the applicant was convicted of a crime and certified copies of all relevant court documents. An applicant with a felony drug record is only eligible for licensure if the enumerated conditions are met: first, at least 10 years must have passed since the date of conviction; second, the applicant must demonstrate significant progress in personal rehabilitation; and third, the applicant must otherwise meet all requirements for licensure.

The Board can determine whether 10 years have elapsed since the date of the applicant's conviction from current criminal records history submitted by the applicant. An applicant with a criminal history related to drugs is required to demonstrate his progress in personal rehabilitation at a hearing before the Board. Evidence presented by the applicant may include documentation evidencing a period of sustained recovery from a prior drug abuse problem, evaluation by a licensed professional indicating that the applicant is at low risk to reoffend, lack of subsequent criminal convictions, satisfactory

completion of criminal probation, work history, personal recommendations and the applicant's testimony.

The HPLC and IRRC also questioned the need for § 31.32(a)(5)(iii), which would require a technician applicant who had been convicted of a felony to "otherwise satisf[y] the qualifications contained in the Board's regulations." This language almost verbatim mirrors the language of § 31.11(b)(4)(iii), which applies to applicants for veterinary licensure, as is required by section 9(b)(4)(iii) of the act. The language is intended to indicate that § 31.32(b)(5) does not contain the complete list of licensure qualifications for persons with drug related felonies in their background.

Just as the act gives the Board discretion in granting, refusing or restricting a license to practice veterinary medicine, the Board's regulations give the Board discretion in granting, refusing, suspending, revoking or otherwise restricting a certificate as an animal health technician. (See sections 21 and 24 of the act (63 P. S. §§ 485.21 and 485.24) and §§ 31.32 and 31.39. For example, a veterinary applicant who has been disciplined in another state for failing to maintain a veterinary clinic in a clean and sanitary condition may be required to report to the Board any change in employment and submit to random inspections of their facility. The amendment to § 31.32(a)(4) (5) would permit the Board, under § 31.39(a)(4)—(6), to impose an appropriate restriction on a technician's license. For example, when considering the application of a technician disciplined in another state for exceeding the allowed scope of practice, the Board might grant a license conditioned upon completion of a course on the scope of practice of a technician in this Commonwealth, or monitoring of the technician's practice by the supervising veterinarian.

*Sections 31.11(a) and 31.33 (relating to application for licensure; and applications)*

IRRC also commented on §§ 31.11(a) and 31.33. IRRC first suggested that the Board's regulations should instruct applicants for certification as an animal health technician how to obtain application forms for taking the animal health technician examination from the testing organization. Applicants to take the animal health technician examination are students in a school that offers a degree program in veterinary technology. The animal health technician examination is a standard examination required for licensure in all 50 states. The schools offering these programs provide their students with extensive information regarding the examination. The information is also available from the Board's website. The Board does not believe it is necessary to provide these students with contact information in the regulation, and therefore declines to make the suggested modification.

In addition, IRRC suggested that the regulations should inform technician applicants of where to find the testing dates for the veterinary technician National examination. For the reasons explained previously, the Board finds it unnecessary to include this information in the regulations.

Finally, IRRC questioned why the Board was deleting its telephone number from the regulations. The telephone number currently in the regulations is not correct and has been out of date since at least 1998. The Bureau of Professional and Occupational Affairs is likely to move to other offices before the regulations are published. Rather than publish another incorrect telephone number, the Board determined it should remove the telephone number from its regulations.

*Statutory Authority*

The final-form rulemaking is authorized under section 5(7) of the act (63 P. S. § 485.5(7)). Section 5(7) of the act empowers the Board to prescribe the subject, character, manner, time and place of the filing of application. In addition, section 11 of the act (63 P. S. § 485.11) directs the Board to promulgate by regulation, the qualifications and requirements for the certification and regulation of animal health technicians.

*Fiscal Impact and Paperwork Requirements*

The final-form rulemaking will have no fiscal impact on the Commonwealth or its political subdivisions. The final-form rulemaking will create no additional paperwork for the Board or the private sector.

*Compliance with Executive Order 1996-1*

Under Executive Order 1996-1, the Board found compelling need for these regulatory amendments.

*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. 6213, to IRRC and the Chairpersons of the HPLC 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. The Board received and considered comments from the HPLC and IRRC.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on March 4, 2002, these final-form regulations were deemed approved by the HPLC and the Senate Consumer Protection and Professional Licensure Committee. IRRC met on March 7, 2002, and approved the final-form regulations under section 5.1(e) of the Regulatory Review Act.

*Additional Information*

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

*Findings*

The Board finds that:

(1) Public notice of intention to adopt these amendments was given under sections 201 and 202 of the act of July 21, 1968 (P. L. 469, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated under, 1 Pa. Code §§ 7.1 and 7.2.

(2) The adoption of these amendments are 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 §§ 31.3, 31.11, 31.32—31.35, 31.39 and 31.41, to read as set forth in Annex A.

(b) The Board shall submit a copy of this order and Annex A to the Office of Attorney General and the Office of General Counsel for approval 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) The final-form regulations 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 32 Pa.B. 1590 (March 23, 2002).)*

**Fiscal Note:** 16A-5713. 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**  
**GENERAL PROVISIONS**

**§ 31.3. Examinations.**

(a) The examination required as a prerequisite to original licensure as a veterinarian is the North American Veterinary Licensing Examination (NAVLE). The examination will be given at least annually by the National Board Examination Committee.

(b) Applications to take the licensing examinations, together with instructions for applicants, including deadlines for filing and paying fees, may be obtained from the Administrative Office of the Board by contacting the State Board of Veterinary Medicine, Post Office Box 2649, Harrisburg, Pennsylvania, 17105-2649, [veterina@pados.dos.state.pa.us](mailto:veterina@pados.dos.state.pa.us).

(c) Examination applications and the fee required shall be submitted directly to the National Board Examination Committee.

**LICENSURE**

**§ 31.11. Application for licensure.**

(a) *Application forms.* Application forms for original or reciprocal licensure may be obtained from the Administrative Office of the Board by contacting the State Board of Veterinary Medicine, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649, [veterina@pados.dos.state.pa.us](mailto:veterina@pados.dos.state.pa.us), or by accessing the Board's web page at [www.dos.state.pa.us/bpoa/vetbd/mainpage.htm](http://www.dos.state.pa.us/bpoa/vetbd/mainpage.htm). Application forms shall be returned to the Board at least 60 days prior to the first day of the NAVLE testing period.

(b) *Original licensure.* As a prerequisite to original licensure as a veterinarian, an applicant shall submit the following documentation to the Board:

(1) Evidence of graduation from an approved school or college of veterinary medicine. The applicant's official transcript provided by the degree-granting institution or a verification of graduation from the degree-granting institution shall be evidence of graduation from an approved college of veterinary medicine. A graduate of a school or college of veterinary medicine outside of the United States and Canada shall submit certification by the American Veterinary Medical Association, Educational Commission for Foreign Veterinary Graduates or another program which may subsequently be approved by the American Veterinary Medical Association as proof of graduation from an approved school or college of veterinary medicine.

(2) North American Veterinary Licensing Examination (NAVLE) results as furnished through a National examination grade reporting service. The Board will accept an applicant's grades from the National Board Examination (NBE) and Clinical Competency Test (CCT) examinations if taken within the last 5 years as furnished through a National examination grade reporting service in lieu of the NAVLE, if the applicant passed these examinations with a score equivalent to or higher than the passing score then prevailing in this Commonwealth.

(3) A letter of good standing from the licensure board of each state where the applicant has held a license to practice veterinary medicine, reporting the outcome of disciplinary actions taken against the applicant, if any, in that state.

(4) A statement from the applicant that the applicant has not been convicted of a felony under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144), or convicted of a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country unless the following apply:

(i) At least 10 years have elapsed from the date of conviction.

(ii) The applicant satisfactorily demonstrates to the Board that the applicant has made significant progress in personal rehabilitation since the conviction so that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of patients or the public or a substantial risk of further criminal violations.

(iii) The applicant otherwise satisfies the qualifications contained in the act.

(c) *Reciprocal licensure.* An applicant for licensure by reciprocity who has held a valid license from another state and has been actively engaged in clinical practice in that state for 5 years immediately preceding application for licensure in this Commonwealth, may be granted a license to practice veterinary medicine in this Commonwealth after having paid the fee required by § 31.41 (relating to schedule of fees), and submitted the following documentation to the Board:

(1) An application form under subsection (a).

(2) A verification of clinical practice, completed by the applicant, describing in detail the applicant's clinical practice during the immediately preceding 5 years.

(3) A letter from the licensure board of the state wherein the applicant has been actively engaged in clinical practice during the immediately preceding 5 years, certifying 5 years of continued licensure in that state.

(4) Two certificates of recommendation from licensed veterinarians regarding the applicant's character and competence and attesting to the fact that the applicant has been in active clinical practice during the immediately preceding 5 years.

(5) A letter of good standing from each board office in which the applicant has held a license to practice veterinary medicine, reporting the outcome of disciplinary actions taken against the applicant, if any, in that state.

#### ANIMAL HEALTH TECHNICIANS AND NONCERTIFIED EMPLOYEES

##### § 31.32. Certification.

(a) As a prerequisite to original certification as an animal health technician, an applicant shall submit the following documentation to the Board:

(1) A completed and signed application for animal health technician certification.

(2) Evidence of satisfactory performance on the proficiency examination as determined by the Board.

(3) Evidence of satisfactory completion of an approved program for the training and education of animal technicians.

(4) A letter of good standing from the licensure board of each state where the applicant has held a license as an animal health technician, if any, reporting the outcome of disciplinary actions taken against the applicant in that state.

(5) A statement from the applicant that the applicant has not been convicted of a felony under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144), or convicted of a felony relating to a controlled substance in a court of law of the United States or any other state, territory or country within the last 10 years. An applicant convicted of such a felony more than 10 years ago shall also submit the following:

(i) Proof that at least 10 years have elapsed from the date of conviction.

(ii) Satisfactory documentary evidence that the applicant has made significant progress in personal rehabilitation since the conviction so that licensure of the applicant should not be expected to create a substantial risk of harm to the health and safety of patients or the public or a substantial risk of further criminal violations.

(iii) Satisfactory documentary evidence that the applicant otherwise satisfies the qualifications contained in the Board's regulations.

(b) The fee for application for certification is as specified in § 31.41 (relating to schedule of fees).

##### § 31.33. Applications.

(a) An applicant for certification by examination shall complete and file an application with the Board as specified in § 31.32 (relating to certification) and remit to the Board the fee specified in § 31.41 (relating to schedule of fees). An applicant for certification by examination shall also complete and file an application for the veterinary technician National examination and the required fee directly with the professional testing organization. Both applications may be obtained from the professional testing organization.

(b) An applicant for certification as an animal health technician by endorsement shall complete and file with the Board an application for certification by endorsement on forms prescribed by the Board. The application form may be obtained from the Administrative Office of the State Board of Veterinary Medicine, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649 or by accessing the Board's web page at [www.dos.state.pa.us/bpoa/vetbd/mainpage.htm](http://www.dos.state.pa.us/bpoa/vetbd/mainpage.htm).

##### § 31.34. Qualification for examination.

An applicant for examination shall be a graduate of an approved school.

##### § 31.35. Examinations.

(a) The examination required for certification as an animal health technician is the Veterinary Technician National Examination (VTNE).

(b) An applicant failing to pass an examination for which the applicant has previously qualified shall be

reexamined at the applicant's request by submitting a new application and by paying the required fee.

(c) The Board may waive the VTNE if an applicant satisfies the following requirements:

- (1) Has met all of the requirements provided for in the act.
- (2) Has filed the required application as provided in § 31.33 (relating to applications).
- (3) Has been issued a certificate as an animal health technician or a veterinary technician in another state whose requirements are at least equal to those of the Commonwealth; a copy of this certificate and proof of current good standing shall be submitted.

**§ 31.39. Grounds for disciplinary proceedings.**

(a) The Board may suspend or revoke certification of an animal health technician or otherwise discipline a certified animal health technician or refuse to certify an applicant, or, upon certification, restrict the practice of an applicant who is found guilty by the Board or by a court of one or more of the following:

- (1) Willful or repeated violations of the act or of §§ 31.31—31.38.
- (2) Fraud or deceit in procuring or attempting to procure certification or presenting to the Board dishonest or fraudulent evidence of qualifications, or fraud or deception in the process of examination for the purpose of securing certification.
- (3) Fraud, deception, misrepresentation or dishonest or illegal practices in or connected with the person's employment.
- (4) Revocation or suspension by another state of the certification of the person as an animal health technician or a veterinary technician on grounds similar to those which in this Commonwealth allow disciplinary proceedings, in which case the revocation or suspension shall be conclusive evidence.
- (5) Conviction of or plea of guilty or nolo contendere to a violation of The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780.101—780.144), in which case a certified copy of the court record shall be conclusive evidence.
- (6) Conviction of a felony in the courts of this Commonwealth or of a state, territory or country which, if committed in this Commonwealth, would be deemed a felony and suspension or revocation of certification is in the best interest of the public health and the general safety and welfare of the public. A record of conviction in a court of competent jurisdiction shall be sufficient evidence for disciplinary action to be taken as may be deemed proper by the Board.

(7) Permitting or allowing another to use his certification.

(8) Addiction to the habitual use of intoxicating liquors, narcotics or stimulants to an extent that incapacitates the certified animal health technician from the performance of professional obligations or duties.

(b) Certified animal health technicians and noncertified employees who deviate from the permitted scope of practice as set forth in § 31.31 (relating to scope of practice) will be subject to prosecution and the levying of a civil penalty by the Board under section 28(c) of the act (63 P. S. § 485.28(c)). Veterinarians who permit, order or direct certified animal health technicians or noncertified employees to perform duties which are not authorized by

§ 31.31 will be subject to disciplinary action by the Board under section 21 of the act (63 P. S. § 485.21).

(c) Disciplinary action by the Board will be taken only after a formal hearing has been held in accordance with the act.

**FEES**

**§ 31.41. Schedule of fees.**

An applicant for a license, certificate or service shall submit a payment at the time of the request under the following fee schedule:

*Veterinarians:*

Application to original, reactivated, reissued or reciprocal license .....	\$ 35
Application for continuing education program approval .....	\$ 35
Verification of licensure .....	\$ 15
Certification of scores or hours.....	\$ 25
Temporary permit.....	\$ 35
Biennial renewal.....	\$225
Late renewal fee per month or part of month .....	\$ 5

*Animal health technicians:*

Application for certification.....	\$ 35
Application for continuing education program approval .....	\$ 35
Verification of certification.....	\$ 15
Certification of scores or hours.....	\$ 25
Biennial renewal.....	\$ 60
Late renewal fee per month or part of month .....	\$ 5

[Pa.B. Doc. No. 02-569. Filed for public inspection April 12, 2002, 9:00 a.m.]

**Title 58—RECREATION**

**FISH AND BOAT COMMISSION**

**[58 PA. CODE CHS. 91, 109 AND 111]**

**Boating Safety Education Certificates; Personal Watercraft; Waterskiing**

The Fish and Boat Commission (Commission) by this order amends Chapters 91, 109 and 111 (relating to general provisions; specialty boats and water skiing activities; and special regulations counties). The Commission is publishing these amendments under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The amendments concern boating.

*A. Effective Date*

The amendments will go into effect upon publication of this order adopting the amendments in the *Pennsylvania Bulletin*.

*B. Contact Person*

For further information on the amendments, contact Laurie E. Shepler, Assistant Counsel, (717) 705-7815, P. O. Box 67000, Harrisburg, PA 17106-7000. This final-form rulemaking is available electronically through the Commission's website (<http://www.fish.state.pa.us>).

*C. Statutory Authority*

The amendments to §§ 91.6, 109.3 and 109.4 (relating to Boating Safety Education Certificates; personal watercraft; and waterskiing, aquaplaning, kiteskiing and similar activities) are published under the statutory authority

of section 5123 of the code (relating to general boating regulations). The amendments to §§ 111.13, 111.27 and 111.43 (relating to Carbon County; Forest County; and Mercer County) are published under the statutory authority of section 5124 of the code (relating to particular areas of water).

#### D. Purpose and Background

The amendments are designed to update, modify and improve the Commission's regulations pertaining to boating. The specific purpose of the amendments is described in more detail under the summary of changes. The Commission's Boating Advisory Board (BAB) considered all of the amendments prior to the Commission's consideration of them on final-form rulemaking and recommended that the Commission adopt them as set forth in the notice of proposed rulemaking with the changes described in this Preamble.

#### E. Summary of Changes

(1) *Sections 91.6 and 109.3.* Both of these sections refer to temporary Boating Safety Education Certificates. Section 91.6(d) refers to a 90-day temporary certificate. Section 109.3(h)(3) refers to one that is valid for at least 90 days and no more than 180 days from the date of purchasing a personal watercraft. The National Association for State Boating Law Administrators (NASBLA), in its Model Act for Mandatory Boating Safety Education adopted September 13, 2000, recommends that temporary certificates (called temporary operators' permits in the NASBLA model) be issued for a duration not to exceed 60 days. To encourage uniformity and reciprocity between states, the Commonwealth's regulations should comply whenever possible with National reciprocity standards. Accordingly, the Commission has amended these sections as proposed.

(2) *Section 109.4.* To clarify its regulations, the Commission proposed to amend this section by adding a definition of "waterskiing." After the publication of the notice of proposed rulemaking, the Commission received one written comment and at least one oral suggestion that the definition of waterskiing should be modified to include barefoot waterskiing. The Commission, on final-form rulemaking, adopted the definition to read as set forth in Annex A.

(3) *Section 111.13.* The Commission received a petition from boaters who use Beltzville Lake in Carbon County to amend the waterskiing regulations. Beltzville Lake is a relatively small lake within the Beltzville State Park. Waterskiing type activities are currently restricted to 18% or 170 acres of the 950-acre lake. In the petition, the petitioners requested two changes: (1) to change the hours of skiing from 10 a.m. to sunset to sunrise to sunset; and (2) to open the entire lake to waterskiing.

The Commission accepted the petition for further review, and on June 4, 2001, the Commission held a public meeting at the park to obtain public input on the petition to change the regulation on Beltzville Lake. The meeting was well attended and gave Commission staff an opportunity to hear many views on how the lake should be regulated. Commission staff then prepared a report with input from the Bureau of State Parks.

Staff considered five possible options and recommended to the Commission that it consider a compromise solution that will allow waterskiing to begin at sunrise within the existing designated ski area only. This proposal would have little impact on other users and should not negatively affect boating safety. It allows skiers the opportunity to ski on calm water early in the day before wakes

form and should have the additional benefit of reducing congestion in the ski zone, making that area safer. Accordingly, the Commission has amended this section as proposed.

(4) *Section 111.27.* Tionesta Lake was authorized by the Flood Control Act of 1936 and has been in full operation since December 1940. This reservoir project is part of the flood control system operated by the Corps of Engineers for the Allegheny and Upper Ohio Rivers. The pool elevation at Tionesta Lake is generally maintained between elevations 1,089—1,090, which creates a recreational pool of about 450 acres. The flood pool stretches 6 miles up Tionesta Creek from the dam. Much of the recreational pool is very narrow and is peppered with stumps from trees that were left standing when the impoundment was created.

Sometime in the early 1960s, project managers began to install and enforce a 10 mph zone on the portion of the lake from the confluence of Little Piney Run upstream, a distance of about 2 miles. This restriction was never adopted by the Commission as a regulation. In 1974, the Commission was asked by the project manager to make this area slow, no wake. At a series of meetings, the BAB declined to recommend this change. The minutes of these meetings indicate that the BAB felt that the area did not need this strict restriction. The 10 mph zone was continued, but no regulations were passed to enable enforcement.

The Commission's Bureau of Law Enforcement, along with the Corps Project Manager, again requested that this area of the lake be regulated at slow, no wake and that this restriction be adopted as a regulation so that it may be enforced. The request cited the numerous shoals and tree stumps in this area that preclude most high speed operation and a desire to create an area for boating anglers free from other types of operation. It should be noted that there are two boat launch facilities on the lake. The Commission operates the Nebraska Bridge access near the upper limits of the proposed slow, no wake zone. The Corps of Engineers operates a boat launch near the dam that facilitates water skiers and other high-speed boats. The Commission has amended § 111.27 as proposed.

(5) *Section 111.43.* The Commission received a request from the Shenango Lake Water Safety Council to consider imposing restrictions on the towing of aquaplanes and similar devices in certain slow no wake areas on Shenango River Lake in Mercer County. Shenango River Lake is a Corps of Engineers impoundment that was constructed on the Shenango River in 1965 and became operational in 1967. The lake was created for the purpose of flood control, low flow augmentation and recreation. At the top of its recreational pool, the lake has a length of 11 miles and provides 3,500 acres of water surface.

The Water Safety Council (Council), which is comprised of representatives of the Corps of Engineers, the Commission and various users of the lake, makes recommendations concerning the operation of the recreational facilities on the lake. The Council has identified a potential safety problem with the operation of boats in two areas of the lake where boat traffic is directed through bridge piers. These areas have long been designated slow, no wake in recognition of the potential danger. Recently, project managers have observed an increasing number of people who are towing passengers through these areas on aquaplanes, tubes and similar devices. While the operators are maintaining a slow, no wake speed with their boats, the towing of devices behind the boats in the

congested areas has resulted in several close calls for persons on the devices. Additionally, the presence of towlines in the water in the areas increases the potential for entanglement in propellers. Accordingly, the Commission has amended § 111.43, as proposed, to prohibit waterskiing in the slow, no wake zones.

F. *Paperwork*

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

G. *Fiscal Impact*

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

H. *Public Involvement*

A notice of proposed rulemaking was published at 31 Pa.B. 5797 (October 20, 2001). Although the Commission received in excess of 20 public comments (including a petition signed by 1,143 individuals) regarding the amendment to § 111.13, none of the comments were received during the formal comment period. Most of the comments were received prior to the formal comment period and support changing the hours of waterskiing from 10 a.m. to sunset to sunrise to sunset and opening the entire lake to waterskiing. A group that identified itself as "Concerned Lake Users" submitted a petition signed by 1,143 individuals. These users oppose unrestricted waterskiing. Only two public comments support the changes as proposed.

Prior to the formal public comment period, the Commission received one public comment from the Corps of Engineers, Pittsburgh District, which fully supports the amendment to § 111.43. The Commission also received one written comment and at least one oral suggestion that the definition of "waterskiing" in § 109.4 should be modified to include barefoot water skiing. Copies of all public comments have been provided to the Commissioners.

The Commission did not receive any public comments concerning the other proposals.

*Findings*

The Commission finds that:

- (1) Public notice of intention to adopt the amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.
- (2) A public comment period was provided, and the comments that were received were considered.
- (3) The adoption of the amendments of the Commission in the manner provided in this order is necessary and appropriate for administration and enforcement of the authorizing statutes.

*Order*

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

(a) The regulations of the Commission, 58 Pa. Code Chapters 91, 109 and 111, are amended by amending §§ 91.6, 109.3, 111.13, 111.27 and 111.43 to read as set forth at 31 Pa.B. 5797 and by amending § 109.4 to read as set forth in Annex A, with ellipses referring to the existing text of the regulation.

(b) The Executive Director will submit this order, 31 Pa.B. 5797 and Annex A to the Office of Attorney General for approval as to legality as required by law.

(c) The Executive Director shall certify this order, 31 Pa.B. 5797 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

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

PETER A. COLANGELO,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48A-123 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 58. RECREATION**

**PART II. FISH AND BOAT COMMISSION**

**Subpart C. BOATING**

**CHAPTER 109. SPECIALTY BOATS AND WATER SKIING ACTIVITIES**

**§ 109.4. Waterskiing, aquaplaning, kiteskiing and similar activities.**

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

*Competent observer*—A person who has the ability to assess when a skier is in trouble, knows and understands the waterskiing hand signals and is capable of helping a skier.

*PFD*—Personal Flotation Device.

*Trick skier*—A water-skier who can be identified by body movements and skiing positions, which readily differentiate the trick-skier from the ordinary "forward" skier engaged in straight skiing or slalom and jump events, and also by the following:

(i) *Skies.* Short (38 inches—40 inches) and wide (8 inches—9 inches) with no keels on bottom.

(ii) *Speed of tow.* Slow (12—18 miles per hour).

(iii) *Rope.* Short (40 to 50 feet) and often with toehold strap attached to handle.

*Water ski*—A device used by a person to be towed through or on water behind a boat. The term includes conventional water skis, aquaplanes, kneeboards, inner tubes, inflatable hot dogs, air mattress, parasails, kite skis and similar devices.

*Waterskiing*—A competitive or recreational water sport in which a person is towed across the water's surface behind a boat in any fashion on a water ski as defined in this subsection or on his bare feet.

\* \* \* \* \*

[Pa.B. Doc. No. 02-570. Filed for public inspection April 12, 2002, 9:00 a.m.]

# PROPOSED RULEMAKING

## DELAWARE RIVER BASIN COMMISSION

[25 PA. CODE CH. 901]

### Proposed Amendments to the Administrative Manual—Rules of Practice and Procedure Concerning Fees Associated with Responses to FOIA Requests

The Delaware River Basin Commission (Commission) will hold a public hearing to receive comments on proposed amendments to the Commission's *Administrative Manual—Rules of Practice and Procedure*, 25 Pa. Code § 901.1, updating the fee schedule associated with Commission responses to Freedom of Information Act (FOIA) requests. The current schedule of fees was promulgated in 1975 and has not been updated since. Over the past quarter of a century, computer technologies have introduced new methods of recording and reproducing information that were not contemplated by the 1975 regulations, and administrative costs have increased. The proposed fee structure reflects current technology and costs.

#### Dates

The public hearing will be held on Friday, May 31, 2002, during the Commission's regular business meeting, which will begin at 1 p.m. The meeting on May 31, 2002, must end by 3 p.m., but if necessary, the hearing will continue at the Commission's next scheduled business meeting until all those who wish to testify are afforded an opportunity to do so. Persons wishing to testify are asked to register in advance with the Commission Secretary, (609) 883-9500 ext. 203. Written comments will be accepted through the close of the public hearing; however, earlier submittals would be appreciated.

#### Addresses

The public hearing will be held at Grey Towers National Historic Landmark, 151 Grey Towers Drive, Milford, PA. Directions will be posted on the Commission's website at <http://www.drbc.net> by April 1, 2002. Written comments should be addressed to the Commission Secretary, Delaware River Basin Commission, P. O. Box 7360, West Trenton, NJ 08628-0360.

#### Further Information, Contacts

Contact Pamela Bush at (609) 883-9500 ext. 203 with questions about the proposed amendments or the rule-making process. Notice also is posted on the Commission's website at <http://www.drbc.net>.

It is proposed to amend Article 8, Section 2.8.10 "Fees" of the *Administrative Manual—Rules of Practice and Procedure*, by striking the language of sub-section A of that section and replacing it with the following:

A. Unless waived in accordance with the provisions of Section 2.8.11, the following fees shall be imposed for production of any record pursuant to this part.

#### 1. Administrative Fees.

a. Charges for administrative fees include staff time associated with:

- (i) Processing FOIA requests;
- (ii) Locating and reviewing files;
- (iii) Monitoring file reviews;

(iv) Generating computer records (electronic print-outs); and

(v) Preparing logs of records deemed non-public.

b. Administrative charges will be calculated as follows: Administrative charges will be billed to the requester per quarter hour following the first quarter hour. These charges will be billed at the current, hourly paygrade rate (pro-rated for quarter hour increments) of the personnel performing the service. Administrative charges will be in addition to any copying charges.

c. Appointment Rescheduling/Cancellation—Requesters that do not reschedule or cancel appointments to view files at least one full business day in advance of the appointment may be subject to the administrative charges incurred by the Commission in preparing the requested records. The Commission will prepare an itemized invoice of these charges and mail it to the requester for payment.

2. *Photocopying Fees*—The following are charges for photocopies of public records made by Commission personnel:

#### a. Standard Sized, Black and White Copies

The charge for copying standard sized, black and white public records shall be \$0.15 per printed page (i.e., single-sided copies are \$0.15 and double-sided copies are \$0.30). This charge applies to copies on the following standard paper sizes:

- (i) 8.5" × 11"
- (ii) 8.5" × 14"
- (iii) 11" × 17"

#### b. Color Copies/Printouts

The charge for color copies or color printouts shall be as follows:

- (i) 8.5" × 11"—\$1.00 per page
- (ii) 8.5" × 14"—\$1.50 per page
- (iii) 11" × 17"—\$2.00 per page

(iv) The charge for all color copies larger than 11" x 17" (including, but not limited to: photographic imagery, GIS print-outs, and maps) shall be calculated at the rate of \$2.50 per square foot.

#### c. Electronically Generated Records

Charges for copying records maintained in electronic format will be calculated by the material costs involved in generating the copies (including, but not limited to: magnetic tape, diskette, or compact disc costs) and administrative costs.

#### d. Other Copying Fees

The Commission, at its discretion, may arrange to have records copied by an outside contractor if the Commission does not have the resources or equipment to copy such records. In this instance, the requester will be liable for payment of these costs.

3. Forwarding material to destination. Postage, insurance, and special fees will be charged on an actual cost basis.

PAMELA M. BUSH,  
Secretary

**Fiscal Note:** 68-41. No fiscal impact; (8) recommends adoption.



*(Editor's Note: The notice which appeared at 32 Pa.B. 1661 (March 30, 2002) was published prematurely. This document is the official Notice of Proposed Rulemaking of the Delaware River Basin Commission regarding § 901.1 (relating to rules of practice and procedure.)*

### Annex A

## TITLE 25. ENVIRONMENTAL PROTECTION

### PART V. DELAWARE RIVER BASIN COMMISSION

#### CHAPTER 901. GENERAL PROVISIONS

##### § 901.1. Rules of Practice and Procedure.

The rules of practice and procedure as set forth in 18 CFR 401 (2002) are hereby incorporated by reference and made a part of this title.

[Pa.B. Doc. No. 02-571. Filed for public inspection April 12, 2002, 9:00 a.m.]

# INSURANCE DEPARTMENT

## [31 PA. CODE CH. 83a]

### Life Insurance; Annuity Disclosure

The Insurance Department (Department) proposes to add Chapter 83a (relating to annuity disclosure) to read as set forth in Annex A. The proposal is made under the authority of sections 205, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412). Likewise, this proposal is made under the Department's rulemaking authority in the Unfair Insurance Practices Act (40 P. S. §§ 1171.1—1171.15) (as such authority is further explained in *PALU v. Insurance Department*, 371 A.2d 564 (Pa. Cmwlth. 1977)), because the Insurance Commissioner has determined that the inadequate disclosure of key elements of annuity contracts by members of the insurance industry constitutes an unfair method of competition and an unfair or deceptive act or practice.

#### *Purpose*

The purpose of this rulemaking is to add Chapter 83a to provide new consumer protections that apply to certain individual annuity contracts and riders and group certificates and certificate riders. This proposed rulemaking would require insurers and insurance producers selling certain types of annuity products in this Commonwealth to provide their consumers with a simplified document that discloses important components of the annuity contract. These components include, inter alia, any applicable interest rates, bonuses and persistency credits as well as any fees, surrender charges or value reductions caused by contract withdrawals. With the information provided in the disclosure statement, an insurance consumer will be able to more adequately and completely understand the nature of the annuity product that is being purchased or applied for, thereby allowing the consumer to make a more informed decision on the suitability of the contracts. This proposed rulemaking is not intended to prohibit insurers or producers from using, in the sale of an annuity contract, additional material or disclosures which are not in violation of this proposed rulemaking or any other law or regulation currently in effect.

The Department worked closely with this Commonwealth's insurance industry on the development of this proposed rulemaking. The Department shared this pro-

posed rulemaking with the agent associations and the insurance industry trade groups. Informal meetings were held with members of the industry to discuss earlier drafts of the regulation. Comments were received from members of the agents association and the insurance industry, and these comments were taken into consideration during the drafting of this proposed rulemaking.

#### *Explanation of Regulatory Changes*

Section 83a.1 (relating to purpose) is being proposed to explain the purpose of the chapter.

Section 83a.2 (relating to applicability) explains the exemptions to the rulemaking.

Sections 83a.3 (relating to definitions) defines the terms used in this rulemaking.

Section 83a.4 (relating to disclosure statement delivery) describes the procedures to be followed for face-to-face solicitation and solicitations made in other manners, such as through telephonic and electronic means.

Section 83a.5 (relating to disclosure statement) describes the elements that are necessary to provide a consumer with a complete and adequate disclosure statement.

Section 83a.6 (relating to use and nonmodification of annuity disclosure system results) provides that a producer may not alter or modify the results of an annuity disclosure system that is provided or approved in writing by the insurer.

Section 83a.7 (relating to Department right of review of disclosure statements) describes when the Department may ask for submission of a completed disclosure statement.

Section 83a.8 (relating to report to contract owners) describes the insurer's responsibility to provide a report at least annually to consumers purchasing certain deferred annuity contracts.

Section 83a.9 (relating to penalties) describes the enforcement actions and penalties that the Department may consider for violating this chapter.

#### *Fiscal Impact*

There will be a minor fiscal impact as a result of the proposed rulemaking. Insurers will be required to provide a disclosure to the consumer. The disclosure must be separate from the annuity contract, thereby creating some additional costs will be incurred in the production and provision of the disclosure. Any fiscal impact on insurers or insurance producers is expected to be relatively minimal, especially when compared to the important value that consumers will gain in being provided the disclosure statements for consideration when purchasing annuity contracts.

#### *Paperwork*

The proposed rulemaking will affect all licensed insurers and insurance producers that sell or market annuities in this Commonwealth.

#### *Effectiveness*

The rulemaking will become effective upon final-form publication in the *Pennsylvania Bulletin*.

#### *Contact Person*

Questions or comments regarding the proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120,

within 30 days following the publication of this notice in the *Pennsylvania Bulletin*. Questions and comments may also be e-mailed to psalvatore@state.pa.us or faxed to (717) 772-1969.

#### Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 4, 2002, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee. In addition to the submitted proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of that material is available to the public upon request.

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

M. DIANE KOKEN,  
*Insurance Commissioner*

**Fiscal Note:** 11-200. No fiscal impact; (8) recommends adoption.

### Annex A

#### TITLE 31. INSURANCE

#### PART IV. LIFE INSURANCE

#### CHAPTER 83a. ANNUITY DISCLOSURE

Sec.	
83a.1.	Purpose.
83a.2.	Applicability.
83a.3.	Definitions.
83a.4.	Disclosure statement delivery.
83a.5.	Disclosure statement.
83a.6.	Use and nonmodification of annuity disclosure system results.
83a.7.	Department right of review of disclosure statements.
83a.8.	Report to contract owners.
83a.9.	Penalties.

#### § 83a.1. Purpose.

The purpose of this chapter is to:

- (1) Provide standards for the disclosure of certain minimum information about annuity contracts to protect consumers and foster consumer education.
- (2) Specify the minimum information which must be disclosed and the method for disclosing the information in connection with the sale of annuity contracts.
- (3) Ensure that purchasers of annuity contracts understand certain basic features of the contracts being purchased.

#### § 83a.2. Applicability.

This chapter applies to all individual annuity contracts and riders and group certificates and certificate riders except transactions involving the following:

- (1) Group annuities used to fund prearranged funeral contracts.

- (2) Registered or nonregistered variable annuities, or other registered products subject to the prospectus delivery requirements of the Securities Act of 1933 (15 U.S.C.A. §§ 77a—77aa).

- (3) Immediate annuities that do not contain any nonguaranteed elements.

- (4) Annuity contracts used to fund any of the following plans:

- (i) An employee pension or welfare benefit plan that is covered by the Employee Retirement and Income Security Act of 1974 (ERISA) (29 U.S.C.A. §§ 1001—1461).

- (ii) A plan described by section 401(a), 401(k) or 403(b) of the Internal Revenue Code (26 U.S.C.A. §§ 401(a), 401(k) and 403(b)), when the plan, for purposes of ERISA, is established or maintained by an employer.

- (iii) A governmental or church plan as defined in section 414 of the Internal Revenue Code (26 U.S.C.A. § 414).

- (iv) A deferred compensation plan of a state or local government or tax exempt organization under section 457 of the IRC (26 U.S.C.A. § 457).

- (v) A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor.

(5) Notwithstanding paragraph (4), the requirements of this chapter apply to annuities used to fund a plan or arrangement that is funded solely by contributions an employee elects to make, whether on a pretax or after-tax basis, and when the insurer has been notified that plan participants may choose from among two or more fixed annuity providers and there is a direct solicitation of the individual employee by a producer for the purchase of an annuity contract. As used in this subsection, "direct solicitation" does not include any meeting held by a producer solely for the purpose of educating individuals about the plan or arrangement or enrolling individuals in the plan or arrangement.

(6) A structured settlement annuity.

#### § 83a.3. Definitions.

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

*Agent*—As defined in section 601 of The Insurance Department Act of 1921 (40 P. S. § 231).

*Application*—The first form used by the producer or the insurer that constitutes or captures the applicant's request for an annuity contract or that captures from the applicant information needed to issue an annuity contract.

*Bonus*—An amount credited to the account value, cash surrender value or annuitization value of a contract in addition to the credited interest rates.

*Broker*—As defined in section 622 of The Insurance Department Act of 1921 (40 P. S. § 252).

*Commissioner*—The Insurance Commissioner of the Commonwealth.

*Contract*—Any individual annuity contract or rider or group annuity certificate or certificate rider.

*Contract owner*—The owner named in the annuity contract or certificate holder in the case of a group annuity contract.

*Department*—The Insurance Department of the Commonwealth.

*Determinable elements*—The premiums, crediting interest rates, benefits, values, bonuses, persistency credits, noninterest based credits, charges, fees and elements of formulas used to determine any of these that are guaranteed at issue but not determined until some point in time after issue. The processes or methods that are applied to derive the determinable elements are guaranteed at issue and not subject to insurer discretion. An element is considered determinable if it was calculated from underlying determinable elements only, or from both determinable and guaranteed elements.

*Direct response solicitation*—A solicitation of an annuity through a sponsoring or endorsing organization or individually through the mail, telephone, Internet or other mass communication medium.

*Equity indexed annuity*—An annuity contract with interest credits or benefits that are linked to an external equity reference or an equity index.

*Generic name*—A short title descriptive of the annuity contract, any supplemental built in benefit being disclosed. Examples of acceptable generic names are “single premium deferred annuity” and “equity indexed deferred annuity.”

*Guaranteed elements*—The premiums, crediting interest rates, benefits, values, bonuses, persistency credits, noninterest based credits, charges, fees and elements of formulas used to determine any of these, that are guaranteed and determined at issue of the contract. An element is considered guaranteed if all of the underlying elements that are used in its calculation are guaranteed.

*Guaranteed minimum interest rate*—The underlying guaranteed interest rate.

*Insurer*—A life insurance company licensed under section 202 of The Insurance Company Law of 1921 (40 P. S. § 382) or a fraternal benefit society licensed under the Fraternal Benefit Societies Code (40 P. S. §§ 1142-101—1142-701).

*Internet*—The global information system comprised of independent computer networks which are interconnected and share information without the use of a central processing center by use of the transmission control protocol/internet protocol (TCP/IP) suite, to include without limitation, the World Wide Web, proprietary or “common carrier” electronic delivery systems or similar media.

*Nonguaranteed elements*—The premiums, crediting interest rates, benefits, values, bonuses, persistency credits, noninterest based credits, charges, fees and elements of formulas used to determine any of these, that are subject to insurer discretion and are not guaranteed at issue of the contract. An element is considered nonguaranteed if any of the underlying elements that are used in its calculation are nonguaranteed.

*Producer*—An agent or broker.

*Prominent type*—Font or formatting techniques which differentiate selected text from other text. The term includes, for example, capital letters, contrasting color and underscoring.

*Structured settlement annuity*—A qualified funding asset as defined in section 130(d) of the Internal Revenue Code (26 U.S.C.A. § 130(d)) or an annuity that would be a qualified funding asset under section 130(d) of the Internal Revenue Code but for the fact that it is not owned by an assignee under a qualified assignment.

#### § 83a.4. Disclosure statement delivery.

(a) *Face-to-face solicitation*. When the application for an annuity contract to which this chapter applies is taken in a face-to-face meeting, the applicant shall be given an annuity disclosure statement in compliance with this chapter no later than the time the application for the annuity is signed.

(b) *Other than face-to-face solicitation*. When the application for an annuity contract to which this chapter applies is taken by means other than in a face-to-face meeting, the applicant shall be provided with an annuity disclosure statement in compliance with this chapter no later than 5 business days after the completed annuity application is received by the insurer or producer or at the time of contract delivery if less than 5 business days after the completed annuity application is received by the insurer.

(1) With respect to an application received as a result of a direct response solicitation through the mail, providing the disclosure in a mailing inviting a prospective applicant to apply for an annuity contract shall be deemed to satisfy the delivery requirement of subsection (b).

(2) With respect to an online application via the Internet, taking reasonable steps to make available for viewing, printing, saving or downloading to a file from the marketing website for at least 7 days after application shall be deemed to satisfy the delivery requirement of subsection (b).

#### § 83a.5. Disclosure statement.

(a) *Disclosure statement requirements*. The following information shall be included in the disclosure statement:

(1) A prominent type title as follows: Annuity Disclosure Statement.

(2) The name and home office address (city and state) of the insurer to whom application will be made and a mailing address of the insurer's home, executive or administrative office to which correspondence should be addressed.

(3) The identification of the contract, any rider or supplemental benefit built into the contract, including:

(i) The fact that the contract is an annuity.

(ii) The generic name of the contract, any supplemental built-in benefit or any rider.

(4) A description of the contract and its specific features, relating to the annuity solicited and applied for, emphasizing its long-term nature, including examples when appropriate. The examples may be based on assumed premiums. The description shall include:

(i) The guaranteed, nonguaranteed and determinable elements of the contract, and their limitations, if any, and an explanation of how they operate.

(ii) An explanation of the initial crediting rate, the duration of the initial crediting rate, and the fact that future crediting rates may change from time to time and are not guaranteed.

(iii) A description, whether or not stated in the contract, of any adjustments in the credits, charges or settlement option rates necessary to offset the cost to the insurer for providing the bonus (for example, the interest credit will be 1% less than the rate that would be credited if the contract did not contain a bonus). If because of the pricing structure, an explicit expense charge or reduction in interest credits can not be determined, a general

description that the expense charges may be higher or interest credits lower than the charges or credits for a contract without the bonus and that the amount of the charges or reduction in interest credits may exceed the amount of the bonus or an alternative description that provides the same level or degree of disclosure and is found acceptable by the Department.

(iv) Any value reductions caused by withdrawals from the contract or surrender of the contract

(v) The values used to determine the annuity income payments.

(vi) If applicable, an explanation that the values upon surrender of the contract are less than the values used to determine the annuity income payments.

(vii) How values in the contract can be accessed.

(viii) Periodic income options with an explanation of the guaranteed and nonguaranteed basis.

(ix) The death benefit, if available, and how it is calculated.

(x) A summary of the Federal tax status of the contract and any penalties applicable on withdrawal of values from the contract.

(xi) The impact of any rider, such as a long-term care rider or disability surrender fee waiver rider, on the contract benefits.

(b) *First page declarations.* The first page of the disclosure statement shall include the information required by subsection (a)(1) and the descriptions concerning the following:

(1) Interest rates.

(2) Bonuses and persistency credits.

(3) Charges and fees.

(4) Surrender charges.

(5) Value reductions caused by contract withdrawals or surrenders

(6) Any difference between the surrender value and the value used to determine the annuity income payment.

(c) *Nonguaranteed disclosure.* Any nonguaranteed element amounts appearing in the annuity disclosure statement shall be accompanied by a prominent type disclosure that the amounts are not guaranteed and are subject to change by the insurer.

(d) *Right to examine contract.* The disclosure statement shall include the language of the applicable right to examine contract provision required by section 410E of The Insurance Company Law (40 P. S. § 510d).

(e) *Page numbers.* Each page of the disclosure statement shall be numbered and show its relationship to the total number of pages in the disclosure statement.

(f) *Language of statement.* Terms used in the disclosure document shall be written in terms that are not confusing or misleading to a person of average intelligence. Terminology that would not be ordinarily understood by a person of average intelligence shall be defined or explained.

**§ 83a.6. Use and nonmodification of annuity disclosure system results.**

A producer shall only use and may not withhold, alter, change or in any way modify the results of an annuity disclosure system provided by an insurer or approved in

writing by an officer of the insurer or another person as the insurer may designate for that purpose.

**§ 83a.7. Department right of review of disclosure statements.**

The Department may request the submission of a completed disclosure statement.

**§ 83a.8. Report to contract owners.**

A report shall be provided, at least annually, to the contract owner of a deferred annuity during the accumulation period and to the contract owner of a deferred or immediate annuity during the payout period if the contract provides for nonguaranteed elements during the payout period. The report shall be provided without charge.

(1) The report for a nonequity indexed annuity shall contain at least the following information:

(i) The beginning and ending date of the current report period

(ii) The account value, if any, at the beginning of the current report period and at the end of the current report period.

(iii) The cash surrender value, if any, at the end of the report period.

(iv) For an annuity which provides for an adjustment in the cash surrender values based on changes in the market value of the assets underlying the contract, a statement that the cash surrender value includes a reduction for the surrender charge and for either a market value adjustment or a total return adjustment.

(v) The amounts, if any, that have been credited or debited to the contract during the current report period. The credited and debited amounts shall be identified by type; for example, premium payments, interest credits, bonus credits, persistency credits, expense charges, withdrawal amounts and withdrawal charges.

(vi) The amount of outstanding loans, if any, as of the end of the current report period.

(2) The report for an equity indexed annuity shall contain at least the following information:

(i) The beginning and ending date of the current report period.

(ii) The minimum guaranteed cash surrender value at the beginning of the current report period and at the end of the current report period.

(iii) The amounts, if any, that have been credited or debited to the minimum guaranteed cash surrender value during the current report period. The credited and debited amounts shall be identified by type; for example, premium payments, interest credits, bonus credits, persistency credits, expense charges, withdrawal amounts and withdrawal charges.

(iv) The vested index adjusted account value at the beginning of the current report period and at the end of the current report period.

(v) The amounts, if any, that have been credited or debited to the vested index adjusted account value during the current report period. The credited and debited amounts shall be identified by type; for example, premium payments, interest credits, bonus credits, persistency credits, expense charges, withdrawal amounts and withdrawal charges.

(vi) The cash surrender value, if any, at the end of the current report period.

(vii) The amount of outstanding loans, if any, as of the end of the current report period.

(3) The end of the current report period may not be more than 3 months prior to the date of the mailing of the report.

#### § 83a.9. Penalties.

(a) For failing to make the required disclosure about the product being sold or otherwise violating this chapter, a producer may be subject to the penalties provided in:

(1) Section 639 of The Insurance Department Act of 1921 (40 P. S. § 279) for conduct that would disqualify a producer from the initial issuance of a certificate of qualification or a license under sections 604 or 622 of that act (40 P. S. §§ 234 and 252).

(2) Section 637 of The Insurance Department Act of 1921 (40 P. S. § 277) for misrepresenting the terms of an insurance policy.

(b) For failing to ensure the required disclosure about the product being sold or otherwise violating this chapter, an insurer may be subject to the penalties provided in section 350 of The Insurance Company Law of 1921 (40 P. S. § 475) for violation of sections 347—349 of that act (40 P. S. §§ 472—474).

(c) For failing to ensure the required disclosure about the product being sold or otherwise violating this chapter, a fraternal benefit society may be subject to the penalties provided in section 610 of the Fraternal Benefit Society Code (40 P. S. § 1142-610).

(d) In addition to subsections (a)—(c), failure to make the required disclosures outlined in this chapter or otherwise violating this chapter may be considered a violation of the Unfair Insurance Practices Act (40 P. S. §§ 1171.1—1171.15).

(e) The insurer shall bear the burden in any investigation, hearing or determination by the Department or the Commissioner to prove that a properly completed disclosure was provided to the annuity applicant as required by this chapter.

[Pa.B. Doc. No. 02-572. Filed for public inspection April 12, 2002, 9:00 a.m.]

### [31 PA. CODE CHS. 148 AND 148a] Safeguarding Insurer Securities

The Insurance Department (Department) proposes to delete Chapter 148 (relating to securities held under custodial agreements and participation by insurers in depository trust companies and federal reserve book entry systems) and adopt Chapter 148a (relating to safeguarding insurer securities) to read as set forth in Annex A. This rulemaking is proposed under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412); The Insurance Department Act of 1921 (40 P. S. §§ 1—324); The Insurance Company Law of 1921 (40 P. S. §§ 341—991); 40 Pa.C.S. §§ 6101—6127 and 6301—6335; the Voluntary Nonprofit Health Service Act of 1972 (40 P. S. §§ 1551—1568); the Fraternal Benefit Society Code (40 P. S. §§ 1142-101—1142-701); the Health Maintenance Organization Act (40 P. S. §§ 1551—1567); The Pennsylvania Fair Plan Act (40 P. S. §§ 1600.101—1600.502);

Article VIII of the Health Care Services Malpractice Act (40 P. S. §§ 1301.801—1301.811). The proposed regulations prescribe permissible methods of holding securities owned by the various types of insurance entities regulated by the Department (insurers) and requirements for insurer securities held under custodial agreements. Insurers shall comply with the regulations for their securities to be reported as assets (admitted assets) in financial statements filed with the Department.

#### *Purpose*

This proposed rulemaking replaces the regulations relating to insurer securities initially adopted June 12, 1981, with updated regulations. Securities owned by insurers are liquid assets held to allow the payment of the insurer's obligations as they come due. This proposed rulemaking will update the regulations to recognize changes in the securities marketplace and to better safeguard against the theft or loss of insurer securities. The proposed regulations are the result of the Department's consideration of the need for domestic insurers to participate efficiently in the securities market while preserving the value and safety of their assets. Specific protections have been added as a result of a review by Commonwealth insurance regulators of the circumstances in a recent highly publicized case where a number of insurer insolvencies were caused by the alleged theft of their securities. The Department participated in the review of this case, known as the Frankel case, which also resulted in the update of a model regulation relating to insurer securities adopted by the National Association of Insurance Commissioners (NAIC).<sup>1</sup> Therefore, this proposed rulemaking is needed to update the regulations to better safeguard against the theft or loss of insurer securities and to establish up-to-date, clear requirements for insurer securities held under custodial arrangements.

#### *Explanation of Regulatory Requirements*

Section 148a.1 (relating to definitions) includes definitions of "agent," "clearing corporation," "custodian," "Federal Reserve book-entry system" and "securities" consistent with the definitions in the NAIC model regulation. The definition of "insurer" expands the definition in the existing regulations to add health maintenance organizations and preferred provider organizations and to clarify the scope of the regulations with respect to other regulated entities. This broader definition is needed to clearly apply the safeguards in the regulations to all types of insurers. Definitions of "instructions" and "authorized person" are included to clarify who may issue instructions on behalf of an insurer to a custodian and the proper form of the instructions. The definition allows both written and verbal instructions subject to certain criteria and conditions. Definitions of "investment company" and "investment company securities" are included to differentiate between investments in mutual funds and other types of securities. Finally, the terms "foreign country," "registered form" and "State" are defined to clarify these terms for purposes of the regulations.

Section 148a.2 (relating to permissible methods of holding securities) lists what types of entities, as defined in the regulations, are permitted to hold insurer securities and how the securities may be held. An insurer may hold its own securities in definitive certificates. A custodian may hold insurer securities under a written agreement if the agreement contains at least the terms and conditions prescribed by the regulations. Investment company (mutual fund) securities may be held by the invest-

<sup>1</sup> The updated Model Regulation on the Use of Clearing Corporations and Federal Reserve Book-Entry System by Insurance Companies was adopted in October 2001.

ment company that issued the securities if specific requirements are met. Insurer securities also may be held by a state treasurer or other state regulatory authority if required as a condition of doing business in that state.

Section 148a.3 (relating to requirements for custodial agreements) requires an agreement between an insurer and a custodian to be in writing, properly authorized by both parties and to contain the provisions in § 148a.3(b). Section 148a.3(b)(1) requires the securities to be deposited and withdrawn as instructed by the insurer and provides for verbal instructions to be superseded by written instructions in the event of a discrepancy or dispute. In addition, § 148a.3(b)(2) prohibits the custodian from having a security interest or lien in the securities because the securities shall be available to the insurer immediately upon request. Section 148a.3(b)(3) allows the custodian to utilize an agent for electronic transactions if the custodian enters into a written agreement with the agent and remains ultimately responsible for the safekeeping of the securities and for compliance with the provisions of the custodial agreement. Section 148a.3(b)(4)—(8) establishes how securities may be registered, held and identified in the custodian's records according to the form of the securities. Section 148a.3(b)(9)—(11) relates to a custodian's duties to maintain adequate insurance protection as required by banking regulators and to indemnify the insurer for any loss of the securities under the circumstances and conditions described in the regulations. The custodian's obligation to indemnify the insurer includes the immediate replacement of the securities or the value of the securities, plus the value of any loss of rights or privileges resulting from the loss of the securities. Section 148a.3(12) requires the custodian to notify the Department if the agreement is terminated or if 100% of the assets are withdrawn from one or more of the insurer's custodial accounts. This provision was added to safeguard against securities fraud or theft as a result of a review of the Frankel case. A similar provision has been added to the NAIC model regulation. Section 148a.3(b)(13)—(17)(ii) establishes recordkeeping and reporting duties under custodial agreements. These requirements provide the insurer with timely information needed to monitor custodial account transactions, be informed about audits and reports on the custodian's trust accounts and system of internal controls, and to have sufficient information to comply with financial statement reporting and audit requirements. In addition, these sections assure that the custodian is aware of its responsibility to provide the Department with timely access to information required in a financial examination conducted under Article IX of The Insurance Department Act of 1921 (40 P. S. §§ 323.1—323.8). Finally, § 148a.3(17)(iii) prescribes the form of an affidavit that shall be provided by the custodian upon the insurer's request. The affidavit is needed to confirm the value and location of insurer securities for purposes of financial examinations conducted by the Department. The requirements relating to custodial agreements will clarify and strengthen regulatory provisions for the protection and availability of insurer securities held under these arrangements.

Section 148a.4 (relating to requirements for investment company securities) establishes the conditions under which an insurer's investment company securities may be held by the investment company that issued the securities. The conditions assure that the investment company provides at least monthly reports of transfers of investments to or from the insurer's account and maintains adequate records for financial statement reporting and financial examination purposes.

Section 148a.5 (relating to penalty and existing custodial agreements) establishes that failure to comply with the regulations will result in the insurer's securities being nonadmitted assets for purposes of financial statements filed with the Department. The section also allows insurers 1 year to bring existing agreements into compliance with the regulations.

#### *External Comments*

In drafting this proposed rulemaking, the Department requested comments from the Insurance Federation of Pennsylvania, Inc., the Pennsylvania Association of Mutual Insurance Companies, the Managed Care Association of Pennsylvania, the Pennsylvania Fraternal Congress, Highmark, Inc., Capital Blue Cross, Independence Blue Cross and the Hospital Service Association of Northeastern Pennsylvania. The comments received in response to the Department's request were considered in the development of this rulemaking.

#### *Fiscal Impact*

The proposed safeguards and reporting requirements for custodial arrangements are not materially different from existing regulatory requirements and will impose no significant additional costs on insurers or custodians. Department costs in conducting financial examinations associated with the review of custodial arrangements and verification of insurer securities will not increase as a result of this proposed rulemaking. This proposed rulemaking will not affect costs to political subdivisions. While this proposed rulemaking has no immediate fiscal impact on the general public, the general public will benefit to the extent that adoption of this proposed rulemaking enhances regulatory safeguards against the loss or theft of securities held by insurers to meet obligations under insurance policies.

#### *Paperwork*

The proposed rulemaking reduces paperwork to the extent that it replaces three different affidavit forms required under the current regulations with one consolidated form. The proposed rulemaking also may reduce paperwork by allowing reports and confirmations to be transmitted in electronic form. The proposed rulemaking will require custodial agreements to provide for notice to the Department if the agreement is terminated or if 100% of the assets are withdrawn from one or more of an insurer's custodial accounts. The reporting and recordkeeping requirements in the proposed rulemaking are necessary to safeguard insurer securities from loss or theft and to allow the Department to readily verify insurer assets when conducting financial examinations under the law.

#### *Persons Regulated*

The proposed rulemaking applies to all types of domestic insurers regulated by the Department. Custodians and investment companies holding insurer securities also are affected by the proposed rulemaking to the extent it prescribes the terms and conditions of agreements entered into with domestic insurers.

#### *Contact Person*

Questions or comments regarding this proposed rulemaking may be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Office of Special Projects, 1326 Strawberry Square, Harrisburg, PA 17120, (717) 787-4429 within 30 days following the publication of this notice in the *Pennsylvania Bulletin*. Questions or comments also may be e-mailed to [psalvatore@state.pa.us](mailto:psalvatore@state.pa.us) or faxed to (717) 772-1969.

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on April 1, 2002, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the Senate Banking and Insurance Committee and the House Committee on Insurance. In addition to submitting the proposed rulemaking, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

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

M. DIANE KOKEN,  
*Insurance Commissioner*

**Fiscal Note:** 11-204. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 31. INSURANCE**

**PART VIII. MISCELLANEOUS PROVISIONS**

**CHAPTER 148. SECURITIES HELD UNDER CUSTODIAL AGREEMENTS AND PARTICIPATION BY INSURERS IN DEPOSITORY TRUST COMPANIES AND FEDERAL RESERVE BOOK ENTRY SYSTEMS**

*(Editor's Note: As part of this proposed rulemaking, the Department is proposing to delete the text of Chapter 148 which currently appears at 31 Pa. Code pages 148-1—148-6, serial pages (254727)—(254732).)*

Sec.  
148.1—148.4. (Reserved).

**CHAPTER 148a. SAFEGUARDING INSURER SECURITIES**

- Sec.  
148a.1. Definitions.  
148a.2. Permissible methods of holding securities.  
148a.3. Requirements for custodial agreements.  
148a.4. Requirements for investment company securities.  
148a.5. Penalty and existing custodial agreements.

**§ 148a.1. Definitions.**

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

*Agent—*

(i) A National bank, state bank or trust company that does any of the following:

(A) Maintains an account in its name in a clearing corporation.

(B) Is a member of the Federal Reserve System through which a custodian participates in a clearing corporation or the Federal Reserve book-entry system.

(ii) With respect to securities issued by institutions organized or existing under the laws of a foreign country

or securities used to meet the deposit requirements under the laws of a foreign country as a condition of doing business in that country, the term may include a corporation organized or existing under the laws of a foreign country and legally qualified under those laws to accept custody of securities.

*Authorized person—*A person authorized in writing by an insurer's board of directors to issue instructions relating to the insurer's securities held by a custodian.

*Clearing corporation—*

(i) A clearing corporation as defined in 13 Pa.C.S. § 8102 (relating to definitions) and organized for the purpose of effecting transactions in securities by computerized book-entry.

(ii) With respect to securities issued by institutions organized or existing under the laws of a foreign country or securities used to meet the deposit requirements under the laws of a foreign country as a condition of doing business in that country, the term may include a corporation organized or existing under the laws of a foreign country and legally qualified under those laws to effect transactions in securities by computerized book-entry.

*Custodian—*

(i) A National bank, state bank or trust company that is:

(A) Adequately capitalized as determined by the standards adopted by United States banking regulators.

(B) Either regulated by state banking laws or a member of the Federal Reserve System.

(C) Legally qualified to accept custody of securities as required under § 148a.3 (relating to requirements for custodial agreements).

(ii) With respect to securities issued by institutions organized or existing under the laws of a foreign country or securities used to meet deposit requirements under the laws of a foreign country as a condition of doing business in that country, the term may include a bank that is:

(A) Incorporated or organized under the laws of a foreign country.

(B) Regulated as a bank by that country's government, or an agency thereof.

(C) Adequately capitalized as determined by the standards adopted by international banking authorities.

(D) Legally qualified to accept custody of securities as required under § 148a.3.

*Department—*The Insurance Department of the Commonwealth.

*Federal Reserve book-entry system—*The computerized systems sponsored by the United States Department of the Treasury and certain agencies and instrumentalities of the United States for holding and transferring securities of the United States Government and its agencies and instrumentalities in Federal Reserve Banks through banks that are members of the Federal Reserve System or that otherwise have access to the computerized systems.

*Foreign country—*A nation, province or territory other than the United States or a state thereof.

*Instructions—*

(i) A written statement that:

(A) States the specific purpose of the requested action.

(B) Identifies the specific transaction or type of transaction to which the requested action relates.

(C) Contains the signature of at least one authorized person.

(D) Is received by letter, facsimile or other form of electronic transmission whereby a custodian is able to verify with a reasonable degree of certainty the identity of the sender.

(ii) The verbal instructions of an authorized person if:

(A) The custodian is able to verify with a reasonable degree of certainty the identity of the sender.

(B) The verbal instructions are confirmed promptly by written instructions.

*Insurer*—The following entities domiciled and licensed to transact business in this Commonwealth:

(i) An insurance company, association or exchange.

(ii) A reciprocal or interinsurance exchange.

(iii) An employers' mutual liability insurance association.

(iv) A nonprofit health plan corporation, whether operating a hospital plan or a professional health services plan, or both.

(v) A fraternal benefit society or beneficial association.

(vi) A health maintenance organization.

(vii) A preferred provider organization.

(viii) The Industry Placement Facility under The Pennsylvania Fair Plan Act (40 P. S. §§ 1600.101—1600.502).

(ix) A joint underwriting association under Article VIII of the Health Care Services Malpractice Act (40 P. S. §§ 1301.801—1301.811).

(x) Another person, corporation, company, partnership, association or other entity acting as an insurer.

*Investment company*—An entity registered and regulated as an investment company under the Investment Company Act of 1940 (15 U.S.C.A. §§ 80a-1—80a-64).

*Investment company securities*—Stocks or shares issued by an investment company.

*Registered form*—A form of certificated security as defined in 13 Pa.C.S. § 8102.

*Securities*—

(i) Certificated securities and uncertificated securities as defined in 13 Pa.C.S. § 8102.

(ii) The term includes short-term and long-term investments but does not include investment company securities.

*State*—

(i) A state, territory or possession of the United States.

(ii) The District of Columbia.

(iii) Puerto Rico.

**§ 148a.2. Permissible methods of holding securities.**

(a) An insurer may hold its securities in definitive certificates.

(b) An insurer may provide for its securities to be held by a custodian under a custodial agreement as required under § 148a.3 (relating to requirements for custodial agreements). Securities held under a custodial agreement shall be held by:

(1) The custodian.

(2) The custodian's agent.

(3) A clearing corporation.

(4) The Federal Reserve book-entry system.

(c) An insurer's investment company securities may be held by the investment company that issued the investment company securities as required under § 148a.4 (relating to requirements for investment company securities).

(d) An insurer may provide for its securities to be held in the custody of a state treasurer or other state regulatory authority to meet deposit requirements as a condition of doing business in that state.

**§ 148a.3. Requirements for custodial agreements.**

(a) An agreement between an insurer and a custodian providing for the custody of the insurer's securities shall be:

(1) In writing.

(2) Authorized by a resolution of either the insurer's board of directors or an authorized committee of its board of directors.

(3) Signed by at least one officer of the insurer and one officer of the custodian.

(b) A custodial agreement shall contain at least the following provisions:

(1) The custodian shall hold the securities subject to the insurer's instructions. In the event of a discrepancy or dispute, verbal instructions shall be superseded by written instructions. The securities shall be withdrawable immediately upon receipt of the insurer's written instructions.

(2) The custodian may not have a security interest or lien in any securities held under the agreement.

(3) The custodian may utilize an agent to gain entry in a clearing corporation or in the Federal Reserve book-entry system or for other services if:

(i) The custodian enters into a written agreement with the agent whereby the securities will be held as required under this chapter.

(ii) The custodian retains ultimate responsibility for the safekeeping of the insurer's securities and for compliance with the terms and conditions of the custodial agreement as required under this chapter.

(4) Securities in registered form shall be registered in the name of the insurer, the insurer's nominee, the custodian's nominee or, if held by a clearing corporation, in the name of the clearing corporation or its nominee.

(5) Certificated securities shall be held by the custodian in a separate account established to hold only the insurer's securities under the custodial agreement.

(6) Securities held in a clearing corporation or in the Federal Reserve book-entry system shall be separately identified on the custodian's records as being owned by the insurer.

(7) The custodian's records shall identify which securities are held by the custodian or by its agent and which securities are in a clearing corporation or in the Federal Reserve book-entry system.

(8) The custodian's records shall identify the location of securities held in a clearing corporation or in the Federal



Reserve book-entry system and, if applicable, the name of the clearing corporation and the name of the agent.

(9) The custodian shall provide a statement that it has secured and will maintain adequate insurance protection as required by the custodian's banking regulator to cover its duties and activities as custodian of the insurer's assets.

(10) The custodian shall be obligated to indemnify the insurer for any loss of securities occasioned by the negligence or dishonesty of the custodian's officers or employees, or by burglary, robbery, holdup, theft or mysterious disappearance, including loss by damage or destruction; except that the agreement may provide that the custodian will not be liable for failure to take an action required under the agreement in the event and to the extent that the taking of the action is prevented or delayed by war (whether declared or not and including existing wars), revolution, insurrection, riot, civil commotion, act of God, accident, fire, explosion, stoppage of labor, strikes or other differences with employees, laws, regulations, orders or other acts of any governmental authority, or any other cause whatever beyond its reasonable control.

(11) In the event of a loss of securities for which the custodian is obligated to indemnify the insurer under paragraph (10), the custodian shall immediately replace the following:

- (i) The securities or the value thereof.
- (ii) The value of any loss of rights or privileges resulting from the loss of the securities.

(12) The custodian shall provide the Department with written notice if the agreement is terminated or if 100% of the assets are withdrawn from one or more custodial accounts established under the agreement. The notice shall be directed to the attention of the Deputy Insurance Commissioner for the Office of Regulation of Companies and provided within 3 business days of the custodian's receipt of the insurer's notice terminating the agreement or within 3 business days of the withdrawal of 100% of the assets in one or more custodial accounts established under the agreement. The notice shall include the date of termination or 100% withdrawal and a list of the securities held on that date.

(13) The custodian shall provide the insurer with the following:

(i) Written reports on at least a monthly basis of holdings of the insurer's securities, including written confirmations of all transfers of securities to or from the insurer's account.

(ii) Annual reports of the review of the insurer's trust accounts by the custodian's trust committee.

(14) If requested in writing by an authorized person, the custodian shall provide the following:

(i) Reports from a clearing corporation or the Federal Reserve book-entry system.

(ii) Reports on the custodian's system of internal control prepared by an outside auditor retained by the custodian.

(15) Reports and confirmations provided by the custodian may be transmitted in electronic or paper form.

(16) The custodian shall maintain records and information sufficient to enable the insurer to:

(i) Comply with accounting and reporting requirements for financial statements and supporting schedules filed

with the Department, to the extent that information maintained by the custodian is relied upon by the insurer to prepare its financial statements.

(ii) Provide information required in an audit or financial examination of the insurer, including, the identifying numbers assigned to the securities by the Committee on Uniform Securities Identification Procedures (CUSIP).

(17) Upon receipt of a written request signed by an authorized person, the custodian shall:

(i) Allow officers or employees of the insurer, independent accountants retained by the insurer and representatives of regulatory agencies to examine the custodian's records relating to the insurer's account on the custodian's premises and during the custodian's normal business hours.

(ii) Provide copies of its records relating to the insurer's account.

(iii) Provide an affidavit sworn to and subscribed by an authorized officer of the custodian and containing language substantially similar to the following:

CUSTODIAN AFFIDAVIT

\_\_\_\_\_, being duly sworn deposes and says that he/she is \_\_\_\_\_ of \_\_\_\_\_, a banking corporation organized under and pursuant to the laws of the \_\_\_\_\_ with the principal place of business at \_\_\_\_\_ (hereinafter called the "bank");

That his/her duties involve supervision of activities of the bank as custodian and records relating thereto;

That the bank is custodian for certain securities of \_\_\_\_\_, having a place of business at \_\_\_\_\_ (hereinafter called the "insurer") pursuant to an agreement between the bank and the insurer;

That the schedules attached hereto are true and complete statements of securities that, as of the close of business on \_\_\_\_\_ were: (*check all that apply*)

(1) In the custody of the bank for the account of the insurer; that, unless otherwise indicated on the schedule, the next maturing and all subsequent coupons were either attached to coupon bonds or in the process of collection; and that, unless otherwise indicated on the schedule, all such securities were in bearer form or in registered form in the name of the insurer, the insurer's nominee, the custodian's nominee or, if held by a clearing corporation, in the name of the clearing corporation or its nominee, or were in the process of being registered in such form.

(2) Credited to a book-entry account with a Federal Reserve Bank under the Federal Reserve book-entry system and in a book-entry account maintained in the name of \_\_\_\_\_ on the books and records of a Federal Reserve bank at such date.

(3) Deposited with \_\_\_\_\_ (a clearing corporation).

That the custodian has the responsibility for the safekeeping of such securities whether in the possession of the bank, credited to a book-entry account with a Federal Reserve Bank under the Federal Reserve book-entry system or deposited with a clearing corporation, as that responsibility is specifically set forth in the agreement between the bank as custodian and the insurer; and

That, to the best of his/her knowledge and belief, unless otherwise shown on the schedule, said securities were the property of said insurer and were free of all liens, claims or encumbrances whatsoever.

**§ 148a.4. Requirements for investment company securities.**

An insurer's investment company securities may be held by the investment company that issued the investment company securities if the investment company:

(1) Provides the insurer with written reports on at least a monthly basis of the insurer's investment, including written confirmations of all transfers of investments to or from the insurer's account. The reports and confirmations may be transmitted in electronic or paper form.

(2) Maintains records and information sufficient to enable the insurer to:

(i) Comply with accounting and reporting requirements for financial statements and supporting schedules filed with the Department, to the extent that information maintained by the investment company is relied upon by the insurer to prepare its financial statements.

(ii) Provide information required in an audit or financial examination of the insurer's financial statements, including, the identifying numbers assigned to the securities by the Committee on Uniform Securities Identification Procedures (CUSIP).

**§ 148a.5. Penalty and existing custodial agreements.**

Failure to comply with this chapter will result in the treatment of an insurer's securities or investment company securities as nonadmitted assets for purposes of financial reports filed with the Department; except that, with respect to custody agreements entered into prior to (*Editor's Note: The blank refers to the effective date of adoption of this rulemaking.*) and in compliance with laws or regulations in existence immediately preceding (the effective date of this rulemaking), insurers have until \_\_\_\_\_ (*Editor's Note: The blank refers to a date 1 year from the effective date of the adoption this rulemaking.*) to achieve compliance with this chapter.

[Pa.B. Doc. No. 02-573. Filed for public inspection April 12, 2002, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [4 PA. CODE CH. 9]

#### Reorganization of the Commission on Crime and Delinquency

The Executive Board approved a reorganization of the Commission on Crime and Delinquency effective March 28, 2002.

The organization chart at 32 Pa.B. 1880 (April 13, 2002) 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. 02-574. Filed for public inspection April 12, 2002, 9:00 a.m.]

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#### [4 PA. CODE CH. 9]

#### Reorganization of the Department of Community and Economic Development

The Executive Board approved a reorganization of the Department of Community and Economic Development effective March 28, 2002.

The organization chart at 32 Pa.B. 1881 (April 13, 2002) 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. 02-575. Filed for public inspection April 12, 2002, 9:00 a.m.]

#### [4 PA. CODE CH. 9]

#### Reorganization of the Department of Environmental Protection

The Executive Board approved a reorganization of the Department of Environmental Protection effective March 28, 2002.

The organization chart at 32 Pa.B. 1882 (April 13, 2002) 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. 02-576. Filed for public inspection April 12, 2002, 9:00 a.m.]

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#### [4 PA. CODE CH. 9]

#### Reorganization of the Pennsylvania Emergency Management Agency

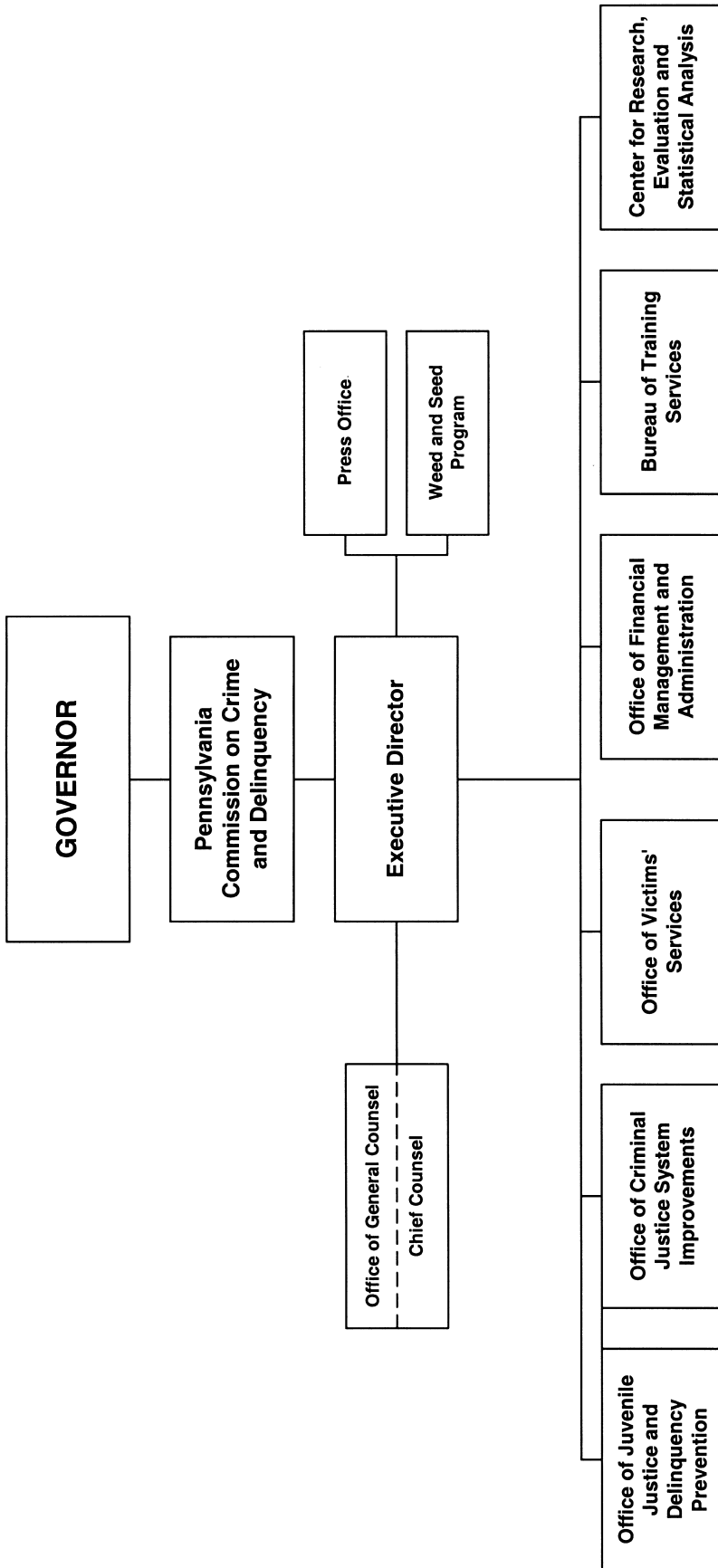
The Executive Board approved a reorganization of the Pennsylvania Emergency Management Agency effective April 1, 2002.

The organization chart at 32 Pa.B. 1883 (April 13, 2002) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of *Code*).

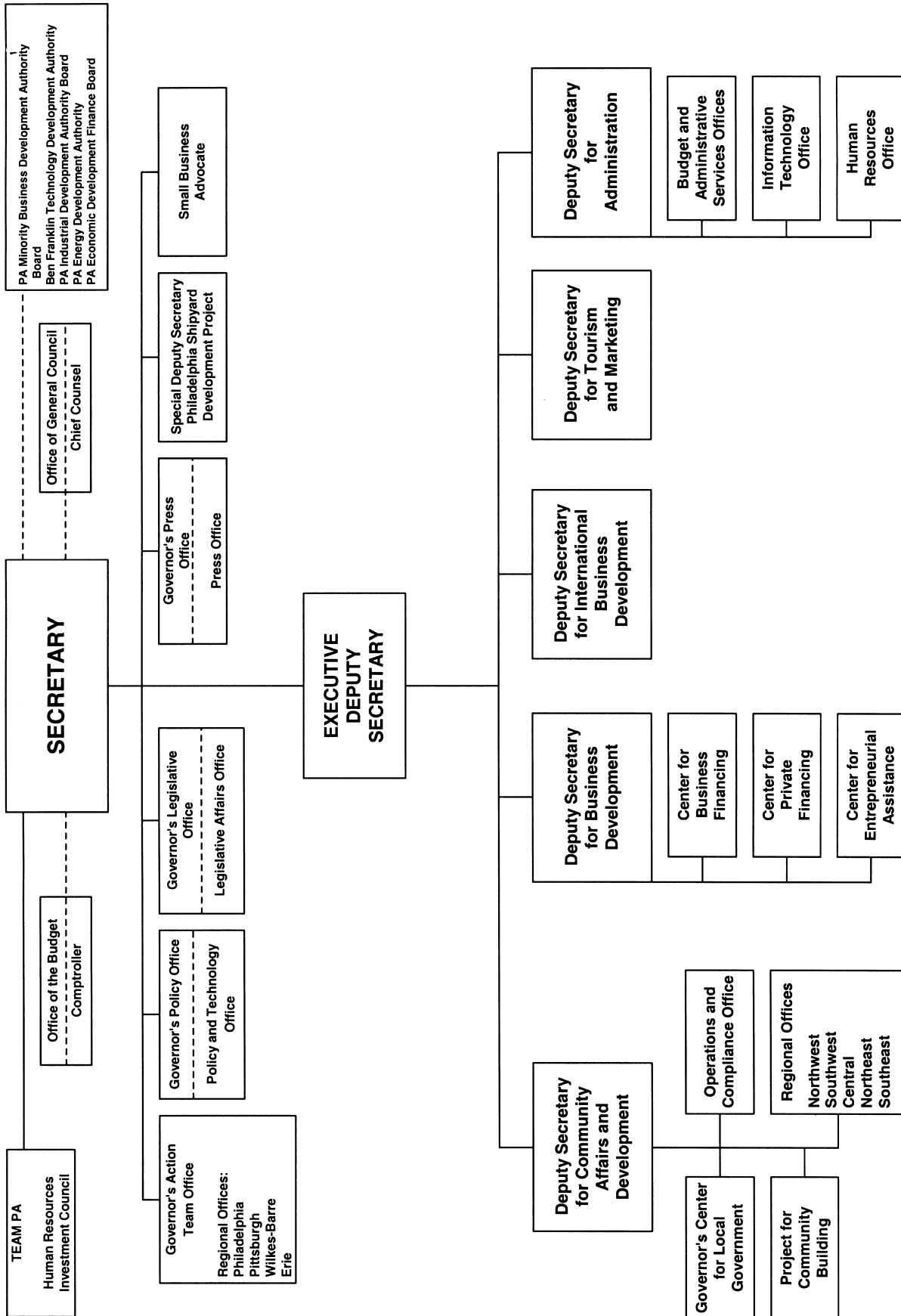
*(Editor's Note:* The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the *Pennsylvania Code*.)

[Pa.B. Doc. No. 02-577. Filed for public inspection April 12, 2002, 9:00 a.m.]

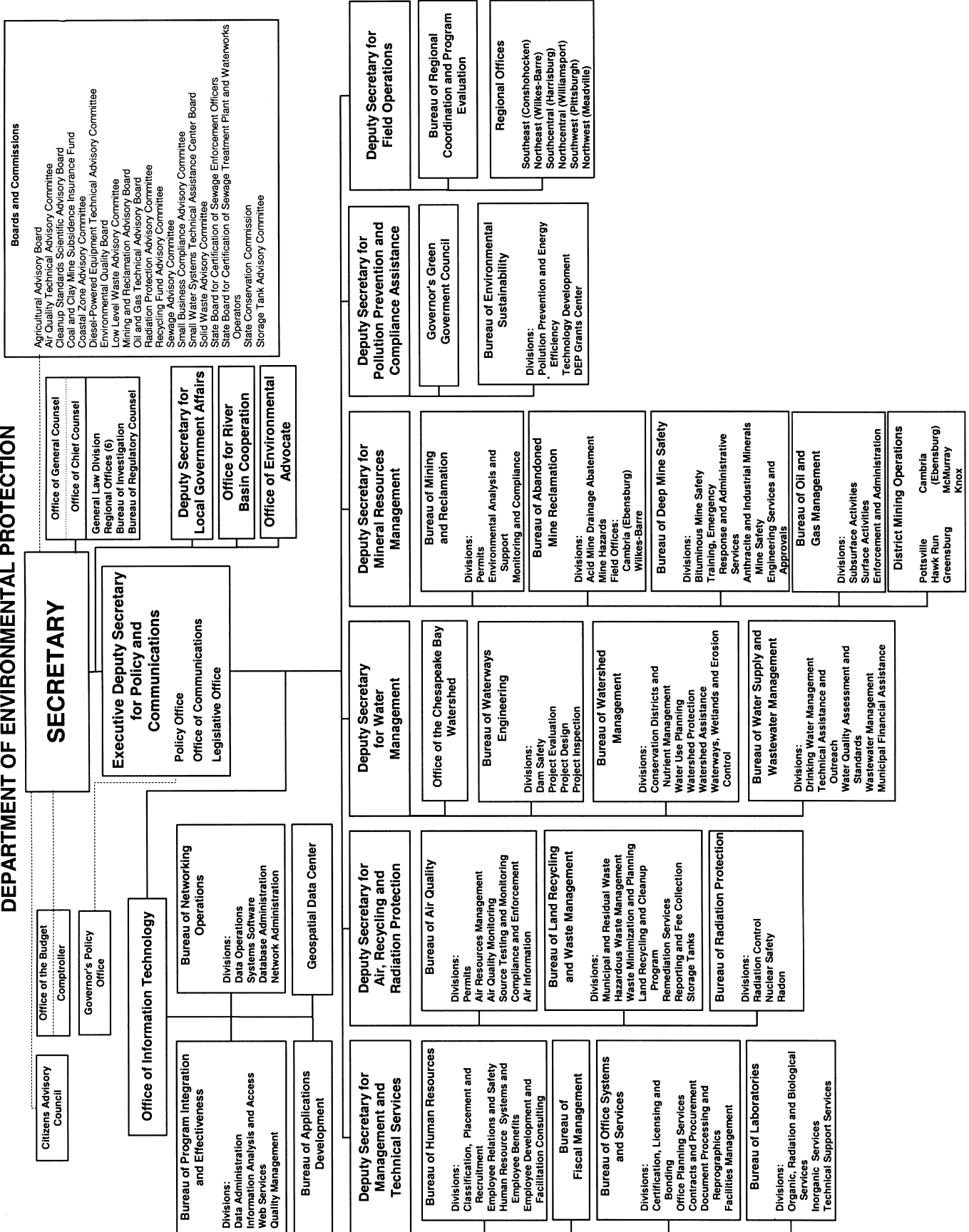
PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY



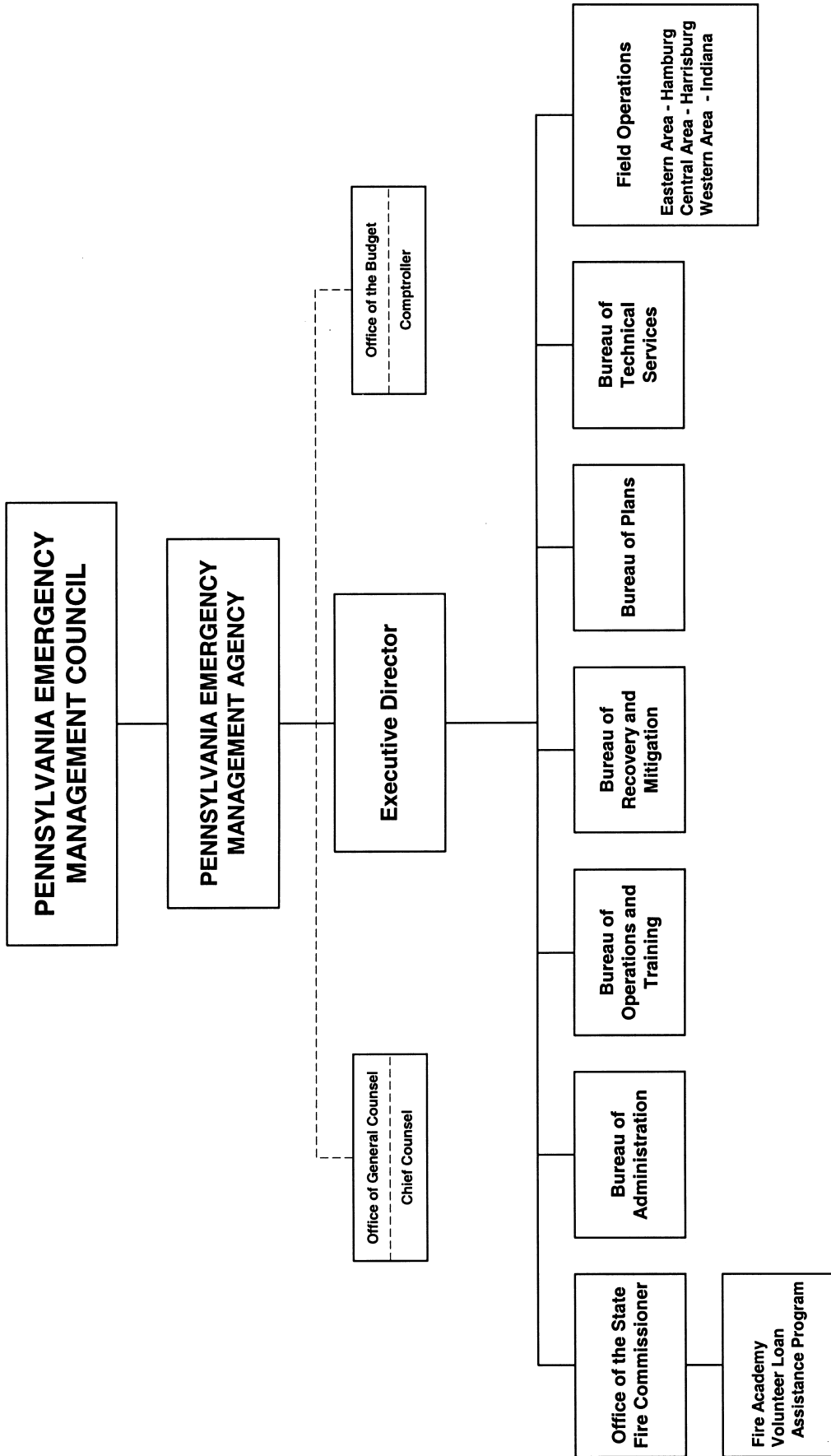
COMMUNITY AND ECONOMIC DEVELOPMENT



DEPARTMENT OF ENVIRONMENTAL PROTECTION



**PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY**



# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking, 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 April 2, 2002.

#### BANKING INSTITUTIONS

##### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-2-02	Leesport Bank Leesport Berks County	4361 Perkiomen Ave. Reading Berks County	Approved
4-2-02	Jonestown Bank and Trust Company Jonestown Lebanon County	2 East Main Street Palmyra Lebanon County	Approved
4-2-02	Northwest Savings Bank Warren Warren County	355 Biddle Street Kane McKean County (Drive-Up Facility)	Approved

##### Branch Relocations/Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-27-02	Lebanon Valley Farmers Bank Lebanon Lebanon County	<i>Into:</i> 555 Willow Street Lebanon Lebanon County  <i>From:</i> 250 North 8th Street Lebanon Lebanon County and 9th and Cumberland Sts. Lebanon Lebanon County	Filed
4-2-02	Beneficial Mutual Savings Bank Philadelphia Philadelphia County	<i>Into:</i> 2A Route 413 and Doubletree Road Langhorne Bucks County  <i>From:</i> Clemens Market Route 413 and Doubletree Road Langhorne Bucks County	Approved

##### Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-22-02	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	77 West Street Suite 210 Annapolis Anne Arundel County Maryland	Effective
3-26-02	Community Banks Millersburg Dauphin County	300 Hobart Street Gordon Schuylkill County	Filed Approved 4-2-02
3-26-02	Community Banks Millersburg Dauphin County	339 Main Street Lavelle Schuylkill County	Filed Approved 4-2-02



**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS**

No activity.

JAMES B. KAUFFMAN, Jr.,  
Secretary

[Pa.B. Doc. No. 02-578. Filed for public inspection April 12, 2002, 9:00 a.m.]

## DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

### Conservation and Natural Resources Advisory Council Meeting

A meeting of the Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources will be held on Wednesday, April 24, 2002, at 10a.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 their needs.

JOHN C. OLIVER,  
Secretary

[Pa.B. Doc. No. 02-579. Filed for public inspection April 12, 2002, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

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### APPLICATIONS

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### NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS

### NPDES APPLICATIONS

### PART I PERMITS

Under the Federal Clean Water Act and The Clean Streams Law, the following parties have applied for an NPDES permit or to renew their current permit to discharge controlled wastewaters into the waters of this Commonwealth or to conduct other activities required by the NPDES permit. For renewal applications listed in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements. For all new permit applications, renewal application with major changes or applications for permits not waived by the EPA, the Department, based upon preliminary reviews, also made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications listed in Section II. These determinations are published as proposed actions for comments prior to taking final actions.

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

Persons wishing to comment on the proposed permit are invited to submit a statement, to the office noted before the application within 30 days from the date of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. The comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held if the responsible office considers the public response significant. Following the comment period, the Department's Water Management Program Manager will make a final determination regarding these applications. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

The renewal application, including proposed effluent limitations and special conditions, is available on file. For new permit applications, information submitted with the applications is available on file. The information may be inspected and arrangements made for copying at the office indicated before the application.

Persons with a disability, who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information, should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

### I. NPDES Renewal Applications

*Southeast Region: Water Management Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0050458	Little Washington Wastewater Company 762 W. Lancaster Avenue Bryn Mawr, PA 19010	Chester County East Brandywine Township	Culbertson Run	Y
PA0056821	Malvern School at Glen Mills 20 Creek Rd. Glen Mills, PA 19342	Delaware County Thornbury Township	Chester Creek	Y

*Southcentral Region: Water Management Program Manager; 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

<i>NPDES No. (Type)</i>	<i>Facility Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N?</i>
PA0021709 Amendment 02-1	Birdsboro Borough 113 East Main St. Birdsboro, PA 19508	Berks County Birdsboro Borough	Hay Creek/3C	Y
PA00043541	The Pfaltzgraff Company Thomasville Complex Bowman Rd., P. O. Box 244 Thomasville, PA 17364	York County Jackson Township	Honey Run/7H	Yes

*Northwest Region: Water Management Program Manager; 230 Chestnut St., Meadville, PA 16335-3481.*

**PA0033146**, Sewage, **Countryside Convalescent Home LP**, 8221 Lamor Rd., Mercer, PA 16137. This proposed facility is located in East Lackawannock Township, **Mercer County**.

Description of Proposed Activity: Renewal of a treated minor discharge from a privately owned sewage treatment works.

The receiving stream, unnamed tributary to Neshannock Creek, is in watershed 20-A and classified for: TSF, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>—NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is the Beaver River and Beaver Falls Municipal Authority located at River Mile 3.76, 44.9 miles below point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.02 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60
NH <sub>3</sub> —N			
(5-1 to 10-31)	2		4
(11-1 to 4-30)	6		12
Fecal Coliform			
(5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		3,100/100 ml as a geometric average	
Total Residual Chlorine	0.4		1.0
Dissolved Oxygen		minimum of 4 mg/l at all times	
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

**PA0034061**, Sewage, **Goddard Park Vacationland Campground**, 867 Georgetown Rd., Sandy Lake, PA 16145. This proposed facility is located in Deer Creek Township, **Mercer County**.

Description of Proposed Activity: Renewal of a treated minor discharge from a treated sewage treatment works.

The receiving stream, unnamed tributary to Schofield Run, is in watershed 16-G and classified for: WWF, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>—NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is the Emlenton Water Company on the Allegheny River located at River Mile 90.0 and is located 51.2 miles below point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.06 mgd.

<i>Parameter</i>	<i>Average</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Monthly (mg/l)</i>	<i>Weekly (mg/l)</i>	
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60
NH <sub>3</sub> -N	4		8
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	1.4		3.3
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

**PA0221775**, Industrial Waste, **HRI, Inc., Plant 109**, R. D. 1 Box 395, Brookville, PA 15825. This proposed facility is located in Pinecreek Township, **Jefferson County**.

Description of Proposed Activity: discharge of treated industrial waste and Group 1 stormwater is in watershed 17C and classified for: CWF, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>-NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply considered during the evaluation is the Hawthorn Water Company on Redbank Creek located in Hawthorn Borough, approximately 21 miles below point of discharge.

The proposed effluent limits for Outfall 101 are based on a design flow of 0.00015 MGD.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
Flow	XX				
Oil and Grease			15		30
Total Suspended Solids			15		23
pH			Within limits of 6.0 to 9.0 standard units at all times.		

The proposed effluent limits for Outfall 001 are based on a design flow of n/a MGD.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
Flow	XX				
Total Suspended Solids			XX		
Oil and Grease			XX		
pH			XX		

XX—Monitor and report.

In addition to the effluent limits, the permit contains the following major special conditions.

The EPA Waiver is in effect.

## II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**No. PA0054755**, Industrial Waste, **Trans-Materials, Inc.**, 831 Lincoln Avenue, P. O. Box 2427, West Chester, PA 19380. This application is for Renewal of an NPDES permit to discharge stormwater from the facility in Kennett Township, **Chester County**. This is existing discharge to East Branch of Red Clay Creek.

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

The proposed effluent limits for Stormwater Outfalls 001—003 are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>			Report
COD			Report
Oil and Grease			Report
pH			Report
Total Suspended Solid			Report
Total Kjeldahl Nitrogen			Report
Total Phosphorous			Report
Iron (Dissolved)			Report

The EPA Waiver is in effect.

**No. PA0052525**, Industrial Waste, **Ambler Borough Water Department**, 122 East Butler Avenue, Ambler, PA 19002-4476. This application is for renewal of an NPDES permit to discharge treated groundwater from a water supply well in Whitemarsh Township, **Montgomery County**. This is an existing discharge to Wissahickon Creek.

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

The proposed effluent limits for Outfalls 001, 002 and 003, based on an average flows of 16,800 GPD, 72,000 GPD and 17,000 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 Iron	2.0	4.0	5.0
Suspended Solids	30	60	75
Total Aluminum	4.0	8.0	10.0
Total Manganese	1.0	2.0	2.5
pH	Within limits of 6.0—9.0 Standard Units at all times		
Gasoline Range Organics	Monitor/Report		
Diesel Range Organics	Monitor/Report		
Total Residual Chlorine	0.5		1.2
<i>Outfall 002</i>			
Suspended Solids	Monitor/Report		
Gasoline Range Organics	Monitor/Report		
Diesel Range Organics	Monitor/Report		
pH			
<i>Outfall 003</i>			
Suspended Solids	Monitor/Report		
Gasoline Range Organics	Monitor/Report		
Diesel Range Organics	Monitor/Report		
pH			

The EPA Waiver is in effect.

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**PA0064181**, Sewage, **C. H. Klinger, Inc.**, 400 Pinebrook Place, Orwigsburg, PA 17961. This proposed facility is located in Pine Grove Township, **Schuylkill County**.

Description of Proposed Activity: The receiving stream, Swatara Creek, is in the State Water Plan watershed #7D and is classified for: CWF. The nearest downstream public water supply intake for Hershey Water Company is located on Swatara Creek is 25 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0154 mgd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>
CBOD <sub>5</sub>	25.0	37.0	50.0
Total Suspended Solids	30.0	45.0	60.0
NH <sub>3</sub> -N	13.0	20.0	26.0
Dissolved Oxygen	A minimum of 3.0 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			

In addition to the effluent limits, the permit contains the following major special condition:

1. Proposed disinfection technique is UV light. If effluent disinfection is by chlorination, a TRC limit of 1.2 mg/l average monthly will apply.

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

**Application No. PA 0246646**, Sewage, **Roy Feller (Copart Auto Auction STP)**, Eight Park Drive, Grantville, PA 17028. This facility is located in East Hanover Township, **Lebanon County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, unnamed tributary of Swatara Creek, is in Watershed 7-D and classified for WWF, water supply and recreation and fish consumption. The nearest downstream public water supply intake for Pennsylvania American Water is located on Swatara Creek, approximately 17 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0017 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	—	50
Total Suspended Solids	30	—	60
Total Residual Chlorine	0.5	—	1.63
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)	29,000/100 ml as a geometric average		
(10-1 to 4-30)			

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is in effect.

**Application No. PA 0026051**, Sewage, **Borough of Chambersburg**, 100 South Second St., Chambersburg, PA 17201. This facility is located in Chambersburg Borough, **Franklin County**.

Description of activity: The application is for renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Conococheague Creek, is in Watershed 13-C and classified for WWF, water supply and recreation and fish consumption. The nearest downstream public water supply intake for Hagerstown, MD is located on Potomac River, approximately 43 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 6.8 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>			
(5-1 to 10-31)	15	22	30
(11-1 to 4-30)	25	40	50
Total Suspended Solids	30	45	60
NH <sub>3</sub> -N			
(5-1 to 10-31)	3.5	—	7
(11-1 to 4-30)	10	—	20
Total Phosphorus	Monitor and Report	—	Monitor and Report
Total N	Monitor and Report	—	Monitor and Report
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)	4,500/100 ml as a geometric average		
(10-1 to 4-30)	Less than 2.8 TU <sub>c</sub>		
Whole Effluent Toxicity			

Part C contains whole effluent toxicity test requirements and schedule.

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is not in effect.

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

**PA0097390**, Sewage, **Marion Township**, 485 Hartzell School Rd., Fombell, PA 16123. This application is for renewal of an NPDES permit to discharge treated sewage from Vekaplast STP in Marion Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Connoquenessing Creek, which are classified as a WWF 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 Beaver Falls Municipal Authority.

*Outfall 001*: existing discharge, design flow of 0.028 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Oil and Grease	15			30
Phosphorus				
(4-1 to 10-31)	2			4

## NOTICES

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	5,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0216241**, Sewage, **J. V. Rigging, Inc.**, Box 4097, 740 Greensburg Rd., New Kensington, PA 15068. This application is for renewal of an NPDES permit to discharge treated sewage from J. V. Rigging, Inc. STP in Plum Borough, **Allegheny County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Pucketa Creek, which are classified as a TSF 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 Oakmont Borough Municipal Authority on the Allegheny River.

*Outfall 001*: proposed discharge, design flow of 0.0004 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	Monitor and Report			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

**PA0217654**, Sewage, **Seward—St. Clair Township Sanitary Authority**, P. O. Box 494, Seward, PA 15954. This application is for renewal of an NPDES permit to discharge treated sewage from Sugar Run Sewage Treatment Plant in St. Clair Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Conemaugh River, which are classified as a WWF 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 Saltsburg Municipal Waterworks.

*Outfall 001*: existing discharge, design flow of 0.161 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25		37.5	60
Suspended Solids	30		45	60
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	100,000/100 ml as a geometric mean			
Total Residual Chlorine	0.5			1.6
pH	not less than 0 mg/l not less than 6.0 nor greater than 9.0			

Other Conditions: The following effluent limitations will apply if/when the treatment plant is expanded to a flow of 0.22 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25		37.5	50
Suspended Solids	30		45	60
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	100,000/100 ml as a geometric mean			
Total Residual Chlorine	0.5			1.6
pH	not less than 0 mg/l not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

*Northwest Region: Water Management Program Manager, 230 Chestnut St., Meadville, PA 16335-3481.*

**PA0238732**, Sewage, **Rodney Dinsmore**, South Michael Rd., St. Marys, PA 15857. This proposed facility is located in St. Marys Township, **Elk County**.

Description of Proposed Activity: a new NPDES permit for an existing discharge.

The receiving stream, unnamed tributary to Hellfire Run, is in watershed 17A and classified for: CWF, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO<sub>2</sub>—NO<sub>3</sub>, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is Keystone Water Company on the West Branch Susquehanna River.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0004 pgd.

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD <sub>5</sub>	10		20
Total Suspended Solids	20		40
Fecal Coliform		200/100 ml as a geometric average	
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

## WATER QUALITY MANAGEMENT PERMITS

### CONTROLLED INDUSTRIAL WASTE AND SEWAGE WASTEWATER

#### APPLICATIONS UNDER THE CLEAN STREAMS LAW

##### PART II PERMITS

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

Persons wishing to comment on any of the applications are invited to submit a statement to the office noted before the application within 15 days from the date of this public notice. Comments received within this 15-day comment period will be considered in making the final decision regarding the application. The comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department reserves the right to hold a public hearing if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation of the area. If no hearing is held, the Department's Water Management Program Manager will make a final determination regarding the applications after a complete review. Notice of this final determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

A copy of the permit application or proposed plan is on file in the office indicated and is open to public inspection. Appointments to review the application may be made by contacting Records Management at the indicated telephone number.

#### **I. Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001).**

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**WQM Permit No. 4802404**, Lower Saucon Authority, 3706 Old Philadelphia Pike, Bethlehem, PA 18015-

5426. This proposed facility is located in Lower Saucon Township and Hellertown Borough, **Northampton County**.

Description of Proposed Action/Activity: This project consists of constructing a pump station and approximately 1,000 feet of force main connecting Creekside Marketplace to an existing gravity sewer at the intersection of Main Street and McAdoo Avenue in the Borough of Hellertown.

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

**WQM Permit No. 5002402**, Sewerage, **Sonshine Ministries, Inc.**, 1481 Riegle Rd., Harrisburg, PA 17112. This proposed facility is located in Northeast Madison Township, **Perry County**.

Description of Proposed Action/Activity: Construction of a sewage treatment plant.

**WQM Permit No. 3802401**, Sewerage, **City of Lebanon Authority**, 400 South Eighth St., Lebanon, PA 17042. This proposed facility is located in Lebanon City, **Lebanon County**.

Description of Proposed Action/Activity: Authorization for the replacement of the Hazeldyke Interceptor and Sixth and Yarrow Street Pump Station.

**WQM Permit No. 3602401**, Sewerage, **Earl Township Sewer Authority**, 517 N. Railroad Avenue, New Holland, PA 17557. This proposed facility is located in Earl Township, **Lancaster County**.

Description of Proposed Action/Activity: Construction of a sewer extension and pump station to serve the New Design Industrial Park.

**WQM Permit No. 2102403**, Sewage, **South Middleton Township Authority**, P. O. Box 8, Boiling Springs, PA 17007-0008. This proposed facility is located in South Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction of sanitary sewer gravity and force main to relocate pump station no. 1 to Race Street in Boiling Springs.

**WQM Permit No. 2102404**, Sewage, **South Middleton Township Authority**, P. O. Box 8, Boiling Springs, PA 17007-0008. This proposed facility is located in South Middleton Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction of raw sewage pumping station #9 to redirect gravity line.

**WQM Permit No. 6785418 Amendment 02-1**, Sewage, **York City Sewer Authority**, 17 East Market St., York, PA 17401. This proposed facility is located in Manchester Township, **York County**.

Description of Proposed Action/Activity: Construction of emergency disinfection system for existing treatment plant.

**WQM Permit No. 0102403**, Sewage, **Gettysburg Municipal Authority**, 601 East Middle St., Gettysburg, PA 17325-3307. This proposed facility is located in Straban Township, **Adams County**.

Description of Proposed Action/Activity: Authorization for the upgrade of existing sewerage facilities to accommodate the Adams Commerce Center.

**WQM Permit No. 0602201**, Industrial Waste, **Calpine Construction Finance Company, LP**, The Pilot House, 2nd Floor, Boston, MA 02110. This proposed facility is located in Ontelaunee Township, **Berks County**.

Description of Proposed Action/Activity: Construction of dechlorination system.

**WQM Permit No. 0602202**, Industrial Waste, **Cambridge Lee Industries, Inc., Reading Tube Division**, P. O. Box 14026, Reading, PA 19612-4026. This proposed facility is located in Ontelaunee Township, **Berks County**.

Description of Proposed Action/Activity: Construction of vegetated wetland swale treatment system at Plant #4.

*Northwest Region: Water Management Program Manager, 230 Chestnut St., Meadville, PA 16335-3481.*

**WQM Permit No 4202403**, Sewerage, **Northwest Savings Bank**, 33 Main St., Bradford, PA 16701. This proposed facility is located in Foster Township, **McKean County**.

Description of Proposed Action/Activity: This project is for a single residence sewage treatment plant.

**NPDES Stormwater Individual Permit**

The following parties have applied for an NPDES permit to discharge stormwater associated with a construction activity into waters of this Commonwealth. Unless otherwise indicated, on the basis of preliminary

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

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

Persons wishing to comment on the proposed permit are invited to submit a statement to the appropriate Department Regional Office noted before the application within 30 days from the date of this public notice. Comments reviewed within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and relevant facts upon which it is based. A public hearing may be held after consideration of comments received by the appropriate Department Regional Office during the 30-day public comment period.

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

The application and related documents, including the erosion and sediment control plan for the earth disturbance activity, are on file and may be inspected at the office identified in this notice. Persons with a disability that require an auxiliary aid, service or other accommodation to participate during the 30-day public comment period should contact the specified Regional Office. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

*Lackawanna County Conservation District: 1300 Old Plank Rd., Mayfield, PA 18433, (570) 281-9495.*

<i>NPDES No.</i>	<i>Applicant Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Receiving Water/Use</i>
PAS10N035	Roswell S. McMullen Philadelphia Suburban Water Company 255 Belmont St. Waymart, PA 18472	Lackawanna County Jefferson Township	Unnamed tributary to West Branch of Wallenpaupack Creek

*Northcentral Region: Water Management Program Manager, 208 West Third St., Williamsport, PA 17701.*

*Centre County Conservation District: 414 Holmes Ave., Suite 4, Bellefonte, PA 16823, (814) 355-6817.*

<i>NPDES No.</i>	<i>Applicant Name &amp; Address</i>	<i>County &amp; Municipality</i>	<i>Receiving Water/Use</i>
PAS10F106	Pennsylvania State University Office of Physical Plant Physical Plant Bldg. University Park, PA 16802	Centre County College Township	Big Hollow HQ-CWF



## PUBLIC WATER SUPPLY (PWS) PERMIT

Under the Pennsylvania Safe Drinking Water Act, the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on the permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within this 30-day comment period will be considered in the formulation of the final determinations regarding this application. Comment responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

The permit application and any related documents are on file at the office listed before the application and available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability that require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office listed before the application. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

### SAFE DRINKING WATER

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

*Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

##### Permit No. 2802501, Public Water Supply.

Applicant	<b>Guilford Water Authority</b>
Municipality	Greene Township
County	<b>Franklin</b>
Responsible Official	John Helman, Chairperson 115 Spring Valley Rd. Chambersburg, PA 17201
Type of Facility	PWS
Consulting Engineer	Diana Young, P.E. Buchart-Horn, Inc. P. O. Box 15040 York, PA 17405-7040
Application Received Date	March 20, 2002
Description of Action	Construction Permit for Hosack Run Well No. 5. The well will be pumped at a rate of 0.06 MGD. Treatment will be provided at existing, previously permitted facilities.

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

##### Permit No. 0202501, Public Water Supply.

Applicant	<b>Pennsylvania American Water Company</b> 410 Cooke Lane Pittsburgh, PA 15234
Township	South Fayette Township
Responsible Official	William Kelvington, Vice President—Operations Pennsylvania American Water Company 410 Cooke Lane Pittsburgh, PA 15234
Type of Facility	Booster pumping station
Application Received Date	March 28, 2002
Description of Action	Installation of a water booster station to increase pressure in the areas of South Fayette Township.

### MINOR AMENDMENT

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

*Northcentral Region: Water Supply Management Program Manager, 208 West Third St., Williamsport, PA 17701.*

##### Application No. Minor Amendment.

Applicant	<b>Borough of Knoxville</b> 149 East Main St. P. O. Box 191 Knoxville, PA 16928
Township	Deerfield Township <b>Tioga County</b>
Responsible Official	Grant Gehman, Water Committee Chairperson 149 East Main St. P. O. Box 191 Knoxville, PA 16928
Type of Facility	PWS
Consulting Engineer	Alfred Benesch & Company 400 One Norwegian Plaza P. O. Box 1090 Pottsville, PA 17901
Application Received Date	April 2, 2002
Description of Action	Replacement of existing finished water reservoir cover with aluminum dome and switch from gas chlorine to sodium hypochlorite.

##### Application No. Minor Amendment.

Applicant	<b>Galeton Borough Authority</b> 2 Sherman St. P. O. Box 222 Galeton, PA 16922
Township	West Branch Township <b>Potter County</b>

Responsible Official Mike Messino  
Galeton Borough Authority  
2 Sherman St.  
P. O. Box 222  
Galeton, PA 16922

Type of Facility PWS

Consulting Engineer Larson Design Group, Inc.  
1000 Commerce Park Drive  
P. O. Box 487  
Williamsport, PA 17703-0487

Application Received Date March 28, 2002

Description of Action Replacement of existing transmission main.

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Application No. 5602501**, Minor Amendment.

Applicant **Somerset Township Municipal Authority**  
2209 North Center Avenue  
Somerset, PA 15501

Township Somerset Township

Responsible Official Nancy Aultz, Manager  
Somerset Township Municipal Authority  
2209 North Center Avenue  
Somerset, PA 15501

Type of Facility Water storage tank

Consulting Engineer Crouse & Company  
332 South Lynn Avenue  
Somerset, PA 15501

Application Received Date March 27, 2002

Description of Action Listie Tank #2

**Application No. 5692501-A2**, Minor Amendment.

Applicant **Municipal Authority of the Borough of Boswell**  
300 Stoneycreek St.  
Boswell, PA 15531

Township or Borough Boswell Borough

Responsible Official Joseph DeBlase, Executive Chairperson  
Municipal Authority of the Borough of Boswell  
300 Stoneycreek St.  
Boswell, PA 15531

Type of Facility Water storage tank

Consulting Engineer The EADS Group, Inc.  
450 Aberdeen Drive  
Somerset, PA 15501

Application Received Date March 29, 2002

Description of Action Repainting of the Main Street water storage tank.

## WATER ALLOCATIONS

### Applications received under the Act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of this Commonwealth.

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WA2-711B**, Water Allocations, **Richland Township Municipal Authority**, 2012 Kramer Rd., Gibsonia, PA 15044, **Allegheny County**. The applicant is requesting the right to increase their subsidiary allocation, from the Borough of West View Municipal Authority, from 900,000 gpd to 1.3 million gpd.

**WA32-142B**, Water Allocations, **Blairsville Municipal Authority**, 203 East Market St., Blairsville, PA 15717, **Indiana County**. The applicant is requesting the right to withdraw 682,000 gpd from Trout Run and 576,000 gpd from the Conemaugh River (a total of 682,000 gpd between both sources).

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 1

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

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of any Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the background standard, Statewide health standard, the site-specific standard or who intend to remediate a site as a special industrial area, must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one or a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the Act, will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the Act, there is a 30-day public and municipal comment period for sites proposed for remediation using a site-specific standard, in whole or in part and for sites remediated as a special industrial area. This period begins when a

summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a site-specific standard or as a special industrial area, the municipality, within which the site is located, may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period the municipality may request that the person identified, as the remediator of the site, develop and implement a public involvement plan. Requests to be involved and comments, should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

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

*Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**Precision Finishing, Inc.**, Sellersville Borough, **Bucks County**. Hudson S. Green, Jr., Earth Data Northeast, Inc., 924 Springdale Dr., Exton, PA 19341, on behalf of Precision Finishing, Inc., 708 Lawn Ave., Sellersville, PA 18960, has submitted a Notice of Intent to Remediate soil and groundwater contaminated with lead and heavy metals. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Bucks County Courier Times* in January 2002.

**WXIII/PHL Real Estate Limited Partnership (RELP)**, City of Philadelphia, **Philadelphia County**. Randall T. Geis, Sovereign Consulting Inc., 111-A N. Gold Dr., Robbinsville, NJ 08691, on behalf of WXIII/PHL RELP, 600 E. Las Colinas Blvd., Irving, TX 75039, has submitted a Notice of Intent to Remediate soil contaminated with BTEX, polycyclic aromatic hydrocarbons and solvents. 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 January 18, 2002.

**Liberty Homes Philadelphia, Inc.**, City of Philadelphia, **Philadelphia County**. Rodd W. Bender, Manko, Gold & Katcher, LLP, 401 City Ave., Suite 500, Bala Cynwyd, PA 19004, on behalf of Liberty Homes Philadelphia, Inc., One Reed St., Philadelphia, PA 19147, has submitted a Notice of Intent to Remediate soil contaminated with lead, heavy metals, BTEX, polycyclic aromatic hydrocarbons, MTBE and pentachlorophenol; and groundwater contaminated with lead, heavy metals and solvents. The applicant proposes to remediate the site to meet Special Industrial Area Requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on February 22, 2002.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Everglade Scrap Site**, Hempfield Township, **Westmoreland County**. David R. Perry, American Geosciences, Inc., 3925 Reed Blvd., Suite 400, Murrysville, PA 15668 (on behalf of Richard Liebman, 668 Lee St., Greensburg, PA 15601) has submitted a Notice of Intent to Remediate soil contaminated with PCBs, Heavy Metals and Dioxin. 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 *Tribune Review* on February 20, 2002.

**Coen Oil Company (Former Andy Brothers Tire Shop)**, City of Washington, **Washington County**. Letterle & Associates, LLC, Kenneth W. Dudash, P.E., 3 Smiths Lane, West Mifflin, PA 15122 (on behalf of Coen Oil Company, 1100 W. Chester St., Washington, PA 15301 and Letterle & Associates, LLC, 1021 Arborwood Drive, Gibsonia, PA, 15044 has submitted a Notice of Intent to Remediate soil and groundwater contaminated with BTEX and PHCs. 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 *Valley Independent* on February 22, 2002.

**Malitovsky Drum Company (Former)**, City of Pittsburgh, **Allegheny County**. Keith Welks (on behalf of Phoenix Land Recycling, 105 North Front St., Suite 105, Harrisburg, PA 17101) has submitted a Notice of Intent to Remediate soil and groundwater contaminated with lead and solvents. The applicant proposes to remediate the site to meet the special industrial area requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Pittsburgh Post Gazette* on March 21, 2002.

**Levin Family Partnership**, Borough of Monroeville, **Allegheny County**. Richard D. Dworek, Kirkpatrick & Lockhart, LLP, Henry W. Oliver Building, 535 Smithfield St., Pittsburgh, PA 15222-2312 (on behalf of Levin Family Partnership, 301 Fitz Henry Rd., Smithton, PA 15479) has submitted a Notice of Intent to Remediate soil and groundwater contaminated with Lead, BTEX and PAHs. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Pittsburgh Post Gazette* on March 23, 2002.

#### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

**Applications reviewed 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.**

*Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit Application No. 101509. New Morgan Landfill Company, Inc.**, P. O. Box 128, Morgantown, PA 19543-0128, New Morgan Borough, **Berks County**. The application is for a major permit modification for leachate recirculation for Conestoga Landfill. The application was determined to be administratively complete by the Southcentral Regional Office on March 26, 2002.

**Permit Application No. 101636. L&W Demolition Co., Inc.**, 17 Twin Hills Rd., Dillsburg, PA 17019, Franklin Township, **York County**. The application is for the Radiation Protection Plan for the Municipal Waste Pro-

cessing Facility. The application was determined to be administratively complete by the Southcentral Regional Office on March 21, 2002.

**Application received 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.**

*Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit Application No. 100944. Chester County Solid Waste Authority, P. O. Box 476, Honey Brook, PA 19344-0476, Caernarvon Township, Lancaster County.** The permit application is for a major permit modification for Area D Expansion, Lanchester Landfill. The application was determined to be administratively complete by the Southcentral Regional Office on April 2, 2002.

Comments concerning the applications should be directed to Robert Benvin, Acting Program Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Persons interested in obtaining more information about the general permit application may contact the Waste Management Program, (717) 705-4706. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to and approval or denial of the application.

**RESIDUAL WASTE GENERAL PERMITS**

**Permit Proposed under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003); the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904); and Residual Waste Regulations for a General Permit to Operate Residual Waste Processing Facilities and the Beneficial Use of Residual Waste other than Coal Ash.**

*Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market St., Harrisburg, PA 17105-8472.*

**General Permit No. WMGR081.** In accordance with 25 Pa. Code § 287.625, the Department is proposing to issue a Department initiated general permit for the recycling of electronics equipment. The proposed permit is for the sorting, disassembling and mechanical processing (by sizing, shaping, separating and volume reduction only), of various uncontaminated and source-separated electronic equipment and components. This general permit is being proposed by the Division of Municipal and Residual Waste.

Comments concerning the proposed general permit should be directed to Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Rachel Carson State Office Bldg., P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. Persons interested in obtaining more information about or obtaining copies of, the proposed general permit may contact the Division of Municipal and Residual Waste at the previous phone number. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to and approval or denial of the proposed general permit.

**AIR QUALITY**

**NOTICE OF PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS  
NEW 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.

Copies of these applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the Regional Office identified in this notice. Persons interested in reviewing the application files should contact the appropriate Regional Office to schedule an appointment.

Persons wishing to receive a copy of the proposed Plan Approval or Operating Permit must indicate their interest to the 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 the 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 the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the Regional Office identified. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121—143, the Federal Clean Air Act and regulations adopted under the Act.

**PLAN APPROVALS**

**Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: James Parette, New Source Review Chief, (570) 826-2531.*

**40-399-049: Fairchild Semiconductor Corp.** (125 Crestwood Rd., Mountaintop, PA 18707) for a Plant-wide Applicability Limit (PAL Permit) in Wright Township, Luzerne County.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.*

**32-00238A: Weimer's Iron and Scrap Metal** (5639 Tunnelton Rd., Saltsburg, PA 15681) for installation of an AK 7500 Aluminum Melting Furnace in Conemaugh Township, **Indiana County**.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Contact: Thomas Barsley, Chief, (215) 685-9428.*

**02050: United States Navy** (5001 South Broad St., Code 027, Philadelphia, PA 19112) for reactivating four marine boilers in the City of Philadelphia, **Philadelphia County**.

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**Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.**

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*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.*

**09-0123A: Better Materials Corp.** (P. O. Box 196, Penns Park, PA 18943) for modification of a batch asphalt plant in Nockamixon Township, **Bucks County**. This modification allows the asphalt plant to use "on-specification" waste derived liquid fuel (WDLF) with an asphalt production limitation of 549,120 tons per year. Emissions of oxides of nitrogen (NOx) will be limited to 22.0 tons per year while emissions of VOCs will be limited to 24.9 tons per year. The Plan Approval will require the company to perform stack tests within 180 days of using WDLF. Every shipment of WDLF will be analyzed and it must meet the "on-specification" requirement.

**46-0115C: Knoll, Inc.** (1235 Water St., East Greenville, PA 18041) for modification of operations to a No. 2 diesel fuel-fired emergency generator rated at 500 kW in Upper Hanover Township, **Montgomery County**. This generator was originally approved for installation under Plan Approval No. 46-0115B. This facility is a Title V facility for VOCs. The modification being made to the emergency generator is an increase in operation from 20 hours per year to 50 hours per year. The emergency generator is used to provide power to the corporate computer system and emergency lighting in the event of a power outage at the facility. The emergency generator is equipped with turbocharger and aftercooler for reductions in NOx. NOx emissions from the emergency generator, along with VOCs and all other criteria pollutants, will be less than 1 ton per 12-month rolling sum. This increase in VOCs does not trigger New Source Review regulations, as the annual increases in VOCs for the last 5 calendar years does not exceed 1 ton per. The Plan Approval and Operating Permit will contain recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

**09-00056: BetzDearborn, Inc.** (Trevose, PA 19053) for operation of a boiler and research and development laboratories in Trevose, **Bucks County**. This facility is a non-Title V (State Only) facility. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**09-00116: BetzDearborn, Inc.** (Langhorne, PA 19047) for operation of two boilers and miscellaneous chemical blending and storage tanks in Langhorne, **Bucks County**. This facility is a non-Title V (State Only) facility. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.*

**06-05063B: Boyertown Foundry Co.** (P. O. Box 443, New Berlinville, PA 19545-0443) for modification of the existing gray iron foundry sand molding operation, pouring line and shakeout line to be controlled by two existing fabric collectors in Boyertown Borough, **Berks County**. The facility is subject to Title V. The modified sources will have the potential to emit 28.9 tons per year of PM and 53 tons per year of VOCs. The plan approval will include monitoring, record keeping and reporting requirements designed to keep the source operating within all applicable air quality requirements. The plan approval will be incorporated into the Title V operating permit in accordance with 25 Pa. Code § 127.450.

**36-05088A: Haines and Kibblehouse, Inc.** (P. O. Box 198, Skippack, PA 19474) for installation of a fabric collector on an existing recycled asphalt pavement system of a batch asphalt plant at the Silver Hill Quarry in Brecknock Township, **Lancaster County**. The installation of the fabric collector will not increase emissions. The facility is a non-Title V (State only) facility. The plan approval will include conditions designed to keep the source operating within all applicable air quality requirements.

*Northcentral Region: Air Quality Program, 208 West Third St., Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.*

**08-310-001F: Dalrymple Gravel and Contracting Co., Inc.** (2105 South Broadway, Pine City, NY 14871) for construction of various new pieces of sand and gravel crushing, screening and conveying equipment at their existing facility in Athens Township, **Bradford County**. Fugitive dust emissions from the additional equipment are expected to be minimal due to the wet nature of the material to be processed and the amount of water that will be applied throughout the operation.

The Department has determined that the proposed additional equipment will comply with all applicable regulatory requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12 and the requirements of Subpart OOO of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.670—60.676. The Department consequently intends to issue plan approval for the construction of the respective equipment.

The Department intends to place conditions in the plan approval to be issued to assure compliance with all applicable air quality regulatory requirements. The following is a summary of these conditions:

1. If at any time it is determined that the air contaminant emissions from the crushing, screening and conveying equipment are in excess of any applicable air contaminant emission limitation, the company shall install additional water spray dust suppression nozzles and/or take other control measures as are necessary to reduce the air contaminant emissions to within the applicable limitations.

2. The air contaminant emissions from the equipment shall comply with the applicable requirements specified in Subpart 000 of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.670—60.676.

3. This plan approval does not authorize the construction of any engines or generators.

4. The company shall have onsite an operable water truck equipped with a pressurized spray bar to be used, as needed, for the prevention and control of fugitive air contaminant emissions from roadways, stock piles, truck loading activities, and so on.

**55-00002A: Department of Public Welfare** (P. O. Box 2675, Harrisburg, PA 17105) for the installation of an air cleaning device, a core separator, on three existing bituminous coal-fired boilers at the Selinsgrove Center in Penn Township, **Snyder County**. The application also requests approval to install an air cleaning device, a fabric collector, on an existing ash silo.

Selinsgrove Center is a major facility for which a Title V operating permit (#55-00002) has been issued. The two 60 million Btu per hour and one 50.4 million Btu per hour boilers have been operating in noncompliance of the particulate matter emission limitations of 25 Pa. Code § 123.11. The installation of the core separator is expected to significantly reduce the particulate matter emissions from the boilers and allow them to comply with the applicable particulate matter emission limitations. The new fabric collector will replace a fabric collector which is currently controlling the particulate matter emissions from the silo.

The Department's review of the information contained in the application indicates that the proposed installations will meet all applicable air quality requirements including the particulate matter emission limitations of 25 Pa. Code §§ 123.11 and 123.13. Based on this finding, the Department intends to approve the application and issue a plan approval to install the proposed air cleaning devices on the respective sources.

The following is a summary of the conditions the Department proposes to place in the plan approval to ensure compliance with all applicable air quality regulatory requirements:

1. Within 120 days of the completion of installation of the core separator, particulate matter stack testing shall be performed while the boilers are operating at the maximum capacity at which they will ever be operated to demonstrate compliance with the particulate matter limitations of 25 Pa. Code § 123.11.

2. Once installation of the core separator is completed, none of the boilers shall operate without the simultaneous operation of the core separator.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.*

**04-00446D: AES Beaver Valley, Inc.** (394 Frankfort Rd., Monaca, PA 15061) for installation of a Low NOx Firing System at the Beaver Valley Station in Potter Township, **Beaver County**.

*Special Conditions for Plan Approval 04-00446D*

1. This Plan Approval is for the modification of Unit #5 Low NOx Burners with Low NOx Secondary Air Swirlers, Low NOx Coal Nozzles and Coal Flow distributors at the AES-Beaver Valley facility located in Monaca Borough, Beaver County (25 Pa. Code § 127.12b).

2. The applicant shall perform stack testing on Units #5 no later than 90 days after completing the installation of the low-NOx burner system to determine the emission rate of carbon monoxide (CO) and particulate matter (PM-10) (25 Pa. Code § 127.12b).

3. Stack testing shall be performed in accordance with the Department's Source Testing Manual (25 Pa. Code Chapter 139).

4. Two copies of a pretest protocol shall be submitted to the Department for review at least 60 days prior to the performance of the stack test (25 Pa. Code Chapter 139).

5. The Department shall be notified at least 2 weeks prior to the stack test of the date and time of the test so that an observer may be present (25 Pa. Code Chapter 139).

6. Two copies of the stack test results shall be supplied to the Department for review within 60 days of completion of the testing (25 Pa. Code Chapter 139).

7. The NOx emission rate from Unit #5 shall be determined based on emission data obtained from a certified CEM installed, maintained and operated in accordance with 25 Pa. Code Chapters 123 and 139.

8. This Plan Approval authorizes temporary operation of the sources covered by this Plan Approval provided the following conditions are met (25 Pa. Code § 127.12b).

a) The Department must receive written notice from the Owner/Operator of the completion of construction and the operator's intent to commence operation at least 5 working days prior to the completion of construction. The notice should state when construction will be completed and when operator expects to commence operation.

b) Operation is authorized only to facilitate the start-up and shake-down of sources and air cleaning devices, to permit operations pending the issuance of an Operating Permit or to permit the evaluation of the sources for compliance with all applicable regulations and requirements.

c) This condition authorizes temporary operation of the sources for a period of 180 days from the date of commencement of operation, provided the Department receives notice from the Owner/Operator under subpart (a).

d) The Owner/Operator may request an extension if compliance with all applicable regulations and Plan Approval requirements has not been established. The extension request shall be submitted in writing at least 15 days prior to the end of this period of temporary operation and shall provide a description of the compliance status of the source, a detailed schedule for establishing compliance and the reasons compliance has not been established.

e) The notice submitted by the Owner/Operator under subpart (a), prior to the expiration of this Plan Approval, shall modify the plan approval expiration date. The new plan approval expiration date shall be 180 days from the date of the written notice.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Contact: Thomas Barsley, Chief, (215) 685-9428.*

**02001: Active Realty Associates** (10175 Northeast Boulevard, Philadelphia, PA 19115) for operation of two 125 HP No. 4 oil fired boilers in the City of Philadelphia, **Philadelphia County**. The nitrogen oxide emission from the boilers will be 0.7 ton per year. The plan approval will

contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

**Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

*Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Michael Safko, Facilities Permitting Chief, (570) 826-2531.*

**48-328-002: Green Knight Economic Development Corp.** (P. O. Box 4, Pen Argyl, PA 18072) for operation of an electric power generation plant (three landfill gas fired turbines) in Plainfield Township, **Northampton County**.

*Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**36-05023: F and M Hat Co.** (103 Walnut St., Denver, PA 17517) for operation of its hat manufacturing facility in Denver Borough, **Lancaster County**. The facility has the potential to emit 100 tons of SO<sub>x</sub> per year. The synthetic minor operating permit will include emission limits, monitoring, record keeping and reporting requirements to ensure the facility operates in compliance with the applicable air quality requirements.

**67-03107: Hoover Manufacturing Co., Inc.** (P. O. Box 146, Glen Rock, PA 17327) for operation of its wood/plywood products and product components manufacturing facility in Springfield Township, **York County**. The facility has the potential to emit 25 tons of VOC per year. The Natural Minor operating permit will include testing, monitoring, record keeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.*

**65-00783: Alon Surface Technologies, Inc.** (100 Alon Way, Leechburg, PA 15656) for operation of a metal coating system at the Leechburg Plant in Allegheny Township, **Westmoreland County**.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Contact: Edward Braun, Chief, (215) 685-9476.*

**01-004: Pomco Graphic Arts** (4411-27 Whitaker Avenue, Philadelphia, PA 19120) for commercial printing in the City of Philadelphia, **Philadelphia County**. The natural minor facility's air emission sources include six nonheatset sheetfed offset lithographic printing presses and a natural gas-fired boiler rated at 5 mmBtu/hr.

## MINING ACTIVITY APPLICATIONS

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

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

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

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

Written comments or objections should contain the name, address and telephone number of persons 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.

### Coal Applications Received

*Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.*

**03980108 and NPDES Permit No. PA0202371. Stitt Coal Co., Inc.** (R. D. 1, Box 197A, Ford City, PA 16226). Revision application for a coal/noncoal bituminous surface mine to delete acres located in Kittanning Township, **Armstrong County**, affecting 189.8 acres. Receiving streams: unnamed tributaries and Garrets Run, classified for the following use: WWF. The first downstream potable water supply intake from the point of discharge is Kittanning Township Elementary School. Revision application received March 25, 2002.

**03010106 and NPDES Permit No. PA0250031. Seven Sisters Mining Co., Inc.** (200 US Rte. 22, P. O.

Box 300, Delmont, PA 15626). Application for commencement, operation and reclamation of a bituminous surface mine located in South Bend Township, **Armstrong County**, affecting 34.3 acres. Receiving streams: unnamed tributaries and Crooked Creek, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received March 18, 2002.

**65020102 and NPDES Permit No. PA0250112. Amerikohl Mining, Inc.** (202 Sunset Drive, Butler, PA 16001). Application for commencement, operation and reclamation of a bituminous surface mine located in East Huntingdon Township, **Westmoreland County**, affecting 144.4 acres. Receiving streams: unnamed tributary to Sherrick Run to Jacobs Creek, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received March 22, 2002.

*Cambria District Mining Office: 286 Industrial Park Rd., Ebensburg, PA 15931, (814) 472-1900.*

**11020201 and NPDES Permit No. PA0249181. Alverda Enterprises, Inc.**, P. O. Box 87, Alverda, PA 15710, commencement, operation and restoration of a bituminous coal refuse reprocessing surface mine and for discharge of treated mine drainage in Elder Township, **Cambria County**, affecting 16.9 acres. Receiving streams: Brubaker Run classified for the following uses: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 20, 2002.

**32970201 and NPDES Permit No. PA0234443. Britt Energies, Inc.**, 2450 Philadelphia St., Indiana, PA 15701, permit renewal for reclamation only for continued restoration of a bituminous surface (coal refuse reprocessing) mine in Center Township, **Indiana County**, affecting 4.6 acres. Receiving streams: unnamed tributary to Two Lick Creek classified for the following uses: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 20, 2002.

**11970101 and NPDES Permit No. PA0234389. E. P. Bender Coal Company, Inc.**, P. O. Box 594, Carrolltown, PA 15722, permit revision to add auguring to the bituminous surface mine in Reade Township, **Cambria County**, affecting 93.0 acres. Receiving streams: Powell Run classified for the following uses: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 22, 2002.

*McMurray District Mining Office: 3913 Washington Rd., McMurray, PA 15317, (724) 941-7100.*

**03851601. NPDES Permit #PA0214540, TJS Mining, Inc.** (R. D. 1, Box 260D, Shelocta, PA 15774), to renew the permit for the Dutch Run Prep Plant in Plumcreek Township, **Armstrong County** to renew the permit, Surface Acres Proposed N/A, Underground Acres Proposed N/A, SCP Acres Proposed N/A, CRDP Support Acres Proposed N/A, CRDP Refuse Disposal Acres Proposed N/A, no additional discharges, classified for the following uses: N/A. The first downstream potable water supply intake from the point of discharge is N/A. Application received January 22, 2002.

**32961302. NPDES Permit #PA0214949, Senate Coal Mines, Inc.** (One Energy Place, Suite 5100, Latrobe, PA 15650), to revise the permit for the Ondo Mine in Brush Valley Township, **Indiana County** to add a haul road at portal #1 and a parking lot at portal #2, Surface Acres Proposed 20.9, Underground Acres Proposed N/A, SCP Acres Proposed N/A, CRDP Support Acres Proposed N/A,

CRDP Refuse Disposal Acres Proposed N/A, Ferrier Run, classified for the following uses: WWF. The first downstream potable water supply intake from the point of discharge is Central Indiana County Water Authority. Application received February 8, 2002.

**03871302. NPDES Permit #PA0215414, DLR Mining, Inc.** (3065 Airport Rd., Indiana, PA 15701), to revise the permit for the Triple K #1 Mine in Burrell Township, **Armstrong County** to add permit and subsidence control plan acres, Surface Acres Proposed N/A, Underground Acres Proposed 257, SCP Acres Proposed 257, CRDP Support Acres Proposed N/A, CRDP Refuse Disposal Acres Proposed N/A, no additional discharges, classified for the following uses: N/A. The first downstream potable water supply intake from the point of discharge is N/A. Application received February 8, 2002.

**56971301. NPDES Permit #PA0214973, GM & S Coal Corp.** (P. O. Box 233, Jennerstown, PA 15547), to renew the permit for the Geronimo Mine in Jenner Township, **Somerset County**, renewal, Surface Acres Proposed N/A, Underground Acres Proposed N/A, SCP Acres Proposed N/A, CRDP Support Acres Proposed N/A, CRDP Refuse Disposal Acres Proposed N/A, no additional discharges, classified for the following uses: N/A. The first downstream potable water supply intake from the point of discharge is N/A. Application received February 15, 2002.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**33920109 and NPDES Permit No. PA 0211427. Sky Haven Coal, Inc.** (R. D. 1, Box 280, Penfield, PA 15849). Revision to an existing bituminous surface strip and auger operation in Winslow Township, **Jefferson County** affecting 318.7 acres. Receiving streams: unnamed streams to Trout Run, McCreight Run and Soldier Run, classified for the following uses: Statewide water uses: CWF. The first downstream potable water supply intake from the point of discharge is Reynoldsville Water Authority. Revision to change acreage from 315.0 acres to 318.7 acres. Application received March 25, 2002.

#### *Noncoal Applications Received*

*Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.*

**03010407 and NPDES Permit No. PA0250040. Stitt Coal Co., Inc.** (R. D. 1, Box 197A, Ford City, PA 16226). Revision application to add acres for a noncoal surface mine located in Kittanning Township, **Armstrong County**, affecting 252.5 acres. Receiving streams: Garretts Run, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Revision application received March 25, 2002.

*Cambria District Mining Office: 286 Industrial Park Rd., Ebensburg, PA 15931, (814) 472-1900.*

**31020301 and NPDES Permit No. PA0249190. U. S. Silica Company**, R. D. 1, Box 1885, Mapleton Depot, PA 17052, commencement, operation and restoration of a noncoal surface mine in Brady Township, **Huntingdon County**, affecting 92.3 acres. Receiving streams: Mill Creek to Juniata River classified for the following uses: TSF. There are no potable water supply intakes within 10 miles downstream. Application received March 21, 2002.



## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications and requests for Environmental Assessment approval and requests for Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341(a)), requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Initial requests for 401 Water Quality Certification will be published concurrently with the permit application. Persons objecting to approval of a request for certification under section 401 or to the issuance of a Dam Permit or Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit any comments, suggestions or objections within 30 days of the date of this notice as well as any questions to the office noted before the application.

Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Each individual will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between the hours of 8 a.m. and 4 p.m. on each working day at the office noted before the application.

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

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**Applications Received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and Requests for Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).**

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### WATER OBSTRUCTIONS AND ENCROACHMENTS

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**E40-594. Luzerne County Board of Commissioners**, Luzerne County Courthouse, 200 North River St., Wilkes-Barre, PA 18711-1001, in Sugarloaf Township, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To repair and maintain an existing single-span steel truss bridge, having a span of 105.0 feet and an underclearance of 12.5 feet, across Nescopeck Creek (CWF), with work including plating the deficient lower chord and encasing the deteriorated floor beam and concrete. The structure known as County Bridge #57305, is located along T-336 (Mill Hill Rd.), approximately 0.1

mile east of the intersection of T-336 and T-429 (Seibertsville, PA Quadrangle N: 1.4 inches; W: 14.0 inches).

**E40-593. Luzerne County Board of Commissioners**, Luzerne County Courthouse, 200 North River St., Wilkes-Barre, PA 18711-1001, in Huntington Township, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To repair and maintain an existing single-span steel pony truss bridge, having a span of 71.2 feet and underclearance of 13.0 feet across Huntington Creek (CWF), with work including removal and replacement of a deteriorated stringer and placement of additional stringers. The structure, known as County Bridge #46016, is located along T-451 (Hubbards Flats), immediately east of the intersection of T-451 and S.R. 4006 (Shickshinny, PA Quadrangle N: 8.9 inches; W: 13.5 inches).

**E40-592. Luzerne County Board of Commissioners**, Luzerne County Courthouse, 200 North River St., Wilkes-Barre, PA 18711-1001, in Hollenback Township, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To repair and maintain an existing single-span steel pony truss bridge, having a span of 82.1 feet and an underclearance of 13.0 feet, across Wapwallopen Creek (HQ-CWF) with work including placement of new steel stringers to replace deteriorated beams and repair of a stone masonry backwall and bridge seep. The structure, known as County Bridge #45802, is located along T-375 (Bridge Rd.), approximately 0.5 mile east of the S.R. 3012 crossing of Wapwallopen Creek (Seibertsville, PA Quadrangle N: 10.6 inches; W: 11.3 inches).

**E66-128. Northmoreland Township**, 143 Creamery Rd., Tunkhannock, PA 18657, in Northmoreland Township, **Wyoming County**, U. S. Army Corps of Engineers, Baltimore District.

To remove the existing structure and to construct and maintain an open-bottom, aluminum arch culvert having a span of 22.25 feet and underclearance of 6.6 feet in Whitelock Creek (CWF). The project is located along Township Road T326 (Schoonover Road), approximately 0.6 mile northeast of the intersection of S.R. 2003 and S.R. 2005 (Centermoreland, PA Quadrangle N: 6.4 inches; W: 5.2 inches).

**E52-177. The Forest Lake Club**, R. R. 1, Box 333, Hawley, PA 18428-9718, in Lackawaxen Township, **Pike County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove the existing structures and to construct and maintain: (1) a 26-foot by 20-foot boathouse, extending approximately 20 feet lakeward from the shoreline, in Wolf Lake; and (2) a 25-foot by 60-foot boathouse, extending approximately 19 feet lakeward from the shoreline, in Corilla Lake (HQ-CWF). The boathouses will be supported by concrete pads along the shoreline and pressure-treated piers in the water. The projects are located along the eastern shoreline of Wolf Lake (HQ-CWF) (Narrowsburg, NY-PA Quadrangle N: 5.8 inches; W: 13.5 inches) and the northwestern shoreline of Corilla Lake (Narrowsburg, NY-PA Quadrangle N: 5.2 inches; W: 11.9 inches).

**E40-595. Luzerne County Board of Commissioners**, Luzerne County Courthouse, 200 North River St., Wilkes-Barre, PA 18711-1001, in Sugarloaf Township, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To repair and to maintain an existing single-span multiple steel girder bridge, having a span of 26.3 feet and an underclearance of 6.4 feet, across Little Nescopeck Creek (HQ-CWF), with work including removal of the existing superstructure and replacement with prestressed concrete adjacent box beams and repair of existing concrete abutments and wingwalls. The structure, known as County Bridge No. 57313, is located along T-338 (Center Hill Road), approximately 0.2 mile south of the intersection of T-338 and T-422 (Conyngham, PA Quadrangle N: 22 inches; W: 6.1 inches).

**E40-590. Luzerne County Board of Commissioners**, Luzerne County Courthouse, 200 North River St., Wilkes-Barre, PA 18711-1001, in Hanover Township, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To repair and maintain an existing single-span steel girder bridge, having a span of approximately 30 feet and an underclearance of approximately 5.7 feet, across Solomon Creek (CWF). Work will include repairing the concrete bearing seat under the upstream fascia beam and restoring the rotated beam to its original position. The structure, known as County Bridge #24001, is located along Breaker Road (T-860), approximately 0.5 mile downstream of the S.R. 2002 crossing of Solomon Creek (Wilkes-Barre West, PA Quadrangle N: 18.4 inches; W: 8.4 inches).

**E40-596. Development Options Inc. c/o CBL & Associates Properties Inc.**, Watermill Center, 800 South St., Suite 395, Waltham, MA 02453, in Wilkes-Barre Township, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To regrade a 40-acre lot for the construction of a commercial retail shopping center, thereby eliminating 0.45 acre of wetlands. The applicant proposes to participate in the Pennsylvania Wetland Replacement Project in lieu of replacing wetlands onsite. The project, known as Wilkes-Barre Market Place, is located on the north side of Highland Park Boulevard (Wilkes-Barre East, PA Quadrangle N: 20.5 inches; W: 14.9 inches).

**E40-591. Luzerne County Board of Commissioners**, Luzerne County Courthouse, 200 North River St., Wilkes-Barre, PA 18711-1001, in New Columbus Borough, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To repair and maintain an existing single-span steel pony truss bridge having a span of 53.3 feet and an underclearance of 8.0 feet, across Pine Creek (CWF) with work including repair of a deteriorated floor beam and stone masonry bearing seeps and abutments. The structure, known as County Bridge #42504, is located along Pine Creek Road (Stillwater, PA Quadrangle N: 5.8 inches; W: 4.6 inches).

**E39-410. North Whitehall Township Board of Supervisors**, 3256 Levans Rd., Coplay, PA 18037, in North Whitehall Township, **Lehigh County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a road crossing, consisting of an open-bottom, precast concrete arch culvert, having a span of 32 feet and an underclearance of 5 feet and twin 36-inch diameter reinforced concrete culverts across Coplay Creek (CWF); to construct and maintain bank stabilization consisting of log and stone deflectors, erosion control matting, native plantings and riprap having a length of approximately 200 feet along Coplay Creek; to construct and maintain an outfall structure consisting of a 15-inch

diameter pipe and concrete endwall in the floodway of Coplay Creek; and to place fill in a de minimis area of wetlands less than or equal to 0.05 acre. The project is located at the intersection of Excelsior Road (T-665) and Coplay Creek Road (Cementon, PA Quadrangle N: 20.1 inches; W: 13.7 inches).

**E40-589. Keystone Operating Partnership L.P., c/o Keystone Property Trust**, 200 Four Falls Corporate Center, West Conshohocken, PA 19428, in Hazle Township, **Luzerne County**, U. S. Army Corps of Engineers, Baltimore District.

To place fill in 3.78 acres of wetlands within the watershed of Stoney Creek (HQ-CWF) for the purpose of constructing a warehouse/manufacturing and distribution facility on a 50.4-acre site. The project is located on Lot #1A, along the south side of S.R. 0924, approximately 0.75 mile west of S.R. 0924/S.R. 0081 interchange (Conyngham, PA Quadrangle N: 11.1 inches; W: 5.5 inches).

**E64-231. Department of Transportation, Engineering District 4-0**, P. O. Box 111, Scranton, PA 18501, in Honesdale Borough, **Wayne County**, U. S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a two-span spreadbox beam bridge (Church Street Bridge), having a total span length of approximately 40 meters (131 feet) and an underclearance of approximately 4.5 meters (14.8 feet), across West Branch Lackawaxen River (HQ-CWF); and to modify and maintain an existing three-span spreadbox beam bridge (4th Street Bridge), having a total span length of approximately 50.9 meters (167 feet) and an underclearance of approximately 6.1 meters (20.0 feet), across the Lackawaxen River (HQ-TSF, MS), with work consisting of widening the structure to accommodate four lanes of traffic. The total length of channel section impacted by temporary road causeways is approximately 190 meters (630 feet). The project is located along S.R. 0006, Section 673 (Honesdale, PA Quadrangle N: 12.5 inches; W: 0.3 inch).

**E39-411. Lehigh County**, 17 South Seventh St., Allentown, PA 18101-2400, in Borough of Coplay, **Lehigh County**, U. S. Army Corps of Engineers, Philadelphia District.

To repair and maintain the Lehigh County portion of the Chestnut Street Bridge across the Lehigh River (WWF) with repairs consisting of concrete and riprap scour protection along Pier No. 4. The project is located in the Borough of Coplay, Lehigh County S.R. 0924, approximately 0.75 mile west of S.R. 0924/S.R. 0081 interchange (Catasauqua, PA Quadrangle N: 9.2 inches; W: 15.9 inches).

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**E38-132. Robin Getz, North Cornwall Township**, 320 South 18th St., Lebanon, PA 17042 in North Cornwall Township and Cleona Borough, **Lebanon County**, ACOE Baltimore District.

To remove the existing twin arch bridge and to construct and maintain a 28-foot by 5-foot concrete box culvert with an 85 degrees skew at the channel of Quittapahilla Creek (TSF) on T-414 (Dairy Road) located about 1.4 miles west of the City of Lebanon (Lebanon, PA Quadrangle N: 15.78 inches; W: 12.7 inches) in North Cornwall Township and Cleona Borough, Lebanon County.

**E44-115. Margaret Stewart, Derry Township,** P. O. Box M, Yeagertown, PA 17099 in Derry Township and Burham Borough, **Mifflin County,** ACOE Baltimore District.

To remove the existing Vermont Avenue bridge and to construct and maintain a concrete bridge having a clear span of 46.5 feet on an 80 degree skew with a minimum underclearance of 11.33 feet across Buck Run (TSF) located 1,200 feet upstream of T-782 bridge (Vermont Avenue) (Burnham, PA Quadrangle N: 0.7 inch; W: 10.1 inches) in Derry Township and Burham Borough, Mifflin County.

**E44-116. Randall Knobe,** 17 Ort Valley Rd., Lewistown, PA 17044 in Derry Township, **Mifflin County,** ACOE Baltimore District.

To construct and maintain a bridge having a span of 23.67 feet and an underclearance of 5 feet across the channel of Hungry Run (TSF) at a point at the Village of Vira (Burnham, PA Quadrangle N: 5.2 inches; W: 4.5 inches) in Derry Township, Mifflin County.

**E67-717. Randy Odachowski,** 3833 Salem Rd., York, PA 17404 in North Codorus Township, **York County,** ACOE Baltimore District.

To excavate a 35.8-foot by 32.6-foot at the channel of an unnamed tributary to Codorus Creek (WWF) to construct a nonjurisdictional pond having a brick embankment of 20 feet by 3 feet high located about 1,700 feet southwest of New Salem School (West York, PA Quadrangle N: 4.03 inches; W: 7.2 inches) in North Codorus Township, York County.

*Northcentral Region: Water Management Program Manager, 208 West Third St., Williamsport, PA 17701, (570) 327-3636.*

**E41-503. Lewis Township,** P. O. Box 11B, Trout Run, PA 17771. Culvert Crossing in Lewis Township, **Lycoming County,** ACOE Baltimore District (Trout Run, PA Quadrangle N: 5.8 inches; W: 5.4 inches).

The project proposes to maintain a 15-inch culvert pipe on an unnamed tributary to Lycoming Creek. This culvert was installed without a permit and according to the hydraulic calculations is sufficient to pass the 25-year storm event. This permit will also authorize a stone headwall on the inlet of the culvert and riprap outlet protection/bank protection. This project will impact less than 30 linear feet of stream and does not impact any wetlands.

**E49-259. Department of Transportation, Engineering District 3-0,** P. O. Box 218, Montoursville, PA 17754-0218. Fiddler Run bridge replacement in Jordan Township, **Northumberland County,** ACOE Susquehanna River Basin District (Pillow, PA Quadrangle N: 10.1 inches; W: 10.8 inches).

To remove an existing structure and construct and maintain a 25-foot long by 6-foot high by 28-foot wide reinforced concrete box culvert in Fiddlers Run (WWF). The project is located along SR 3016 approximately 100 feet east of SR 0225 and SR 3016 intersection in Jordan Township, Northumberland County. The bridge replacement will not impact any jurisdictional wetlands while permanently impacting 40-feet of waterway.

**E49-260. Department of Transportation, Engineering District 3-0,** P. O. Box 218, Montoursville, PA 17754-0218. Shamokin Creek SR 0054 bridge replacement, in Mount Carmel Township, **Northumberland County,**

ACOE Susquehanna River Basin District (Mount Carmel, PA Quadrangle N: 6.2 inches; W: 9.0 inches).

To remove an existing structure and construct and maintain a four span prestressed concrete I-beam bridge on a 70° skew measuring 430-foot by 30-foot over Shamokin Creek (WWF) and the defunct Lehigh Valley Railroad. The project is located along SR 0054 in the northern extent of the Borough of Mount Carmel, Mount Carmel Township, Northumberland County. The bridge replacement will not impact any jurisdictional wetlands or waterway.

**E53-360. Robert Gibson,** 2108 SR 0049W, Ulysses, PA 16948. Gibson Minor Road Crossing unnamed tributary to Ludington Run, in Ulysses Township, **Potter County,** ACOE Pittsburgh District (Ulysses, PA Quadrangle N: 1.25 inches; W: 8.5 inches).

To construct, operate and maintain a minor road crossing an unnamed tributary to Ludington Run (HQ-CWF) to provide access to a private, single residence. The road crossing shall be constructed with single corrugate metal culvert pipe, depressed into the streambed 1-foot and clean rock fill. The metal culvert pipe will have a minimum diameter of 7 feet. Construction of the road crossing shall be complete during stream low flow conditions and dry work conditions by fluming or dams and pumping stream flow around the work areas. The project will permanently impact 0.03-acre of wetland and 35-feet of waterway. The project is located along the western right-of-way of SR 1009 approximately 600-feet north of SR 0049 and SR 1009 intersection.

**E59-423. Emery Barnes,** 3780 Lambs Creek Rd., Mansfield, PA 16933. Culvert Crossing in Richmond Township, **Tioga County,** ACOE Baltimore District (Mansfield, PA Quadrangle N: 15.5 inches; W: 16.25 inches).

The permit application proposes to construct a 6-foot circular steel culvert pipe for a private driveway crossing. The permit application also proposes to construct headwalls at the inlet and outlet of the culvert pipe. There is a proposed 2-feet of fill cover over the culvert pipe to facilitate a driving surface. This project is located on Seeley Hollow and proposes to impact 30 linear feet of stream.

**E59-424. Department of Conservation and Natural Resources, Bureau of Forestry,** 1 Nessmuk Lane, Wellsboro, PA 16901. Bridge crossing Long Run in Liberty Township, **Tioga County,** ACOE Baltimore District (Nauvoo, PA Quadrangle N: 19.4 inches; W: 9.65 inches).

The applicant is proposing a bridge crossing with a span of 24 feet and a 6-foot depth from the bottom cord to the bed of the stream. This crossing will be utilized by the Department of Conservation and Natural Resources and during logging operations. This project will impact 30 linear feet of Long Run and will not impact any wetlands.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E04-283. Beaver County Corporation for Economic Development,** 250 Insurance St., Suite 300, Beaver, PA 15009. Hopewell Township, **Beaver County,** ACOE Pittsburgh District.

To place and maintain fill in 0.393 acre of wetlands associated with unnamed tributaries to Boggs Run (WWF) for the purpose of expanding the Hopewell Business and Industrial Park. The project is located approximately 2,400 feet south from the intersection of Industrial Boulevard and Clinton-Gringo Road. The applicant pro-

poses to pay into the Pennsylvania Wetland Replacement Fund (Aliquippa, PA Quadrangle N: 11.0 inches; W: 3.25 inches).

**E26-152-A1. Fugozzotto Enterprises Inc.**, 413 West Church Avenue, Masontown, PA 15461. Masontown Borough, **Fayette County**, ACOE Pittsburgh District.

To reissue Permit No. E26-152 to construct and maintain a boat docking facility along the right bank of the Monongahela River (WWF) and to include the construction and maintenance of a 20.0-foot x 25.0-foot launching ramp along the right bank of the Monongahela River at the same location (Masontown, PA Quadrangle N: 18.3 inches; W: 17.5 inches).

**E65-798. Wayne Vargo**, 2621 Patrice Lane, Murrysville, PA 15668. Municipality of Murrysville, **Westmoreland County**, ACOE Pittsburgh District.

To place and maintain fill in 0.23 acre of wetland along Turtle Creek (TSF) for the purpose of construction of a car dealership and future commercial sites. The project is located on the south side of S.R. 22 at the intersection of S.R. 22 and Cline Hollow Road (Murrysville, PA Quadrangle N: 8.5 inches; W: 5.0 inches).

*Northwest Region: Water Management Program Manager, 230 Chestnut St., Meadville, PA 16335-3481.*

**E42-290. Department of Transportation, District 2-0**, 1924-30 Daisy St., P. O. Box 342, Clearfield, PA 16830. S.R. 4005, Segment 0112, Across Kendall Creek, in City of Bradford, **McKean County**, ACOE Pittsburgh District (Pittsburgh, PA Quadrangle N: 16.7 inches; W: 16.8 inches).

To remove the existing structure and to construct and maintain a single span prestressed concrete bridge having a clear span of 56.1 feet and an underclearance of 6.76 feet on a 90 degree skew across Kendall Creek on S.R. 4005.

#### WATER QUALITY CERTIFICATION REQUEST

**Erie Western Pennsylvania Port Authority**, Raymond P. Schreckengost, Executive Director, 17 West Dobbins Landing, Erie, PA 16507-1424. Discharge of dredged material from the Coal Ore Dock Slip on the City of Erie Bayfront (Erie North, PA N: 2.7 inches; W: 11.3 inches) (42d 08m 23s N; 80d 05m 00s W) into the Lake Erie Harbor Confined Disposal Facility, in Erie City, **Erie County**, ACOE Pittsburgh District, Erie North, PA, Quadrangle N: 4.7 inches; W: 10.3 inches) (42d 09m 04s N; 80d 04m 34s W).

*Project description.* The Erie-Western Pennsylvania Port Authority has requested a State certification under section 401 (a) of the Federal Clean Water Act (33 U.S.C.A. § 1341(a)) that the discharge of dredged material from the Coal Ore Dock Slip on the City of Erie Bayfront into the Lake Erie Harbor Confined Disposal Facility (CDF) will comply with the applicable provisions of sections 301—303, 306 and 307 of Federal Clean Water Act.

This request was necessitated by conditions imposed by the Department's Water Obstruction and Encroachment Permits E25-404A and E25-581 issued to the Erie-Western Pennsylvania Port Authority requiring Federal Water Act section 401 certification for the disposal of dredged material into the CDF prior to each dredging and disposal event. The Erie-Western Pennsylvania Port Authority has sampled and tested the sediments in accordance with Attachment A "Sample Collection and Testing Protocol" of both Water Obstruction and Encroachments

Permits E25-404A and E25-581. Laboratory testing was conducted in accordance with the US Army Corps of Engineer's Inland Testing Manual and the document "Ecological Evaluation of Proposed Discharge of Dredged or Fill Material in Navigable Waters." Based upon this sampling and laboratory testing, the Erie-Western Pennsylvania Port Authority indicates that the approximately 4,300 cubic yards of basin sediments from the Coal Ore Dock Slip on the City of Erie Bayfront (Erie North, PA N: 2.7 inches; W: 11.3 inches) (42d 08m 23s N; 80d 05m 00s W) discharged into the Lake Erie Harbor Confined Disposal Facility (Erie North, PA N: 4.7 inches; W: 10.3 inches) (42d 09m 04s N; 80d 04m 34s W) will have a relatively insignificant impact on the water quality of Lake Erie. This 401 Water Quality Certification is for this single activity. Any subsequent dredging of the Coal Ore Dock Slip on the City of Erie Bayfront and use of the CDF will require separate 401 Water Quality Certification.

#### DAM SAFETY

*Central Office: Bureau of Waterways Engineering, 400 Market St., Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**D11-047A. West Carroll Water and Sewer Authority**, P. O. Box 328, Elmora, PA 15737-0374. To modify, operate and maintain Bakerton Dam across West Branch Susquehanna River (CWF), impacting approximately 2.7 acres of the reservoir by dredging to increase storage volume and approximately 200 feet of stream channel for the purpose of water supply (Carrolltown, PA Quadrangle N: 16.5 inches; W: 14.5 inches) West Carroll Township, **Cambria County**.

**D53-066. Department of Conservation and Natural Resources**, P. O. Box 8451, Harrisburg, PA 17105-8451. To construct, operate and maintain Lyman Run Dam across Lyman Run (HQ-CWF), directly and indirectly impacting approximately 200 feet of stream for the purpose of recreation (Cherry Springs), PA Quadrangle (N: 17.7 inches; W: 1.6 inches) West Branch Township, **Potter County**.

#### ACTIONS

### FINAL ACTIONS TAKEN UNDER THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT—NPDES AND WQM PART II PERMITS

#### INDUSTRIAL WASTE AND SEWERAGE WASTEWATER

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

Persons aggrieved by an 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 St., P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a differ-

ent 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 decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**I. Municipal and Industrial Permit Actions under The Clean Streams Law Act (35 P.S. §§ 691.1—691.1001).**

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**NPDES Permit No. PA0011444**, Industrial Waste, **Congoleum Corporation**, 4401 Ridge Rd., Trainer, PA 19061. This proposed facility is located in Trainer Borough, **Delaware County**.

Description of Proposed Action/Activity: Renewal to discharge into Marcus Hook Creek.

**NPDES Permit No. PA0013021**, Industrial Waste, **PQ Corporation**, 1201 West Front St., Chester, PA 19013. This proposed facility is located in City of Chester, **Delaware County**.

Description of Proposed Action/Activity: Renewal to discharge into Delaware River, Zone 4-3J.

**NPDES Permit No. PA0026131**, Sewage, **Upper Merion Municipal Utility Authority**, 175 West Valley Forge Rd., King of Prussia, PA 19406. This proposed facility is located in Upper Merion Township, **Montgomery County**.

Description of Proposed Action/Activity: Renewal to discharge into the Schuylkill River.

**NPDES Permit No. PA0058408**, Sewage, **Lejeune Properties, Inc.**, 4070 Butler Pike, Suite 800, Plymouth Meeting, PA 19426. This proposed facility is located in Upper Merion Township, **Montgomery County**.

Description of Proposed Action/Activity: Issuance of NPDES Permit to discharge into an unnamed tributary to Schuylkill River (001) and Doe Run (002)-3D and 3E.

**NPDES Permit No. PA0051365**, Industrial Waste, **Philadelphia Suburban Water Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010. This proposed facility is located in East Bradford Township, **Chester County**.

Description of Proposed Action/Activity: Renewal to discharge into East Branch of Brandywine Creek-3H.

**NPDES Permit No. PA0057011**, Sewage, **Thornbury Township**, 8 Township Rd., Cheyney, PA 19319. This proposed facility is located in Thornbury Township, **Chester County**.

Description of Proposed Action/Activity: Renewal to discharge from Bridlewood Farm STP into Radley Run-3H.

**NPDES Permit No. PA0058441**, Sewage, **Christian and Melanie Derstine**, 2700 Old Bethlehem Rd., Sellersville, PA 18960. This proposed facility is located in West Rockhill Township, **Bucks County**.

Description of Proposed Action/Activity: Discharge into an unnamed tributary to Tohickon Creek-2D.

**NPDES Permit No. PA0056979**, Sewage, **Jonathan Kimmel**, 46 Tanguy Rd., Glen Mills, PA 19342. This proposed facility is located in Thornbury Township, **Delaware County**.

Description of Proposed Action/Activity: Renewal to discharge into an unnamed tributary of Chester Creek.

**NPDES Permit No. PA0056308**, Sewage, **Mark Crawford**, 912 Green St., Perkasio, PA 18944. This proposed facility is located in Hilltown Township, **Bucks County**.

Description of Proposed Action/Activity: Renewal to discharge into an unnamed tributary of West Branch of Neshaminy Creek.

**WQM Permit No. 1501419**, Sewerage, **East Whiteland Township**, 209 Conestoga Rd., Frazer, PA 19355. This proposed facility is located in East Whiteland Township, **East Whiteland County**.

Description of Proposed Action/Activity: Construction and operation of a new gravity sewer and pump station.

**WQM Permit No. 4601410**, Sewerage, **Lejeune Properties, Inc.**, 4070 Butler Pike, Suite 800, Plymouth Meeting, PA 19426. This proposed facility is located in Upper Providence Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction and operation of a sewage treatment plant to serve the River Crest Subdivision.

**WQM Permit No. 4601411**, Sewerage, **Lejeune Properties, Inc.**, 4070 Butler Pike, Suite 800, Plymouth Meeting, PA 19426. This proposed facility is located in Upper Providence Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction and operation of four sewage-pumping stations and its related force mains to serve the proposed River Crest Subdivision.

**WQM Permit No. 0902401**, Sewerage, **Bucks County Water and Sewer Authority**, 1275 Almshouse Rd., Warrington, PA 18976. This proposed facility is located in Richland Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation of sewage pump station to serve Brayton Gardens II a residential development.

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**NPDES Permit No. PA-0044270**, Sewage, **Keystone Mobile Home Park**, P. O. Box 295, Birdsboro, PA 19508. This proposed facility is located in North Whitehall Township, **Lehigh County** and discharge to Lehigh River.

Description of Proposed Action/Activity: Issuance/renewal of NPDES Permit.

**NPDES Permit No. PA-0028576**, Sewage, **Clarks Summit—S. Abington Joint Sewer Authority**, P. O. Box 199, Chinchilla, PA 18410. This proposed facility is located in S. Abington Township, **Lackawanna County**.

Description of Proposed Action/Activity: Renewal of NPDES Permit to discharge treated sewage into Leggett's Creek.

**NPDES Permit No. PA-0027081**, Sewage, **Lackawanna River Basin Sewer Authority**, P. O. Box 9068, Dickson City, PA 18515. This proposed facility is located in Clinton Township, **Wayne County**.

Description of Proposed Action/Activity: Applicant request renewal of NPDES Permit to discharge treated sewage to Lackawanna River.

**WQM Permit No. 4802402**, Sewerage, **Lawrence Higgins**, 4325 Hamilton Boulevard, Allentown, PA 18103. This proposed facility is located in Allen Township, **Northampton County**.

Description of Proposed Action/Activity: Construction of a small sewage treatment system for a single family residence.

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.*

**NPDES Permit No. PA0031861**, Sewage, **Zerbe Sisters Nursing Facility, Inc.**, 2499 Zerbe Rd., Narvon, PA 17555. This proposed facility is located in Caernarvon Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to an unnamed tributary of the Conestoga River in Watershed 7-J.

**NPDES Permit No. PA0007641**, Sewage, **Vulcan Construction Materials, Inc., Hanover Quarry**, P. O. Box 29756, Richmond, VA 23242. This proposed facility is located in Oxford Township, **Adams County**.

Description of Proposed Action/Activity: Authorization to discharge to an unnamed tributary of South Branch Conewago Creek in Watershed 7-F.

**WQM Permit No. 0602402**, Sewerage, **Donald J. Pilon**, 1475 Elverson Rd., Elverson, PA 19520. This proposed facility is located in Caernarvon Township, **Berks County**.

Description of Proposed Action/Activity: Authorization for the construction/operation of sewage treatment facilities.

**WQM Permit No. 3801403 Amendment 02-1**, Sewerage, **Mount Gretna Authority**, 101 Chautauqua Drive, P. O. Box 322, Mount Gretna, PA 17064. This proposed facility is located in South Londonderry Township, **Lebanon County**.

Description of Proposed Action/Activity: Authorization for the modifications to the construction/operation for UV disinfection.

**NPDES Permit No. PA0082066**, Industrial Waste, **Valley Proteins, Inc.**, P. O. Box 3588, Winchester, VA 22604. This proposed facility is located in East Earl Township, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to Muddy Creek in Watershed 7-J.

*Northcentral Region: Water Management Program Manager, 208 West Third St., Williamsport, PA 17701.*

**WQM Permit No. 4101404-T1**, Sewerage SIC 4952, **John Buehler, Jr.**, 565 Quaker State Rd., Montoursville, PA 17754. This proposed facility is located in Fairfield Township, **Lycoming County**.

Description of Proposed Action/Activity: Transfer of water quality management permit for single residence.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**NPDES Permit No. PA0096792**, Industrial Waste, **Metaltech, Inc.**, 2400 Second Avenue, Pittsburgh, PA 15219 is authorized to discharge from a facility located at Pittsburgh, City of Pittsburgh, **Allegheny County** to receiving waters named the Monongahela River.

**NPDES Permit No. PA0204897**, Industrial Waste, **Port Authority of Allegheny County**, 345 Sixth Avenue, 3rd Floor, Pittsburgh, PA 15222-2527 is authorized to discharge from a facility located at the Collier Garage, Collier Township, **Allegheny County** to receiving waters named Chartiers Creek.

**NPDES Permit No. PA0000914**, Sewage, **United States Department of Energy**, Pittsburgh Naval Reactors Office, 814 Pittsburgh-McKeesport Rd., West Mifflin, PA 15122-0109 is authorized to discharge from a facility located at Bettis Atomic Power Laboratory, West Mifflin, **Allegheny County** to receiving waters named Bull Run, Northeast Stream, Thompson Run.

**NPDES Permit No. PA0027219**, Sewage, **Greater Uniontown Joint Sewage Plant Authority**, 90 Romeo Lane, Uniontown, PA 15401 is authorized to discharge from a facility located at Uniontown STP, North Union Township, **Fayette County** to receiving waters named Redstone Creek.

**NPDES Permit No. PA0092363**, Sewage, **Fayette County Housing Authority**, 624 Pittsburgh Rd., Uniontown, PA 15401 is authorized to discharge from a facility located at Marion Villa STP, Washington Township, **Fayette County** to receiving waters named unnamed tributary of Downers Run.

**NPDES Permit No. PA0093882**, Sewage, **Port Authority of Allegheny County**, West Mifflin Garage, 1011 Lebanon Rd., West Mifflin, PA 15122 is authorized to discharge from a facility located at West Mifflin Garage, West Mifflin Borough, **Allegheny County** to receiving waters named Thompson Run tributary (Outfall 001) and tributary to Monongahela River (Outfall 002).

**Permit No. 0202403**, Sewerage, **Timothy Cook**, 1208 Highman St., 2nd Floor, Pittsburgh, PA 15205. Construction of Single Residence Sewage Treatment Plant located in Findlay Township, **Allegheny County** to serve Cook Residence.

**Permit No. 3201402**, Sewerage, **Burrell Township Sewer Authority**, 4345 Park Drive, Black Lick, PA 15716. Construction of Sanitary Sewers, Pump Station and Force Main located in Burrell Township, **Indiana County** to serve Palmerton Area, Phase II.

**Permit No. 5601405**, Sewerage, **Seven Springs Municipal Authority**, 290 Lagoon Lane, Champion, PA 15622. Construction of Sewer Extension and Pump Station located in Middlecreek Township, **Somerset County** to serve the Pheasant Run Subdivision.

*Northwest Region: Water Management Program Manager, 230 Chestnut St., Meadville, PA 16335-3481.*

**NPDES Permit No. PA0006351**, Industrial Waste, **AK Steel—Sawhill Tubular Division—Wheatland Plant**, 200 Clark St., P. O. Box 11, Sharon, PA 16146-2473. This proposed facility is located in Wheatland Borough, **Mercer County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to the Shenango River.

**NPDES Permit No. PA0091189**, Sewerage, **Slippery Rock Campground Association**, 1150 West Park Rd., Slippery Rock, PA 16507. This proposed facility is located in Worth Township, **Butler County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Slippery Rock Creek.

**NPDES Permit No. PA0027227-A1**, Sewerage Amendment, **City of Farrell**, 500 Roemer Boulevard, Farrell, PA 16121. This proposed facility is located in City of Farrell, **Mercer County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to the Shenango River.

**NPDES Permit No. PA0222208**, Sewerage, **Frank Fiamella Subdivision**, 3949 Knoyle Rd., Erie, PA 16510. This proposed facility is located in Greene Township, **Erie County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to an unnamed tributary of Four Mile Creek.

**NPDES Permit No. PA0210102**, Sewerage, **Brett C. Gassner**, 300 Gilkey Rd., West Middlesex, PA 16159. This proposed facility is located in Shenango Township, **Mercer County**.

Description of Proposed Action/Activity: This project is for a single residence.

**NPDES Permit No. PA0238716**, Sewerage, **Brett M. and Tricia M. Peterson**, 11432 Scotland Avenue, North East, PA 16428. This proposed facility is located in North East Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a single residence.

**WQM Permit No. 6102401**, Sewerage, **Borough of Rouseville**, 8 Main St., Box 317, Rouseville, PA 16344-0317. This proposed facility is located in Cornplanter Township, **Venango County**.

Description of Proposed Action/Activity: This project is for the replacement of the existing ejector station with a submersible triplex pump station.

**WQM Permit No. 2501425**, Sewerage, **Brett M. and Tricia M. Peterson**, 11432 Scotland Avenue, North East, PA 16428. This proposed facility is located in North East Township, **Erie County**.

Description of Proposed Action/Activity: This project is for a single residence.

**WQM Permit No. 1002405**, Sewerage, **Ralph J. and Terri N. Sterzinger**, 201 Gudekunst Rd., Zelienople, PA 16063. This proposed facility is located in Jackson Township, **Butler County**.

Description of Proposed Action/Activity: This project is for a single residence.

**WQM Permit No. 6202402**, Sewerage, **James Sturdevant**, 2056 Conewango Avenue, Warren, PA 16365. This proposed facility is located in Glade Township, **Warren County**.

Description of Proposed Action/Activity: This project is for a single residence.

#### **NPDES STORMWATER INDIVIDUAL PERMITS—(PAS)**

The following NPDES Individual Permits for Discharges of Stormwater Associated with Construction Activities have been issued.

Persons aggrieved by an 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 St., P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary 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 decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

*Southeast Region: Water Management Program Manager; Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

<i>NPDES Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10G482	Cornith Holdings, Inc. 2504 Rochelle Drive Fallston, MD 21417	Chester	Elk Township	Big Elk Creek (HQ, TSF, MF)
PAS10G493	Romeo and Rosalia Coscia 1464 Harkaway Lane Chester Spring, PA 19425	Chester	Warwick Township	South Branch French Creek (EV)
PAS10G507	Omega Partnership 104 Wooden Lane Villanova, PA 19085	Chester	East Goshen Township	West Branch Ridley Creek (HQ)
PAS10T099	Lejeune Properties, Inc. 4070 Butler Pike Plymouth Meeting, PA 19462	Montgomery	Upper Providence Township	Schuylkill River (HQ, TSF, WF)

### APPROVALS TO USE NPDES AND/OR OTHER GENERAL PERMITS

The following parties have submitted: (1) Notices of Intent for Coverage under (1) General NPDES Permits to Discharge Wastewater into the Waters of the Commonwealth. The approval for coverage under these general NPDES permits is subject to applicable effluent limitations. Monitoring, reporting requirements and other conditions set forth in the general permit; (2) General Permits for Beneficial Use of Sewage Sludge or Residential Septage by Land Application in this Commonwealth; (3) General NPDES Permit Authorizing the Discharge of Stormwater Associated with Construction Activities to Waters of the Commonwealth; (4) Notification for First Use Application of Sewage Sludge.

The approval of coverage for land application of sewage sludge or residential septage under these general permits is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. The Department of Environmental Protection approves the following coverage under the specific General Permit.

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

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

#### List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges From Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated With Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater From Industrial Activities
PAG-4	General Permit for Discharges From Single Residence Sewage Treatment Plant
PAG-5	General Permit for Discharges From Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges From Combined Sewer Systems (CSO)
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	Concentrated Animal Feeding Operations (CAFOs)

#### General Permit Type—PAG-2

Facility Location & Municipality	Permit No.	Applicant Name & Address	Receiving Water/Use	Contact Office & Telephone No.
Valley Township Chester County	PAR10G232	Calders Properties 400 West Germantown Pike Plymouth Meeting, PA 19462	Rock Run (TSF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
East Vincent Township Chester County	PAR10G470	East Vincent Recreation 211 Carter Drive West Chester, PA 19382	Tributary to French Creek (TSF, MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
City of Coatesville Chester County	PAR10G469	Coatesville Home 26 North 2nd Avenue Coatesville, PA 19320	West Branch Brandywine Creek (WWF, MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Lower Oxford Township Chester County	PAR10G460	Anthony Dambros 737 Northbrook Rd. Kennett Square, PA 19348	Leech Run/ Muddy Run (TSF, MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000



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<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Caln Township Chester County	PAR10G471	Chester County Intermediate Unit Educational Service Center 535 James Manor Court Exton, PA 19341-2547	UNT to East Branch Brandywine Creek (TSF, MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Tredyffrin Township Chester County	PAR10G459	Devon Square Shopping Center 259 Radnor-Chester Rd. Radnor, PA 19087	Little Darby Creek (CWF, MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
West Goshen Township Chester County	PAR10G473	Fern Hill Medical Campus 915 Old Fern Hill Rd. West Chester, PA 19380	Taylor Run (TSF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Pennsbury Township Chester County	PAR10G462	Chadds Ford Elementary School 740 Unionville Rd. Kennett Square, PA 19348	Ring Run (WWF, MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Pennsbury Township Chester County	PAR10G452	Crosslands Community Route 1, Box 100 Kennett Square, PA 19348	Bennett's Run (WWF, MF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Concord Township Delaware County	PAR10J231	Milrow Development Company 533 Glendale Rd. Havertown, PA 19083	Webb Creek (TSF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Trappe Borough Montgomery County	PAR10T768	Uniform Tubes, Inc. 200 West Seventh Avenue Collegeville, PA 19426	Tributary to Perkiomen Creek (TSF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Plymouth Township Montgomery County	PAR10T770	Kilduff Limited Partnership 550 Township Line Rd. Suite 500 Blue Bell, PA 19422	UNT to Plymouth Creek (WWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Whitemarsh Township Montgomery County	PAR10T743	Parec Homes 731 Skippack Pike Blue Bell, PA 19422	Plymouth Creek (WWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
City of Philadelphia Philadelphia County	PAR105341	Delaware Avenue Enterprises Christopher Columbus Boulevard and Bigler St. Philadelphia, PA 19101	Delaware River (WWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
City of Philadelphia Philadelphia County	PAR105343	Lebanon Pad, LP 444 Park Avenue South Suite 302 New York, NY 10016	Poquessing Creek (WWF)	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Carbon County Mahoning Township	PAR101333	Mahoning Municipal Authority 2685 Mahoning Drive East Lehighton, PA 18235	Mahoning Creek CWF Lehigh River CWF	Carbon County Conservation District (610) 377-4894
Lehigh County Upper Milford Township	PAR10Q165	Byron Ashbrook 2910 Lindberg Ave. Allentown, PA 18103	Perkiomen Creek CWF	Lehigh County Conservation District (610) 391-9583

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Lehigh County Lynn Township	PAR10Q146-1	Glen Smith P. O. Box 222 New Tripoli, PA 18066	Ontelaunee Creek CWF	Lehigh County Conservation District (610) 391-9583
Monroe County Smithfield Township	PAR10S031	Fox Chapel Subdivision Percudani House L.P. HC1, Box 1049 Tannersville, PA 1837	Sambo Creek CWF, MF	Monroe County Conservation District (570) 629-3060
Bradford County Towanda Borough Towanda Township	PAR100829	Towanda Area School District North Fourth St. Towanda, PA 18848	Susquehanna River WWF	Bradford County Conservation District R. R. 5, Box 5030C Stoll Natural Resource Center Towanda, PA 18848 (570) 265-5539
Centre County Burnside and Snow Shoe Townships	PAR10F157	Gulf USA Tract c/o Mid East Oil Co. 255 Airport Rd. Indiana, PA 15701	Little Sandy Run CWF	Centre County Conservation District 414 Holmes Ave., Suite 4 Bellefonte, PA 16823 (814) 355-6817
Spring Township Centre County	PAR10F158	Stonehenge Subdivision V R. R. 2, Box 362 Bellefonte, PA 16823	UNT Logan Branch CWF	Centre County Conservation District 414 Holmes Ave., Suite 4 Bellefonte, PA 16823 (814) 355-6817
Centre County College Township	PAR10F159	Pine Castle at Brookline Village 1940 Cliffside Dr. State College, PA 16801	Tributary to Slab Cabin Run CWF	Centre County Conservation District 414 Holmes Ave., Suite 4 Bellefonte, PA 16823 (814) 355-6817
Columbia County Town of Bloomsburg	PAR102152	Keystone Opportunity Zone Town of Bloomsburg 301 East 2nd St. Bloomsburg, PA 17815	Susquehanna River Basin CWF	Columbia County Conservation District 702 Sawmill Rd. Suite 105 Bloomsburg, PA 17815 (570) 784-1310
Erie County Harborcreek Township	PAR10K192	William Witkowski Troupe Rd. Warehousing 909 Troupe Rd. Harborcreek, PA 16421	Tributary to Six Mile Creek (CWF; MF)	Erie County Conservation District (814) 796-6700

*General Permit Type—PAG-3*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Lancaster County East Hempfield Township	PAR233533	Air Products and Chemicals, Inc. 7201 Hamilton Blvd. Allentown, PA 18195	UNT of West Branch of the Little Conestoga Creek TSF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Franklin County Waynesboro Borough	PAR113543	York International York Refrigeration (Frick) 631 South Richland Avenue York, PA 17405-1592	Antietam Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lancaster County East Hempfield Township	PAR203596	Fabral Inc. P. O. Box 4608 3449 Hempland Rd. Lancaster, PA 17601	Conestoga Creek TSF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

## NOTICES

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<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Bald Eagle Township Clinton County	PAR604835	Martin Motor Company 2512 Eagle Valley Rd. Mill Hall, PA 17751	UNT to Bald Eagle Creek CWF	Northcentral Regional Office Water Management Program 208 West Third St. Suite 101 Williamsport, PA 17701 (570) 327-3666
Marshall Township Allegheny County	PAR116123	Mitsubishi Electric Power Products Inc. 512 Keystone Drive Warrendale, PA 15086	Storm Retention to Brush Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222- 4745 (412) 442-4000
Findlay Township Allegheny County	PAR206124	Precision Kidd Steel Co. One Quality Way Aliquippa, PA 15001	Tributary to Montour Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222- 4745 (412) 442-4000
<i>General Permit Type—PAG-4</i>				
<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Bedford County Broad Top Township	PAG043689	Broad Top Township Shuke Residence 187 Municipal Rd. P. O. Box 57 Defiance, PA 16633-0057	Shermans Valley Run/ CWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Fairfield Township Lycoming County	PAG045120	John Buehler, Jr. 565 Quaker State Rd. Montoursville, PA 17754	UNT to Mill Creek (TSF)	Northcentral Regional Office Water Management Program 208 West Third St., Suite 101 Williamsport, PA 17701 (570) 327-3666
North Centre Township Columbia County	PAG044969	Albert E. Strausser 278 Eckroth Rd. Bloomsburg, PA 17815	Cabin Run CWF	Northcentral Regional Office Water Management Program 208 West Third St., Suite 101 Williamsport, PA 17701 (570) 327-3666
Findlay Township Allegheny County	PAG046249	Timothy Cook 1208 Highman St., 2nd Fl. Pittsburgh, PA 15205	Tributary to Potato Garden Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222- 4745 (412) 442-4000
Jackson Township Butler County	PAG048800	Ralph J. and Terri N. Sterzinger 201 Gudekunst Rd. Zelienople, PA 16063	Unnamed tributary to Glade Run	DEP—NWRO Water Management 230 Chestnut St. Meadville, PA 16335-3481 (814) 332-6942

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Glade Township Warren County	PAG048801	James Sturdevant 2056 Conewango Avenue Warren, PA 16365	Unnamed tributary to Hatch Run	DEP—NWRO Water Management 230 Chestnut St. Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-5*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Blair County Tyrone Borough	PAG053562	United Refining Co. of PA 11 Bradley St. Warren, PA 16365	Hutchinson Run to Little Juniata River WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

*General Permit Type—PAG-12*

<i>Facility Location &amp; Municipality</i>	<i>Permit No.</i>	<i>Applicant Name &amp; Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office &amp; Telephone No.</i>
Walmoore Holsteins Inc.  Unit 2—2196 Gap-Newport Pike Cochranville  Unit 3—345 East London Grove Rd. Chatham  Unit 4—2206 Gap-Newport Pike Cochranville  Londonberry Township Chester County Lancaster County Conoy Township	PAG120003        PAG123529	Walter T. Moore Box 158 1826 Howellmoore Rd. Chatham, PA 19318     Jay Deiter 2040 River Rd. Bainbridge, PA 17502	White Clay (3I) Watershed       Tributary to Susquehanna River WWF	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000     DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200

**PUBLIC WATER SUPPLY PERMITS**

The Department of Environmental Protection has taken the following actions on applications received under the Safe Drinking Water Act for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an 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 St., P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on

audiotape from the Secretary 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 decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**SAFE DRINKING WATER**

**Actions taken under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17).**

*Northeast Region: Water Supply Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Permit No. 5401505**, Public Water Supply.  
 Applicant **Hegins Township Water Authority**  
 Township Hegins and Hubley Townships  
 County **Schuylkill County**  
 Type of Facility PWS  
 Consulting Engineer Alfred Benesch & Company  
 400 One Norwegian Plaza  
 P. O. Box 1090  
 Pottsville, PA 17901  
 Permit to Construct February 12, 2002  
 Issued

**Operations Permit** issued to **Greenwaltz Water Company**, 2521 Delabole Rd., Bangor, PA 18013, PWS #3486479, Washington Township, **Northampton County**, on March 21, 2002, for the operation of facilities approved under Construction Permit #4801502.

*Northcentral Region: Water Supply Management Program Manager, 208 West Third St., Williamsport, PA 17701.*

**Permit No. Minor Amendment**. Public Water Supply.  
 Applicant **Wellsboro Municipal Authority**  
 28 Crafton St.  
 Wellsboro, PA 16901  
 Township Duncan Township  
 County **Tioga**  
 PWSID# 2590042  
 Type of Facility PWS—permit approving operation of Rock Run intake and metering pit.  
 Permit to Operate March 27, 2002  
 Issued

**WATER ALLOCATIONS**

**Actions taken on applications received under the Act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth.**

*Southwest Region: Water Supply Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**WA65-212C**, Water Allocations, **Latrobe Municipal Authority**, P. O. Box 88, Latrobe, PA 15650, Latrobe Borough, **Westmoreland County**. Grants the right to withdraw up to 7.0 million gallons per day (MGD), as a daily maximum, from the H.A. Stewart Reservoir on Trout Run and up to 4.0 MGD, as a daily maximum, from the Kingston Dam on Loyalhanna Creek, with a total combined withdrawal of up to 9.0 MGD, as a daily maximum, from the H. A. Stewart Reservoir (Trout Run) and Kingston Dam (Loyalhanna Creek).

**SEWAGE FACILITIES ACT PLAN APPROVAL**

**Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a).**

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Butler Township	415 West Butler Drive Drums, PA 18222	Luzerne

Plan Description: The Plan Update Revision's selected wastewater disposal alternative calls for the implementation of "Alternatives" 2, 7, 8, 13 and 14 as described in Chapter 5 of the Plan Update Revision.

The Plan Update Revision calls for the upgrade and expansion of the Butler Township Authority's (Authority) Drums Wastewater Treatment Facility from a permitted capacity of 0.4 MGD to 0.465250 MGD (Design Annual Average Flow) or 1.0 MGD (Design Maximum Monthly Flow). The Plan Update Revision also calls for the upgrade and expansion of the Authority's St. Johns Wastewater Treatment Facility from a permitted capacity of 0.6 MGD to 0.714100 MGD (Design Annual Average Flow) or 1.2 MGD (Design Maximum Monthly Flow). Both facilities will be converted to a Sequencing Batch Reactor configuration for treatment of the wastewater that they receive.

The Plan Update Revision's selected wastewater disposal alternative also calls for the installation of new sanitary wastewater collection systems to serve the following areas of Butler Township: Hashagen Manor (Area 1), Terrace Manor Estates (Area 2), Village of Upper Lehigh (Area 3), Walnut St. and Terrace Road Areas (Area 4) and the Macieunas Property (Area 9). Wastewater from the collection systems proposed for Areas 1, 2 and 9 will be conveyed to the Drums Wastewater Treatment Facility for treatment and discharge. Wastewater from the collection systems proposed for Areas 3 and 4 will be conveyed through existing and proposed portions of the Foster Township and Freeland Municipal Authority's Wastewater Collection Systems. Wastewater from these two areas will be conveyed ultimately to the Freeland Municipal Authority's Wastewater Treatment Facility for treatment and discharge.

The Plan Update Revision's selected wastewater disposal alternative also calls for all areas not currently served or those proposed to be served by centralized wastewater collection, conveyance and treatment systems in the Plan Update Revision, to continue to use onlot wastewater disposal systems as their approved method of wastewater disposal. These areas will also be governed by the requirements of the Sewage Management Program as proposed in Appendix P of the Plan Update Revision.

Implementation of the selected wastewater disposal alternative and operation of the existing and proposed facilities will be performed by the Authority with the cooperation of Butler Township, the Borough of Freeland, Foster Township and the Freeland Municipal Authority.

Financing of the proposed wastewater collection, conveyance and treatment systems is to be provided by the Pennsylvania Infrastructure Investment Authority.

Implementation of the selected wastewater disposal alternative will require NPDES Permits for the proposed increases in treated effluent discharge from the Drums and St. Johns Wastewater Treatment Facilities. These permit applications must be submitted in the name of the Authority. The proposed projects will also require a Water Management Part II Permit for the construction and operation of the proposed sewage facilities. This permit application must also be submitted in the name of the Authority. The Department's review has also not identified any significant environmental impacts resulting from this proposal.

## HAZARDOUS SITES CLEANUP ACT UNDER THE ACT OF OCTOBER 18, 1988

### Notice of Interim Response

#### Algonquin Chemical Company Site Hamburg Borough and Windsor Township, Berks County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.102—6020.1303) is initiating an interim response at the Algonquin Chemical Company Site (Site) located in Hamburg Borough and Windsor Township, Berks County, PA.

The Site is located in the southern section of Hamburg Borough and partially in Windsor Township, Berks County, PA. The Site address is P. O. Box 288, Hamburg, PA 19526. The Site property is approximately 1-3/4 miles south of the intersection of Routes 78 and 61 and is situated approximately 100 yards west of Route 61 South.

The Algonquin Chemical Company (ACC) was incorporated in 1953 and began operations at this site in the early 1970s. The facility manufactured solvents, degreasers, lubricants, oils and soaps from bulk materials. The manufactured materials were sold for agricultural, industrial, commercial and consumer uses. The bulk materials were shipped to the site in either 55-gallon drums or by tank truck. ACC ceased operations in February 1991.

Site characterization studies by the Department identified soil contamination in distinct areas throughout the Site property and under the former building foundation. These studies also detected groundwater contamination beneath the Site. Site soils contain VOCs and metals above regulatory standards and Site groundwater contains VOCs above regulatory standards. VOC and metal contamination above regulatory standards include tetrachloroethylene, trichloroethylene, 1,1-dichloroethylene, 1,2-dichloroethylene, vinyl chloride, 1,1,1-trichloroethane, 1,2-dichloroethane, dichloromethane (methylene chloride), lead, arsenic and selenium.

The present concentrations of VOCs and metals in soil and groundwater create a substantial threat to the public health and safety via an ingestion, inhalation and direct contact pathways. The soil-VOCs also provide a direct area for continued contamination of the groundwater.

The Department has considered three alternatives for a Site response. The following are brief descriptions of these alternatives.

1. *Contaminated Soil Removal and Disposal*—This alternative involves excavating contaminated soil, providing for proper characterization of excavated soil for disposal and or treatment, replacing excavated areas with uncontaminated off-Site soil to grade and vegetation of new soil where appropriate.

2. *In situ Treatment of Site Groundwater*—This alternative provides for the injection of compounds into Site wells and additional Site injection points. The injection program will reduce existing VOC groundwater contamination to below regulatory standards.

3. *Groundwater Extraction and Treatment*—This alternative provides for the removal of groundwater, treatment of groundwater VOC constituents by forcing air into the extracted groundwater, capturing the VOCs and discharging the treated water to an existing surface waterway.

The Department has chosen to implement Alternatives 1 and 2. Both comply with applicable, relevant and appropriate requirements, will reduce hazardous constituent concentrations below regulatory standards and are cost effective. These alternatives are protective of human health and the environment by eliminating the risk from further release of hazardous substances at the Site.

The Department is providing this notice under sections 505(b) and 506(b) of HSCA (35 P. S. §§ 6020.505(b) and 6020.506(b)) and the publication of this notice starts the administrative record period under HSCA. The Administrative Record which contains information about this site and which supports the Department's decision to perform this action at the site is available for public review and comment. The Administrative Record can be examined from 8 a.m. to 4 p.m. at the Department's Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110, by contacting Crystal Snook at (717) 705-6645. The Administrative Record can also be reviewed at the Department's Reading District Office, 1005 Crossroads Boulevard, Reading, PA 19605 from 8 a.m. to 4 p.m. by contacting Donna Good at (610) 916-0100.

The Administrative record will be open for comment from the date of publication of this notice in the *Pennsylvania Bulletin* and will remain open for 90 days. Persons may submit written comments regarding this action to the Department before July 13, 2002, by mailing them to Crystal Snook at the previous address.

The public will have an opportunity to present oral comments regarding the proposed action at a public hearing. The hearing has been scheduled for May 21, 2002, at 7 p.m. at the Hamburg Middle School, Windsor Street, Hamburg, PA. Persons wishing to present formal oral comment at the hearing should register before 4 p.m., May 16, 2002, by calling Sandra Roderick at (717) 705-4931.

If no person registers to present oral comments by May 16, 2002, the hearing will not be held, but will be replaced with an informational meeting. Persons interested in finding out if the hearing will be held should also contact Sandra Roderick.

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 call Sandra Roderick at the previous phone number or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

#### Notice of Prompt Interim Response Bear Creek Area Chemical Site Fairview and Parker Townships, Butler County Perry Township, Armstrong County

The Department, under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.101—6020.1305) has initiated a prompt interim response at the Bear Creek Area Chemical Site (site). This response has been initiated under sections 501(a) and 505(b) of the HSCA (35 P. S. §§ 6020.501(a) and 6020.505(b)). The site includes, among other things, at least 14 areas where the Department knows or has evidence to suggest that industrial wastes were historically disposed and the surface water, groundwater, soils and sediments that have been contaminated from hazardous substances and contaminants that have migrated from the disposal areas. The individual disposal areas are located in Concord, Fairview and Parker Townships, Butler County and Perry Township, Armstrong County. A more detailed description of

the location for each of the 14 individual disposal areas is located in the administrative record compiled for this response.

The following hazardous substances have been found at one or more disposal areas at the site: resorcinol, xylene, benzene, acetone, phenols, formaldehyde, chloromethane, bromomethane, methyl ethyl ketone, carbon disulfide, trichloroethane, ethyl benzene, nickel, lead, chromium, copper, aluminum sulfate and arsenic.

Additionally, the following contaminants have been detected in waste and environmental media at most of the disposal areas: meta-benzene disulfonic acid, benzene sulfonic acid (BSA), para-phenol sulfonic acid and calcium petronate/KSS.

The Department has observed that when one or more of the previous contaminants have been detected in ground-water or surface water (such as a spring), then resorcinol and occasionally one or more of the other previously-listed hazardous substances, have been detected as well (either at a later time in the same well or spring or in samples collected from nearby wells or springs). Thus, where a release of contaminants has been confirmed but no release of resorcinol or the other previously-listed hazardous substances has yet been established, a threat of release of hazardous substances exists.

Approximately 45% of the more than 280 private residential, institutional and business water supply wells that have been sampled within the site have been found to contain resorcinol or one or more of the contaminants. Resorcinol and the contaminants have been detected in the groundwater, surface water and springs over a wide geographical area.

To date, no peer-reviewed, health or environmental agency-approved health-based advisory levels or maximum contaminant levels exist for resorcinol and the previously-mentioned site-related contaminants for water or soils. Accordingly, the risks associated with the presence of these compounds in drinking water are not known. Further, the Department can not conclude that the presence of these substances does not threaten human health and the environment. As a result, the Department has decided that a response action is appropriate to protect public health and safety. For this prompt interim response, the Department considered two alternatives for the site:

*Alternative 1*—No action with ongoing monitoring.

*Alternative 2*—Provide alternative, potable water to residences, institutions and businesses whose water supplies have been impacted or are at risk of being impacted by site-related hazardous substances and associated contaminants.

Each alternative was evaluated with respect to three comparison criteria: 1) effectiveness; 2) implementability; and 3) cost. Furthermore, this comparative analysis evaluated the relative performance of each alternative in relation to each specific comparison criterion. The comparative analysis identified advantages and disadvantages of each alternative, so that tradeoffs between the alternatives could be determined.

Based on the comparative analysis the Department chose to implement *Alternative 2*—the provision of potable water to residences, institutions and businesses whose water supplies have been impacted or are at risk of being impacted by site-related hazardous substances and associated contaminants. This alternative was selected

because it protects, in the most cost-effective manner, the public from ingesting site-related hazardous substances.

This notice is being provided under section 506(b) of HSCA. The administrative record, which contains the information that forms the basis and documents the selection of this response, is available for public review and comment. The administrative record is located at the Department's Northwest Regional Office, 230 Chestnut St., Meadville, PA 16335 and is available for review Monday through Friday from 8 a.m. to 4 p.m. For an appointment, telephone the office at (814) 332-6648.

The administrative record will be open for comment from April 13, 2002, until July 12, 2002. Persons may submit written comments into the record, during this time only, by sending them to Chuck Tordella, Project Manager, Northwest Regional Office, 230 Chestnut St., Meadville, PA 16335 or by delivering them to the office in person. In addition, persons may present oral comments, for inclusion in the administrative record, at a public hearing and informational meeting scheduled for 6 p.m. on May 22, 2002, at the Petrolia Fire Department Social Hall, 200 Argyle St., Petrolia, PA 16050. Persons wishing to present comments can either register with Freda Tarbell at the Department's Northwest Regional Office, (814) 332-6945, in writing or sign in at the meeting to offer formal comments. Persons with a disability who wish to attend the meeting and require auxiliary aid, service or other accommodations to participate in the proceedings, should call Freda Tarbell or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

**The following final reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (Act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of final reports. A final report is submitted to document cleanup of a release of a regulated substance at a site where one of the Act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected.

For further information concerning the final report, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice of receipt of a final report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

*Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**Precision Finishing, Inc.**, Sellersville Borough, **Montgomery County**. Hudson S. Green, Jr., Earth Data Northeast, Inc., 924 Springdale Dr., Exton, PA 19341, on behalf of Precision Finishing, Inc., 708 Lawn Ave., Sellersville, PA 18960, has submitted a Final Report concerning remediation of site soil and groundwater contaminated with lead and heavy metals. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**WXIII/PHL Read Estate Limited Partnership (RELP)**, City of Philadelphia, **Philadelphia County**. Randall T. Geis, Sovereign Consulting, Inc., 111-A N. Gold Dr., Robbinsville, NJ 08691, on behalf of WXIII/PHL RELP, 600 E. Las Colinas Blvd., Irving, TX 75039, has submitted a Final Report concerning remediation of site soil contaminated with BTEX, polycyclic aromatic hydrocarbons and solvents. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Sunoco, Inc. (R&M), Philadelphia Refinery—Girard Point Processing Area**, City of Philadelphia, **Philadelphia County**. Sharon H. Roberts, URS Corp., 2325 Maryland Rd., 2nd Floor, Willow Grove, PA 19090, on behalf of Sunoco, Inc. (R&M), 3144 Passyunk Ave., Philadelphia, PA 19145, has submitted a combined Remedial Investigation Report, Risk Assessment Report and Cleanup Plan concerning remediation of site soil contaminated with PCBs, lead, heavy metals, BTEX, petroleum hydrocarbons, polycyclic aromatic hydrocarbons, solvents, pesticides and MTBE; and site groundwater contaminated with lead, heavy metals, BTEX, petroleum hydrocarbons, polycyclic aromatic hydrocarbons and MTBE.

*Northeast Regional Field Office, Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**Crown America—Wyoming Valley Mall**, Wilkes-Barre Township and Wilkes-Barre City, **Luzerne County**. Jo Hinish, P.G., Chief Hydrogeologist, Mountain Research, Inc., 825 25th St., Altoona, PA 16601 has submitted a Final Report (on behalf of Crown America Properties, L.P., Pasquerilla Plaza, Johnstown, PA 15907) concerning the remediation of soils and groundwater found or suspected to have been contaminated with lead and other metals, solvents, benzene and other VOCs and polycyclic aromatic hydrocarbons. The report was submitted to demonstrate attainment of the Statewide health standard.

**Dyno Nobel Inc. (former IRECO Inc. site)**, Pittston Township, **Luzerne County**. Glenn Randall, Senior Project Manager, URS Corporation, 1400 Union Meeting Rd., Suite 202, Blue Bell, PA 19422 has submitted a Remedial Investigation Report (on behalf of Dyno Nobel, 50 S. Main St., Salt Lake City, UT 84144) concerning the characterization of site soils and groundwater found or suspected to have been contaminated with lead and soils found or suspected to have been contaminated with sulfate, ethylene glycol dinitrate and other metals. The report was submitted in partial fulfillment of a combination of both the Statewide health and site-specific standards.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third St., Williamsport, PA 17701.*

**Dominion (formerly CNG) Transmission—Harrison**, Harrison Township, **Potter County**. Dominion

Resource Services, Inc., 625 Liberty Avenue, Pittsburgh, PA 15222 has submitted a Final Report concerning remediation of site soil contaminated with lead, heavy metals and PHCs. The Final Report is intended to document remediation of the site to meet the Statewide Health Standard.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**LTV Southside—FBI Office (soil only)**, City of Pittsburgh, **Allegheny County**. Martin Knuth, Civil & Environmental Consultants, Inc., 333 Baldwin Rd., Pittsburgh, PA 15205 (on behalf of Urban Redevelopment Authority, 200 Ross St., Pittsburgh, PA 15219 and Oxford Development Company, One Oxford Centre, Suite 4500, Pittsburgh, PA 15219) has submitted a Final Report concerning remediation of site soil contaminated with PCBs, heavy metals, PHCs and PAHs. The report is intended to document remediation of the site to meet the Site Specific 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).**

Provisions of 25 Pa. Code § 250.8, Administration of the Land Recycling and Environmental Remediation Standards Act (Act) requires the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of its final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the Act. Plans and reports required by provisions of the Act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. A cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program Manager in the Department Regional Office under which the notice of the plan or report appears. If information concerning a final report is required in an alternative



form, contact the Community Relations Coordinator at the appropriate Regional Office listed. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following final reports:

*Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**South Brunswick Industrial Properties, L.P. and WFP Pennland Co., L.P.**, Upper Dublin Township, **Montgomery County**. Gerald Ahnell, Hydro-Geo Services, Inc., 1542 Bridge St., New Cumberland, PA on behalf of South Brunswick Industrial Properties, L.P. and WFP Pennland Co., L.P., 455 Pennsylvania Ave., Suite 125, Ft. Washington, PA 19034, has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with solvents. The Final report demonstrated attainment of Statewide Health and Background Standards and was approved by the Department on March 4, 2002.

**Former MGP, PECO Energy Company Oreland**, Springfield Township, **Montgomery County**. Allan Fernandes, P.G., Environmental Affairs Dept., PECO Energy Co., 2301 Market St., S21-2, P. O. Box 8699, Philadelphia, PA 19101-8699, has submitted combined Remedial Investigation/Risk Assessment/Cleanup Plan concerning the remediation of site soil and groundwater contaminated with lead, heavy metals, BTEX and polycyclic aromatic hydrocarbons. The combined report was approved by the Department on March 5, 2002.

**Lehigh Valley Dairies, Inc.**, Upper Gwynedd and Towamencin Townships, **Montgomery County**. David Kile, Applied Engineering & Science, Inc., 2261 Perimeter Park Dr., Atlanta, GA 30341, on behalf of Tuscan/Lehigh Dairies, LP, Union, NJ 07083, has submitted a Final Report concerning the remediation of site groundwater contaminated with BTEX, polycyclic aromatic hydrocarbons and MTBE. The report demonstrated attainment of the Statewide Health Standard and was approved by the Department on March 11, 2002.

**Kellers Creamery**, Franconia Township, **Montgomery County**. Peter A. Malik, III, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, on behalf of Sodiaal North American Corp., E. King St., Strasburg, VA 22657, has submitted a Final Report concerning remediation of site groundwater contaminated with lead, BTEX and solvents. The report demonstrated attainment of the Statewide Health Standard and was approved by the Department on March 11, 2002.

*Northeast Region: Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.*

**Luzerne County Transportation Authority—Lead Remediation Project**, Kingston Borough, **Luzerne County**. Martin Gilgallon, P.G., Project Hydrogeologist, PA Tectonics, Inc., 333 Enterprise St., Dickson City, PA 18519 submitted a Final Report (on behalf of Luzerne County Transportation Authority, 315 Northampton St., Kingston, PA 18704) concerning the remediation of soils found or suspected to have been contaminated with lead. The report demonstrated attainment of the Statewide health standard and was approved on March 20, 2002.

**Larry Greenburg Property**, North Whitehall Township, **Lehigh County**. LMS Engineers, LLP, The Sovereign Building, 609 Hamilton Mall, Allentown, PA 18101 submitted a Final Report (on behalf of Larry Greenburg, Paradise Rd., Slatington, PA) concerning the remediation of soils contaminated with no. 2 home heating oil constituents. The report demonstrated attainment of the Statewide health standard and was approved on March 25, 2002.

*Northcentral Region: Environmental Cleanup Program Manager, 208 West Third St., Williamsport, PA 17701.*

**DuBois Bulk Plant (Petrolec)**, City of DuBois, **Clearfield County**. Environmental Remediation & Recovery, Inc. (ER&R), on behalf of Russell Real Estate, R. D. 1, Box 179, Curwensville, PA 16833, has submitted a Baseline Environmental Report concerning site soil and groundwater contaminated with BTEX and PAHs. The Baseline Environmental Report was approved by the Department on March 19, 2002.

*Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**World Class Processing Corporation**, Borough of Ambridge, **Beaver County**. Rod Shaver, ALTECH Environmental Consulting Ltd., 12 Banigan Drive, Toronto, Ontario, Canada M4H 1E9 (on behalf of World Class Processing Corp., 21 Century Drive, Ambridge, PA 15003) has submitted a Final Report concerning the remediation of site soil contaminated with lead. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on February 27, 2002.

**Fourway Properties—Breezewood Development Area 1**, Moon Township, **Allegheny County**. John P. Englert, Kirkpatrick & Lockhart, LLP, 535 Smithfield St., Pittsburgh, PA 15222 (on behalf of Fourway Properties, L.P., 198 Mulberry St., Bridgewater, PA 15009) has submitted a Final Report concerning the remediation of site soil contaminated with solvents. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on February 27, 2002.

**Weiss Bothers Property (Former)**, City of McKeesport, **Allegheny County**. Charles Haefner, KU Resources, Inc., Business Innovation Center, Suite 207, One Library Place, Duquesne, PA 15110 (on behalf of GLS Development, Inc., 460 E. Pittsburgh-McKeesport Blvd., North Versailles, PA 15137) has submitted a Remedial Investigation Report, Baseline Risk Assessment and Cleanup Plan concerning the remediation of site soil and groundwater contaminated with lead, heavy metals, BTEX, solvents, SVOCs and VOCs. The Remedial Investigation Report, Baseline Risk Assessment and Cleanup Plan was approved by the Department on February 26, 2002.

**6260 Broad Street**, City of Pittsburgh, **Allegheny County**. William G. Weir, Civil & Environmental Consultants, Inc., 333 Baldwin Rd., Pittsburgh, PA 15205 and Plumbers Equipment Company, 8150 North Lehigh St., Morton Grove, IL 60053 (on behalf of URA of Pittsburgh, 200 Ross St., Pittsburgh, PA 15219) has submitted a Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with PAHs and solvents. The Remedial Investigation Report was approved by the Department on March 5, 2002.

**Fourway Properties—Breezewood Development Area 1**, Moon Township, **Allegheny County**. John P.

Englert, Kirkpatrick & Lockhart, LLP, 535 Smithfield St., Pittsburgh, PA 15222 (on behalf of Fourway Properties, L.P., 1198 Mulberry St., Bridgewater, PA 15009) has submitted a Final Report concerning the remediation of site soil contaminated with solvents. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on February 27, 2002.

**Shiffler Steel Site (Former)**, City of Pittsburgh, **Allegheny County**. William G. Weir, Civil & Environmental Consultants, Inc., 333 Baldwin Rd., Pittsburgh, PA 15220 (on behalf of The Rubinoff Company, 503 Martindale St., Pittsburgh, PA 15212 has submitted a Remedial Investigation Report concerning the remediation of site soil and groundwater contaminated with lead, PHCs, PAHs and solvents. The Remedial Investigation Report was approved by the Department on January 14, 2002.

**Nine Mile Run Slag Disposal Site**, City of Pittsburgh, **Allegheny County**. Mulugetta Birru (on behalf of Urban Redevelopment Authority and the City of Pittsburgh, 200 Ross St., Pittsburgh, PA 15219) has submitted a Risk Assessment Report concerning the remediation of site slag and groundwater contaminated with lead, heavy metals and high pH. The Risk Assessment Report was approved by the Department on March 19, 2002.

**Pittsburgh Tube Company Facility (Former)**, City of Monaca, **Beaver County**. William G. Weir, Civil & Environmental Consultants, Inc., 333 Baldwin Rd., Pittsburgh, PA 15205 (on behalf of Beaver County Corporation for Economic Development, 250 Insurance St., Suite 300, Beaver, PA 15009 and Pittsburgh Tube Company, 600 Clubhouse Drive, Suite 200, Moon Township, PA 15108-3195) has submitted a Cleanup Plan concerning the remediation of site soil and groundwater contaminated with PCBs, lead, heavy metals, solvents, antimony, arsenic, copper and selenium. The Cleanup Plan was approved by the Department on March 22, 2002.

#### HAZARDOUS WASTE TRANSPORTER LICENSE

**Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.**

*Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

*Hazardous Waste Transporter License Renewed*

**Dalmatian, Inc.**, P. O. Box 1147, Hebron, OH 43025. License No. **PA-AH 0653**. Effective March 28, 2002.

**Price Trucking Corp.**, P. O. Box 70, 67 Beacon St., Buffalo, NY 14220. License No. **PA-AH 0371**. Effective March 22, 2002.

**Safety-Kleen Services (Quebec) LTD.**, 6785 Rt. 132, St. Catherine, PQ J0L 1E0. License No. **PA-AH0403**. Effective March 21, 2002.

**Waste Management New England Environmental Transport, Inc.**, P. O. Box 144, Portland, CT 06480-0144. License No. **PA-AH 0664**. Effective March 19, 2002.

**Safety-Kleen Canada, Inc.**, 300 Woolwich Rd., Breslau, ON N0B 1M0. License No. **PA-AH 0517**. Effective March 19, 2002.

**Safety-Kleen LTD**, 4090 Telfer Rd., Corunna, ON N0N 1G0. License No. **PA-AH 0523**. Effective March 19, 2002.

#### HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

**Permit issued, suspended, expired, denied, revoked, reinstated or returned under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage or Disposal Facility.**

*Northcentral Region: Regional Solid Waste Manager, 208 West Third St., Williamsport, PA 17701.*

**PAD003053758. Bethlehem Steel Corporation**, Williamsport, Lycoming County. Permit modification issued on March 27, 2002.

#### 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.**

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit No. 300809** was reissued with a change of ownership from West Penn Power d/b/a Allegheny Power to **Allegheny Energy Supply Company, LLC** for the Mitchell Power Station Solid Waste Disposal Facility in Union Township, **Washington County**. This modification also modifies the Waste Acceptance Plan to allow acceptance of fly ash and bottom ash from Hatfield's Ferry Power Station, located in Monongahela Township, Greene County. Permit issued in the Regional Office on March 28, 2002.

**Permit No. 300370** was reissued with a change of ownership from West Penn Power d/b/a Allegheny Power to **Allegheny Energy Supply Company, LLC** for the Hatfield's Ferry Power Station Solid Waste Disposal Facility in Monongahela Township, **Greene County**. This modification also modifies the Waste Acceptance Plan to allow acceptance of fly ash and bottom ash from Mitchell Power Station, located in Union Township, Washington County. Permit issued in the Regional Office on March 28, 2002.

#### AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Contact: Thomas Barsley, Chief, (215) 685-9428.*

**01104 and 01105: Mercy Hospital of Philadelphia** (501 South 54th St., Philadelphia, PA 19143) for installing low NOx burners on two boilers in the City of Philadelphia, **Philadelphia County**.

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**Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.**

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*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.*

**09-0150: Rotoflex Tech, Inc.** (180 Penn Am Drive, Quakertown, PA 18951) on March 28, 2002, for operation of a chrome plating process in Richland Township, **Bucks County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.*

**06-05087A: Haines and Kibblehouse, Inc.** (P. O. Box 196, Skippack, PA 19474) on March 27, 2002, for installation of a fabric collector to control the emissions from an asphalt plant in Colebrookdale Township, **Berks County**.

**21-05064B: Atlas Roofing Corp.** (802 Highway 19 North, Suite 190, Meridian, MS 39307) for installation of a regenerative thermal oxidizer to control VOC emissions from the foam laminator operation at its polyisocyanurate foam manufacturing facility in Camp Hill Borough, **Cumberland County**.

**38-03036A: Cargill, Inc.** (320 North 16th St., Lebanon, PA 17046) on March 26, 2002, for construction of a baghouse aspiration system for grain cleaning at its animal nutrition plant in the City of Lebanon, **Lebanon County**.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Contact: Thomas Barsley, Chief, (215) 685-9428.*

**00184: Sunoco, Inc. (R&M)** (3144 Passyunk Avenue, Philadelphia, PA 19145) to upgrade feed nozzles, install a vapor quench system and modify the recovery system of the 868 Fluid Catalytic Cracking Unit and increase throughput from 40,000 barrels to 47,500 barrels per day in Philadelphia, **Philadelphia County**.

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**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.*

**15-0067B: Herr Foods, Inc.** (273 Old Baltimore Pike, Nottingham, PA 19362) on March 26, 2002, for operation of potato chip line no. 3 in West Nottingham Township, **Chester County**.

**46-0081B: Markel Corp.** (416 School Lane, Norristown, PA 19404) on March 26, 2002, for operation of two horizontal extruders in Plymouth Township, **Montgomery County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.*

**67-02004: P. H. Glatfelter Co.** (228 South Main St., Spring Grove, PA 17362) on March 15, 2002, for operation of three power boilers controlled by an electrostatic precipitator, a lime calciner controlled by a Venturi scrubber and a softwood fiber line and causticizing area controlled by a regenerative thermal oxidizer in Spring Grove Borough, **York County**. This plan approval was extended.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.*

**03-00207A: Hanson Aggregates PMA, Inc.** (400 Industrial Boulevard, New Kensington, PA 15068) on March 26, 2002, for operation of diesel engines, generators and tanks in Gilpin Township, **Armstrong County**. This plan approval was extended.

**32-00297C: Creps United Publications** (1163 Water St., P. O. Box 746, Indiana, PA 15701) on March 25, 2002, for construction of a thermal oxidizer in White Township, **Indiana County**. This plan approval was extended.

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**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.**

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*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.*

**01-03010: Dal-Tile Corp.** (211 North Fourth St., Gettysburg, PA 17325-1694) on March 28, 2002, for operation of its ceramic floor and wall tile manufacturing facility in Gettysburg Borough, **Adams County**.

**01-03011: Dal-Tile Corp.** (211 North Fourth St., Gettysburg, PA 17325-1694) on March 28, 2002, for operation of its ceramic floor and wall tile manufacturing facility in Bendersville Borough, **Adams County**.

**36-05109: Amerimax Home Products, Inc.** (P. O. Box 4515, Lancaster, PA 17604) on March 28, 2002, for operation of its fabricated metal products facility in East Hempfield Township, **Lancaster County**.

**36-05115: MGS, Inc.** (178 Muddy Creek Church Rd., Denver, PA 17517) on March 28, 2002, for construction of a surface coating and curing system in East Cocalico Township, **Lancaster County**.

**38-05020: G and H Fortyniners, Inc. d/b/a Keystone Protein Co.** (P. O. Box 37, Fredericksburg, PA 17026) on March 27, 2002, for operation of the boilers and rendering system in Bethel Township, **Lebanon County**.

**50-03003: Newport School District** (P. O. Box 9, Newport, PA 17074) on March 25, 2002, for operation of two coal-fired boilers at Newport Elementary School in Newport Borough, **Perry County**.

**50-05003: Newport School District** (P. O. Box 9, Newport, PA 17074) on March 25, 2002, for operation of two coal-fired boilers at Newport High School in Newport Borough, **Perry County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.*

**65-00219: Jeannette City School District** (Park Street, Jeannette, Westmoreland County) on March 28, 2002, a renewal for operation of a boiler in Jeannette City, **Westmoreland County**.

**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Contact: Edward Braun, Chief, (215) 685-9476.*

**96-046: National Publishing Co.** (11311 Roosevelt Boulevard, Philadelphia, PA 19154) administratively amended on April 1, 2002, to remove a 10 mmBtu/hr boiler which has been dismantled and completely removed from the facility and to correct typographical errors including the renewal application fee from \$300 to \$375 and the amount of discharge of any organic material from any machine used for employing any photochemically reactive solvent per Air Management Regulation V. Sec. VI.B from 15 pounds per day to 40 pounds per day at their facility in the City of Philadelphia, **Philadelphia County**. The Natural Minor operating permit was originally issued on January 31, 2000.

**95-044: Kinder Morgan Liquids Terminals, LLC** (Allegheny Avenue and Delaware River, Philadelphia, PA 19134) administratively amended on March 27, 2002, to change the ownership of the facility from GATX Terminals Corporation and to change the responsible official for their plant in the City of Philadelphia, **Philadelphia County**. The Title V operating permit was originally issued on September 6, 2001.

**95-051: Sunoco Partners Marketing and Terminals L.P.—Belmont Terminal** (2700 Passyunk Avenue, Philadelphia, PA 19145) administratively amended on March 27, 2002, to change the ownership of the facility from Sunoco, Inc. (R&M) in the City of Philadelphia, **Philadelphia County**. The Title V operating permit was originally issued on December 14, 1999.

**ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS**

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

*Coal Permits Actions*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**49871601R2. Calvin V. Lenig Coal Prep & Sales, Inc.** (R. R. 1 Box 330, Shamokin, PA 17872), renewal of an anthracite coal preparation operation in Little Mahanoy Township, **Northumberland County** affecting

3.2 acres, receiving stream: none. Application received March 27, 2001. Renewal issued March 27, 2002.

*Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.*

**30980101. Coresco, Inc.** (P. O. Box 1209, Morgantown, WV 26507). Permit revised to add 48.4 acres to the permit area at a bituminous surface mine located in Dunkard Township, **Greene County**, now affecting 148.4 acres. Receiving streams: unnamed tributary of Dunkard Creek and Crooked Run. Application received October 30, 2001. Revised permit issued March 28, 2002.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**10900109 and NPDES Permit No. PA0208141. Rosebud Mining Company** (R. D. 9, Box 379A, Kittanning, PA 16201) Renewal of an existing bituminous strip and auger operation in Fairview Township, **Butler County** affecting 120.3 acres. This renewal is issued for reclamation only. Receiving streams: Two unnamed tributaries to South Branch Bear Creek. Application received December 31, 2001. Permit issued March 20, 2002.

**10010107 and NPDES Permit No. PA0241920. Ben Hal Mining Company** (389 Irishtown Rd., Grove City, PA 16127) Commencement, operation and restoration of a bituminous strip operation in Washington Township, **Butler County** affecting 20.5 acres. Receiving streams: unnamed tributary No. 2 to South Branch Slippery Rock Creek. Application received July 10, 2001. Permit issued March 22, 2002.

*Noncoal Permits Actions*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**5176SM6C3 and NPDES Permit #PA0593761. American Asphalt Paving Co.** (500 Chase Rd., Shavertown, PA 18708), renewal of NPDES Permit in Falls Township, **Wyoming County**, receiving stream: unnamed creek to Susquehanna River. Application received February 28, 2002. Renewal issued March 25, 2002.

**58010855. Thomas J. Reilly and Joseph Panzitta** (222 Wyoming Avenue, West Pittston, PA 18643), commencement, operation and restoration of a quarry operation in Oakland Township, **Susquehanna County**, affecting 5.0 acres. Receiving stream: none. Application received December 31, 2001. Permit issued March 25, 2002.

**4875SM1A1C3 and NPDES Permit #PA0612227. Glen-Gery Corporation** (P. O. Box 7001, Wyomissing, PA 19610-6001), renewal of NPDES Permit in York Township, **York County**, receiving stream: unnamed tributary to Mill Creek. Application received February 11, 2002. Renewal issued March 26, 2002.

**40020801. Dallas Nursery** (R. R. 5 Box 120, Dallas, PA 18612-9160), commencement, operation and restoration of a quarry operation in the City of Nanticoke, **Luzerne County** affecting 5.0 acres, receiving stream: none. Application received January 28, 2002. Permit issued March 29, 2002.

**64022801. Tompkins Bluestone Co., Inc.** (P. O. Box 776, Hancock, NY 13783), commencement, operation and restoration of a quarry operation in Buckingham Township, **Wayne County** affecting 4.0 acres, receiving stream: none. Application received January 31, 2002. Permit issued March 29, 2002.

**ACTIONS ON BLASTING ACTIVITY  
APPLICATIONS**

**Actions on applications under the Explosives Acts of 1937 and 1957 (43 P. S. §§ 151—161); and 25 Pa. Code § 211.124 (relating to blasting activity permits). Blasting activity performed as part of a coal or noncoal mining activity will be regulated by the mining permit for that coal or noncoal mining activity.**

*Blasting Permits Actions*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**06024007. Schlouch, Inc.** (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting in Amity Township, **Berks County** with an expiration date of October 7, 2002. Permit issued March 26, 2002.

**06024008. Schlouch, Inc.** (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting in Exeter Township, **Berks County** with an expiration date of October 8, 2002. Permit issued March 26, 2002.

**06024009. Schlouch, Inc.** (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting in Exeter Township, **Berks County** with an expiration date of December 31, 2002. Permit issued March 26, 2002.

**06024010. Schlouch, Inc.** (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting in Amity Township, **Berks County** with an expiration date of December 12, 2002. Permit issued March 26, 2002.

**21024018. Brubacher Excavating, Inc.** (825 Reading Rd., Bowmansville, PA 17507), construction blasting in Middlesex Township, **Cumberland County** with an expiration date of June 30, 2002. Permit issued March 26, 2002.

**28024009. R & M Excavating** (403 Hilltop Rd., Newburg, PA 17240), construction blasting in Greene Township, **Franklin County** with an expiration date of December 31, 2007. Permit issued March 26, 2002.

**36024019. Gerlach's Drilling & Blasting, Inc.** (172 Bender Mill Rd., Lancaster, PA 17603), construction blasting in Manor Township, **Lancaster County** with an expiration date of January 30, 2003. Permit issued March 26, 2002.

**36024020. Gerlach's Drilling & Blasting, Inc.** (172 Bender Mill Rd., Lancaster, PA 17603), construction blasting in West Hempfield Township, **Lancaster County** with an expiration date of January 30, 2003. Permit issued March 26, 2002.

**36024021. ABEL Construction Co., Inc.** (3925 Columbia Avenue, Mountville, PA 17554), construction blasting in Rapho Township, **Lancaster County** with an expiration date of September 30, 2002. Permit issued March 26, 2002.

**36024022. Keystone Blasting Service** (381 Reifsnyder Rd., Lititz, PA 17543), construction blasting in Clay Township, **Lancaster County** with an expiration date of August 15, 2002. Permit issued March 26, 2002.

**36024023. Keystone Blasting Service** (381 Reifsnyder Rd., Lititz, PA 17543), construction blasting in Manheim Township, **Lancaster County** with an expiration date of April 30, 2007. Permit issued March 26, 2002.

**36024024. BR Kreider & Son, Inc.** (63 Kreider Lane, Manheim, PA 17545), construction blasting in Rapho

Township, **Lancaster County** with an expiration date of September 30, 2002. Permit issued March 26, 2002.

**36024025. BR Kreider & Son, Inc.** (63 Kreider Lane, Manheim, PA 17545), construction blasting in Mt. Joy Township, **Lancaster County** with an expiration date of September 30, 2002. Permit issued March 26, 2002.

**36024026. BR Kreider & Son, Inc.** (63 Kreider Lane, Manheim, PA 17545), construction blasting in Mt. Joy Township, **Lancaster County** with an expiration date of September 30, 2002. Permit issued March 26, 2002.

**36024027. Keystone Blasting Service** (381 Reifsnyder Rd., Lititz, PA 17543), construction blasting in Salisbury Township, **Lancaster County** with an expiration date of July 15, 2002. Permit issued March 26, 2002.

**36024028. ABEL Construction Co., Inc.** (3925 Columbia Avenue, Mountville, PA 17554), construction blasting in East Lampeter Township, **Lancaster County** with an expiration date of January 31, 2003. Permit issued March 26, 2002.

**38024005. Keystone Blasting Service** (381 Reifsnyder Rd., Lititz, PA 17543), construction blasting in Jackson Township, **Lebanon County** with an expiration date of June 30, 2002. Permit issued March 26, 2002.

**38024006. Keystone Blasting Service** (381 Reifsnyder Rd., Lititz, PA 17543), construction blasting in Heidelberg Township, **Lebanon County** with an expiration date of October 31, 2002. Permit issued March 27, 2002.

**38024007. Keystone Blasting Service** (381 Reifsnyder Rd., Lititz, PA 17543), construction blasting in Jackson Township, **Lebanon County** with an expiration date of October 31, 2002. Permit issued March 27, 2002.

**40024003. Raymond Orchard Construction** (1002 Newton Rd., Clarks Summit, PA 18411), construction blasting in Kingston Township, **Luzerne County** with an expiration date of July 31, 2002. Permit issued March 27, 2002.

Persons aggrieved by an 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 St., P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary 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 decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

## FEDERAL WATER POLLUTION CONTROL ACT SECTION 401

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

Except as otherwise noted, the Department certifies that the construction and operation herein described will comply with the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) and that the construction will not violate applicable Federal and State Water Quality Standards.

Persons aggrieved by an 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 St., P.O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users may contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary 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 decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P.S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P.S. § 679.302) and The Clean Streams Law (35 P.S. §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the Federal Water Pollution Control Act (33 U.S.C.A. § 1341(a)).** (Note: Water Obstruction and Encroachment Permits issued for Small Projects do not include 401 Certification, unless specifically stated in the description.)

*Permits Issued and Actions on 401 Certifications:*

### WATER OBSTRUCTIONS AND ENCROACHMENTS

*Southeast Region: Water Management Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**E46-889. Lejeune Properties, Inc.**, 4070 Butler Pike, Suite 800, Plymouth Meeting, PA 19462, Upper Providence Township, **Montgomery County**, ACOE Philadelphia District.

To perform the following activities associated with the proposed construction of the River Crest Residential/Golf Club Development, located at the corner of Collegetown Road (S.R. 0029) and Black Rock Road (S.R. 4003) (Collegetown, PA Quadrangle North: 5.5 inches, West: 15.35 inches).

1. To construct and maintain a road crossing and associated utilities in 0.39 acre of wetlands (PEM) at the headwaters of an unnamed tributary to the Schuylkill River (WWF).

2. To construct and maintain three 80 feet by 10 feet golf cart bridges located across an unnamed tributary to the Schuylkill River.

3. To remove a 48-inch pipe and replace it with a 28 linear feet, twin, 48-inch RCP Culvert Road crossing located in and along an unnamed tributary to the Schuylkill River for the purpose of emergency access.

4. To construct and maintain an 80 linear feet, 48-inch RCP culvert road crossing located in and along an unnamed tributary to the Schuylkill.

5. To place fill in 90 linear feet of the headwaters an unnamed tributary associated with the construction of fairway one of the proposed golf course.

6. The project also proposes a 45-foot extension to an existing 45-foot long 30-inch CMP Culvert Road crossing in and along an unnamed tributary to the Schuylkill River under Collegetown Road (S.R. 29), which is owned and operated by the Department of Transportation.

**E46-876. The Philadelphia Cricket Club**, 415 West Willow Grove Avenue, Philadelphia, PA 19118, White-marsh Township, **Montgomery County**, ACOE Philadelphia District.

To amend permit No. E46-876, which authorized various activities associated with the construction of the Philadelphia Cricket Club Golf Course for the following water obstruction and encroachment activities, which impacted a total of 898 linear feet of Lorraine Run (TSF), unnamed tributaries will impact 0.36 acre of adjacent wetland (PRO) associated with the construction of the Philadelphia Cricket Club Golf Course:

1. To maintain 13 stormwater outfalls.

2. To maintain eight golf cart bridges.

3. To eliminate the construction of a golf course pond along the bank and within the floodway of Lorraine Run associated with Hole No. 13.

4. To maintain fill within approximately 570 linear feet of an unnamed tributary to Lorraine Run associated with the construction of a new settling pond in accordance with Mining Permit No. 8074SM2T2 and to maintain 260 linear feet of constructed channel originating at the mining discharge point.

5. To include the placement of approximately 0.2 acre of fill within wetlands (PEM) associated with modification to the fairway for Hole No. 18.

The site is bounded by Joshua Road and Fort Washington State Park to the north, West Valley Green Road to the south and Stenton Avenue to the west (Germantown, PA Quadrangle N: 20.05 inches; W: 15.0 inches). The permittee proposed to provide 1.0 acre of replacement wetlands.

**E51-195. John Bartram Associates and Fairmount Park Commission**, 54th St. and Lindbergh Boulevard, Philadelphia, PA 19030, City and County of Philadelphia, ACOE Philadelphia District.

To perform the following activities associated with the construction of the proposed berthing facility at the existing Bartram's Garden along the Schuylkill River (WWF-MF) (Philadelphia, PA Quadrangle N: 10.5 inches, W: 11.8 inches).

1. To maintain the existing facility at Bartram's Gardens including floating boat launch platforms, a low deck structure, retaining walls, dolphins, dike, rip rap shore protection, boardwalks, trails, walkways, a pedestrian bridge, outlet structure, drainage systems and other associated facilities within the floodplain of the Schuylkill River and along approximately 2,857 feet of shoreline between 51st and 56th Streets.

2. To construct and maintain 12 bents with associated piles, to strengthen and rehabilitate the existing seawall.

3. To install and maintain an "L" shaped 125-foot by 8-foot and 50-foot by 8-foot floating dock with associated piles. This work also includes installation of handrails and lights on the floating dock.

4. To install and maintain a 30-foot by 5-foot floating dock with associated piles downstream from the existing seawall. This work also includes installation of handrails and lights on the floating dock.

5. To install one loading platform and gangway with associated piles.

6. To install and maintain two mooring dolphins with associated piles.

7. To install and maintain a 120-foot long fender system with associated piles.

8. To modify and maintain the existing facility by installing fences, lighting fixtures, ADA wheelchair complaint hoist, benches, trash receptacles and electrical utilities. This work also includes resurfacing of the existing 660-foot long roadway and rehabilitation of the existing retaining wall with supporting bents.

Proposed work will impact a total length of approximately 400 feet along the Schuylkill River. Various sizes and types of piles with an approximate total area of 107 square feet will be utilized for the construction of this facility.

**E51-139. Delaware Avenue Enterprises, Inc.,** P. O. Box 1800, Philadelphia, PA 19101, City and County of Philadelphia, ACOE Philadelphia District.

Permit No. E51-139 is amended for the second time, for the construction and maintenance of a multipurpose terminal facility situated in and along the Delaware River (WWF, MF). The amendment will allow for the construction of a modified bulkhead design, which eliminates the need to demolish the existing piers and requires an extension of the previously approved bulkhead line approximately 8 feet riverward. This facility is located immediately upstream of the Walt Whitman Bridge and encompasses Piers 103 through 108 (Philadelphia, PA NJ Quadrangle N: 5.9 inches; W: 2.5 inches).

*Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**E54-274. West Brunswick Township,** R. R. 1, Box 1363, Orwigsburg, PA 17961-9745. West Brunswick Township, **Schuylkill County,** Army Corps of Engineers Philadelphia District.

To maintain an existing stone masonry arch bridge across Pine Creek having a span of 23 feet and a

maximum underclearance of 10.2 feet by repointing the joints of the stone masonry and paving the deck of the bridge. The project is located along Township Road T729 (Frisbie Road), approximately 200 feet west of the intersection with T726 (Orwigsburg, PA Quadrangle N: 4.5 inches; W: 3.7 inches).

**E45-411. Jerry Perry,** R. R. 1, Box 1416, Stroudsburg, PA 18360. Hamilton Township, **Monroe County,** Army Corps of Engineers Philadelphia District.

To construct and maintain a building addition to the existing Pocono Valley Personal Care Facility that has a 30-foot x 5-foot portion located in the floodway of a tributary to Cherry Creek. The project also includes a stormwater outfall channel to said tributary and is located south of S.R. 2003 (Kemmerstown Road), approximately 0.15 mile west of S.R. 2002 (Stroudsburg, PA-NJ Quadrangle N: 10.8 inches; W: 16.8 inches).

*Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**E50-207. Michael Dubaich,** P. O. Box 201, Liverpool, PA 17045 in Tuscarora Township, **Perry County,** ACOE Baltimore District.

To construct and maintain a crossing consisting of two 8.15-foot by 5.78-foot corrugated metal arch culverts in the channel of Raccoon Creek (CWF) at a point approximately 7,000 feet downstream of Route 17 for the purpose of constructing a driveway (Mexico, PA Quadrangle N: 1.3 inches; W: 1.75 inches) in Tuscarora Township, Perry County.

*Northcentral Region: Water Management Program Manager, 208 West Third St., Williamsport, PA 17701.*

**E08-387. Department of Transportation, District 3-0,** P. O. Box 218, Montoursville, PA 17754-0218. Bridge Replacement, in Canton Township, **Bradford County,** ACOE Baltimore District (Canton, PA Quadrangle N: 16.4 inches; W: 14.4 inches).

To remove the existing reinforced concrete I-beam bridge which has a normal opening of 20 feet and an underclearance of 10 feet and a curb-to-curb width of 27.9 feet; and to construct and maintain a precast reinforced concrete box culvert with a hydraulic opening of approximately 221 square feet and a 30 foot wide roadway over the culvert with 5 foot wide sidewalks over Mill Creek on S.R. 14, Section 065 in Canton Borough, Bradford County.

**E18-329. Department of Conservation and Natural Resources,** P. O. Box 8451, Harrisburg, PA 17105-8451. Bridge 7-0054 Replacement, in Green Township, **Clinton County,** ACOE Baltimore District (Loganton, PA Quadrangle N: 11.2 inches; W: 14.3 inches).

To: 1) remove an existing bridge; 2) construct and maintain a concrete single span prestressed spread box beam bridge with a 22.75-foot normal opening, 7.5-foot underclearance and associated R-4 choked R-7 riprap to cross Long Run located 1,200 feet south on Rainsares Road from SR 477. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E41-500. Department of Transportation, Engineering District 3-0,** P. O. Box 218, Montoursville, PA 17754-0218. SR 2071 Bryan Mill bridge replacement, in Wolf Township, **Lycoming County,** ACOE Susquehanna River Basin District (Picture Rocks, PA Quadrangle N: 2.5 inches; W: 12.9 inches).

To remove an existing structure and construct and maintain a two span adjacent box beam bridge having a span of 150.0 feet and a minimum underclearance of 14.25 feet with a skew of 83° in Muncy Creek (TSF). The project is located along SR 2017 approximately 0.2 mile west of SR 220 and SR 2017 intersection in Wolf Township, Lycoming County. The constructed bridge will have a minimal impact on wetlands while impacting 150-feet of waterway.

**E49-257. Shamokin Township Supervisors**, R. R. 1, Box 459, Paxinos, PA 17860. Water Obstruction and Encroachment Joint Permit Application, in Shamokin Township, **Northumberland County**, ACOE Susquehanna River Basin District (Trevorton, PA Quadrangle N: 16.6 inches; W: 2.3 inches).

To remove an existing metal pipe culvert and construct and maintain a corrugated metal arch culvert measuring 44-feet long by 7.25-feet wide by 5.25-feet high as well as R-4 riprap protection in an unnamed tributary to Shamokin Creek along T-485 in Shamokin Township, Northumberland County. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

*Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**E11-291. East Carroll Township**, 3350 Brick Rd., Carrolltown, PA 15722. East Carroll, Cambria and Allegheny Townships, **Cambria County**, ACOE Pittsburgh District.

To remove the existing structure and to construct and maintain a corrugated metal box culvert having a normal

span of 13.8 feet and an underclearance of 5.4 feet in Chest Creek (HQ-CWF) for the purpose of improving transportation safety and roadway standards. The project will reportedly affect a de minimis amount of wetland (0.02 acre). The project is located on Township Road T-481, approximately 2.75 miles east of U. S. Route 219 (Carrolltown, PA Quadrangle N: 6.65 inches; W: 7.4 inches).

**E56-307. Seven Springs Farm, Inc.**, 777 Waterwheel Drive, Champion, PA 15622. Jefferson Township, **Somerset County**, ACOE Pittsburgh District.

To construct and maintain a 6-inch depressed 87-inch x 63-inch corrugated metal pipe arch culvert in an unnamed tributary to Jones Mill Run (EV) for the purpose of providing access to proposed dwellings associated with the Pheasant Run Subdivision. This permit also authorizes the installation and maintenance of two 8-inch PVC sewer lines and a 6-inch PVC water line across an unnamed tributary to Jones Mill Run (EV). The project is located on Grouse Point Drive (Seven Springs, PA Quadrangle N: 6.35 inches; W: 3.9 inches).

**E65-795. Humane Society of Westmoreland County**, P. O. Box 1552, Greensburg, PA 15601. Hempfield Township, **Westmoreland County**, ACOE Pittsburgh District.

To operate and maintain a single span bridge having a normal span of 24.0 feet and an underclearance of 5.5 feet across Jacks Run (WWF) authorized for construction under Emergency Permit No. EP6501201. The bridge is located off of S.R. 119 (Greensburg, PA Quadrangle N: 11.0 inches; W: 4.0 inches).

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## SPECIAL NOTICES

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### Notice of Certification to Perform Radon-Related Activities in this Commonwealth

In the month of March 2002, 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 following persons to perform radon-related activities in this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth 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>
Terry Amsley	74 Derbyshire Drive Carlisle, PA 17013	Testing
Tom Berardelli	483 North Main St. Moscow, PA 18444	Testing
Fran Buechele	1401 Sentry Lane Norrstown, PA 19403	Testing and Mitigation
Mavis Cheatham URS Corporation	2325 Maryland Rd. Willow Grove, PA 19090	Testing
David DeMar Accurate Radon Control	P. O. Box 296 Green Lane, PA 18054	Mitigation
Heber Dreher, III	7 Edward Circle Lewisburg, PA 17837	Testing
Vilas Godbole	307 Dogwood Lane Wallingford, PA 19086	Mitigation
Robert Hannabery	P. O. Box 98 Coopersburg, PA 18036	Testing
Nick Hindley	1132 R. R. 1 Honesdale, PA 18431	Testing
David Morgan	44 Crestview Rd. Phoenixville, PA 19460	Testing



<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Michael Myers AccuStar Labs—Midwest	3334 Commercial Avenue Northbrook, IL 60062	Laboratory
Michael Stabinski	219 West Grove St. Clarks Summit, PA 18411	Testing
Richard Stump, II Suburban Water Testing Labs, Inc.	4600 Kutztown Rd. Temple, PA 19560	Testing
Barbara Sykes	88 Cherry Lane Doylestown, PA 18901	Testing
John Sykes	88 Cherry Lane Doylestown, PA 18901	Testing and Mitigation
Tracy Tobiczky	41 Indian Rocks Lake Ariel, PA 18436	Testing
Stanley Watras S. J. Watras, Inc.	32 Indian Lane Boyertown, PA 19512	Testing and Mitigation
John Wilson	107 Lockerbie Lane West Chester, PA 19382	Testing
Ronald Zimmerman	99 Kohler Rd. Kutztown, PA 19530	Testing

### **Bureau of Deep Mine Safety Request for Variance**

The Department of Environmental Protection (Department), Bureau of Deep Mine Safety (Bureau), has received a request for variance from Dunkard 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 Bureau website at <http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm>.

The Department is publishing a summary of the request 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. Comments should be addressed to Richard E. Stickler, Director, Bureau of Deep Mine Safety, Fayette County Health Center, 100 New Salem Rd., Room 167, Uniontown, PA 15401.

Section 702 of the Bituminous Coal Mine Act (52 P. S. § 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 224(b) of the Pennsylvania Bituminous Coal Mine Act (act) (52 P. S. § 701-224(b)) states that whenever any working place in a mine approaches within 50 feet of abandoned workings certified by an engineer or within 200 feet of any abandoned workings which cannot be inspected or within 200 feet of any other abandoned workings, boreholes shall be drilled at least 20 feet in advance of the face of the working place. Boreholes shall be drilled sufficiently close to each other to insure that the advancing face will not accidentally hole through into the workings. Boreholes shall also be drilled not more than 8 feet apart in the rib of the working place to a distance of at least 20 feet at an angle of 45 degrees. Rib holes shall be drilled in one or both ribs of the working place as may be necessary for adequate protection of persons working in a place.

*Summary of the Request:* Dunkard Mining, Inc. requested a variance from section 224(b) of the act to drill a

horizontal borehole to the west of the Rosedale #8 Mine to protect miners against accidentally mining into the abandoned mine.

[Pa.B. Doc. No. 02-580. Filed for public inspection April 12, 2002, 9:00 a.m.]

### **Availability of Technical Guidance**

Technical guidance documents are on the Department of Environmental Protection's (Department) website ([www.dep.state.pa.us](http://www.dep.state.pa.us)) at the Public Participation Center page. The "December 2001 Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various Department bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2002.

#### *Ordering Paper Copies of Department Technical Guidance*

The Department encourages the use of the Internet to view guidance documents. When this option is not available, persons can order a bound paper copy of the latest inventory or an unbound paper copy of any of the final documents listed on the inventory by calling the Department at (717) 783-8727.

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

#### *Changes to Technical Guidance Documents*

The following is the current list of recent changes. Persons who have any questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

#### *Draft Technical Guidance*

DEP ID: 255-5400-001. Title: Outdoor Shooting Range Guidance. Description: This guidance is intended to be

used by operators of outdoor shooting ranges and by Department staff to prevent, eliminate or mitigate hazards to human health or the environment resulting from the use of lead shot. Anticipated Effective Date: June 28, 2002. Comment Period Ends: May 13, 2002. Contact: Ken Beard at (717) 783-9475 or e-mail: kbeard@state.pa.us.

DEP ID: 013-0830-007. Title: Formats for Required Electronic Deliverable GIS Attachments. Description: The Department is in the process of implementing web-based applications and reporting tools to be used by applicants for permits and reporting required by permits or other regulatory requirements. This policy establishes the standards, requirements and acceptable formats for external and internal electronic GIS attachments. This document identifies the standards that should be followed to ensure that a GIS-related item submitted to the Department will be in an acceptable format. Anticipated Effective Date: July 13, 2002. Comment Period Ends: May 13, 2002. Contact: Rick Bennett at (717) 705-3870 or e-mail: ribennett@state.pa.us.

DEP ID: 363-2134-013. Title: Permit Guidelines For Phased NPDES Stormwater Construction Permits, Erosion and Sediment Control Permits, and Waterway Restoration. Project Permits Description: The Department's approach to permit phased construction and waterway restoration activities uses existing authority to promote the development of comprehensive project plans, provide for a single and complete project review, ensure impacts from construction and waterway restoration activities are minimized, allow for more efficient use of grant money, provide implementation flexibility for long range planning and minimize delays in project implementation. It is the policy of the Department to ensure projects requiring its permits are reviewed as single and complete projects and meet all public health, safety and environmental requirements. The Department is also committed to the implementation of an effective, efficient and flexible permit application and review process that eliminates redundant processing procedures and ensures public notice, while meeting its commitment to the public interest and the environment. Anticipated Effective Date: July 2002. Comment Period Ends: May 13, 2002. Contact: Ken Reisinger at (717) 787-6827 or e-mail: kereisinge@state.pa.us.

DAVID E. HESS,  
*Secretary*

[Pa.B. Doc. No. 02-581. Filed for public inspection April 12, 2002, 9:00 a.m.]

### Environmental Justice Advisory Board Meeting

The meeting of the Environmental Justice Advisory Board will be held on April 29, 2002, from 8:30 a.m. to 5 p.m. in Room 105, Rachel Carson State Office Building, Harrisburg, PA.

Questions concerning this meeting can be directed to Lorraine Wagner at (717) 783-1566 or e-mailed to lowagner@state.pa.us. The agenda and meeting materials will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at <http://www.dep.state.pa.us>.

Persons in need of accommodations as provided for the Americans With Disabilities Act of 1990 should contact Lorraine Wagner at (717) 783-1566 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to

discuss how the Department may accommodate their needs.

DAVID E. HESS,  
*Secretary*

[Pa.B. Doc. No. 02-582. Filed for public inspection April 12, 2002, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Application of Hamot Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Hamot Medical Center has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 7.7.B2 (relating to PACUs in surgical suites) and 7.3.A3 (relating to patient space in critical care units).

These requests are on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, e-mail address: DDITLOW@STATE.PA.US.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aide, service or other accommodation to do so, should contact, Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6154 for Speech and/or Hearing Impaired Persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,  
*Secretary*

[Pa.B. Doc. No. 02-583. Filed for public inspection April 12, 2002, 9:00 a.m.]

### Application of Kane Community Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Kane Community Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the following publication: *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standard contained in this publication: 7.2.B10 (relating to examination/treatment rooms in service areas).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, e-mail address: DDITLOW@STATE.PA.US.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division at the address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aide, service or other accommodation to do so, should contact, Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT: (717) 783-6154 for Speech and/or Hearing Impaired Persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,  
*Secretary*

[Pa.B. Doc. No. 02-584. Filed for public inspection April 12, 2002, 9:00 a.m.]

### Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Morrison's Cove Home  
429 South Market Street  
Martinsburg, PA 16662

Countryside Convalescent Home Limited Partnership  
8221 Lamor Road  
Mercer, PA 16137

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.10(c) (relating to doors):

Jewish Home of Greater Harrisburg  
4000 Linglestown Road  
Harrisburg, PA 17112

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax: (717) 772-2163, e-mail address: PAEXCEPT@HEALTH.STATE.PA.US.

Those persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so, should contact V/TT: (717) 783-6154 for speech

and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 [TT].

ROBERT S. ZIMMERMAN, Jr.,  
*Secretary*

[Pa.B. Doc. No. 02-585. Filed for public inspection April 12, 2002, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Payments to Nursing Facilities; April 1, 2002 Proposed Rates

The notice announces the proposed changes in nursing facility per diem payment rates reflecting case-mix index (CMI) adjustments only, for nursing facility services provided on or after April 1, 2002, and to identify the methodology and justification for these proposed rates. Under 42 U.S.C.A. § 1902(a)(13)(A), as amended by section 4711 of the Balanced Budget Act of 1997 (Pub. L. No. 105-33), a state must use a public process when it proposes to make changes in payment rates or payment methodologies for nursing facility services under its approved Title XIX State Plan.

The Department of Public Welfare (Department) has submitted a State Plan Amendment which will, if approved by the Centers for Medicare and Medicaid Services (CMS), change the methods and standards for setting payment rates for nursing facility services relating to movable property. These proposed rates are contingent upon approval of the State Plan Amendment by CMS.

#### Rates

The proposed rates are available through the local County Assistance Offices throughout this Commonwealth, on the Office of Medical Assistance Programs' website at [www.dpw.state.pa.us/omap](http://www.dpw.state.pa.us/omap) or by contacting Tom Jayson, Policy Section, Bureau of Long Term Care Programs at (717) 705-3705.

#### Methodology

The methodology that the Department used to set the proposed rates based on CMI adjustments is contained in 55 Pa. Code Chapter 1187, Subchapter G (relating to rate setting), in a final-omitted rulemaking published at 32 Pa.B. 734 (February 9, 2002) and in the Commonwealth's pending Title XIX State Plan which was submitted to CMS on September 21, 2001.

#### Justification

The rate-setting methodology requires that per diem rates be adjusted for the 2nd, 3rd and 4th quarters of each rate year.

The estimated increase in annual aggregate expenditures for Medical Assistance nursing facility services for FY 2001-2002 is \$4.907 million (\$2.238 million in Commonwealth funds).

Interested persons are invited to submit written comments only concerning CMI adjustments to the proposed rates to the Department within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Comments should be addressed to Department of Public Welfare, Attention: Suzanne Love, P. O. Box 2675, Harrisburg, PA

17105. Persons with a disability may use the AT&T Relay Services by calling (800) 654-5984 (TDD Users) or (800) 654-5988 (Voice Users).

FEATHER O. HOUSTOUN,  
*Secretary*

**Fiscal Note:** 14-NOT-319. (1) General Fund; (2) Implementing Year 2001-02 is \$2,238,000; (3) 1st Succeeding Year 2002-03 is \$5,371,000; 2nd Succeeding Year 2003-04 is \$5,371,000; 3rd Succeeding Year 2004-05 is \$5,371,000; 4th Succeeding Year 2005-06 is \$5,371,000; 5th Succeeding Year 2006-07 is \$5,371,000; (4) 2000-01 Program—\$722,565,000; 1999-00 Program—\$693,625,000; 1998-99—\$712,631,000; (7) Medical Assurance—Long Term Care; (8) recommends adoption. Funds are included in the budget for this purpose.

[Pa.B. Doc. No. 02-586. Filed for public inspection April 12, 2002, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Cigarette Tax Notice

Under section 227-A of the Fiscal Code (72 P. S. § 227-A) relating to administration powers and duties, the Department of Revenue (Department) announces the lowest cost of the stamping agent, wholesaler and retailer, respectively, effective April 1, 2002, as follows:

	<i>Premium Brands (a.k.a. Kings and Regulars)</i>	<i>Generic Brands</i>
Cost of the Stamping Agent (for sales to wholesalers)	\$30.74	\$28.04
Cost of the Wholesaler (for sales to retailers)	\$31.97	\$29.17
Cost of the Retailer (for sales to retail customers)	\$31.97	\$29.17

The Department considers these costs as presumptive minimum costs. Cigarette stamping agents, wholesalers and retailers are prohibited from selling cigarettes at a price lower than their respective presumptive minimum costs. These costs are listed on a per carton basis, 10 packs of cigarettes per carton, 20 cigarettes per pack. To determine the presumptive minimum price per pack of cigarettes, one should divide the costs listed in this notice by 10 and round to the nearest hundredth of a percent. For example, the presumptive minimum price of a pack of cigarettes sold by a retailer to a consumer is \$3.39 for premium brands (\$33.89/10), \$3.10 for generic brands (\$30.92/10).

Cigarette dealers who either sell cigarettes under a different packaging setup (that is, eight packs per carton) or sell cigarettes that do not qualify as premium or generic brands (that is, subgeneric, foreign or specialty cigarettes) as described in this notice are prohibited from selling cigarettes at a price lower than the cost of the stamping agent, cost of the wholesaler or cost of the retailer, respectively, as further defined and explained in the Department's cigarette tax regulations, 61 Pa. Code Part I, Subpart B, Article III (relating to cigarette and beverage taxes).

Cigarette dealers wishing to prove a cost different from the Department's presumptive costs as stated in this notice must follow the procedures listed under 61 Pa. Code Chapter 76 (relating to unfair sales of cigarettes).

LARRY P. WILLIAMS,  
*Secretary*

[Pa.B. Doc. No. 02-587. Filed for public inspection April 12, 2002, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

### Bloomsburg Municipal Authority v. DEP; EHB Doc. No. 2002-079-K

Bloomsburg Municipal Authority has appealed the issuance by the Department of Environmental Protection of an NPDES permit to same for a facility in the Town of Bloomsburg, Columbia County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (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, 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 (relating to intervention). 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. 02-588. Filed for public inspection April 12, 2002, 9:00 a.m.]

### Borough of Highspire v. DEP; EHB Doc. No. 2002-078-C

Borough of Highspire Borough has the issuance by the Department of Environmental Protection of an NPDES permit to same for a facility in Highspire Borough, Dauphin County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (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, 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 (relating to intervention). 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. 02-589. Filed for public inspection April 12, 2002, 9:00 a.m.]

## HUMAN RELATIONS COMMISSION

### Public Hearing Opinion

The Human Relations Commission, under section 7(o) of the Pennsylvania Human Relations Act (act) (43 P. S. § 957(o)) announces the publication of the Findings of Fact, Conclusions of Law, Opinion and Final Order made after a public hearing under section 9(e)—(g) of the act (43 P. S. § 959(e)—(g)), in the following case:

*Stephanie Bedford, individually and o/b/o minor child, Jerome Nelson v. William F. Barrett*; Doc. No. H7353; (Human Relations Commission, March 25, 2002); Familial Status—and Retaliation-based refusal to renew a lease. Ruling for Respondent, 10-0 decision; 20 pages.

The final order in the previously-listed case is subject to appeal to Commonwealth Court, and if appealed is subject to being affirmed, reversed or modified, in whole or part.

A copy of the opinion listed in this notice may be obtained by mailing a request indicating the opinion desired, accompanied by a check or money order in the amount of 15¢ per page to Laura J. Treaster, Communications Director, Human Relations Commission, 301 Chestnut Street, Suite 300, Harrisburg, PA 17101. The check or money order should be made payable to "Commonwealth of Pennsylvania."

HOMER C. FLOYD,  
*Executive Director*

[Pa.B. Doc. No. 02-590. Filed for public inspection April 12, 2002, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Notice of Comments Issued

Section 5(d) of the Regulatory Review Act (71 P. S. § 745.5(d)) 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 regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted by the date indicated.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Issued</i>	<i>Final-Form Submission Deadline</i>
#14-474	Department of Public Welfare Redetermining Eligibility, General Eligibility Provisions and Income	3/28/02	2/25/04
(32 Pa.B. 431 (January 26, 2002))			

### Department of Public Welfare Regulation No. 14-474 Redetermining Eligibility, General Eligibility Provisions and Income March 28, 2002

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 Public Welfare (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by February 25, 2004, the regulation will be deemed withdrawn.

#### 1. Eligibility provisions for Extended TANF—Consistency with statute; Reasonableness; Clarity.

The eligibility provisions for Extended TANF are not clear. Sections 141.51 and 141.52 briefly outline the Maximizing Participation Project (MPP), Work Plus Program (WPP) and the related vocational assessment and Work Capacity Assessment. However, the regulation does not contain substantive provisions addressing the eligibility requirements for these programs or how they will be implemented. Additionally there is no description of what support services will be available to recipients in MPP and WPP, such as childcare and transportation, to enable them to meet work requirements.

The Public Welfare Code at 62 P. S. § 403(b) states,

In adopting regulations, orders, or standards of general application, the secretary shall strive for clarity of language which may be readily understood by those administering assistance and by those who apply for or receive assistance. . . .

The Department should include the requirements for these programs in the regulation.

#### 2. General.—Implementation procedures; Clarity.

In our comments on the rulemaking for the Temporary Assistance for Needy Families (TANF) program (#14-472) we stated:

The Department has stated that regulations dealing with the exceptions to the time limits will be promulgated in the near future. The Department should publish these proposed rulemakings as soon as possible. Then the Department should file a comprehensive final-form regulation containing all TANF-related provisions as a single final-form regulation.

In the Preamble of this rulemaking (#14-474), the Department indicates that the TANF rulemaking (#14-

472) will be finalized before this rulemaking (#14-474). Many questions regarding the overall TANF program will remain unanswered under this scenario.

Other contemporaneous actions the Department is taking also contribute to this confusion. The Department is developing a third TANF rulemaking to address domestic violence that probably won't be in place until after rulemakings #14-472 and #14-474 are final. In addition, the Department is implementing other policies and programs that will not be included in any of the TANF regulations. We reiterate that the full TANF program, with all applicable policies and programs, should be available for review as a single final-form regulation to allow comprehensive review of the program.

**3. Section 133.23. Requirements.—Reasonableness; Need; Clarity.**

The subtitle of Chapter 133 does not include Extended TANF. It should read, "REDETERMINING ELIGIBILITY PROVISION FOR TANF, EXTENDED TANF AND GA."

Also, subsection (a)(vi) requires a "complete redetermination" of eligibility for benefits when a budget group transfers from TANF to Extended TANF. It is unclear what a "complete redetermination" is. Also, does this apply to recipients who have recently gone through a redetermination for another reason?

**4. Section 141.41. Policy.—Need; Clarity.**

Subsection (f)(1) describes one circumstance when a TANF recipient would not be charged for assistance against their 60-month time limit. Commentators stated there are other circumstances when assistance would not be counted toward the 60-month time limit. They include nonassistance, time-out and other circumstances described in the Department's Cash Assistance Handbook. Circumstances that do not count toward the 60-month time limit should be included in subsection (f).

Finally, we also note that the amendments to § 141.41 in this rulemaking (#14-474) are identical to those already proposed in rulemaking #14-472. Will the amendments to this section remain consistent with #14-472?

**5. Section 141.51. Policy.—Protection of the public safety; Reasonableness; Clarity.**

*Subsection (a), Paragraph (1) Extended TANF for victims of domestic violence*

*Eligibility for Extended TANF due to domestic violence*

Subparagraph (i) requires verification of domestic violence to be eligible for Extended TANF. Subparagraphs (ii) and (iii) establish eligibility when there are pre-existing waivers related to domestic violence. These provisions only apply to families who have current or past waivers from certain TANF requirements due to domestic violence. Can a family experiencing domestic violence qualify for Extended TANF if domestic violence was not previously established under TANF? If so, the regulation should include a cross-reference to this process.

*Domestic violence plan*

Subparagraph (iv) requires compliance with a "domestic violence plan developed with a person trained in domestic violence services." We have two concerns.

First, the regulation does not provide detail regarding what constitutes a domestic violence plan. The regulation should specify or cross reference the requirements of a domestic violence plan.

Second, what specifically is "a person trained in domestic violence services"? What level of training is required to develop a domestic violence plan? Are these persons employed by the Department or under Department contract(s) for services?

*Six month review*

Subparagraph (v) under domestic violence waivers states, "Eligibility shall be reviewed at least every 6 months." There are two concerns. First, what process will the Department follow to rescind a waiver when eligibility is reviewed? Second, how can an applicant appeal a finding that would rescind eligibility? These processes should be included in the regulation or cross-referenced.

*Subsection (b) Compliance review and good cause*

Subsection (b) establishes conditions that would cause a family to be ineligible, including failure to comply with an MPP or WPP. However, there is no reference to provisions for compliance review and "good cause." Subsection (b) should reference these provisions.

**6. Section 141.52. Definitions.—Reasonableness; Clarity.**

*Structure of the regulation*

Definitions describe terms, but are not enforceable. As stated in our first comment, the requirements for the programs described in the definitions need to be in the body of the regulation.

*Placement of definitions*

The definitions section of a regulation is typically placed before the provisions of the regulation where the terms appear. The Department should place the definitions before the sections of the regulation that use the terms.

*Applicability of the definitions*

The scope of the definitions in this section is limited to "this section and § 141.51." These definitions should apply to all relevant chapters or sections.

*Adult*

This definition is confusing and should be rewritten. It may be clearer to break the definition into a subparagraph (i) for an individual 19 years of age or older, and a subparagraph (ii) for an individual 18 years of age who is not a full-time student in secondary school, vocational training or technical training.

*MPP—Maximizing Participation Project*

What are "functional limitations" and "good cause situations"?

*RESET—Road to Economic Self-Sufficiency Through Employment and Training*

The phrase "within the constraints of available funds" does not belong in this definition. Because funding availability directly impacts on eligibility requirements for the program and the services offered, it is a substantive provision. Substantive provisions in a definition are not enforceable. Therefore, the Department should remove this phrase and move it to a provision establishing the parameters of and requirements for RESET.

*WCA—Work Capacity Assessment*

This definition also contains substantive language. Therefore, subparagraphs (i)—(iv) should be moved to § 141.51.

Also, how does a physician or psychologist get Department approval?

**7. Section 183.13. Potential sources.—Clarity.**

Section 183.13(c)(3) excludes the applicant's family from eligibility until the applicant complies. The identical requirement in § 141.21(n)(1)(iii) excludes both the applicant and the applicant's family from eligibility. Should § 183.13(c)(3) also exclude the applicant from eligibility?

JOHN R. MCGINLEY, Jr.,  
*Secretary*

[Pa.B. Doc. No. 02-591. Filed for public inspection April 12, 2002, 9:00 a.m.]

**Notice of Filing of Final Rulemakings**

The Independent Regulatory Review Commission (Commission) received the following regulation on the date indicated. To obtain the date and time of the meeting at which the Commission will consider this regulation, 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>
106-6	Environmental Hearing Board Practice and Procedure	4/2/02

JOHN R. MCGINLEY, Jr.,  
*Secretary*

[Pa.B. Doc. No. 02-592. Filed for public inspection April 12, 2002, 9:00 a.m.]

**INSURANCE DEPARTMENT**

**Alleged Violation of Insurance Laws; Matthew D. McGuckin; SC02-04-001**

Notice is given of the Order to Show Cause issued on April 2, 2002, by the Deputy Insurance Commissioner in the previously-referenced matter. Violation of the following is alleged: sections 602(a)(2), 604, 605, 633, 633.1 and 639 of the Insurance Department Act of 1921 (40 P. S. §§ 232(a)(2), 234, 235, 273, 273.1 and 279); 31 Pa. Code §§ 37.17, 37.46, 37.47 and 37.81; and sections 4, 5(a)(2) and (7)—(11) of the Unfair Insurance Practices Act (40 P. S. §§ 1171.4, 1171.5(a)(2) and 1171.7—1171.11).

Respondent shall file a written answer to the Order to Show Cause within 20 days of the date of issue. If respondent files a timely answer, a formal administrative hearing shall be held in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); 31 Pa. Code Chapter 56 (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 Seventh Street, Harrisburg, PA 17102.

Persons with a disability who wish to attend the previously-referenced administrative hearing, and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency ADA Coordinator at (717) 787-4298.

M. DIANE KOKEN,  
*Secretary*

[Pa.B. Doc. No. 02-593. Filed for public inspection April 12, 2002, 9:00 a.m.]

**Application for Approval to Acquire Control**

HealthAmerica Pennsylvania, Inc. has filed an application to acquire control of NewAlliance Health Plan, Inc., a Commonwealth domiciled health maintenance organization. The filing was made under the requirements set forth under the act of May 17, 1921 (P. L. 682, No. 284) (40 P. S. §§ 991.1401—991.1413). Persons wishing to comment on the acquisition are invited to submit a written statement to the Insurance Department (Department) within 7 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, by fax to (717) 787-8557 or by e-mail to rbrackbill@state.pa.us.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-594. Filed for public inspection April 12, 2002, 9:00 a.m.]

**Application for Approval of a Proposed Merger**

HealthAmerica Pennsylvania, Inc., a for-profit health maintenance organization organized under the laws of the Commonwealth, has filed an application for approval to merge with NewAlliance Health Plan, Inc., also a for-profit health maintenance organization organized under the laws of the Commonwealth, with HealthAmerica Pennsylvania, Inc. surviving the merger. The filing was made under the requirements set forth under the act of May 17, 1921 (P. L. 682, No. 284) (40 P. S. §§ 991.1401—991.1413) and the GAA Amendments Act of 1990 (15 P. S. §§ 21205—21207). Persons wishing to comment on the merger are invited to submit a written statement to the Insurance Department (Department) within 7 days from the date of this issue of the *Pennsylvania Bulletin*. Each written statement must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA

17120; fax (717) 787-8557; or e-mail rbrackbill@state.pa.us.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-595. Filed for public inspection April 12, 2002, 9:00 a.m.]

### Export List of Insurance Coverages; Request for Comments

The Commissioner published a notice at 32 Pa.B. 1013 (February 16, 2002) soliciting comments to the export list published at 31 Pa.B. 3373 (June 23, 2001). Consideration was given to all comments received. The Commissioner proposes to amend the June 23, 2001, list to add "medical malpractice liability with or without related general liability coverages" and to modify the nursing home liability by adding "with or without other affiliated elder care services." Additionally, the Commissioner proposes to amend the June 23, 2001, list to delete the following:

#### Amusements

- Golf courses and driving ranges
- Animal rides
- Guide, lodge or outfitters
- Horseback/pony riding establishments
- Hunting clubs
- Skating rinks (roller and ice) and skate board parks
- Boat rentals
- House movers
- Law enforcement liability
- Products recall coverage

Persons wishing to comment on the Commissioner's proposals are invited to submit a written statement within 15 days from the date of this publication. Each written statement must include sufficient detail and relevant facts to inform the Insurance Department of the exact basis of the statement. Written statements should be directed to Cressinda Bybee, Office of Regulation of Companies, Insurance Department, 1345 Strawberry Square, Harrisburg, PA, 17120, fax (717) 787-8557 or e-mail cbybee@state.pa.us. Formal notification of any changes will be published in the *Pennsylvania Bulletin* after the 15-day comment period, or a notice will be published stating that the June 23, 2001, list remains in effect.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-596. Filed for public inspection April 12, 2002, 9:00 a.m.]

### Med CAT Fund Stakeholders Meeting

On March 20, 2002, Governor Schweiker signed Act 13 of 2002 (Act 13). Act 13 confers immediate supervision of the Med CAT Fund (Fund) to the Insurance Department (Department) and transfers the Fund's operation to the Department on October 1, 2002. Act 13 further mandates that the Department utilize third-party administrator services to administer medical malpractice claims submitted to the Fund.

To facilitate a dialogue between the Department and interested parties, a public stakeholders meeting will be

held on Friday, April 19, 2002, at 9 a.m. in the Keystone Building, 125 North Suite, Room C, Harrisburg, PA. The purpose of this meeting is to receive comments about the current operations of the Fund, and in particular, to hear directly from stakeholders about the claims handling process of the Fund.

Because the Department is interested in hearing from a wide variety of stakeholders, written testimony will be accepted from those unable to attend the meeting. However, even if individuals wish to appear the meeting, the Department strongly urges submitting written comments, as oral presentations will be limited to 10 minutes. Written submissions can be faxed to (717) 772-1969, Attention: Timothy L. Knapp; e-mailed to tiknapp@state.pa.us; or sent to Timothy L. Knapp, Insurance Department, Office of Policy, Enforcement and Administration, 1326 Strawberry Square, Harrisburg, PA 17120.

Persons wishing to appear before the Commissioner on April 19, 2002, should direct their request to Timothy L. Knapp in writing by April 12, 2002. Questions or concerns regarding this event can be answered by Timothy L. Knapp at (717) 787-0636.

The meeting location is accessible to persons having disabilities. Persons having special needs or requiring special aides should contact Tracey Pontius at (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 02-597. Filed for public inspection April 12, 2002, 9:00 a.m.]

### Provident Mutual Life Insurance Company; Notice of Public Informational Hearing; Plan of Conversion

The Insurance Department (Department) will hold a public informational hearing regarding the proposed Plan of Conversion (plan) submitted by Provident Mutual Life Insurance Company (Provident Mutual), a Pennsylvania domiciled mutual life insurance company. The proposed plan provides for conversion of Provident Mutual from a Pennsylvania mutual life insurance company to a Pennsylvania stock life insurance company and for merger of Provident Mutual with a newly formed subsidiary of Nationwide Financial Services, Inc. Upon consummation of the plan, Provident Mutual would operate as a wholly-owned subsidiary of Nationwide Financial Services, Inc. The plan was submitted for approval under the Insurance Company Mutual-to-Stock Conversion Act (40 P. S. §§ 911-A—929-A) and sections 1401—1413 of the act of May 17, 1921 (P. L. 682, No. 284) (40 P. S. §§ 991.1401—991.1413). Policyholders and interested persons are invited to attend and participate in the hearing.

1. *Date and Time:* May 23, 2002, beginning at 9 a.m.

2. *Location:* Valley Forge Scanticon Hotel and Conference Center, 1210 First Avenue, King of Prussia, PA 19406, (610) 265-1500.

3. *Nature of Hearing:* The public informational hearing will provide an opportunity for policyholders and interested persons to present comments relevant to the proposed plan. The proceeding will be recorded and a transcript may be purchased directly from the court reporter.



4. *Legal Authority:* The public informational hearing will be held under the provisions of the Insurance Company Mutual-to-Stock Conversion Act.

5. *ADA Notice:* A person requiring the assistance of auxiliary aids or services to participate in or attend this public informational hearing, should call Tracey Pontius, Director of the Bureau of Administration, (717) 787-4298. A person who is hearing impaired, should call the Department's TTY/TDD (717) 783-3898.

6. *Written Comments:* Persons unable to attend the public informational hearing or would prefer to submit written comments concerning Provident Mutual's proposed plan, may do so by mailing or delivering a copy of the comment to Robert E. Brackbill, Jr., Chief, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557 or by e-mail at rbrackbill@state.pa.us. Be advised that all comments received will be part of the public record regarding this filing.

TIMOTHY KNAPP,  
Deputy Commissioner

[Pa.B. Doc. No. 02-598. Filed for public inspection April 12, 2002, 9:00 a.m.]

### Dorothy A. Yackamovich; Hearing

#### Appeal of Dorothy A. Yackamovich under the Motor Vehicle Financial Responsibility Law; Catastrophic Loss Benefits Continuation Fund; Doc. No. CF01-10-008

A hearing is scheduled for May 9, 2002, at 10 a.m. in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

On or before April 25, 2002, the parties must file joint stipulations with the Administrative Hearings Office. On or before May 2, 2002, each party must file with the Administrative Hearings Office a prehearing statement which shall contain: (1) names and addresses of witnesses along with the specialties of experts, if any, to be called; (2) a list of documents to be used at the hearing; (3) special evidentiary or other legal issues; and (4) the estimated time for that party's case. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness designated on the prehearing statement. A report subsequently received from a party's expert witness prior to hearing shall be supplied to the other party within 2-business days. Copies of expert reports need not be filed with the Administrative Hearings Office.

Persons with a disability who wish to attend the previously-referenced administrative hearing and require an auxiliary aid, service or other accommodations to participate in the hearing should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,  
Insurance Commissioner

[Pa.B. Doc. No. 02-599. Filed for public inspection April 12, 2002, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The following Liquor Control Board leases will expire:

Lackawanna County, Wine & Spirits Shoppe #3510, 1531 Main Street, Peckville, PA 18452-2016.

*Lease Expiration Date:* September 30, 2004

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,000 net useable square feet of new or existing retail commercial space within a 1/2 mile radius of the intersection of Main Street and Route 347, Dickson City.

*Proposals due:* May 3, 2002 at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110  
**Contact:** Charles D. Mooney, (717) 657-4228

Lancaster County, Wine & Spirits Shoppe #3609, 931-B East Main Street, Mount Joy, PA 17552-9347.

*Lease Expiration Date:* February 28, 2003

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,500 to 3,000 net useable square feet of new or existing retail commercial space along Route 230 within Rapho Township.

*Proposals due:* May 3, 2002 at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110  
**Contact:** Charles D. Mooney, (717) 657-4228

Chester County, Wine & Spirits Shoppe #1508, 410 West First Avenue, Parkesburg, PA 19365.

*Lease Expiration Date:* May 31, 2003

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space within a 2 mile radius of 410 West First Avenue, Parkesburg.

*Proposals due:* May 3, 2002 at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** James M. Bradley, (215) 482-9671

Chester County, Wine & Spirits Shoppe #1520, 2910 Conestoga Road, Glenmore, PA 19343.

*Lease Expiration Date:* November 30, 2002

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,600 net useable square feet of new or existing retail commercial space within a 1/2 mile radius of the intersection of Routes 100 and 401, Glenmoore.

*Proposals due:* May 3, 2002 at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** James M. Bradley, (215) 482-9671

Montgomery County, Wine & Spirits Shoppe #4621, Blue Bell.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 7,000 to 10,000 net useable square feet of new or existing retail commercial space within a 1 mile radius of the intersection of DeKalb Pike (Route 202) and Skippack Pike (Route 73), Whitpain Township.

*Proposals due:* May 3, 2002 at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Robert Jolly, (215) 482-9671

Philadelphia County, Wine & Spirits Shoppe #5140, 3000 Richmond Street, Philadelphia, PA 19134-5807.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,500 net useable square feet of new or existing retail commercial space between Aramingo Avenue and Lehigh Avenue in Philadelphia.

*Proposals due:* May 3, 2002 at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Robert Jolly, (215) 482-9671

JOHN E. JONES, III,  
*Chairperson*

[Pa.B. Doc. No. 02-600. Filed for public inspection April 12, 2002, 9:00 a.m.]

## MILK MARKETING BOARD

### Hearing and Presubmission Schedule for All Milk Marketing Areas; Over-Order Premium

Under the provisions of the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Areas 1—6 on May 1, 2002, at 9 a.m. in Room 202, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits concerning the continuation of the over-order premium that is scheduled to expire on June 30, 2002, and whether an adjustment should be made to the level of the current over-order premium.

The staff of the Board is deemed to be a party to this hearing and the attorney representing staff is deemed to have entered an appearance. Other persons who wish to present evidence may be included on the Board's list of parties by: (1) having their attorney file with the Board on or before 4 p.m. on April 22, 2002, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 (relating to form of notice of appearance); or (2) if unrepresented by counsel, filing with the Board on or before 4 p.m. on April 22, 2002, notification of their desire to be included as a party.

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the

parties shall have available in the hearing room at least 20 additional copies made available for the use of nonparties attending the hearing.

1. By 4 p.m. on April 25, 2002, each party shall file with the Board seven copies and ensure receipt by all other parties of one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on April 29, 2002, each party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents or records in other proceedings before the Board, or wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164—35.167 or 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110. Individuals who require this information in an alternate format should call (717) 787-4194 or the Pennsylvania Relay Service for TDD users, (800) 654-5984.

LYNDA J. BOWMAN,  
*Secretary*

[Pa.B. Doc. No. 02-601. Filed for public inspection April 12, 2002, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Gas Service

**A-121850F2026. National Fuel Gas Distribution Corporation.** Application of National Fuel Gas Distribution Corporation for approval of the abandonment of gas service to one natural gas service customer located in Cornplanter Township, Venango County, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before April 29, 2002, under 52 Pa. Code (relating to public utilities).

*Applicant:* National Fuel Gas Distribution Corporation  
*Through and By Counsel:* Christopher M. Trejchel, 1100 State Street, Erie, PA 16501.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-602. Filed for public inspection April 12, 2002, 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 May 6, 2002, as set forth at 52 Pa. Code § 3.381 (relating to the applications for the transportation of property, household goods in use and persons). The protests shall also indicate whether it applies to the temporary authority application or the permanent application or both.

#### 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-00118769. Kreb's Moving & Storage, Co.** (111 Rear Merrill Street, P. O. Box 806, Clearfield, Clearfield County, PA 16830), a corporation of the Commonwealth of Pennsylvania—(1) household goods in use, between points in the borough of Clearfield, Clearfield County, and within an airline distance of 15 statute miles of the limits of said borough, and from points in said borough and territory, to points in Pennsylvania, and vice versa; (2) household goods in use, from points in the city of DuBois, Clearfield County, to points in Pennsylvania, and vice versa; (3) household goods in use, between points in the township of Karthaus, Clearfield County, and within an airline distance of 10 statute miles of the limits of said township, and from points in said township and territory, to points in Pennsylvania, and vice versa, excluding service to or from points in the county of Elk, except as herein above authorized; and (4) property, excluding household goods in use, between points in Pennsylvania; which is to be a transfer of the rights authorized under the certificate issued at A-00107380 to Kreb's Moving & Storage, Inc., subject to the same limitations and conditions. *Attorney:* Dwight L. Koerber, Jr., P. O. Box 1320, Clearfield, PA 16830.

#### Complaint

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Wm. Rowen Grant Funeral Home; Doc. No. A-00095170C02; A-00095170*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Wm. Rowen Grant Funeral Home, respondent, maintains its principal place of business at 1920 Sansom Street, Philadelphia, PA 19103.
2. That respondent was issued a certificate of public convenience by this Commission on June 20, 1969 at Application Docket No. A-00095170.

3. That respondent abandoned or discontinued service without having first filed an application with this Commission for abandonment or discontinuance of service. Respondent has not reported intrastate revenue for the years 1999, 2000 and 2001.

4. That respondent, by failing to file an application with this Commission prior to abandoning or discontinuing service, violated 52 Pa. Code § 3.381(a)(1)(v) and 66 Pa.C.S. § 1102(a)(2) and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

WHEREFORE, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke Wm. Rowen Grant Funeral Home's Certificate of Public Convenience at A-00095170.

Respectfully submitted,  
Michael E. Hoffman, Director  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

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

Date: \_\_\_\_\_

Michael E. Hoffman

#### NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date, as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

C. If you file an answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty, which may include the revocation of your Certificate of Public Convenience.

D. If you file an answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at 717-787-1168.

**Complaint**

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. P. G. Boyer Enterprise Corp., t/a Young's Limousine Service; Doc. No. A-00108003C02; A-00108003*

**COMPLAINT**

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That P. G. Boyer Enterprise Corp., t/a Young's Limousine Service, respondent, maintains its principal place of business at 228 North Main Street, Souderton, PA 18964.

2. That respondent was issued a certificate of public convenience by this Commission on July 22, 1988 at Application Docket No. A-00108003.

3. That respondent abandoned or discontinued service without having first filed an application with this Commission for abandonment or discontinuance of service. Respondent has not reported intrastate revenue for the years 1999, 2000 and 2001.

4. That respondent, by failing to file an application with this Commission prior to abandoning or discontinuing service, violated 52 Pa. Code § 3.381(a)(1)(v) and 66 Pa.C.S. § 1102(a)(2) and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

WHEREFORE, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke P. G. Boyer Enterprise Corp., t/a Young's Limousine Service's Certificate of Public Convenience at A-00108003.

Respectfully submitted,  
Michael E. Hoffman, Director  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

**VERIFICATION**

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

Date: \_\_\_\_\_

Michael E. Hoffman

**NOTICE**

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date, as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circum-

stances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

C. If you file an answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty, which may include the revocation of your Certificate of Public Convenience.

D. If you file an answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at 717-787-1168.

**Complaint**

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Ambu-Care, Inc.; Doc. No. A-00109082C02; A-00109082*

**COMPLAINT**

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Ambu-Care, Inc., respondent, maintains its principal place of business at 2 International Plaza, Suite 540, Philadelphia, PA 19113.

2. That respondent was issued a certificate of public convenience by this Commission on May 1, 1990 at Application Docket No. A-00109082.

3. That respondent abandoned or discontinued service without having first filed an application with this Commission for abandonment or discontinuance of service. Respondent has not reported intrastate revenue for the years 1999, 2000 and 2001.

4. That respondent, by failing to file an application with this Commission prior to abandoning or discontinuing service, violated 52 Pa. Code § 3.381(a)(1)(v) and 66 Pa.C.S. § 1102(a)(2) and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

WHEREFORE, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Com-

mission revoke Ambu-Care, Inc.'s Certificate of Public Convenience at A-00109082.

Respectfully submitted,  
Michael E. Hoffman, Director  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

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

Date: \_\_\_\_\_

\_\_\_\_\_  
Michael E. Hoffman

#### NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date, as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

C. If you file an answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty, which may include the revocation of your Certificate of Public Convenience.

D. If you file an answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at 717-787-1168.

#### Complaint

*Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. C & J Marketing Consultants, Ltd., t/d/b/a Trolley Express; Doc. No. A-00113851C02; A-00113851*

#### COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsi-

bilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That C & J Marketing Consultants, Ltd., t/d/b/a Trolley Express, respondent, maintains its principal place of business at 609 Morgan Drive East, Suite 101, Coatesville, PA 19320.

2. That respondent was issued a certificate of public convenience by this Commission on July 28, 1998 at Application Docket No. A-00113851.

3. That respondent abandoned or discontinued service without having first submitted a letter to this Commission containing a statement that the service is no longer being rendered. Respondent has not reported intrastate revenue for the years 1999, 2000 and 2001.

4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, violated 52 Pa. Code § 3.381(a)(5) and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

WHEREFORE, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke C & J Marketing Consultants, Ltd., t/d/b/a Trolley Express' Certificate of Public Convenience at A-00113851.

Respectfully submitted,  
Michael E. Hoffman, Director  
Bureau of Transportation and Safety  
P. O. Box 3265  
Harrisburg, PA 17105-3265

#### VERIFICATION

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

Date: \_\_\_\_\_

\_\_\_\_\_  
Michael E. Hoffman

#### NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date, as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary  
Pennsylvania Public Utility Commission  
P. O. Box 3265  
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

C. If you file an answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty, which may include the revocation of your Certificate of Public Convenience.

D. If you file an answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at 717-787-1168.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-603. Filed for public inspection April 12, 2002, 9:00 a.m.]

### Telecommunications

**A-310987F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and Premiere Network Services, Inc.** Joint Petition of The United Telephone Company of Pennsylvania d/b/a Sprint and Premiere Network Services, 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 Premiere Network Services, Inc. filed on March 22, 2002, at the Pennsylvania Public Utility Commission (Commission), a Joint Petition for approval of a master interconnection and resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of The United Telephone Company of Pennsylvania d/b/a Sprint and Premiere Network Services, Inc. Joint Petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-604. Filed for public inspection April 12, 2002, 9:00 a.m.]

### Water Service

**A-212000F2000. Mountain Spring Water, Inc.** Application of Mountain Spring Water, Inc. for approval of the abandonment or discontinuance of water service in whole, in a portion of West Penn Township, Schuylkill County, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the

applicant on or before April 29, 2002, under 52 Pa. Code (relating to public utilities).

*Applicant:* Mountain Spring Water, Inc.

*Through and By Counsel:* Joseph J. Jones, Jr., Esquire, Williamson, Friedberg and Jones, LLC, P. O. Box 1190, Ten Westwood Road, Pottsville, PA 17901; and Kenneth Zielonis, Esquire, Stevens and Lee, 208 North 3rd Street, Suite 310, P. O. Box 12090, Harrisburg, PA 17106-2090.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-605. Filed for public inspection April 12, 2002, 9:00 a.m.]

### Water Service

**A-212285F0098. Pennsylvania American Water Company.** Application of Pennsylvania American Water Company for approval of the right to offer, render, furnish or supply water service to the public in portions of Jackson Township, Butler County, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before April 29, 2002, under 52 Pa. Code (relating to public utilities).

*Applicant:* Pennsylvania American Water Company

*Through and By Counsel:* Velma A. Redmond, Esquire, Susan Simms Marsh, Esquire, 800 West Hershey Park Drive, P. O. Box 888, Hershey, PA 17033-0888.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-606. Filed for public inspection April 12, 2002, 9:00 a.m.]

### Water Service

**A-212285F0099. Pennsylvania American Water Company.** Application of Pennsylvania American Water Company for approval of the right to offer, render, furnish or supply water service to the public in an additional portion of Upper Merion Township, Montgomery County, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before April 29, 2002, under 52 Pa. Code (relating to public utilities).

*Applicant:* Pennsylvania American Water Company

*Through and By Counsel:* Velma A. Redmond, Esquire, Susan Simms Marsh, Esquire, 800 West Hershey Park Drive, P. O. Box 888, Hershey, PA 17033-0888.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-607. Filed for public inspection April 12, 2002, 9:00 a.m.]

### Water Service

**A-210104F0014. Pennsylvania Suburban Water Company.** Application of Pennsylvania Suburban Water Company for approval to begin to offer, render, furnish and supply water service to the public in portions of Centre and Bern Townships, Berks County, PA.

This application may be considered without a hearing. Protests or petitions to intervene can be filed with the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant on or before April 29, 2002, under 52 Pa. Code (relating to public utilities).

*Applicant:* Pennsylvania Suburban Water Company

*Through and By Counsel:* Mark J. Kropilak, 762 West Lancaster Avenue, Bryn Mawr, PA 19010.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 02-608. Filed for public inspection April 12, 2002, 9:00 a.m.]

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## SECURITIES COMMISSION

### Designation of an Investment Adviser Registration Depository for Applications, Amendments and Fees for Investment Adviser Representatives of Federally Covered Advisers

*Whereas*, Section 303(a) of the Pennsylvania Securities Act of 1972 (1972 Act) requires investment adviser representatives seeking registration in Pennsylvania to file an application with the Pennsylvania Securities Commission (Commission); and

*Whereas*, Sections 602(d.1) and 602.1(a)(1) and (2) of the 1972 Act requires investment adviser representatives to pay filing fees and compliance assessment fees annually to the Commission (Filing Fees); and

*Whereas*, Commission Regulation 303.014, 64 Pa. Code § 303.014, states that the application required by Section 303(a) of the 1972 Act shall be the Uniform Application for Securities Industry Registration or Transfer (Form U-4); and

*Whereas*, Commission Regulation 303.014, 64 Pa. Code § 303.014 requires an amendment to Form U-4 when material information contained in the Form U-4 becomes incorrect or incomplete (Form U-4 Amendment); and

*Whereas*, Commission Regulation 303.014 64 Pa. Code § 303.014, authorizes the Commission, by order, to designate an investment adviser registration depository for the receipt of Form U-4, Form U-4 Amendments and Filing Fees; and

*Whereas*, the Commission, finds it necessary and appropriate in the public interest and for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the 1972 Act to issue the following Order:

*Now, Therefore*, the Commission on the 2nd day of April 2002, pursuant to Commission Regulation 303.014, 64 Pa. Code § 303.014, orders the following:

1. For purposes of Commission Regulation 303.014, the Commission designates the following as the only investment adviser registration depository authorized to receive Form U-4, Form U-4 Amendments and Filing Fees on behalf of the Commission (IARD):

#### FORMS

IARD Document Processing  
NASD Regulation, Inc.  
P. O. Box 9495  
Gaithersburg, MD 20898-9495  
www.iard.com

#### FEES

NASD Regulation, Inc.,  
CRD-IARD  
P. O. Box 7777-W9995  
Philadelphia, PA  
19175-9995

2. Effective with the date of this order and thereafter, all investment adviser representatives of a federally covered adviser making an initial application for registration, shall file Form U-4 electronically and pay the Filing Fee through www.iard.com. Form U-4 shall be deemed filed and the Filing Fee shall be deemed received by the Commission on the date such items are accepted by the IARD. All Form U-4 amendments shall be filed electronically through www.iard.com.

3. Investment adviser representatives of federally covered advisers that are registered in Pennsylvania as of the effective date of this order, shall transition their registration to the IARD ("Transition Filing") no later than September 30, 2002 which Transition Filing shall include submission of a complete and accurate electronic Form U-4.

4. As provided by Commission Regulation 603.011, 64 Pa. Code § 603.011, an application for registration as an investment adviser representative is not deemed complete until all the required documents, filing fees and compliance assessment fees have been received by the Commission.

5. This Order shall be published in the *Pennsylvania Bulletin*.

6. The effective date of this Order shall be the date published in the *Pennsylvania Bulletin*.

Alternative formats of this document may be available upon request by calling (717) 787-1165 or TDD Users: AT&T Relay Center (800) 654-5984.

M. JOANNA CUMMINGS,  
*Secretary*

[Pa.B. Doc. No. 02-609. Filed for public inspection April 12, 2002, 9:00 a.m.]

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## STATE EMPLOYEES' RETIREMENT BOARD

### Hearings Scheduled

Hearings have been scheduled, as authorized by 71 Pa.C.S. Part XXV (relating to State Employees' Retirement Code), in connection with the State Employees' Retirement System's denial of Claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the State Employees' Retirement System, 30 North Third Street, Fifth Floor, Harrisburg, PA 17101:

April 22, 2002 Jacqueline Campbell (D) 1 p.m.  
 (Contested Death Benefit)

April 25, 2002 Richard Landis (D) 1 p.m.  
 (Contested Death Benefit)

May 22, 2002 Thomas F. Mattive, Jr. 1 p.m.  
 (Pension Forfeiture Due to  
 Criminal Conviction)

(relating to the Administrative Agency Law). Under 4 Pa. Code § 250.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JOHN BROSIUS,  
*Secretary*

[Pa.B. Doc. No. 02-610. Filed for public inspection April 12, 2002, 9:00 a.m.]

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704



# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

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.

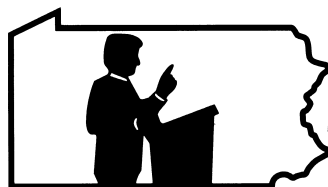
30 days after the later of the receipt of a proper invoice or receipt of goods or services.

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

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services

Location: Harrisburg, Pa.

Duration: 12/1/93-12/30/93

Contact: Procurement Division  
787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:  
Vendor Services Section  
717-787-2199 or 717-787-4705

### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

## GET A STEP AHEAD IN COMPETING FOR A STATE CONTRACT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Bureau personnel can supply descriptions of contracts, names of previous bidders, pricing breakdowns and other information to help you submit a successful bid on a contract. We will direct you to the appropriate person and agency looking for your product or service to get you "A Step Ahead." Services are free except the cost of photocopying contracts or dubbing a computer diskette with a list of current contracts on the database. A free brochure, "Frequently Asked Questions About State Contracts," explains how to take advantage of the bureau's services.

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania State Treasury  
 Room G13 Finance Building  
 Harrisburg, PA 17120  
 717-787-2990  
 1-800-252-4700

BARBARA HAFER,  
*State Treasurer*

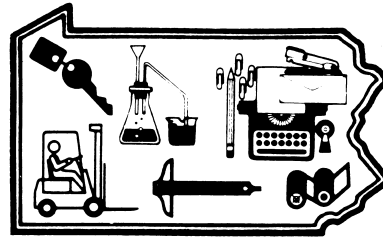
Effective April 15, 2002, the Department of General Services (Department), Bureau of Purchases, will no longer send vendors notices of the availability of invitations for bids or requests for proposals (by fax or other means.) Bidding/contracting opportunities will be posted on the Department's website. Vendors who are interested in competing for a particular contracting opportunity with this Commonwealth will be able to download the particular invitation for bids or request for proposals.

The website address for viewing bidding/contracting opportunities and for obtaining copies of invitations for bids and requests for proposals is [www.dgs.state.pa.us](http://www.dgs.state.pa.us). To access the information on this website, vendors must select "Procurement" followed by "Bidding Opportunities."

If a vendor wishing to participate does not have access to a computer, public libraries offer free access to the Internet. Additionally, a vendor can obtain a copy of an individual invitation for bids or request for proposals by calling Vendor Services at (717) 787-2199 or (717) 787-4705, or by visiting us at 414 North Office Building, Harrisburg, PA.

Contact Susan Plecker, Website Manager, at (717) 787-1105 or Ray Cunningham, Vendor Information Section Supervisor, at (717) 787-5862, concerning questions or problems in gaining access to bidding/contracting opportunities information or in locating and downloading invitations for bids or requests for proposals.

KELLY POWELL LOGAN,  
*Secretary*



### Commodities

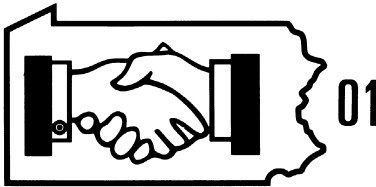
**SU-01-27** Sputtering System, Bench Top. Single Gun Magnetron Sputtering System, with a stainless steel chamber and view port. Shippensburg University of the State System of Higher Education is seeking Pennsylvania Based Companies interested in bidding on a Sputtering System. Requests for bid package may be faxed to 717-477-4004.

**Department:** State System of Higher Education  
**Location:** Shippensburg University, Shippensburg, PA 17257  
**Duration:** System to be furnished in June 2002  
**Contact:** Deborah K. Martin (717) 477-1121

**SRM000963** Various types of herbicides and rodent traps for buildings & grounds at Ft. Indiantown Gap. For information regarding bid package please send inquiries to the fax number listed (717-861-2932) or e-mail to [asommer@state.pa.us](mailto:asommer@state.pa.us). Bid opening will be held on April 22, 2002 at 2:00 pm.

**Department:** Military Affairs  
**Duration:** State Armory Board, Bldg. S-0-47, Room 104, Ft. Indiantown Gap  
**Contact:** Anita Sommer (717) 861-2928

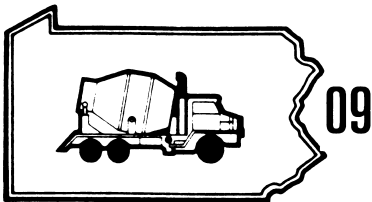
# SERVICES



## Advertising

**1801816098** The Pennsylvania Lottery requires a timely and cost efficient method for the statewide and national distribution of press releases to the media including print (which can include photos and graphic images), radio and television.

**Department:** Revenue  
**Location:** Pennsylvania Lottery, 2850 Turnpike Industrial Drive, Middletown, PA 17057  
**Duration:** July 1, 2002 through June 30, 2005, with the option to renew by mutual agreement for two (2) additional one (1) year periods.  
**Contact:** Donna Fry (717) 986-4772



## Construction & Construction Maintenance

**HUN 371** Supply material and apply asphalt for (3) residential driveways. Bid specifications and location will be supplied by contacting the agency.

**Department:** Corrections  
**Location:** State Correctional Institution at Huntingdon, 1100 Pike St., Huntingdon, PA 16654  
**Duration:** April 1, 2002 to June 30, 2002  
**Contact:** Robert Jessell (814) 643-2400 x 304

**DGS 117-1** PROJECT TITLE: Repair Dam Control Tower and Gate Valve. BRIEF DESCRIPTION: Re-construct the concrete and masonry control tower of the dam and replace the spillway pedestrian bridge of the earthen dam at Cowans Gap State Park. ESTIMATED RANGE: \$500,000.00 to \$900,000.00. General Construction. PLANS DEPOSIT: \$50.00 per set payable to: DEPARTMENT OF CONSERVATION & NATURAL RESOURCES. 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. Mail a separate check for \$10.00 or provide your express mail account number to the office listed below. Mail requests to: Department of Conservation & Natural Resources, Rachel Carson State Office Building, 8th Floor, 400 Market Street, Harrisburg, Pennsylvania 17105, Tel: 717/787-5055. Bid Date: WEDNESDAY, May 8, 2002 at 2:00 P.M.

**Department:** General Services  
**Location:** Cowans Gap State Park, Todd Township, Fulton County, PA  
**Duration:** 285 CALENDAR DAYS FROM DATE OF INITIAL JOB CONFERENCE  
**Contact:** Contract and Bidding Unit (717) 787-6556

**DGS A 207-15** PROJECT TITLE: Improve Site Lighting. BRIEF DESCRIPTION: Furnish and install new site lighting and remove selected trees. ESTIMATED RANGE: Under \$100,000.00. Electrical Construction. PLAN 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. 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, May 8, 2002 at 1:00 P.M.

**Department:** General Services  
**Location:** PA State Police Headquarters, Phila., Philadelphia County, PA  
**Duration:** 150 CALENDAR DAYS FROM DATE OF INITIAL JOB CONFERENCE  
**Contact:** Contract and Bidding Unit 717/787-6556

**A 573-37** PROJECT TITLE: Sports Complex Roof Replacement. BRIEF DESCRIPTION: Remove existing, EPDM roof system and install new roof system and reinstall existing roof edge. ESTIMATED RANGE: \$100,000.00 to \$300,000.00. 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. 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, May 8, 2002 at 2:00 P.M.

**Department:** General Services  
**Location:** State Correctional Institution, Camp Hill, PA  
**Duration:** 100 CALENDAR DAYS FROM DATE OF INITIAL JOB CONFERENCE  
**Contact:** Contract and Bidding Unit (717) 787-6556

**SP1116000-015** Application of 1" of polyurethane foam with a minimum of 10 mils of silicone coating on the Education Building at the State Correctional Institution at Pittsburgh. Additional specifications will be provided in the bid documents.

**Department:** Corrections  
**Location:** State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233  
**Duration:** June 30, 2002  
**Contact:** James Crytzer, FMM 412-761-1955 x260

**A 961-23** PROJECT TITLE: ROOF REPLACEMENT. BRIEF DESCRIPTION: Replace roof with new single ply membrane thermoplastic, new insulation and metal work. Also replace shingle roof with new ice and water shield, felt and shingles. Repair flashings as needed. Repoint all stone coping. ESTIMATED RANGE: Under \$100,000.00. 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. 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, May 8, 2002 at 1:00 P.M. A Pre-Bid Conference has been scheduled to be held on Tuesday, April 23, 2002 at 10:00 A.M. at the PA National Armory, 321 N. 5th Street, Hamburg, PA Contact: Chris Schlegel, Tel: 570/424-3986. All Contractors who have secured contract documents are invited and urged to attend this Pre-Bid Conference.

**Department:** General Services  
**Location:** PA National Guard Armory, Hamburg, Berks County, PA  
**Duration:** 120 CALENDAR DAYS FROM DATE OF INITIAL JOB CONFERENCE  
**Contact:** Contract and Bidding Unit 717/787-6556

**ME0010178003** Repair Digest at Sewer Treatment Plant. Sprockets to be forged. Interested contractor should fax a request for Bid #ME0010780003. Please include complete contractor name and mailing address.

**Department:** Public Welfare  
**Location:** White Haven Center, RR 2, Box 2195, White Haven, PA 18661  
**Contact:** Sandra A. Repal, PA (570) 443-4232

**578-20** PROJECT TITLE: Electrical System Upgrades. BRIEF DESCRIPTION: Replace underground high voltage distribution system, switchgear and transformers at prison complex. Provide on site electrical generation to operate all buildings on a standby basis. ESTIMATED RANGE: \$5,000,000.00 to \$8,000,000.00. General, HVAC, Plumbing and Electrical Construction. PLAN DEPOSIT: \$230.55 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. Mail a separate check for \$100.00 per set 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. Tel: 814/536-1651. Bid Date: WEDNESDAY, May 15, 2002 at 1:00 P.M. A Pre-Bid Conference has been scheduled for Tuesday, April 30, 2002 at 9:00 A.M. at the State Correctional Institution. Meet in Lobby of Administration Building, Dallas, Luzerne County, PA. Contact: Terry Conrad, Tel: 814/536-1651. Contractors must pre-register. Call Mike Truchon, Tel: 570-675-1101 by Friday, April 26, 2002. Must also have name of person representing Company and Company Name. All Contractors who have secured Contract Documents are invited and urged to attend this Pre-Bid Conference.

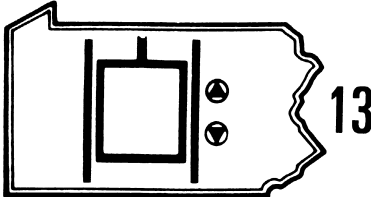
**Department:** General Services  
**Location:** State Correctional Institution, Dallas, Luzerne County, PA  
**Duration:** 420 CALENDAR DAYS FROM DATE OF INITIAL JOB CONFERENCE  
**Contact:** Contract and Bidding Unit 717/787-6556

**DGS A 251-667** PROJECT TITLE: New 44' X 77' 4-Bay Salt Storage Building. BRIEF DESCRIPTION: Construct a new 44' X 77' 4-Bay Salt Building with concrete foundation walls and wood superstructure. ESTIMATED RANGE: \$100,000.00 to \$500,000.00. 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. Mail a separate check for \$5.00 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, Pennsylvania 17125, Tel: 717/787-3923. Bid Date: WEDNESDAY, May 8, 2002 at 2:00 P.M.

**Department:** General Services  
**Location:** PennDOT Maintenance Building, Kylertown, Clearfield County, PA  
**Duration:** 60 CALENDAR DAYS FROM DATE OF INITIAL JOB CONFERENCE  
**Contact:** Contract and Bidding Unit (717) 787-6556

**A 962-23** PROJECT TITLE: Renovations to Air Conditioning - Eisenhower Hall. BRIEF DESCRIPTION: Replace (10) heating only cabinet fans with heating/cooling blower coil units. Provide (80) ton chiller, circulating pumps and piping to serve new units. Provide power for new HVAC equipment. ESTIMATED RANGE: \$100,000.00 to \$500,000.00. HVAC & Electrical Construction. PLANS DEPOSIT: \$25.00 per set payable to: COMMONWEALTH OF PA. Refundable upon return of plans and specifications in reusable condition as construction documents within 15 days after the bid opening date. Bidder is responsible for the cost of delivery of the plans and specifications. 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, May 8, 2002 at 11:00 A.M. A Pre-Bid Conference has been scheduled for 10:00 A.M. on Friday, April 26, 2002 at the Hollidaysburg Veterans' Home in the Old Administration Building, Area 14, by Security Office, Hollidaysburg, PA. Contact: Paul Cross or George Knisely, Tel: 814/696-5328. All Contractors who have secured Contract Documents are invited and urged to attend this Pre-Bid Conference.

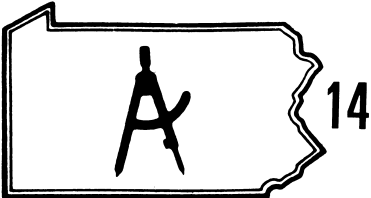
**Department:** General Services  
**Location:** Hollidaysburg Veterans' Home, Hollidaysburg, Blair County, PA  
**Duration:** 200 CALENDAR DAYS FROM DATE OF INITIAL JOB CONFERENCE  
**Contact:** Contract and Bidding Unit 717/787-6556



### Elevator Maintenance

**ME 020781007** Upgrade two elevators to meet ADA requirements. For bid specifications, please contact the Purchasing Office at (610) 670-4129.

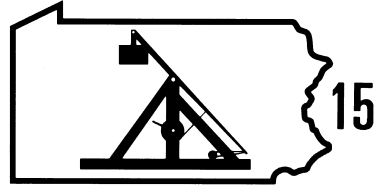
**Department:** Public Welfare  
**Location:** Wernersville State Hospital, Berks County, Route 422 West, Wernersville, PA 19565-0300  
**Duration:** Anticipated Start Date July 1, 2002  
**Contact:** Nancy Deininger, Purchasing Agent (610) 670-4129



### Engineering Services

**PennDOT-ECMS** The Pennsylvania Department of Transportation has established a website advertising for the retention of engineering firms. You can view these business opportunities by going to the Department of Transportation's Engineering and Construction Management System at [www.dot2.state.pa.us](http://www.dot2.state.pa.us).

**Department:** Transportation  
**Location:** Various  
**Contact:** [www.dot2.state.pa.us](http://www.dot2.state.pa.us)



### Environmental Maintenance Service

**AMD 03(0743)101.1** Acid Mine Drainage Abatement, Numine (White Lake) involves approximately 9,500 c.y. pond earthwork, 2,200 ton limestone coarse aggregate, 2,500 l.f. piping, wetland construction, clearing and grubbing, and seeding 3.5 acres. This project issues April 12, 2002; payment in the amount of \$10.00 must be received before bid documents will be sent. Federal funds are available for this project from the \$37.8 million 2001 Pennsylvania AML Grant.

**Department:** Environmental Protection  
**Location:** Cowanshannock Township, Armstrong County  
**Duration:** 375 calendar days after notice to proceed  
**Contact:** Construction Contracts Section (717) 783-7994

**OSM 17(1941)102.1** Abandoned Mine Land Reclamation, Water Line Extension, Spring Valley/Salem Phase II, involves approximately 4 pressure reducing vaults, 66,500 l.f. eight inch (8") ductile iron pipe including fittings, 300 l.f. highway crossings and railroad crossing and 2 stream crossings. This project issues April 12, 2002; payment in the amount of \$25.00 must be received before bid documents will be sent. Federal funds are available for this project from the \$29.1 million 2000 and \$24.7 million 2002 Pennsylvania AML Grants.

**Department:** Environmental Protection  
**Location:** Boggs and Bradford Townships, Clearfield County  
**Duration:** 375 calendar days after notice to proceed  
**Contact:** Construction Contracts Section (717) 783-7994

**OSM 02(1582)101.1** Mine Subsidence Control, Murray School East, involves approximately 75 l.f. overburden drilling and casing, and injecting 3,211 tons grout material. This project issues April 12, 2002; payment in the amount of \$10.00 must be received before bid documents will be sent. Federal funds are available for this project from the \$37.8 million 2001 Pennsylvania AML Grant.

**Department:** Environmental Protection  
**Location:** City of Pittsburgh, Allegheny County  
**Duration:** 70 calendar days after notice to proceed  
**Contact:** Construction Contracts Section (717) 783-7994

**OSM 63(1515)101.1** Mine Subsidence Control, Philipsburg West, involves approximately 84 l.f. overburden drilling and casing, and injecting 778 tons grout material. This project issues April 12, 2002; payment in the amount of \$10.00 must be received before bid documents will be sent. Federal funds are available for this project from the \$37.8 million 2001 Pennsylvania AML Grant.

**Department:** Environmental Protection  
**Location:** California Borough, Washington County  
**Duration:** 40 calendar days after notice to proceed  
**Contact:** Construction Contracts Section (717) 783-7994

**OSM 65(2209)101.1** Abandoned Mine Reclamation, West Leechburg, involves approximately 2,000 tons coarse aggregate and 2,000 bags Portland Cement for mine seal construction. This project issues April 12, 2002; payment in the amount of \$10.00 must be received before bid documents will be sent. Federal funds are available for this project from the \$29.1 million 2000 Pennsylvania AML Grant.

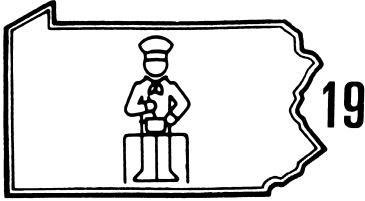
**Department:** Environmental Protection  
**Location:** West Leechburg Borough and Allegheny Township, Westmoreland County  
**Duration:** 100 calendar days after notice to proceed  
**Contact:** Construction Contracts Section (717) 783-7994

**BOGM 01-31** Clean Out and Plug Fifty Three (53) Abandoned and Orphan Oil Wells estimated to be between 1,400 to 2,200 feet each in depth, prepare and restore well sites and mobilize and demobilize plugging equipment. This project issues April 12, 2002; payment in the amount of \$10.00 must be received before bid documents will be sent.

**Department:** Environmental Protection  
**Location:** VisionQuest Property, Sandy Creek Township, Venango County  
**Duration:** 275 calendar days after notice to proceed  
**Contact:** Construction Contracts Section (717) 783-7994

**OSM 35(2090)101.1** Abandoned Mine Reclamation, Jessup Cemeteries, involves approximately 867,500 c.y. grading, 15,100 c.y. drainage excavation, 8,120 s.y. R-5 rock lining, 1,315 l.f. natural lined stream channel, seeding 75.3 acres and precasting reinforced concrete box culvert. This project issues April 12, 2002; payment in the amount of \$15.00 must be received before bid documents will be sent. Federal funds are available for this project from the \$37.8 million 2001 Pennsylvania AML Grant.

**Department:** Environmental Protection  
**Location:** Jessup Borough, Lackawanna County  
**Duration:** 960 calendar days after notice to proceed  
**Contact:** Construction Contracts Section (717) 783-7994

**Food**

**SP-20881004** Provide food service at the Southeast Secure Treatment Unit, 1824 West Strasburg Road, West Chester, PA 19382. Complete specifications will be mailed with bid.

**Department:** Public Welfare  
**Location:** Southeast Secure Treatment Unit, 1824 West Strasburg Road, West Chester, PA 19382  
**Duration:** 7/1/02 through 6/30/03  
**Contact:** Dee Kuhn, Purchasing Agent (717) 789-5509

**HUN375 FRESH PRODUCE;** Lettuce, pascal celery, carrots, oranges, apples, onions, bananas, cabbage, baking/round potatoes, grapefruit, tomatoes, peppers, cucumbers, watermelons, cantaloupe, pears, etc.

**Department:** Corrections  
**Location:** SCI-HUNTINGDON, 1100 Pike Street, Huntingdon, PA 16654-1112  
**Duration:** 07/01/2002 to 06/30/2003.  
**Contact:** Phyllis C. Sheffield, PA1 (814) 643-2400, x303

**HUN376 PROCESSED MEATS & CHEESES;** All Beef Franks, liver, Cheddar, Mozzarella, yellow/white cheeses, beef sausage, kielbasa, turkey roasts, lunch meats (cold cuts) ham, ham (pork), diced chicken meat, turkey ham, frying chicken quarters, meatballs, clams, chicken breast fritters, grilled beef steak (peppers & onions), turkey roasts, soy, veggie burgers, burger crumbles, etc.

**Department:** Corrections  
**Location:** SCI-HUNTINGDON, 1100 Pike Street, Huntingdon, PA 16654-1112  
**Duration:** 07/01/2002 to 06/30/2003.  
**Contact:** Phyllis C. Sheffield, PA1 (814) 643-2400, x303

**HUN374 PROCESSED MEATS & CHEESES;** All Beef franks, liver, cheddar, mozzarella, yellow/white american cheeses, beef sausage, kielbasa, turkey roasts, lunch meats, ham; pork; diced chicken meat, turkey ham, frying chicken quarters, meatballs, clams, chicken breast fritters, grilled beef steak with peppers/onions, turkey roasts, soy, veggie burgers and burger crumbles.

**Department:** Aging  
**Location:** SCI-HUNTINGDON, 1100 Pike Street, Huntingdon, PA 16654-1112  
**Duration:** 07/01/2002 to 06/30/2002.  
**Contact:** Phyllis C. Sheffield, PA1 (814) 643-2400, x303

**HUN378 DAIRY & FROZEN PRODUCTS;** Vegetable margarine, waffles, yeast, eggs (frozen & whites), broccoli spears, cauliflower, ice-cream, cottage cheese, twin-pops, orange juice, yogurt, french fries, etc.

**Department:** Corrections  
**Location:** SCI-HUNTINGDON, 1100 Pike Street, Huntingdon, PA 16654-1112  
**Duration:** 07/01/2002 to 06/30/2003.  
**Contact:** Phyllis C. Sheffield, PA1 (814) 643-2400, x303

**500 COFFEE** - Interested vendors should fax request for bid package #500 to 570-443-4177. Please include company name, address, phone and fax numbers.

**Department:** Public Welfare  
**Location:** White Haven Center, Institutional Warehouse, RR #2, Box 2195, White Haven, PA 18661  
**Duration:** July 1, 2002 to June 30, 2004  
**Contact:** Sandra A. Repak/PA (570) 443-4232

**HUN379** Six (6) each refrigerated type drink dispenser machines with adequate dispensers to meet our requirement of dispensing 2,400-12 ounce drinks in a two (2) hour period. Counter top installation, vendor to furnish, install and maintain, providing repairs, services as required during working hours, six (6) days per week with no cost to agency. NOTE: Items required for the dispensing of carbonated soft drink beverages in the institution dietary department. (Vendor must make sure this is up and operating on July 1st, 2002).

**Department:** Corrections  
**Location:** SCI-HUNTINGDON, 1100 Pike Street, Huntingdon, PA 16654-1112  
**Duration:** July 1, 2002 to June 30, 2003.  
**Contact:** Phyllis C. Sheffield, PA1 (814) 643-2400, x303

**HUN380 MILK PRODUCTS;** (1) MILK; 2%, Pasteurized, homogenized, Grade A, Reduced Fat, 1/5 gallon containers. (2) MILK; CHOCOLATE; Reduced fat, Vitamin D, 1-1/2% milk fat, 1/5 gallon containers. (3) MILK; CHOCOLATE, 1/2 pint containers, reduced fat, Vitamin D, 1-1/2% milk fat. Fat reduced 8 to 14 grams. (4) MILK; Pasteurized, homogenized, Grade A, 2%, Fat reduced from 8 to 5 grams. (5) SKIM MILK; Vitamin A, Vitamin D3, 1/2 pint containers. MILK MUST BE BID ACCORDING TO MILK MARKETING BOARD—MUST BE TEN (10) DAYS LEFT ON THE SELL-BY-DATE OF ALL MILK PRODUCTS.

**Department:** Corrections  
**Location:** State Correctional Institution HUNTINGDON, 1100 Pike Street, Huntingdon, PA 16654-1112  
**Duration:** July 01, 2002 thru June 30, 2003.  
**Contact:** Phyllis C. Sheffield, PA1 (814) 643-2400, x303

**HUN377 PROCESSED MEATS & CHEESES;** All Beef Franks, liver, Cheddar, Mozzarella, yellow/white cheeses, beef sausage, kielbasa, turkey roasts, lunch meats (cold cuts) ham, ham (pork), diced chicken meat, turkey ham, frying chicken quarters, meatballs, clams, chicken breast fritters, grilled beef steak (peppers & onions), turkey roasts, soy, veggie burgers, burger crumbles, etc.

**Department:** Corrections  
**Location:** SCI-HUNTINGDON, 1100 Pike Street, Huntingdon, PA 16654-1112  
**Duration:** 07/01/2002 to 06/30/2003.  
**Contact:** Phyllis C. Sheffield, PA1 (814) 643-2400, x303

**Janitorial Services**

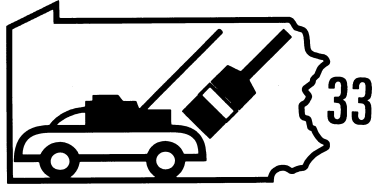
**Bid #8522** Furnish materials, equipment & labor to perform janitorial services FIVE (5) visits per week at the PA State Police, Blooming Grove Station. Basement area and elevator to be included. Detailed Work Schedule & Bid must be obtained from Facility Management Division, 717-705-5951.

**Department:** State Police  
**Location:** Blooming Grove Station, HC6, Box 6810, Hawley, PA 18428-9013  
**Duration:** 7/1/02 to 6/30/05  
**Contact:** Donna Enders (717) 705-5951

**Lodging/Meeting Facilities**

**SU-01-28** Shippensburg University is seeking vendors interested in submitting bids for training facilities in the Harrisburg, PA area for the timeframe of June 2-6, 2002. Vendor must have facilities for approximately 20 individuals for lodging and 22 individuals for training room and food service. Facility must also have Audio/Visual equipment available on premises. Interested vendors MUST fax their request to be added to the bidder's list to Pam King at (717) 477-4004. All responsible bidders are invited to participate including MBE/WBE firms.

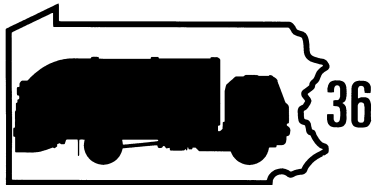
**Department:** State System of Higher Education  
**Location:** Shippensburg University, 1871 Old Main Dr., Shippensburg, PA 17257  
**Duration:** June 2-6, 2002  
**Contact:** Pamela King (717) 477-1121



## Property Maintenance

**021100** Vegetation Management: to plant additional planting materials through out existing plantings following areas: Toftrees, 1 Acre Plot, State College, Centre County PA SR 322 (I-99) and Scale House, 2 Acre Plot - Port Matilda, Centre County, PA SR 322 (I-99). Project to consist of adding plantings to make these areas appear similar to new construction plantings associated with I-99 projects. Work shall consist of the contractor finishing and placing trees and shrubs through their Business, Specified Equipment, Personnel, Liability Ins., Safety Equipment and any practices necessary for the professional planting of the various plants as listed on the Plant location sheets to areas as specified or as directed by the District Roadside Specialist. All work shall comply with the current rules and regulations of other State Agencies. Work to be governed by PENNDOT Spec. Pub 408 except where modified by contract specs. All plant material shall be alive and in good condition for one month after planting. There will be a tree list with several different trees to be considered for planting, you must pick off the list.

**Department:** Transportation  
**Location:** Toftrees - SR 322 (I-99) State College Centre Co., PA; Scale House, Port Matilda, SR 322 (I-99) Centre Co., PA  
**Duration:** 07/01/02  
**Contact:** Tina A Smith (814) 355-4731



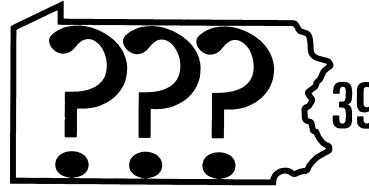
## Sanitation

**ADV#160** Indiana University of Pennsylvania is seeking qualified vendors to respond to a Request for Quotation to provide sanitation services to include removal and disposal on a daily basis. Requests for copies of the bid package should be made in writing referencing ADV#160 and directed to the attention of Barbara Cerovich, Contracts Administrator, IUP, Robertshaw Building, 650 S. 13th Street, Indiana, PA 15705; Fax No. (724) 357-2670; e-mail Cerovich@iup.edu. Interested vendors must submit their requests to be placed on the bidders list no later than 1:30 pm on Friday, April 19, 2002. The University encourages responses from small and disadvantaged, minority and women-owned firms.

**Department:** State System of Higher Education  
**Location:** Indiana University of Pennsylvania Indiana, PA 15705  
**Duration:** Three Years  
**Contact:** Barbara Cerovich (724) 357-2301

**SP 20777001** Sludge Removal Service. Special Requirements: Copy of approved Transport & Dumping Permit to accompany bid.

**Department:** Public Welfare  
**Location:** Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, PA 18411-9505  
**Duration:** 07/01/02 through 06/30/05  
**Contact:** Stanley Rygelski, PA (570) 587-7291



## Miscellaneous

**LBLA 2381C** Provide gypsum wallboard, metal studs, corner bead, joint tape, and joint compound, all to be included as an aggregate bid.

**Department:** Public Welfare  
**Location:** North Central Secure Treatment Unit, 210 Clinic Road, Danville, PA 17821  
**Duration:** Undetermined  
**Contact:** Dee Kuhn, Purchasing Agent 717-789-5509

**HUN 372** Vendor to supply custom made replacement windows for the State Correctional Institution at Huntingdon front office building. Installation will be done by the institution. Vendor will supply materials only. Bid specifications will be made available by contacting the Agency.

**Department:** Corrections  
**Location:** State Correctional Institution at Huntingdon, 1100 Pike St., Huntingdon, PA 16654  
**Duration:** 4-01-02 to 6-30-02  
**Contact:** Robert Jessell Pur Agt (814) 643-2400 x 304

[Pa.B. Doc. No. 02-611. Filed for public inspection April 12, 2002, 9:00 a.m.]

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## DESCRIPTION OF LEGEND

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|--|---|
| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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KELLY POWELL LOGAN,  
*Secretary*

## STATE CONTRACTS INFORMATION

## 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
0091-12	04/01/02	Huxley Envelope	738,131.55
6605-05 rip#1	04/01/02	OI Analytical	1,000.00
6605-05 rip#1	04/01/02	Leeman Labs	10,000.00
6605-05 rip#1	04/01/02	VWR International	21,000.00
7240-02	04/01/02	Fred Hill & Son	60,000.00
7240-02	04/01/02	Greenline Paper	60,000.00
7240-02	04/01/02	Kettle Creek/Windsor Barrel Works	60,000.00
7240-02	04/01/02	Recycling Products	60,000.00
7240-02	04/01/02	Rehrig Pacific/Erie	30,000.00
7240-02	04/01/02	Rehrig Pacific/Georgia	90,000.00
7240-02	04/01/02	Rehrig Pacific/New Hampshire	30,000.00
7240-02	04/01/02	Tulip Corp.	30,000.00

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
7240-02	04/01/02	Ultracart Corp.	30,000.00
7240-02	04/01/02	Wesnic Services	30,000.00
9550-10 rip#1	03/29/02	U S Municipal Supply	466,724.95
9550-10 rip#1	03/29/02	Western Highway Products	5,625.00
1214211-01	04/01/02	Amerisochi	34,538.00
1260131-01	04/01/02	Hill-Rom	54,827.50
1261111-01	04/01/02	W Brotherton Seed	10,880.00
1296111-01	04/01/02	Detroit Stoker	18,828.13
8141870-01	04/01/02	Russell Standard	1,422,377.96
8247520-01	04/01/02	Protection Services	76,457.50
8251550-01	04/01/02	Chevrolet of Hershey	22,898.00
8506170-01	04/01/02	Bowersox Truck Sales/Service	23,996.00

KELLY POWELL LOGAN,  
*Secretary*

[Pa.B. Doc. No. 02-612. Filed for public inspection April 12, 2002, 9:00 a.m.]