

PENNSYLVANIA BULLETIN

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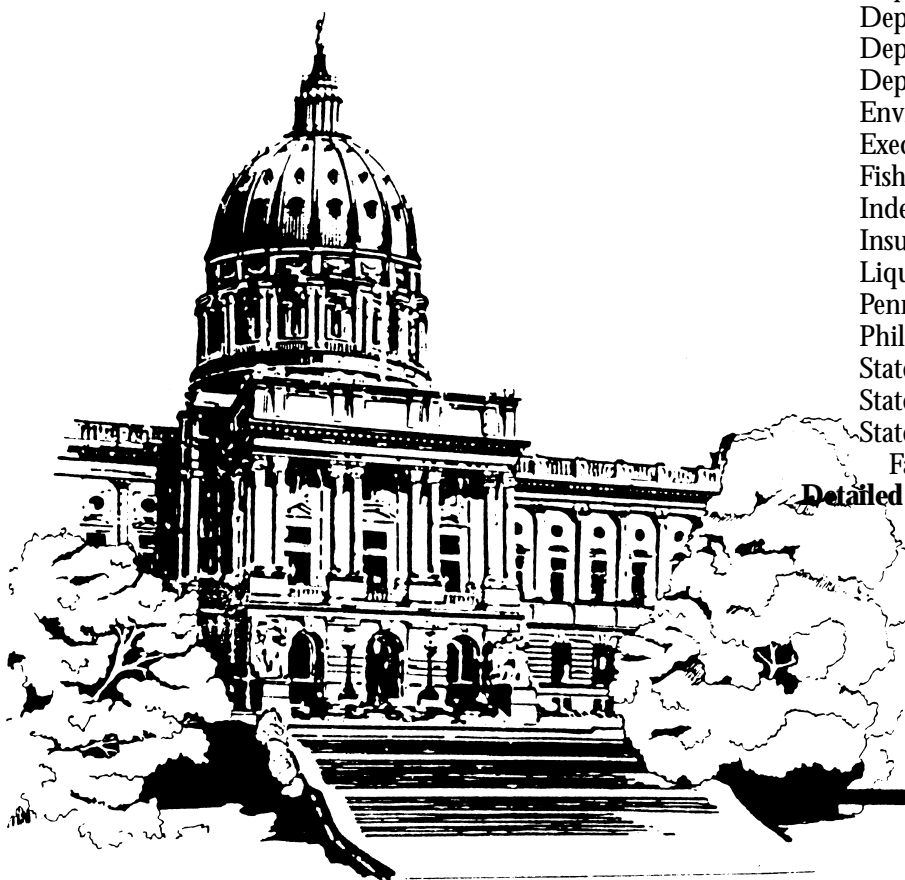
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No. 337, December 2002

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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THE COURTS

Title 207—JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS

[207 PA. CODE CH. 33]

Amendment of Canon 7B(1)(c) of the Code of Judicial Conduct; No. 246 Judicial Administration; Doc. No. 1

Order

Per Curiam:

And Now, this 21st day of November, 2002, Canon 7B(1)(c) of the Code of Judicial Conduct is amended to read as set forth in Annex A.

To the extent that notice of the proposed rulemaking would be required by Rule 103 of the Pennsylvania Rules of Judicial Administration or otherwise, the immediate amendment of Canon 7B(1)(c) of the Code of Judicial Conduct is hereby found to be required in the interest of justice and the efficient administration.

This Order shall be effective immediately and shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration.

Annex A

TITLE 207. JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS

CHAPTER 33. CODE OF JUDICIAL CONDUCT

Subchapter A. CANONS

Canon 7. A judge should refrain from political activity inappropriate to his judicial office.

* * * * *

B. Campaign Conduct.

(1) A candidate, including an incumbent judge, for a judicial office, that is filled either by public election between competing candidates or on the basis of a merit system election:

* * * * *

(c) should not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; **[announce his views on disputed legal or political issues] make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before the court;** or misrepresent his identity, qualifications, present position, or other fact.

* * * * *

Commentary: The United States Supreme Court in *Republican Party of Minnesota v. White*, 122 S. Ct. 2528 (2002), concluded that a canon of judicial conduct prohibiting judicial candidates from “announcing their views on disputed legal or political

issues” is violative of the First Amendment of the United States Constitution.

* * * * *

[Pa.B. Doc. No. 02-2165. Filed for public inspection December 6, 2002, 9:00 a.m.]

PART II. CONDUCT STANDARDS

[207 PA. CODE CH. 51]

Amendment of Rule 15D(3) of the Rules Governing Standards of Conduct of District Justices; No. 137 Magisterial Doc. No. 1, Book 2

Order

Per Curiam:

And Now, this 21st day of November, 2002, Rule 15D(3) of the Rules Governing Standards of Conduct of District Justices is amended to read as set forth in Annex A.

To the extent that notice of the proposed rulemaking would be required by Rule 103 of the Pennsylvania Rules of Judicial Administration or otherwise, the immediate amendment of Rule 15D(3) is hereby found to be required in the interest of justice and the efficient administration.

This Order shall be effective immediately and shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration.

Annex A

TITLE 207. JUDICIAL CONDUCT

PART II. CONDUCT STANDARDS

CHAPTER 51. STANDARDS OF CONDUCT OF

DISTRICT JUSTICES

PENNSYLVANIA RULES FOR DISTRICT JUSTICES

Rule 15. Public Office and Political Activity.

* * * * *

D. With respect to his campaign conduct, a district justice or a candidate for such office shall:

* * * * *

(3) not make pledges or promises of conduct in office other than the faithful and impartial performance of the duties of the office; **[announce his views on disputed legal or political issues] make statements that commit or appear to commit the candidate with respect to cases, controversies or issues that are likely to come before the court;** or misrepresent his identity, qualifications, present position, or other fact.

Commentary: The United States Supreme Court in *Republican Party of Minnesota v. White*, 122 S. Ct. 2528 (2002) concluded that a canon of judicial conduct prohibiting judicial candidates from “announcing their views on disputed legal or political

issues" is violative of the First Amendment of the United States Constitution.

* * * * *

[Pa.B. Doc. No. 02-2166. Filed for public inspection December 6, 2002, 9:00 a.m.]

Title 25—LOCAL COURT RULES

LEHIGH COUNTY

Administrative Order Governing Lehigh County
Clerk of Courts Civil Division 2003 Fee Sched-
ule; File No. 2002-J-96

Order of Court

Now, this 18th day of November, 2002, *It Is Ordered* that the following Administrative Order governing the Lehigh County Clerk of Courts 2003 Civil fee schedule is promulgated, to become effective January 1, 2003; that seven (7) certified copies shall be filed with the Administrative Office of Pennsylvania Courts; and two (2) certified copies shall be filed with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*; that one (1) certified copy shall be filed with the Civil Procedural Rules Committee; and that one (1) copy shall be filed with the Clerk of Courts of the Court of Common Pleas of Lehigh County.

By the Court:

WILLIAM H. PLATT,
President Judge

**ANDREA E. NAUGLE, CLERK OF COURTS
LEHIGH COUNTY CLERK OF COURTS—
CIVIL DIVISION**

FEE SCHEDULE—EFFECTIVE JANUARY 1, 2003

(42 Pa.C.S. § 21071)

Act 98-164 Effective 1/21/99

Note: CTF=Children's Trust Fund Fee Mandated by State Legislation

JCS=Judicial Computer System Fee Mandated by State Legislation (Act 122-2002 Rev. 11/02)

PAF=Prothonotary Automation Fee Authorized by Act 98-164

Document Type	Fee
Acknowledgment of Deeds	\$ 8.00
APPEALS	
Appeal of Appellate Court	\$ 51.50
Plus check made payable to "Prothonotary of Superior/Commonwealth Court" for \$60.00	
Appeal from District Justice	\$110.00
Appeal from Arbitration	\$600.00*
*plus any add'l compensation authorized, but not to exceed 50% of the amount in controversy. Shall not be taxable as costs or be recoverable in any proceeding.	
Apostille	\$ 16.00
Assignments	\$ 8.00

* The maximum fee to be charged a political subdivision for any one of the services provided for herein shall be \$10.00. Total fee may include satisfaction/discontinuance, automation fees, JCS fee and Tax

Document Type	Fee
Building Agreements/Stip	\$ 16.00
CERTIFICATION	
Certification—(Except UCC) Divorce Decree, Name Change	\$ 4.75
Certification of Entire Record	\$ 16.00
COMMENCEMENT OF ACTION	
Action at Law or Equity (plus .50 extra for indexing more than 5 pl'tfs. or defts.)	\$110.00
Miscellaneous Civil Filing	\$ 30.00
Custody Actions	\$135.50
Modification of Custody per petition	\$ 21.50
Divorce—(No Fault)	\$200.50
<i>Plus add'l counts</i>	
Alimony	\$ 35.00
Alimony pendente lite, counsel fees & costs	\$ 35.00
Custody & Visitation	\$ 40.00
Property Rights	\$ 35.00
Support	\$ 35.00
Other, each	\$ 35.00
Vital Statistics	\$.50
Praecepto to Transmit	\$ 25.00
<i>Master Fees</i>	
Before 97-FC-818	\$305.00
After 97-FC-818	\$250.00
Name change final order	\$ 4.75
Any action or proceeding to open/strike a judgment	\$ 96.50
Proceedings on any lien other than revival—(Mechanic's Lien Complaint)	\$ 96.50
*Actions started by a political subdivision (Includes tax and surcharges)	\$ 33.50
COPIES	
Docket printout	\$ 1.50
Docket printout by mail	\$ 3.00
Photo copying by clerk	
1st page by mail	\$ 1.00
Each add'l page	\$.50
Microfilm Copies	\$ 1.00
JUDGMENTS	
Confession (notes, bonds, etc.)	\$ 38.50
District Justice Transcript	\$ 38.50
Certification of Judgment	\$ 38.50
Domestic Relations	\$ 38.50
Exemplification/Foreign Judgment (Incoming Exemplified Records)	\$ 38.50
Exemplification of Judgment (Outgoing Exemplified Records)	\$ 16.00
Liens	\$ 38.50
Default, non-pros, demurrer	\$ 15.00
Verdict, Award, Court Order, Agreement & Final Decree	\$ 15.00
Release of Judgment	\$ 8.00
Reassess of Judgment	\$ 8.00
Subordination of Judgment	\$ 8.00
Withdraw of Judgment	\$ 8.00
LETTER OF ATTORNEY	
Recording—each name	\$ 8.00
Revoking—each name	\$ 8.00
NOTARY PUBLIC	
Notary Certificate	\$ 3.25
Notary Signature Registration	\$ 3.25
POLITICAL SUBDDIVISION *	
Action at Law or Equity	\$ 33.50
Appeal from District Justice	\$ 33.25
Correction Notices	\$ 10.00

Document Type	Fee
1. Federal Liens	
District Justice Transcript	\$ 33.25
Execution	\$ 10.00
Judgment	\$ 10.00
Liens with Satisfaction Fee	\$ 33.50
1. Municipal Liens	
2. Mechanic Liens	
Liens without Satisfaction Fee	\$ 25.50
1. State Liens	
2. Unemployment Liens	
3. Federal Liens	
Re-file Notice	\$ 10.00
Suggestion of Non-payment	\$ 10.00
1. Federal Liens	
POUNDAGE	
(The handling fee of monies paid into court)	
4.5% on the first \$1,000 and 1.5% on each add'l \$1,000 or fraction thereof	
PROTECTION FROM ABUSE	
PFA filing	\$100.50
PA State Police Registry	\$ 25.00
PFA Contempt or Bench Warrant	\$ 16.00
Removal or Transfer	\$ 16.00
REPORTS	
Case Type Reports	\$ 15.00
Detailed Mortgage Foreclosure	\$ 20.00
REVIVALS	
Amicable/Agreement	\$ 15.00
Adverse/Writ	\$ 25.00
Averments, suggestion of non-payment, (Continuing any lien not reduced to a judgment)	\$ 15.00
Satisfactions— not prepaid	\$ 8.00
School Audits	\$ 8.00
Subordination, withdrawal, postponement	\$ 8.00
SECURED TRANSACTIONS (UCC)	
UCC—SEARCH to 7/1/2001	
Advanced UCC Search (Deposit will be applied towards costs; if insufficient, you will be contacted; if excess, it will be returned.)	\$200.00
UCC—Five Year Search	
Each debtor name	\$ 59.00
Each reference found	\$ 5.00
Each page of photocopy furnished	\$ 2.00
UCC—Certification of Search	\$ 28.00
Plus any copy fee(s) applicable	
SUBPOENA	
Subpoena—To Attend and Testify)	\$ 3.25
Subpoena—To Produce Documents	\$ 3.25
Surety Financial Statement	\$ 16.00
WRITS	
Execution	\$ 25.00
Attachment Execution	\$ 25.50
Writs (Seizure, Possession, and Habeas)	\$ 25.00

No personal checks will be accepted

Business checks should be made payable to:

CLERK OF COURTS—CIVIL DIVISION

All checks returned for insufficient funds will be assessed a \$20.00 service charge.

The Clerk of Courts—Civil Division *shall not* be required to enter on the docket any suit, action or order of court or enter any judgment thereon or perform any service whatsoever for any person, political subdivision or the Commonwealth until the requisite fee is paid per 42 P. S. § 21073(b)

[Pa.B. Doc. No. 02-2167. Filed for public inspection December 6, 2002, 9:00 a.m.]

WESTMORELAND COUNTY

Adoption of Local Rule WDE301; No. 3 of 2002

Order

And Now this 21st day of November, 2002, *It Is Hereby Ordered* that Westmoreland County Rule of Disciplinary Enforcement WDE301 is adopted.

By the Court

DANIEL J. ACKERMAN,
President Judge

Rule WDE301. Proceedings Where an Attorney is Declared to be Incapacitated or Severely Mentally Disabled

(a) Whenever the respondent in a mental health matter is an attorney, the Westmoreland County Mental Health/Mental Retardation Department or the Westmoreland County Mental Health Hearing Officer shall immediately notify the Court.

(b) The Court shall, upon declaring an attorney incapacitated, or ordering involuntary treatment of an attorney on the grounds that the attorney is severely mentally disabled, or denying a petition for review of a certification by a mental health review officer subjecting an attorney to involuntary treatment, immediately deliver the Order to the Westmoreland County Prothonotary.

(c) The Order shall direct the Prothonotary to mail within 24 hours by certified mail, return receipt requested, a certified copy of the Order to Disciplinary Counsel.

(d) The person delivering such Order to the Prothonotary shall indicate the nature of the Order and the need for the Prothonotary to take immediate action.

(e) The Westmoreland County Prothonotary shall, pursuant to Pennsylvania Rule of Disciplinary Enforcement 301(a), mail by certified mail, a certified copy of the Order within 24 hours of any judicial determination to:

Counsel-in-Charge, District IV
Office of Disciplinary Counsel
Suite 400, Union Trust Building
501 Grant Street
Pittsburgh, Pa. 15219

(f) The Prothonotary shall file the return receipt upon receiving it from the Post Office as proof of transmission.

NOTE: This Rule is promulgated pursuant to Rule 301(a), Pennsylvania Rule of Disciplinary Enforcement.

[Pa.B. Doc. No. 02-2168. Filed for public inspection December 6, 2002, 9:00 a.m.]

YORK COUNTY

Increasing the Schedule of Fees for the Prothonotary of York County, a Third Class County; Misc. Civil

Administrative Order and Approval

And Now, To Wit, This 14th Day of November, 2002, *The Court* pursuant to Act #98-164 of the Pennsylvania Legislature, hereby approves the increase of fees effective January 2, 2003.

By the Court

JOHN H. CHRONISTER,
President Judge

Prothonotary Automation Fee As Indicated in Act #98-164 is Included in All New Filing Fees Pa CSA 42 Section et seg. as Amended

	<i>Fee</i>
<i>Acknowledgements</i>	
Sheriff or Treasurer Deeds	\$ 9.00
<i>Appeals</i>	
Appellate Court	55.00
Appellate Court Fee (Two separate checks for Appeal)	55.00
District Justice	113.75
<i>Arbitrations</i>	
Appointment of Arbitrator	27.25
Arbitration Appeal (County must be reimbursed for arbitrators fees)	29.00 240.00
<i>Assignments</i>	9.00
<i>Bench Warrants</i>	15.00
<i>Certificates</i>	
Notary Public or Magistrate	3.50
Duplicate Divorce Decree	8.00
Resumption of Prior Name Subsequent to Divorce	5.50
First Page	5.25
Additional Pages, Each	1.75
<i>Checks Returned as Non Negotiable</i>	20.00
<i>Commencement of Civil Action</i>	
Commencement of Action	113.75
Conciliator Appointment	125.00
Custody (except when filed with a divorce action)	109.25
Reactivation of case made inactive per Local Rule 6036	15.00
<i>Copies</i>	
Docket entries made at public printer	.25
Documents made by Prothonotary staff (per page)	1.00
<i>Divorce</i>	
commencement of Action (+ 10.00 each count other than divorce & \$15.00 when a custody count is included)	114.75
Administrative fee payable at commencement of suit	50.00
Discontinuance or withdrawal	9.00

Fee

<i>Appointment of Master:</i>	
Whether for Fault Divorce, Equitable Distribution or Alimony	300.00
Modification of Alimony	200.00
Testimony over 2 full days	150.00 per day
Alimony Pendente Lite, Counsel Fees, Costs & Expenses	50.00
<i>Executions</i>	
Praeipe for Writ	26.75
Attachment Proceeding Each	
Garnishee	.50
Reissuance	8.00
Interrogatories & Answers	5.75
Attachment Dissolution	9.00
Sheriffs Determination of Ownership	9.00
<i>Exemplified Records</i>	
Incoming Exemplified Records	31.00
Outgoing Exemplified Records (Specify In-State or Out of State)	18.25
<i>Faxing</i>	
Faxing of a record (long distance)	10.00
<i>Judgments</i>	
By Confession	31.00
By Praeipe, Stipulation, or Order	16.50
By Transcript	30.75
Incoming Exemplified Record	31.00
Outgoing Exemplified Record (Specify In-State or Out of State)	18.25
Broker's Lien	31.00
Judgment Non Pros	16.50
<i>Liens</i>	
Municipal or Federal Commonwealth	30.50 31.00
<i>Mechanics Liens</i>	
Claim (same as Commencement of new Action)	113.75
Stipulation or Waiver	24.00
<i>Miscellaneous</i>	
Petition for Change of Name	32.25
All other filings	14.00
<i>Notary Public</i>	
Registration of Signature	3.50
Acknowledgement of Signature	3.50
<i>Petitions to Open or Strike Judgments</i>	
Shall be considered as commencing a new action	
If filed to NO #	113.75
If filed to SU #	free
<i>Powers of Attorney</i>	
Registration—first name	4.00
Each additional name	1.00
Revocation—first name	2.75
Each additional name	1.00
<i>Protection From Abuse</i>	104.50
Copying charge (If copies are not provided)	20.00
State Surcharge	25.00
Issuance of a Bench Warrant	15.00
<i>Revivals</i>	
Adverse Proceedings	41.75
Amicable Proceedings	30.75

	<i>Fee</i>
<i>Responsive Pleadings</i>	
Answer/Petition/P. O./Etc. (Only if commencement of Action fee is less than \$50.00)	5.75
<i>Removal or Transfer of Record to Another Court</i>	23.25
<i>Satisfactions</i>	
Cases filed prior to 1/2/97	9.00
Release, Postponement, subordination by	9.00
Praecipe or power of attorney (Filed prior to '97)	9.00
(Additional fees may accumulate on civil litigation filed prior to '97)	
Commonwealth Satisfactions (Filed prior to '97)	9.50
<i>Subpoenas</i>	3.50
Must be completed before submitted for signature and seal	

****NOTE****

Counterclaims, Additional Defendants and Garnishment proceedings are not considered commencement of a new action.

Sci Fa proceedings of any lien, other than revival, shall be considered as commencing a new action.

Petition to Open and/or Strike Judgments shall be considered as a commencement of a new action.

The Prothonotary shall not be required to enter on the docket any suit or action nor order of court or enter any

judgment thereon or perform any services whatsoever for any person, political subdivision of the Commonwealth until the requisite fee is paid.

*******SPECIAL NOTE*******

ONLY CASH OR BUSINESS CHECKS, CERTIFIED CHECKS, MONEY ORDERS, OR TRAVELERS CHECKS PAYABLE TO THE "PROTHONOTARY OF YORK COUNTY" ARE ACCEPTABLE FOR PAYMENT OF FEES. A FEE OF \$20.00 WILL BE CHARGED FOR RETURNED CHECKS.

IT IS FURTHER ORDERED that in accordance with Pa.R.C.P. the district Court Administrator shall:

(a) File 7 certified copies hereof with the Administrative Office of Pennsylvania Courts.

(b) Distribute 2 certified copies hereof to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

(c) File 1 certified copy hereof with the Civil Procedural Rules Committee, and 1 certified copy hereof with the Criminal Procedural Rules Committee.

(d) Cause a copy hereof to be published in the *York Legal Record* once a week for 2 successive weeks at the expense of the County of York.

(e) Cause to be printed an adequate supply of the Rules hereby amended and promulgated for distribution to the Judges and the members of the Bar of this Court, and for sale at cost to any other interested parties, such printing to be done at the expense of the County of York in accordance with the provisions of the Act of July 9, 1976, P. L. 586, Sec. 2, 42 Pa.C.S.A. Section 3722.

(f) Supervise the distribution thereof to all Judges and all members of the Bar of this Court.

[Pa.B. Doc. No. 02-2169. Filed for public inspection December 6, 2002, 9:00 a.m.]

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF PSYCHOLOGY [49 PA. CODE CH. 41] Computerized Examinations

The State Board of Psychology (Board) amends Chapter 41 (relating to State Board of Psychology) to account for examination changes necessitated by the computerization of the National portion of the licensure examination.

Statutory Authority

The final-form rulemaking is authorized under section 3.2(1) of the Professional Psychologists Practice Act (act) (63 P. S. § 1203.2(1)).

Response to Public Comments and Regulatory Review

Notice of the proposed rulemaking was published at 31 Pa.B. 6546 (December 1, 2001). Publication was followed by a 30-day public comment period during which the Board did not receive any public comments. Following the close of the public comment period, the Board received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment.

Amendments to Final-Form Rulemaking

In this final-form rulemaking, the Board has made changes to § 41.42 (relating to reexamination) in accordance with the HPLC and IRRC comments.

Current § 41.42(a) precludes applicants from retaking the examination after a first-time failure for at least 6 months after the failure. Subsection (b) delineates the reexamination requirements for applicants who fail more than two times. In proposed form, the Board consolidated the reexamination requirement into subsection (a). IRRC expressed concern that the amendment does not reflect the statutory limitation in section 6(c) of the act (63 P. S. 1206(c)), that an applicant wait at least 6 months before retaking the examination after a first-time failure. The Board concurs with IRRC that applicants must wait at least 6 months between the first and second examination. The Board has reinserted the 6-month requirement in subsection (a) in final-form rulemaking. Current subsection (b) has also been reinserted to address subsequent examination failures. Since the 60-day timeframe in proposed subsection (d) only applied to subsequent examination failures, the language in subsection (d) has been consolidated to new subsection (b).

Both IRRC and the HPLC suggested that subsections (a) and (b) be modified to clarify the varying fees for reexamination. In accordance with this recommendation, the Board amended both subsections to track the fee language in § 41.12 (relating to fees). Subsection (a) references "reapplication fee—first time examination failure" and subsection (b) references "reapplication fee—subsequent examination failure."

Fiscal Impact and Paperwork Requirements

This final-form rulemaking will have no fiscal impact and will not create additional paperwork for licensees, the private sector, the general public or political subdivisions.

Sunset Date

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

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 14, 2001, the Board submitted copies of the notice of proposed rulemaking, published at 31 Pa.B. 6546, to IRRC, the SCP/PLC and the HPLC for review and comment.

Under section 5(c) of the Regulatory Review Act, the Board also provided IRRC, the SCP/PLC and the HPLC with copies of comments received as well as other documents. In preparing this final-form rulemaking, the Board has considered the comments received from IRRC, the SCP/PLC, the HPLC and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on October 22, 2002, this final-form rulemaking was deemed approved by the HPLC and the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on October 24, 2002, and approved this final-form rulemaking.

Contact Person

Further information may be obtained by contacting Christina Stuckey, Administrative Assistant, State Board of Psychology, P. O. Box 2649, Harrisburg, PA 17105-2649, www.state.pa.us/bpoa.psybd/mainpage.htm.

Findings

The Board finds that:

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

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

(3) The amendments do not enlarge the purpose of proposed rulemaking published at 31 Pa.B. 6546.

(4) The amendments are necessary and appropriate for administering and enforcing the authorizing acts identified in this Preamble.

Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 41, are amended by amending §§ 41.41, 41.42 and 41.52 to read as set forth in Annex A.

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

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

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

ALEX M. SIEGEL, Ph.D., J.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. 5582 (November 9, 2002).)

Fiscal Note: Fiscal Note 16A-6310 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 41. STATE BOARD OF PSYCHOLOGY EXAMINATIONS

§ 41.41. Examinations.

The examination is composed of a National and State portion. Applicants shall obtain a passing score to qualify for licensure. Information about the content of the examination is available from the Board office.

§ 41.42. Reexamination.

(a) After first-time failure, candidates may take a second examination upon filing an updated application and paying the reapplication fee—first time examination failure specified in § 41.12 (relating to fees), but only after the expiration of 6 months and within 2 years following the first examination date.

(b) After subsequent unsuccessful examinations, applicants may reapply to take any portion of the examination after 60 days following the failure, but shall satisfy the administrative, education and experience requirements prevailing at the time of the reapplication, file a verification of experience form and pay the reapplication fee—subsequent examination failure specified in § 41.12.

(c) The applicant will be judged pass or fail on the basis of the standards prevailing at the time of reexamination.

(d) No applicant will be permitted to sit for more than four examinations in any 1-year period.

MISCELLANEOUS

§ 41.52. Persons licensed in other states.

(a) A person who holds a current license or certificate to practice psychology issued by a statutory board of psychologist examiners of a state with requirements for licensure which are deemed by the Board to be equivalent to those of the Commonwealth may be exempt from

examination. Application for licensure under these circumstances shall be made on forms supplied by the Board and shall be accompanied by the initial application fees specified in § 41.12 (relating to fees).

(b) An applicant who has passed the National portion of the examination with a score equivalent to or higher than the passing score then prevailing in this Commonwealth will not be required to repeat this portion of the examination.

(c) In accordance with section 3(7) of the act (63 P. S. § 1203(7)), a psychologist licensed for independent practice by a statutory board of psychologist examiners of another state or a province of Canada, whose license is current and in good standing, may practice psychology on temporary assignment in this Commonwealth for up to 6 months, after written notification to the Board and receipt from the Board, in writing, of temporary permission to practice. The Board will grant no more than one extension of the 6-month period, the extension not to exceed an additional 6 months. Requests for extensions shall be made to the Board in writing. A psychologist on temporary assignment in this Commonwealth for an aggregate of no more than 14 days is exempted from the notification requirement.

[Pa.B. Doc. No. 02-2170. Filed for public inspection December 6, 2002, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF SOCIAL WORKERS, MARRIAGE AND FAMILY THERAPISTS AND PROFESSIONAL COUNSELORS

[49 PA. CODE CHS. 47—49]

[Correction]

Fees

An error occurred in the Fiscal Note number for the final rulemaking which appeared at 32 Pa.B. 5885, 5887 (November 30, 2002).

The correct version of the Fiscal Note is as follows:

Fiscal Note: Fiscal Note 16A-695 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 02-2141. Filed for public inspection November 27, 2002, 9:00 a.m.]

PROPOSED RULEMAKING

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 111]

Boating; Allegheny County

The Fish and Boat Commission (Commission) proposes to amend Chapter 111 (relating to special regulations counties). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). The proposed rulemaking relates to boating.

A. Effective Date

The proposed rulemaking, if approved on final rulemaking, will go into effect on May 1, 2003, or upon publication of an order adopting the rulemaking in the *Pennsylvania Bulletin*, whichever occurs later.

B. Contact Person

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

C. Statutory Authority

The proposed rulemaking to § 111.2 (relating to Allegheny County) is published under the statutory authority of section 5124 of the code (relating to particular areas of water).

D. Purpose and Background

The proposed rulemaking is designed to update, modify and improve the Commission's regulations pertaining to boating. The specific purpose of the proposed rulemaking is described in more detail under the summary of proposal. The Commission's Boating Advisory Board considered this proposed rulemaking and recommended that the Commission publish a notice of proposed rulemaking containing the proposed amendment.

E. Summary of Proposal

On February 15, 2002, the Commission received a petition from "Boaters are Voters," Pittsburgh, PA. The petition requested an extension of the existing slow, minimum height swell speed zone currently in place at the "Point" in Pittsburgh to encompass the area between the Fort Duquesne and Sixth Street Bridges, a distance of about 1,500 feet. The petition was accompanied by letters of support from 6 organizations and petition sheets with 291 signatures.

The Commission subsequently published a notice of proposed rulemaking at 32 Pa. B. 3490 (July 20, 2002) and held a public meeting in the Pittsburgh area to give the public additional opportunity to comment. On final-form rulemaking, the Commission amended § 111.2(c) to extend the slow, no wake zone on the Allegheny River to the Fort Wayne (Norfolk Southern) Bridge, instead of the Sixth Street Bridge as proposed. This proposed rulemaking, which will go into effect on May 1, 2003, extends the zone an additional 2,000 feet to encompass the

waterside development in the vicinity of the David E. Lawrence Convention Center.

At the same time, the Commission also approved the publication of a new notice of proposed rulemaking to extend the slow, no wake zone on the Monongahela River from the Fort Pitt Bridge to the Smithfield Bridge and to change the time that the zones are in effect to 7 days a week, 24 hours a day between May 1 and October 1. Having the zone in effect 7 days a week, 24 hours a day, between May 1 and October 1 will enhance the boaters' understanding of the regulation and make education, notification (signage) and enforcement easier to implement. The Commission proposes to amend this section to read as set forth in Annex A.

F. Paperwork

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

G. Fiscal Impact

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

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed amendment to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000, within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically to ra-pfbcregs@state.pa.us. A subject heading of the proposal and a return name and address must be included in each transmission. In addition, all electronic comments must be contained in the text of the transmission, not in an attachment. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

PETER A. COLANGELO,
Executive Director

Fiscal Note: 48A-136. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART II. FISH AND BOAT COMMISSION

Subpart C. BOATING

CHAPTER 111. SPECIAL REGULATIONS COUNTIES

§ 111.2. Allegheny County.

* * * * *

(c) *Allegheny, Monongahela and Ohio Rivers (City of Pittsburgh)*.—Boats are limited to slow, minimum height swell speed from the [Fort Pitt] Smithfield Bridge over the Monongahela River and the Fort Wayne (Norfolk Southern) Bridge over the Allegheny River to the West End Bridge over the Ohio River. This zone shall be in

effect [**on weekends**] from May 1 to October 1 [**from 3 p.m. Friday until midnight Sunday and from 3 p.m. on the day preceding Memorial Day, July 4 and Labor Day until midnight of the holiday**].

* * * * *

[Pa.B. Doc. No. 02-2171. Filed for public inspection December 6, 2002, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Conservation and Natural Resources

The Executive Board approved a reorganization of the Department of Conservation and Natural Resources effective November 20, 2002.

The organization chart at 32 Pa.B. 5961 (December 7, 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. 02-2172. Filed for public inspection December 6, 2002, 9:00 a.m.]

[4 PA. CODE CH. 9]

Reorganization of the Insurance Department

The Executive Board approved a reorganization of the Insurance Department effective November 20, 2002.

The organization chart at 32 Pa.B. 5962 (December 7, 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. 02-2173. Filed for public inspection December 6, 2002, 9:00 a.m.]

[4 PA. CODE CH. 9]

Reorganization of the Pennsylvania Municipal Retirement System

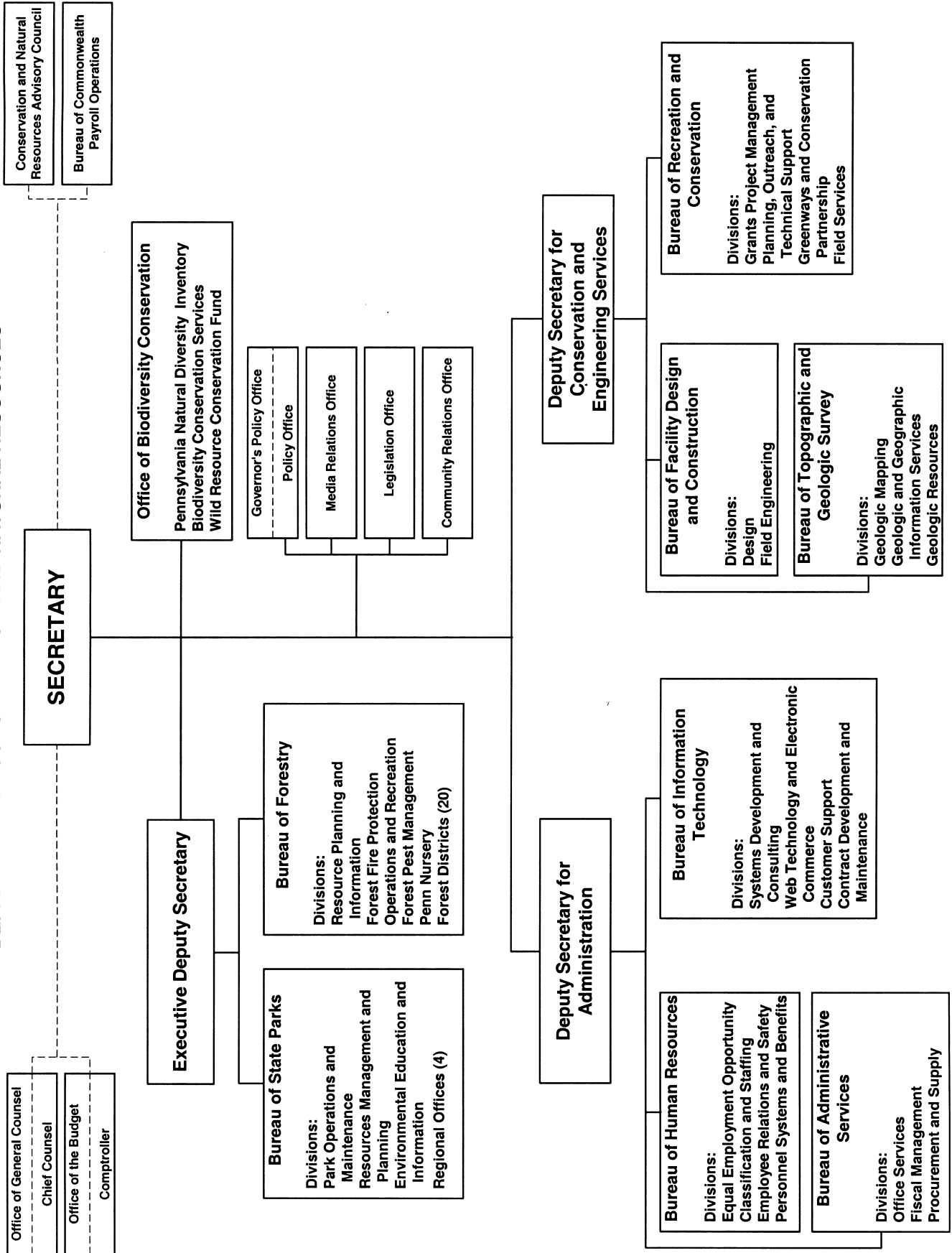
The Executive Board approved a reorganization of the Pennsylvania Municipal Retirement System effective November 20, 2002.

The organization chart at 32 Pa.B. 5963 (December 7, 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).

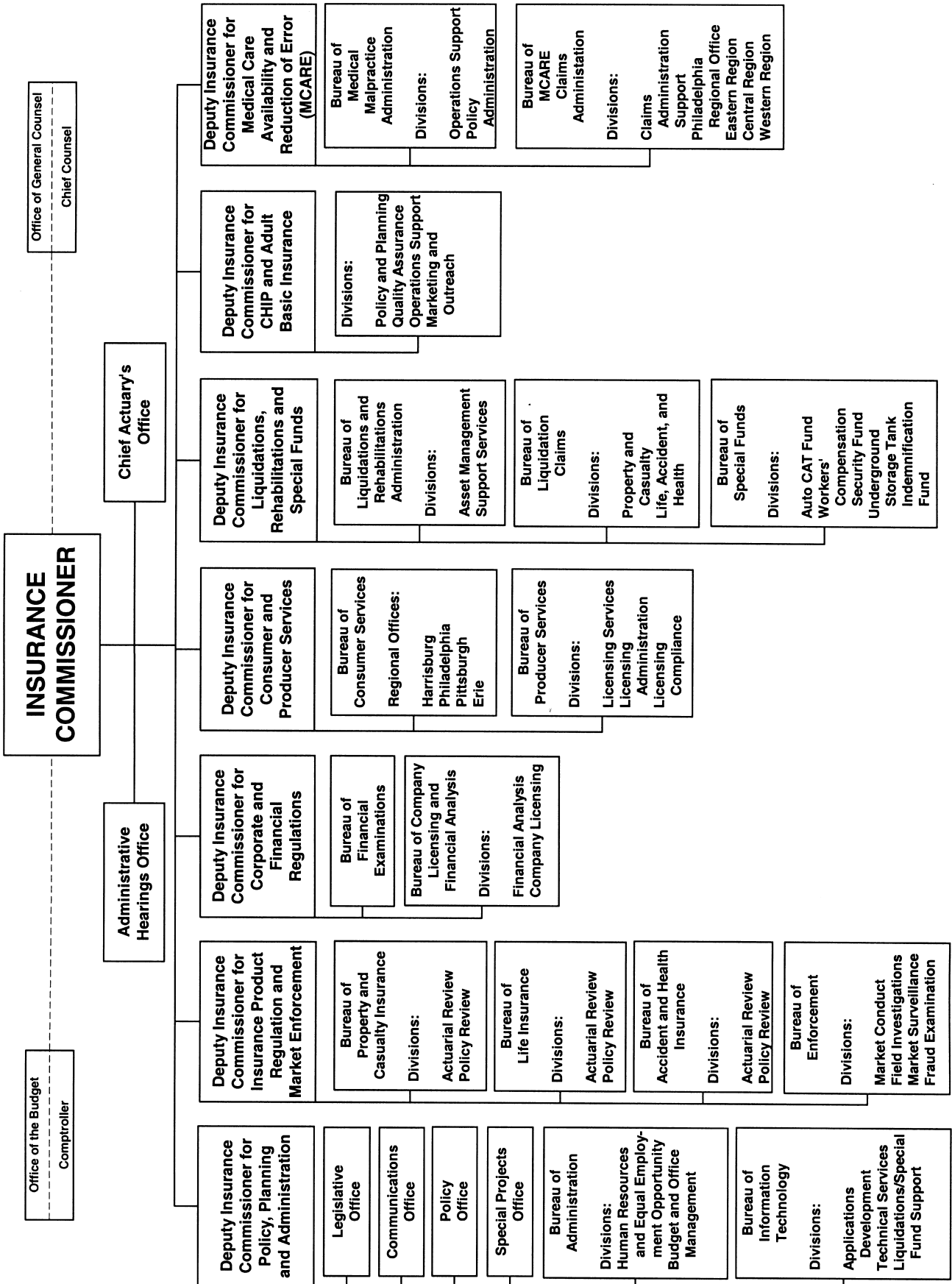
(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)

[Pa.B. Doc. No. 02-2174. Filed for public inspection December 6, 2002, 9:00 a.m.]

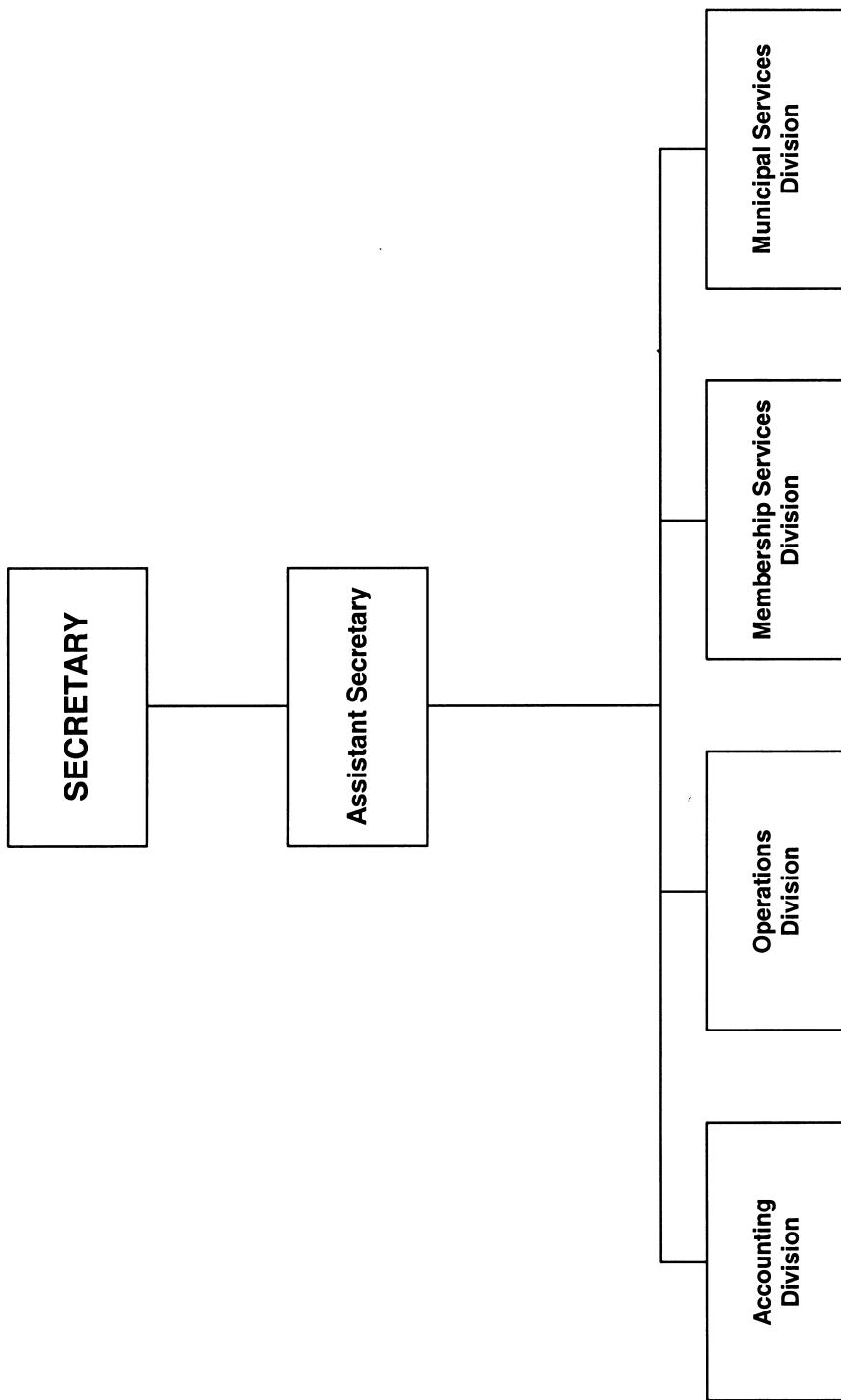
DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES



INSURANCE DEPARTMENT



PENNSYLVANIA MUNICIPAL RETIREMENT SYSTEM



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 November 26, 2002.

BANKING INSTITUTIONS

Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
11-18-02	Fidelity Bancorp, Inc., Pittsburgh, to acquire 100% of First Pennsylvania Savings Association, Pittsburgh	Pittsburgh	Approved
11-21-02	Franklin Financial Services Corporation, Chambersburg, to acquire up to 23.5% of the voting shares of American Home Bank, National Association, Lancaster	Chambersburg	Approved

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-18-02	Fidelity Savings Bank, Pittsburgh, and First Pennsylvania Savings Association, Pittsburgh Surviving Institution— Fidelity Savings Bank, Pittsburgh	Pittsburgh	Approved

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-18-02	Community Banks Millersburg Dauphin County	4501 Hanover Pike Manchester Carroll County, MD	Opened
11-18-02	The Peoples Bank of Oxford Oxford Chester County	1138 Georgetown Road Georgetown Bart Township Lancaster County	Opened

SAVINGS INSTITUTIONS

Conversions

<i>Date</i>	<i>Name of Association</i>	<i>Location</i>	<i>Action</i>
11-18-02	First Pennsylvania Savings Association Pittsburgh Allegheny County	Pittsburgh	Approved

Represents conversion from a State-chartered mutual savings association to a State-chartered permanent reserve fund stock savings association.

CREDIT UNIONS

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
11-19-02	Atlantic Credit Union, Newtown Square, PA, and UFCW Local 56 Federal Credit Union, Pennsauken, NJ Surviving Institution— Atlantic Credit Union, Newtown Square, PA	Newtown Square	Approved

PAUL H. WENTZEL, Jr.,
Acting Secretary

[Pa.B. Doc. No. 02-2175. Filed for public inspection December 6, 2002, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

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 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

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

<i>NPDES No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PAS802203	Mack Trucks Macungie Assembly Operations 7000 Alburtis Road Macungie, PA 18062-9631	Lower Macungie Township Lehigh County	Swabia Creek 2C	Y

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 1711, (717) 705-4707.

<i>NPDES No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0033057	Crestview MHP Henry Nolt 455B Middlecreek Road Lititz, PA 17543	Dauphin County Londonderry Township	Iron Run 7-D	Y
PA0082279	Spring Creek Joint Sewer Authority P. O. Box 373 Three Springs, PA 17264	Huntingdon County Clay Township	Spring Creek 12-C	Y

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

PA0222411, Sewage, **Robert E. Farrell**, 30 Carey Farms Road, Erie, PA 16510. This proposed facility is located in Harborcreek Township, **Erie County**.

Description of Proposed Activity: Renewal of a Part I permit for a new discharge of treated sewage.

The receiving stream, Lake Erie, is in watershed 15 and classified for CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0008 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow		Monitor and Report	
CBOD ₅	10		20
Total Suspended Solids	20		40
Fecal Coliform (all year)		200/100 ml as a geometric average	
Total Residual Chlorine		Monitor and Report	
pH		6.0 to 9.0 standard units at all times	

The EPA Waiver is in effect.

PA0024899, Sewage, **Lake City Municipal Sewer Authority**, 2350 Main Street, Lake City, PA 16423. This facility is located in Lake City Borough, **Erie County**.

Description of Proposed Activity: The applicant requests renewal of an NPDES permit to discharge treated sanitary sewage to Elk Creek in Lake City Borough, Erie County. This is an existing discharge.

The receiving stream, Elk Creek, is in the Lake Erie watershed and classified for WWF, aquatic life, water supply and recreation. For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, there is no existing/proposed downstream potable water supply to consider until Lake Erie.

The proposed effluent limits for Outfall 001 based on a design flow of 0.099 MGD:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅			
(5-1 to 10-31)	20	30	40
(11-1 to 4-30)	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N			
(5-1 to 10-31)	3		6
(11-1 to 4-30)	9		18
Dissolved Oxygen		minimum of 5.0 mg/l at all times	
Phosphorus as "P"	1.0		
Total Residual Chlorine	0.18		0.58

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)			200/100 ml as a geometric average 4,400/100 ml as a geometric average
pH			6.0 to 9.0 standard units at all times

The EPA Waiver is not 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.

PA0050202, Industrial Waste, **National Railroad Passenger Corporation, 30th Street Station**, 30th and Race Streets, Philadelphia, PA 19104-2898. This application is for renewal of an NPDES permit to discharge stormwater and treated storm/waste water from Amtrak Race Street/Penn Coach Yard in the City of Philadelphia, **Philadelphia County**. This is an existing discharge to Schuylkill River.

The receiving stream is classified for WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 101, based on stormwater flows are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>	<i>Monitoring Requirements</i>
Total Suspended Solids	30	60	75	1/Month
Oil and Grease	15		30	1/Month
pH	Within limits of 6.0—9.0 Standard Units at all times			1/Month
Phenols, Total	5.9	11.8	14.8	1/Month
Dissolved Iron			7.0	1/Month
TPH			Monitor and Report	1/Month
PCBs (Total)	Monitor and Report	Monitor and Report	Monitor and Report	4/Year

The proposed monitoring requirements and effluent limits for Outfall 001, based on stormwater flows, are as follows:

<i>Parameter</i>	<i>Monitoring Requirements</i>	<i>Instantaneous Limit</i>
Total Suspended Solids	2/Year	
Oil and Grease	2/Year	
Dissolved Iron	2/Year	
Total Phosphorus	2/Year	
Chemical Oxygen Demand	2/Year	
Total Kjeldahl Nitrogen	2/Year	
CBOD ₅	2/Year	
PCBs (Total)	4/Year	
pH	2/Year	Within limits of 6.0—9.0 Standard Units at all times

The EPA Waiver is in effect.

Northeast Region: Water Management Program Manager; 2 Public Square, Wilkes-Barre, PA 18711-0790.

PA0013501, Industrial, **Honeywell International, Inc.**, 98 Westwood Road, Pottsville, PA 17901-1814. This proposed facility is located in Norwegian Township, **Schuylkill County**.

Description of Proposed Activity: renewal of NPDES permit to discharge treated cooling water.

The receiving stream, unnamed tributary to West Branch Schuylkill River, is in the State Water Plan watershed no. 2A and is classified for CWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Pottstown Water Supply is located on the Schuylkill River, approximately 60 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0056 MGD.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
pH			6.0 to 9.0 Standard Units at all times	

Outfall 002—uncontaminated stormwater only.

PA0051896, Industrial, **Fort James Operating Company**, 605 Kuebler Road, Easton, PA 18042. This proposed facility is located in Forks Township, **Northampton County**.

Description of Proposed Activity: Renewal of NPDES Permit.

The receiving stream, unnamed tributary to Bushkill Creek, is in the State Water Plan watershed no. 2F and is classified for HQ and CWF. The nearest downstream public water supply intake for Keystone Water Company is located on the Delaware River, approximately 50 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of .0055 MGD.

Parameter	Mass (lb/day)		Concentration (mg/l)	
	Average Monthly	Maximum Daily	Average Monthly	Maximum Inst.
Oil and Grease			15	30
pH	6.0 to 9.0 Standard Units at all times			

PA0014681, Industrial, **Nestle Purina Petcare Company**, 2050 Pope Road Allentown, PA 18104-9308. This proposed facility is located in South Whitehall Township, **Lehigh County**.

Description of Proposed Activity: Renewal of NPDES permit to discharge treated industrial waste.

The receiving stream, unnamed tributary to Jordan Creek, is in the State Water Plan watershed no. 2C and is classified for HQ-CWF, MF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for the City of Allentown is located on the Lehigh River, approximately 5 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.53 MGD.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
CBOD ₅					
(5-1 to 10-31)	107	213	20	40	50
(11-1 to 4-30)	213	427	40	80	100
Total Suspended Solids	134	267	25	50	63
Total Dissolved Solids			1,200	2,400	3,000
NH ₃ -N					
(5-1 to 10-31)	21	43	4	8	10
(11-1 to 4-30)	64	128	12	24	30
Oil and Grease	80		15		30
Dissolved Oxygen		Minimum of 3 at all times			
Fecal Coliform				200/100 ml	
Temperature					110°F
Total Residual Chlorine			1		2.3

Three stormwater discharges are also part of this permit.

PA0011185, Industrial, **Air Products and Chemicals, Inc.**, 7201 Hamilton Boulevard, Allentown, PA 18195-1501. This proposed facility is located in Upper Macungie Township, **Lehigh County**.

Description of Proposed Activity: This application is for renewal of a NPDES permit to discharge noncontact cooling water, groundwater and stormwater. This is an existing discharge.

The receiving stream, Iron Run, is in the State Water Plan watershed no. 2C and is classified for HQ-CWF.

The proposed effluent limits for Outfall 001 based on an average flow of 0.105 MGD are as follows:

Parameter	Mass (lb/day)		Concentration (mg/l)	
	Average Monthly	Maximum Daily	Average Monthly	Instantaneous Maximum
Temperature				110°F
pH	Within limits of 6.0 to 9.0 Standard Units at all times			

The proposed effluent limits for the stormwater discharge from Outfall 001 are as follows:

Parameter	Mass (lb/day)		Concentration (mg/l)	
	Average Monthly	Maximum Daily	Average Monthly	Instantaneous Maximum
CBOD ₅				Monitor and Report
COD				Monitor and Report
Total Suspended Solids				Monitor and Report
Oil and Grease				Monitor and Report
Temperature				Monitor and Report
pH				Monitor and Report
Total Kjeldahl Nitrogen				Monitor and Report
Total Phosphorus				Monitor and Report

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
Iron (Dissolved)				Monitor and Report

PA0035629, Sewerage, **Department of Transportation, District 4**, O'Neill Highway, Dunmore, PA 18512. This proposed facility is located in Foster Township, **Luzerne County**.

Description of Proposed Activity: This proposed action is for the renewal of an NPDES permit to discharge 0.0086 MGD of treated sewage into Linesville Creek in Foster Township, Luzerne County.

The receiving stream, Linesville Creek, is in the State Water Plan watershed no. 02A and is classified for HQ, CWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for the Lehigh River, 20 miles below the point of discharge.

Outfall 001: The proposed effluent limits based on a design flow of 0.0086 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅ (5-1 to 10-31)	25		50
Total Suspended Solids	30		60
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean		
Total Residual Chlorine	1.2		2.8
Dissolved Oxygen	A minimum of 7.0 mg/l at all times.		
pH	6.0 to 9.0 standard units at all times.		

The EPA waiver is in effect.

PA0060372, Sewage, **Factoryville Borough**, P. O. Box 277, Factoryville, PA 18419. This proposed facility is located in Clinton Township, **Wyoming County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge 0.086 MGD of treated sewage into South Branch Tunkhannock Creek.

The receiving stream, South Branch Tunkhannock Creek, is in the State Water Plan watershed no. 04F and is classified for aquatic life, trout stream fish, water supply and recreation. The nearest downstream public water supply intake for Danville Borough Water Authority is located on the Susquehanna River, 60 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.086 MGD.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean 2,000/100 ml as a geometric mean		
Total Residual Chlorine	1.0		2.0
Dissolved Oxygen	A minimum of 5.0 mg/l at all times.		
pH	6.0 to 9.0 standard units at all times.		

The EPA waiver is in effect.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

PA0009253, Industrial Waste, Sewage, Groundwater and Stormwater, SIC Code 3795, **United Defense, L. P.**, P. O. Box 15512, York, PA 17405-1512. This facility is located in West Manchester Township, **York County**.

Description of activity: The application is for the renewal of an NPDES permit for existing discharges of industrial waste, sewage, treated groundwater and stormwater.

The receiving streams, Codorus Creek and unnamed tributaries, are in Watershed 7-H and are classified for WWF, water supply and recreation and fish consumption. The nearest downstream public water supply intake, Wrightsville Water Supply Company, is located approximately 28 miles downstream on the Susquehanna River. The discharge is not expected to affect the water supply.

The proposed effluent limitations for Outfall 101 (industrial waste) based on a design flow of 0.072 MGD and discharge to Codorus Creek are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH (S. U.)		From 6.0 to 9.0 inclusive	
Total Suspended Solids	31	60	77
CBOD ₅	40	80	100
Oil and Grease	15	30	30
Total Cadmium	0.05	0.1	0.125
Total Chromium	1.7	2.8	4.2
Total Copper	0.25	0.5	0.625
Total Lead	0.18	0.36	0.45
Total Nickel	2.0	4.0	5.0
Total Silver	0.07	0.14	0.175
Total Zinc	1.5	2.6	3.75
Total Cyanide	0.35	0.7	0.875
Total Toxic Organics		2.13	

The proposed effluent limitations for Outfall 102 (sewage) based on a design flow of 0.0071 MGD and discharge to Codorus Creek are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH (S. U.)		From 6.0 to 9.0 inclusive	
Dissolved Oxygen		Minimum of 5.0 mg/l at all times	
Total Suspended Solids	30		60
CBOD ₅	25		50
NH ₃ -N (5-1 to 10-31)	23		46
(11-1 to 4-30)	Monitor and Report		
Total Phosphorus	2.0		4.0
Fecal Coliform (5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		2,000/100 ml as a geometric average	

The proposed effluent limitations for Outfall 002 (groundwater cleanup) based on a design flow of 0.0288 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH (S. U.)		From 6.0 to 9.0 inclusive	
Tetrachloroethylene	0.0008	0.0016	0.002

The proposed effluent limitations for Outfall 003 (groundwater cleanup) based on a design flow of 0.0288 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
pH (S. U.)		From 6.0 to 9.0 inclusive	
Tetrachloroethylene	0.0008	0.0016	0.002
Chloroform	0.0057	0.0114	0.0142
1,1-Dichloroethylene	0.000057	0.00011	0.00014
1,1,1-Trichloroethane	0.2	0.4	0.5
Trichloroethylene	0.0027	0.0054	0.0067

Three stormwater outfalls (004—006) are identified in the permit, with proposed monitoring requirements for total cadmium, total chromium, total copper, total lead, total nickel, total silver, total zinc, total cyanide, total toxic organics, oil and grease, total suspended solids, pH, total aluminum, CBOD₅, total phosphorus and total iron.

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.

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

PA0003107, Industrial Waste, SIC, 3321, **Anchor Glass Container Corporation**, P. O. Box 30182, Tampa, FL 33630-3182. This application is for renewal of an NPDES permit to discharge furnace drain water (once every 2-3 years), emergency cooling tower blowdown and stormwater from Anchor Glass Plant No. 5 in South Connellsville, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, Youghiogheny River, classified as a HQ-CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is the Westmoreland County Municipal Authority, located at McKeesport, approximately 18 miles from the discharge.

Outfalls 001 and 006: existing discharge, design flow of 0.3 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	Monitor and Report				
Total Suspended Solids			30		60
Oil and Grease			15		30
Copper			Monitor and Report		
Lead			Monitor and Report		
Zinc			Monitor and Report		
Iron			Monitor and Report		
Aluminum			Monitor and Report		
pH	not less than 6.0 nor greater than 9.0				

Outfalls 004 and 007—013: existing discharges.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
	Discharge consists solely of uncontaminated stormwater runoff.				

The EPA waiver is in effect.

PA0096016, Sewage, **Rostraver Estates, Inc.**, 116 East Pittsburgh Street, Greensburg, PA 15601. This application is for renewal of an NPDES permit to discharge treated sewage from Rostraver Estates Sewage Treatment Plant in Rostraver Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, unnamed tributary of Speers Run, 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 Western Pennsylvania Water Company located on the Monongahela River.

Outfall 001: existing discharge, design flow of 0.013125 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	6.0			12.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.09			0.22
Dissolved Oxygen	not less than 5.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0205346, Sewage, **Regis and Marianne Belback**, 139 Wilma Drive, Apollo, PA 15613. This application is for renewal of an NPDES permit to discharge treated sewage from Belback residence in Washington Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, 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 located on the Allegheny River.

Outfall 001: existing discharge, design flow of 0.0005 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	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			

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
Total Residual Chlorine	Monitor and Report			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0217697, Sewage, **Rox Coal, Inc.**, 1576 Stoystown Road, P. O. Box 149, Friedens, PA 15541. This application is for renewal of an NPDES permit to discharge treated sewage from Sarah Mine STP in Jenner Township, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, mine water treatment ponds to unnamed tributary of Roaring Run, which are classified as a CWF 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 Manufactures Water Supply Company.

Outfall 001: existing discharge, design flow of 0.003 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	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	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0219371, Sewage, **Frank and Leona Van Scoyoc**, 7480 Prim Rose Drive, Mentor on the Lake, OH 44060. This application is for issuance of an NPDES permit to discharge treated sewage from Van Scoyoc single residence sewage treatment facility in Dean Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, drainage swale tributary to Clearfield Creek, which are classified as a CWF 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 Amsbry Water Authority.

Outfall 001: new discharge, design flow of 0.0004 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
(5-1 to 10-31)	3.0			
(11-1 to 4-30)	9.0			
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 3 mg/l			
Color	Monitor and Report			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

PA0028487, Sewage, **Hermitage Municipal Authority—Bobby Run WPCP**, Box 1046, 800 North Hermitage Road, Hermitage, PA 16148. This proposed facility is located in the City of Hermitage, **Mercer County**.

Description of Proposed Activity: Renewal of an existing Part I NPDES permit.

For the purpose of evaluating effluent requirements for TDS, NO₂—NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is the Western Pennsylvania Water Company—New Castle District intake on the Shenango River located in New Castle, approximately 18 miles below point of discharge.

The receiving stream, Shenango River, is in watershed 20-A and classified for WWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 5.0 MGD.

Parameters	Loadings (lb/day)		Concentrations (mg/l)		
	Monthly Average (lbs/day)	Weekly Average (lbs/day)	Monthly Average (mg/l)	Weekly Average (mg/l)	Instant Maximum (mg/l)
Flow (MGD)	XX		XX		
CBOD ₅	1,042	1,668	25	40	50
TSS	1,251	1,877	30	50	60
Ammonia Nitrogen (5-1 to 10-31)			15		30
(11-1 to 4-30)	626		XX		
Fecal Coliform (5-1 to 9-30)			200/100 ml as a geometric average		
(10-1 to 4-30)			7,500/100 ml as a geometric average		
Total Residual Chlorine			0.5		1.6
pH	Within limits of 6.0 to 9.0 standard units at all times				

XX = Monitor and Report

Special Conditions: continued implementation of a Federal pretreatment program; and acute whole effluent toxicity monitoring.

The EPA Waiver is not in effect.

PA0026387, Sewage, **St. Marys Municipal Authority**, P. O. Box 1994, 808 South Michael Road, St. Marys, PA 15857. This proposed facility is located in Borough of St. Marys, **Elk County**.

Description of Activity: discharge treated sewage to Elk Creek in the Borough of St. Marys, Elk County. This is an existing discharge.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the existing/proposed downstream potable water supply (stream and public water supplier) considered during the evaluation is the Pennsylvania American Water Company and the Clarion River located at Clarion, 70 miles below point of discharge.

The receiving stream, Elk Creek, is in watershed 17-A and classified for CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 based on a design flow of 2.87 MGD.

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N (5-1 to 10-31)	2.7		5.4
(11-1 to 4-30)	8.1		16.2
Fecal Coliform (5-1 to 9-30)		200/100 ml as a geometric average	
(10-1 to 4-30)		3,400/100 ml as a geometric average	
Ultraviolet Light Dosage	Monitor and Report dosage in microwatts-seconds/square centimeter at time fecal coliform sample is collected.		
Copper	0.05		0.1
Silver	0.0045		0.009
Dissolved Oxygen	minimum of 6 mg/l at all times		
pH	6.0 to 9.0 standard units at all times		

The EPA Waiver is not 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 an application 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).

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Application No. 3069401-A1, Sewerage, **West Greene School District**, 1367 Hargas Creek Road, Waynesburg, PA 15370. Application for the replacement and operation of a sewerage treatment plant to serve the West Greene Middle-Senior High School, located in Center Township, **Greene County**.

Application No. 3202404, Sewerage, **Robert and Anna Immekus**, 4792 Route 286 Highway East, Indiana, PA 15701. Application for the construction and operation of a single residence sewerage treatment plant located in Rayne Township, **Indiana County**.

Application No. 6502410, Sewerage, **Jeff Kochis**, 641 Buckeye Tram Road, Mt. Pleasant, PA 15666. Application for the construction and operation of a single residence sewerage treatment plant located in Mt. Pleasant Township, **Westmoreland County**.

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 who 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.

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

NPDES Permit PAS10D130, Stormwater, **Tim Snyder**, P. O. Box 218, Trumbauersville, PA 189970 has applied to discharge stormwater associated with a construction activity located in West Rockhill Township, **Bucks County** to Butter Creek (HQ-TSF).

NPDES Permit PAS10D131, Stormwater, **Harry and Marian Hottle**, 2135 Route 212, Coopersburg, PA 18036 has applied to discharge stormwater associated with a construction activity located in Springfield Township, **Bucks County** to unnamed tributary Cooks Creek (EV).

NPDES Permit PAS10G535, Stormwater, **Heritage Builders**, 3326 Old York Road, Suite A100, Furlong, PA 18925 has applied to discharge stormwater associated with a construction activity located in Warwick Township, **Chester County**, to French Creek (EV).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Berks County Conservation District, P. O. Box 520, 1238 County Welfare Road, Leesport, PA 19533; (610) 372-4657.

<i>NPDES No.</i>	<i>Applicant Name and Address</i>	<i>County and Municipality</i>	<i>Receiving Water/Use</i>
PAS10C053	Earl Township 19 Schoolhouse Rd. Boyertown, PA 19512	Earl Township Berks County	Trout Run 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 Environmental Protection (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 who 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. 0502508, Public Water Supply.
 Applicant **Borough of Everett Area Municipal Authority**
 Municipality Everett Borough
 County **Bedford**
 Responsible Official Ronald R. Wright, BEAMA Manager
 100 Mechanic Street
 Everett, PA 15537
 Type of Facility PWS
 Consulting Engineer Kevin J. Nester, P. E.
 CET Engineering Services
 321 Washington Street
 Huntingdon, PA 16652
 Application Received Date October 10, 2002

Description of Action Project is for the use of Well No. 1. The source will augment the existing sources. Expected permitted yield is 25 gallons per minute.

Permit No. 3602519, Public Water Supply.
 Applicant **ARA Consulting Limited Corporation**
 Municipality Sadsbury Township
 County **Lancaster**
 Responsible Official A. Charles Artinian, President
 4203 West Lincoln Highway
 Parkesburg, PA 19365
 Type of Facility PWS
 Consulting Engineer George H. Wagner Jr.
 Rettew Assoc., Inc.
 3020 Columbia Ave.
 Lancaster, PA 17603
 Application Received Date October 16, 2002

Description of Action This application is for the installation of nitrate removal treatment equipment at the Chuck Stop Restaurant. Treatment will also include softening and UV disinfection.

Permit No. 3402501, Public Water Supply.
 Applicant **Thompstontown Municipal Authority**
 Municipality Thompstontown Borough
 County **Juniata**
 Responsible Official Tom Metz, Vice Chairperson
 P. O. Box 154
 Thompstontown, PA 17092
 Type of Facility PWS
 Consulting Engineer Clayton E. Bubeck, P. E.
 Rettew Associates Inc.
 3020 Columbia Avenue
 Lancaster, PA 17603
 Application Received Date October 18, 2002

Description of Action Construction of a new PWS well to be known as Well No. 7. The estimated yield of the well is approximately 100 gallons-per-minute. The new source will be mixed with the existing sources in the raw water reservoir before it is treated.

Permit No. 3602521, Public Water Supply.
 Applicant **Conestoga Valley School District**
 Municipality East Lampeter Township
 County **Lancaster**
 Responsible Official David F. Schaffhouser, Plant Manager
 2110 Horseshoe Road
 Lancaster, PA 17601
 Type of Facility PWS

Consulting Engineer Parley E. Hess Jr., P. E.
113 Liberty Street
Lancaster, PA 17602

Application Received Date October 30, 2002

Description of Action Application is for the installation of nitrate treatment equipment at the Conestoga Valley High School and the Smoketown Elementary School. Disinfection via chlorination will also be provided.

Northcentral Region: Water Supply Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

Application No. Minor Amendment, Public Water Supply.

Applicant **Duncan Township Municipal Water Authority**

Township Duncan Township

Responsible Official Hannchen Volk
Duncan Township Municipal Water Authority
R. R. 1, Box 55
Wellsboro, PA 16901

Type of Facility PWS

Consulting Engineer James J. Rhoades Jr., P. E.
Alfred Benesch & Company
400 One Norwegian Plaza
P. O. Box 1090
Pottsville, PA 17901

Application Received Date November 14, 2002

Description of Action Construct a discharge absorption area for the filter backwash and the Well No. 2 blow off.

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, 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:

Northeast Regional Field Office: Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Bethlehem Corporation and Young Volkswagen Mazda, Palmer Township, Northampton County. Jim LaRegina, P. G., HRP Associates, Inc., 4807 Jonestown Road, Harrisburg, PA 17109 submitted Notices of Intent to Remediate (on behalf of Relay Service Easton Center LLC, 18202 Minnestonka Boulevard, Suite 1, Wayzata, MN 55391) concerning the remediation of site soils and groundwater found or suspected to be contaminated with lead and other inorganics, no. 2 fuel oil, leaded gasoline, chlorinated solvents and other organics, polycyclic aromatic hydrocarbons and polychlorinated biphenyls. The applicant proposes to meet a combination of the nonresidential Statewide Health and Site-Specific Standards. A summary of the Notice of Intent to Remediate was reportedly published in *The Express Times* on November 18, 2002.

RESIDUAL WASTE GENERAL PERMITS

Applications 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 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 Street, Harrisburg, PA 17105-8472.

General Permit Application No. WMGR088. Commonwealth Disposal Inc., 2340 Paxton Church Rd., Harrisburg, PA 17110. The beneficial use of drinking water treatment plant sludge generated by water supply treatment facility for application on agricultural lands as a soil additive. The application was deemed administratively complete by the Division of Municipal and Residual Waste on November 20, 2002.

General Permit Application Number WMGR089. LWB Refractories Co., 320 North Baker Road, York, PA 17405-1189. The application proposes beneficial use of limekiln dust for stabilization/solidification of soils and sludges, treatment of acid mine drainage, roadway subbase stabilization and conditioning, filler material or ingredient in various agricultural and construction products and general fill for nonresidential construction activities. The application was accepted by Central Office on November 19, 2002.

Comments concerning the previous applications should be directed to Ronald C. Hassinger, Chief, General Permits/Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. 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.

MUNICIPAL 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 Municipal Waste Regulations for a General Permit to Operate Municipal Waste Processing Facilities and the Beneficial Use of Municipal Waste.

Central Office: Division of Municipal and Residual Waste, Rachel Carson State Office Building, 14th Floor, 400 Market Street, Harrisburg, PA 17105-8472.

General Permit Application No. WMGM023. The Department, Bureau of Land Recycling and Waste Management, proposes to authorize, under General Permit WMGM023, the beneficial use of reclaimed asphalt pavement materials as roadway construction material. This will be a Statewide municipal waste general permit.

The Department is authorized under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and 25 Pa. Code § 271.811 to issue general permits for any category of beneficial use or processing that results in beneficial use of municipal waste on a Statewide basis when the Department determines that the use does not harm or present a threat of harm to the health, safety or

welfare of the public or the environment and the activity can be adequately regulated using standard conditions. The Department has determined reclaimed asphalt pavement materials can be adequately regulated using standard conditions.

Persons requesting approval to operate under the terms of the general permit will be required to obtain a registration from the Department's Bureau of Land Recycling and Waste Management, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472. The following minimum information will be required to obtain the registration:

- a. Name and street address of the registrant.
- b. A description of reclaimed asphalt pavement materials that fully characterizes its composition and properties; the reclaimed asphalt pavement materials generation process; and a plan for screening and managing the reclaimed asphalt pavement materials.
- c. Location where the reclaimed asphalt pavement materials will be generated.
- d. Description of method of beneficial use of the reclaimed asphalt pavement materials.
- e. Number and title of the general permit.
- f. Proof the reclaimed asphalt pavement materials and solid waste management activities are consistent with the general permit.
- g. Signed and notarized statement by the municipality or person who seeks authorization to operate under the terms and conditions of this general permit that states that the person accepts all conditions of this general permit.
- h. An application fee in the amount required under 25 Pa. Code § 271.843(b) made payable to the "Commonwealth of Pennsylvania."
- i. Proof that copies of the registration have been submitted to each municipality, county, county planning agency and county health department, if one exists, in which beneficial use activities are or will be located.
- j. Information that identifies the registrant (that is, individual corporation, partnership, government agency, association and the like), including the names and addresses of every officer that has a beneficial interest in or otherwise controls the operation of the company.
- k. A list of all previous permits or licenses issued by the Department or Federal government under the environmental protection acts, the date issued, status and compliance history concerning environmental protection acts.
- l. Proof that any independent contractors retained by the registrant to perform any activities authorized under this permit are in compliance with the Department regulations as required in Condition 11.
- m. Total amount of the reclaimed asphalt pavement materials to be generated and to be stored.
- n. Additional information the Department believes is necessary to make a decision.

Comments concerning the application should be directed to Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual waste, Bureau of Land Recycling and Waste

Management, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. Persons interested in obtaining more information, 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 additional conditions or revisions to or approval or denial of the proposed general permit.

AIR QUALITY

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.

Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

06-05004C: Baldwin Hardware Corp. (P. O. Box 15048, Reading, PA 19612) for construction of a thermal cleaning system controlled by a combustion zone and cyclones in the City of Reading, **Berks County**.

22-05033A: Hempt Bros., Inc. (P. O. Box 278, Camp Hill, PA 17001-0278) for installation of a knockout box and a fabric collector to replace a multicyclone and venturi scrubber at an existing batch asphalt plant at the Steelton Quarry in Steelton Borough, **Dauphin County**.

36-05104A: Ephrata Manufacturing Co. (104 West Pine Street, Ephrata, PA 17522) for construction of a fabric filter baghouse at their facility in Ephrata Borough, **Lancaster County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

41-399-026: Penn Recycling, Inc. (2525 Trenton Avenue, Williamsport, PA 17701) on November 8, 2002, for operation of an automobile/metal shredding system and associated air cleaning devices (a foam injection system and a cyclone collector) on a temporary basis until March 8, 2003, in the City of Williamsport, **Lycoming County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Devendra Verma, New Source Review Chief, (814) 332-6940.

61-203A: IA Construction Corp.—Nectarine Plant (SR 3003, Nectarine, PA 16038) for construction of a drum mix asphalt plant to burn alternative fuels: reprocessed fuel no. 5, no. 2 fuel oil, liquid propane and natural gas in Irwin Township, **Venango County**.

25-971E: Erie Plating Co. (656 West 12th Street, Erie, PA 16501) for construction of acid and alkaline solution tanks controlled by a scrubber (No. 7) in the City of Erie, **Erie County**.

25-971F: Erie Plating Co. (656 West 12th Street, Erie, PA 16501) for construction of nickel plating solution tanks controlled by a scrubber (No. 6) in the City of Erie, **Erie County**.

25-971G: Erie Plating Co. (656 West 12th Street, Erie, PA 16501) for construction of nitric acid, alkaline cleaning and water rinse tanks controlled by a scrubber (No. 5) in the City of Erie, **Erie County**.

10-021K: Indspec Chemical Corp. (133 Main Street, Petrolia, PA 16050) for minor modification of Plan Approval 10-313-028B for the Resorcinol Flaker/Bagging and Packaging to run either the old or new system in the Borough of Petrolia, **Butler County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Contact: Thomas Barsley, Chief, (215) 685-9428.

AMS 02202: Sunoco, Inc. (R and M) (3144 Passyunk Avenue, Philadelphia, PA 19145) for operation of changing the heat input of the heater 8H-101 in Philadelphia, **Philadelphia County**.

AMS 02212: Joseph T. Ryerson and Son, Inc. (5200 Grays Avenue, Philadelphia, PA 19143) for installation of a plasma cutting machine and 16 area heaters in Philadelphia, **Philadelphia County**.

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.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

46-0005V: Merck and Co., Inc. (770 Sumneytown Pike, P. O. Box 4, West Point, PA 19486-0004) for installation of a new biological manufacturing building, as described in the applicant's application of September 11, 2002, under 25 Pa. Code §§ 127.44(a) and 127.424(b), in West Point, Upper Gwynedd Township, **Montgomery County**. The Plan Approval will subsequently be incorporated into the company's Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. PA-46-0005V is for the installation of a new biological manufacturing building. The air contaminant emitting sources of the biological manufacturing building will consist of three shell freezers and a natural gas fueled emergency generator. Based on the information provided by the applicant and the Department's own analysis, the three shell freezers will emit a total of 3.6 tons of VOCs per year. Based on the information provided by the applicant and the Department's own analysis, the emergency generator will emit 0.19 ton of VOCs per year, 0.77 ton of NOx per year and 0.64 ton of CO per year. The emergency generator is limited to 500 hours of operation per year and will only operate when there is an interruption of electricity or for its weekly exercise.

46-0014C: Knoll, Inc. (1235 Water Street, East Greenville, PA 18041) for installation of a cyclone to control PM emissions from a metal and plastic cutting saw, originally approved for installation under Plan Approval No. 46-0115A. The facility, located in Upper Hanover Township, **Montgomery County**, is a Title V facility for VOCs. The aforementioned cyclone device will not affect VOC emissions at the facility. The cyclone device will be used to reduce emissions of PM from a metal and plastic cutting saw to less than 0.02 grain per dry standard cubic feet. The Plan Approval and Operating Permit will contain recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

46-0014E (originally issued as 46-0115C): Knoll, Inc. (1235 Water Street, East Greenville, PA 18041) for modification of operations to a No. 2 diesel fuel-fired emergency generator rated at 500 kW, originally approved for installation under Plan Approval No. 46-0115B (now identified as File No. PA-46-0014D). The facility, located in Upper Hanover Township, **Montgomery County**, 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.

Southcentral Region: Air Quality Program, 909 Elmerston Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

06-03113A: Haines and Kibblehouse, Inc. (P. O. Box 196, Skippack, PA 19474) for construction of various sources at a nonmetallic mineral crushing plant controlled by wet suppression in Robeson Township, **Berks County**. This crushing plant is a non-Title V (State only) facility. The additional sources will result in an increase in the potential emissions by 15.9 tons of particulate per year. The sources and plant are subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for New Stationary Sources. The approval will include monitoring, recordkeeping, work practices and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

55-310-002A: National Limestone Quarry, Inc. (P. O. Box 397, Middleburg, PA 17842) for construction of various new pieces of limestone crushing, conveying and screening equipment and permanent installation of various existing pieces of limestone crushing, screening and conveying equipment currently operated under a general permit at the Paxtonville Quarry in Franklin Township, **Snyder County**. The fugitive dust emissions from this equipment will be controlled by water spray dust suppression systems. The resultant particulate matter emissions to the atmosphere will be up to 0.41 ton per year.

The Department's evaluation of the proposed equipment suggests that it 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, the fugitive air contaminant emission requirements of 25 Pa. Code § 123.1 and the requirements of Subpart OOO of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.670—60.676. Based on this finding, the Department consequently intends to issue plan approval for the construction of the respective operation.

The Department intends to place conditions in the plan approval to ensure compliance with all applicable air quality regulatory requirements. The following is a summary of the most important conditions:

1. The plant shall not operate if the water spray dust suppression system is inoperable.
2. The water dust suppression system shall at a minimum contain water spray nozzles at the locations specified in the plan approval.
3. The facility shall not process more than 600,000 tons/year of limestone.
4. The company shall have a water truck onsite to be used, as needed, for the control of fugitive dust emissions from plant roadways, stockpiles and the like.
5. If at any time the fugitive dust emissions exceed the limitations of any applicable regulation, the company

shall immediately 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.

6. The plan approval does not authorize the construction of any generators or engine/generator sets.

7. The aforementioned equipment can be replaced without obtaining plan approval provided that the replacement equipment is of equal or smaller size as defined in Subpart OOO of the Standards of Performance for New Stationary Sources, 40 CFR 60.670—60.676 and provided that the replacement equipment is of equivalent design and function (that is a conveyor may be replaced with a conveyor and the like).

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

04-00235C: FirstEnergy Corp. (P. O. Box 128, Shippingport, PA 15077-0128) for installation of a voluntary selective catalytic reduction system on the exhaust from Unit No. 3 at the Bruce Mansfield Generation Station in Shippingport, **Beaver County**. The plan approval will include all appropriate monitoring, recordkeeping, testing and reporting requirements to ensure that the source is operating in compliance with all applicable air quality requirements. At a later date this plan approval will be incorporated into the Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

04-00235D: FirstEnergy Corp. (P. O. Box 128, Shippingport, PA 15077-0128) for installation of a sodium sulfite/bisulfite solution injection system on the exhausts from Units No. 1, No. 2 and No. 3 at the Bruce Mansfield Generation Station in Shippingport, **Beaver County**. The plan approval will include all appropriate emission limitations, monitoring, recordkeeping, testing and reporting requirements to ensure that the source is operating in compliance with all applicable air quality requirements. At a later date this plan approval will be incorporated into the Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

62-141E: National Fuel Gas Supply Corp. (P. O. Box 2081, Erie, PA 16512), for operation of the Roystone Station in Sheffield Township, **Warren County**. The facility was issued Title V Operating Permit 62-00017 on July 1, 2002. The facility currently has a Title V permit No. 62-00141. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V Operating Permit through an administrative amendment at a later date.

Plan approval No. 62-141E is for installation of VOC controls on the two dehydration systems (Lines D and L). The potential VOC emissions will decrease by approximately 8.7 tpy from the combined sources and will not trigger NSR or PSD review. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Contact: Edward Braun, Chief, (215) 685-9476.

01163: Philadelphia International Airport (8800 Essington Avenue, Philadelphia, PA 19153) for operation of 3 23.4 mmBtu/hr natural gas/No. 2 oil fired boilers, 2 16.9 mmBtu/hr natural gas/No. 2 oil fired boilers, 6 natural gas fired boilers each rated less than 5 mmBtu/hr, 44 natural gas fired heaters each rated less than 3 mmBtu/hr and 9 emergency generators. NOx emission from these sources is limited to less than 24.5 tons per rolling 12 month period. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

02049: Kvaerner Philadelphia Shipyard, Inc. (2100 Kitty Hawk Avenue, Philadelphia, PA 19112) for installation of a 12.6 mmBtu/hr natural gas fired boiler, eight natural gas fired area heaters and six baghouses and for establishing a 24.5 tons per year plant-wide NOx applicability limit. The facility's potential NOx emissions will decrease from 38.5 tons per year to 24.5 tons per rolling 12-month period. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

21-05009: Berk-Tek, Inc. (132 White Oak Road, New Holland, PA 17557-9722) for operation of a cable extrusion facility in Earl Township, **Lancaster County**. The facility's major source of emissions are attributed to the use of a hazardous air pollutant, methyl ethyl ketone, in solvent-based inks and extenders used in the band marking of the wire coating. The Title V Operating Permit will contain appropriate monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. This is a renewal of their Title V Operating Permit.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

11-00356: Dominion Peoples (625 Liberty Avenue, Pittsburgh, PA 15222) for renewal of the Title V Operating Permit at Rager Mountain/Laurel Ridge Station in Jackson Township, **Cambria County**. The facility is a compressor station primarily used for the storage and distribution of natural gas. The facility is a major stationary source due to its potential to emit nitrogen oxides.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

25-00688: Hamot Medical Center (201 State Street, Erie, PA 16550) for operation of three boilers, a hospital medical infectious waste incinerator and eight emergency generators in the City of Erie, **Erie County**. The facility, because of rulemaking, is a Title V facility and is therefore subject to the Title V Operating Permit requirements adopted in 25 Pa. Code Chapter 127, Subchapter G.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

23-00090: Chester Housing Authority (1010 Madison Street, Chester, PA 19016) for a non-Title V, State Only, Natural Minor Operating Permit in the City of Chester, **Delaware County**. Chester Housing Authority owns and operates a main office building, Towers Complex, the Ruth Bennett Homes and the William Penn Homes and Community Center and all of these facilities operate within a 2.5-mile radius of one another. Chester Housing Authority operates several small boilers, hot water heaters and residential furnaces and all these sources burn only natural gas. The actual emissions from all the properties combined are 13.43 tons of nitrogen oxides per year, 0.067 ton of sulfur dioxide per year, 1.43 tons of particulate matter per year, 0.568 ton of VOCs per year and 3.133 tons of carbon monoxide per year. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

Southcentral Region: Air Quality Program, 909 Elmer-ton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

22-05028: ConAgra Flour Milling Co. (99 Second Street, Highspire, PA 17034) for operation of a flour mill in the Borough of Highspire, **Dauphin County**. The facility has the potential to emit 46.7 tons per year of PM₁₀, after restrictions, 2.4 tons per year of combined HAPs and less than 1 ton per year of NO_x, SO_x, CO and VOCs. The Synthetic Minor operating permit shall contain testing, monitoring, recordkeeping 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.

63-00096: Union Electric Steel Corp. (726 Bell Avenue, Carnegie, PA 15106) for operation of their steel manufacturing facility at Harmon Creek Plant in Smith Township, **Washington County**.

56-00199: Shade Central City School District (203 McGregor Avenue, P. O. Box 7, Calmbrook, PA 15924) for operation of CNB Tri-fuel No. 2 Oil Boilers in Shade Township, **Somerset County**.

65-00882: CSM Industries, Inc. (R. D. 6 Box 21, Center Drive, Building D12, Latrobe, PA 15650) for an electroplating operation in Unity Township, **Westmoreland County**.

63-00654: Elliott Turbomachinery Co., Inc. (213 Scott Street Extension, Donora, PA 15033) for operation of a repair service in Donora Borough, **Washington County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Contact: Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

37-00023: Orion Power Midwest—New Castle Power Plant (Washington Street, New Castle, PA 16103) for operation of three coal-fired boilers in Taylor Township, **Lawrence County**. The facility, because the boilers are listed in Table 2 (Phase II Allowance Allocations) of

40 CFR 73.10, is a Title IV facility and is therefore subject to the acid rain requirements adopted in 25 Pa. Code Chapter 127, Subchapter G.

33-00137: Village Farms L. P.—Ringgold Plant (Highway L. R. 33001, P. O. Box 192, Ringgold, PA 15770) for operation of three auxiliary boilers used to produce heat for a greenhouse in Ringgold Township, **Jefferson County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Contact: Edward Braun, Chief, (215) 685-9476.

S95-073: Philadelphia International Airport (8800 Essington Avenue, Philadelphia, PA 19153) for operation of an airport in the City of Philadelphia, **Philadelphia County**. The synthetic minor facility's air emission sources include 3 23.4 mmBtu/hr No. 2 oil/natural gas dual-fired boilers, 1 20.9 mmBtu/hr No. 2 oil/natural gas dual-fired boiler, 2 16.9 mmBtu/hr No. 2 oil/natural gas dual-fired boilers, 6 natural gas-fired boilers each rated at less than 5 mmBtu/hr, 44 natural gas-fired heaters each rated at less than 3 mmBtu/hr and 9 diesel-fired emergency generators.

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); and The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and 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 limita-

tions, 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

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

40813212R3. Scenic Development Corp. (559 East Northampton Street, Wilkes-Barre, PA 18702), renewal of a coal refuse reprocessing operation in Larksville Borough, **Luzerne County** affecting 12.5 acres, receiving stream: none. Application received September 25, 2002.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

65980104. Thomas J. Smith, Inc. (R. D. 1, Box 260D, Shelocta, PA 15774). Application received for transfer of permit currently issued to M. B. Energy, Inc., for continued operation and reclamation of a bituminous surface mining site located in Derry Township, **Westmoreland County**, affecting 329.1 acres. Receiving streams: unnamed tributaries of Miller Run and Miller Run to Loyalhanna Creek, classified for HQ, CWF. The first downstream potable water supply intake from the point of discharge is greater than 10 miles from the site. Transfer application received November 12, 2002.

03880122. Thomas J. Smith, Inc. (R. D. 1, Box 260D, Shelocta, PA 15774). Application received for transfer of permit currently issued to M. B. Energy, Inc., for continued operation and reclamation of a bituminous surface/ auger mining site located in Cowanshannock Township, **Armstrong County** and South Mahoning Township, **Indiana County**, affecting 488.0 acres. Receiving streams: unnamed tributaries to North Branch Plum Creek and Plum Creek, classified for CWF. The first downstream potable water supply intake from the point of discharge is greater than 10 miles from the site. Transfer application received November 12, 2002.

03020113. Reichard Contracting, Inc. (212 Olean Trail, New Bethlehem, PA 16242). Application for commencement, operation and reclamation of a bituminous surface mine located in Wayne Township, **Armstrong County**, affecting 62.5 acres. Receiving streams: two unnamed tributaries to Glade Run, Glade Run to Mahoning Creek, classified for CWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received November 13, 2002.

03020114. D. J. & W. Mining, Inc. (P. O. Box 425, Indiana, PA 15701). Application for commencement, op-

eration and reclamation of a bituminous surface mine located in Kiskiminetas Township, **Armstrong County**, affecting 44.8 acres. Receiving streams: unnamed tributary to Crooked Creek to Crooked Creek, classified for WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Application received November 14, 2002.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

32920101 and NPDES Permit No. PA059953. Pitt Mining Company, 423 Weiss Road, Shelocta, PA 15774, permit renewal for reclamation only and for continued restoration of a bituminous surface mine in Young Township, **Indiana County**, affecting 272.3 acres. Receiving streams: two branches of an unnamed tributary to Gobbler Creek to Crooked Creek to the Allegheny River classified for CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 15, 2002.

56970101 and NPDES Permit No. PA0234346. PBS Coals, Inc., P. O. Box 260, Friedens, PA 15541, permit renewal for reclamation only and for continued restoration of a bituminous surface mine in Somerset Township, **Somerset County**, affecting 88.0 acres. Receiving streams: unnamed tributaries to the East Branch Coxes Creek classified for TSF. There are no potable water supply intakes within 10 miles downstream. Application received November 14, 2002.

32000101 and NPDES Permit No. PA0235253. Amerikohl Mining, Inc., 202 Sunset Drive, Butler, PA 16001, permit revision to change water handling procedures to include the installation of two passive treatment facilities (open water facilities) for the treatment of existing underground mine discharges. The treatment facilities will discharge water into unnamed tributary I to Crooked Creek. The facilities will be constructed within the 100 foot barrier of the tributary; beginning approximately 250 feet from the confluence of unnamed tributaries I and P and continuing upstream for approximately 200 feet. The purpose of the stream variance is for the construction and maintenance of the passive treatment facilities in Rayne Township, **Indiana County**, affecting 153.9 acres. Receiving streams: Crooked Creek, unnamed tributary to Crooked Creek classified for CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 14, 2002.

56920112 and NPDES Permit No. PA0212270. PBS Coals, Inc., P. O. Box 260, Friedens, PA 15541, permit renewal for reclamation only and for continued restoration of a bituminous surface mine and for discharge of treated mine drainage in Stonycreek Township, **Somerset County**, affecting 76.3 acres. Receiving streams: an unnamed tributary to Clear Run classified for CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 18, 2002.

32990105 and NPDES Permit No. PA0235083. Thomas J. Smith, Inc., R. D. 1, Box 260D, Shelocta, PA 15774 from M. B. Energy, Inc., 175 McKnight Road, Blairsville, PA 15717-7960, permit transfer and for continued operation of a bituminous surface and auger mine and for discharge of treated mine drainage in Burrell Township, **Indiana County**, affecting 200.0 acres. Receiving streams: unnamed tributaries to Tom's Run classified for CWF. The first downstream potable water supply intake from the point of discharge is Blairsville Municipal Authority Conemaugh River Intake. Application received November 13, 2002.

11020103 and NPDES Permit No. PA0249335. L & J Energy Company, Inc., P. O. Box I, Grampian, PA 16838, commencement, operation and restoration of a bituminous surface and auger mine and for discharge of treated mine drainage. Also, a variance has been requested to conduct mining and support activities within 100 feet of T-566, beginning at the intersection of SR 4018 and T-566, thence continuing northwesterly a distance of 3,390 feet along the northern side of the roadway. A variance has been requested on Douglas Run to utilize an existing bridge crossing the run, beginning 680 feet downstream in an easterly direction from the point where Douglas Run crosses T-566 in Susquehanna Township, **Cambria County**, affecting 321.5 acres. Receiving streams: Douglas Run to West Branch Susquehanna River classified for CWF. There are no potable water supply intakes within 10 miles downstream. Application received November 14, 2002.

Noncoal Applications Received

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

58920301C2 and NPDES Permit PA0595845. New Milford Sand & Gravel, Inc. (R. R. 3, Box 231, US Route 11, New Milford, PA 18834), quarry operation with renewal of existing discharge of treated mine drainage in New Milford Township, **Susquehanna County**, receiving stream: Beaver Creek, classified for CWF. Application received November 14, 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.

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)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E64-239. Department of Transportation, Engineering District 4-0, P. O. Box 111, Scranton, PA 18501, in Clinton Township, **Wayne County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a road crossing of a tributary to Van Auken Creek (HQ-TSF, MF), consisting of an 11.0-foot by 6.5-foot precast concrete box culvert with its invert depressed 1.0 foot below streambed elevation. The project will impact a de minimis area of wetlands equal to 0.04 acre (maximum). The total length of channel impacts, including a temporary diversion pipe, is approximately 60 linear feet. The project is located along SR 4002, Segment 0020, Offset 1944, approximately 0.2 mile west of the intersection of SR 4002 and T-456 (Little Keen Pond Road). (Waymart, PA Quadrangle N: 20.1 inches; W: 2.5 inches).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

E28-309. Gregory Strait, Long-Vu Whitetails, P. O. Box 603, Greencastle, PA 17225, in Metal Township, **Franklin County**, ACOE Baltimore District.

To construct and maintain two metal footbridges across and install 10-foot high chain-linked fence along the West Branch Conococheague Creek (CWF). The upstream bridge is located (Burnt Cabins, PA Quadrangle N: 0.2 inch; W: 1.8 inches) and the downstream bridge is located (McConnellsburg, PA Quadrangle N: 21.6 inches; W: 2.6 inches) in Metal Township, Franklin County.

E67-730. Joseph Barron, Spring Garden Township, 556 S. Ogontz Street, York, PA 17403 in Spring Garden Township, **York County**, ACOE Baltimore District.

To excavate 850 feet of stream bank to restore the floodplain to its original condition and reconnect adjacent wetlands to the floodplain of Mill Creek (WWF) (York, PA Quadrangle N: 16.0 inches; W: 9.0 inches) in Spring Garden Township, York County. The project will permanently impact 0.05 acre of palustrine emergent wetlands.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.

E59-436. Elkland Borough, 105 Parkhurst Avenue, Elkland, PA 16920. Camp Brook Dredging, in Elkland Borough, **Tioga County**, ACOE Baltimore District (Elkland, PA Quadrangle N: 6.3 inches; W: 3.1 inches).

The permit application proposes to dredge and maintain 0.61 mile (3,240 feet) of the Cowanesque River for a period 10 years. The Cowanesque River is designated as WWF.

E59-437. Elkland Borough, 105 Parkhurst Avenue, Elkland, PA 16920. Camp Brook Dredging, in Elkland

Borough, **Tioga County**, ACOE Baltimore District (Elkland, PA Quadrangle N: 21 inches; W: 7 inches).

The permit application proposes to dredge and maintain 0.4 mile (2,100 feet) of Camp Brook for a period 10 years. Camp Brook is designated as WWF.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E25-646A, Millcreek Township, 3608 West 26th Street, Erie, PA 16508-2037. Channel cleaning of unnamed tributary to Marshall Run, in Millcreek Township, **Erie County**, ACOE Pittsburgh District (Swanville, PA Quadrangle N: 15.3 inches; W: 4.5 inches).

To amend Permit No. E25-646 which authorized the excavation of debris and sediment to the original stream contours and to maintain the contours of 1,600 feet of an unnamed tributary to Marshall Run in Millcreek Township, Erie County starting west of Powell Avenue and extending downstream to the culvert under the existing tracks just east of Caughey Road to reduce flooding of nearby commercial properties. The proposed amendment is to excavate debris and sediment to the original stream contours and to maintain the contours of 500 feet of an unnamed tributary to Marshall Run starting at the culvert under the existing tracks just east of Caughey Road to just west of Loveland Avenue.

E61-257, General Authority of the City of Franklin, 430 13th St., Franklin, PA 16323-1317. Culvert in an unnamed tributary to French Creek, in the City of Franklin, **Venango County**, ACOE Pittsburgh District (Franklin, PA Quadrangle N: 4.9 inches; W: 15.1 inches).

To remove the existing culverts and to construct and maintain three 29-foot long, 4-foot diameter HDPE plastic culverts in an unnamed tributary to French Creek (WWF) approximately 0.7 mile east of the intersection of Waterworks Road and Stone Road for access to a municipal water well field. Project also includes the excavation of the channel for approximately 130 feet upstream of the culverts, filling the channel with the excavated material for approximately 75 feet downstream of the culverts and the construction and maintenance of a concrete encased, 1.25-foot diameter waterline across the unnamed tributary upstream and adjacent to the proposed culverts.

E61-258, Great Lakes Energy Partners, LLC, 1369 Cochran Road, Carlton, PA 16311. Wallaceville Pipeline Across Little Sugar Creek and wetlands, in Oakland and Plum Townships, **Venango County**, ACOE Pittsburgh District.

To construct and maintain a 6-inch-diameter natural gas pipeline across Little Sugar Creek and adjoining EV wetland by directional drill approximately 3,500 feet upstream of Creek Hill Road (Dempseytown, PA Quadrangle N: 5.5 inches; W: 8.5 inches) in Oakland Township and across a tributary to Little Sugar Creek approximately 2,000 feet upstream of where the stream crosses Dallas Road (Dempseytown, PA Quadrangle N: 7.6 inches; W: 8.1 inches) in Plum Township.

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

D55-018EA, Spring Township, P. O. Box 12, Railroad Avenue, Beaver Springs, PA 17812-0012. Spring Township, **Snyder County**, ACOE Baltimore District.

Project proposes to breach and remove an unnamed mill dam across Beaver Creek (CWF) for the purpose of restoring the stream to a free flowing condition. The dam is located approximately 800 feet south of the intersection of SR 0235 and T586 (Beavertown, PA Quadrangle N: 0.15 inch; W: 12.15 inches).

STORAGE TANKS

SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permit application has been received by the Department of Environmental Protection (Department) and is currently under review. Persons wishing to comment on the proposed permit are invited to submit a statement to the Bureau of Land Recycling and Waste Management, Division of Storage Tanks, P. O. Box 8763, Harrisburg, PA 17105-8763, within 30 days from the date of this publication. Comments received within this 30-day period will be considered in the formulation of the final determinations regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of the comment and the relevant facts upon which it based.

The following applications have been received for Storage Tank Site-Specific Installation Permits under the authority of the Storage Tank Spill Prevention Act (35 P.S. §§ 6021.304, 6021.504, 6021.1101 and 6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C.

<i>SSIP Application No.</i>	<i>Applicant Name and Address</i>	<i>County/Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
02017	Charles E. Johnson Carpenter Company 5016 Monument Avenue Richmond, VA 23230	Lehigh County Upper Macungie	Five AST storing toluene di-isocyanate	62,100 gallons total

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 Street, 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.

**I. Municipal and Industrial Permit Actions under
The Clean Streams, Law Act of June 22, 1937 (P. L.
1987, No. 394) (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. PA0054909, Industrial Waste, **North Penn and North Wales Water Authorities**, P. O. Box 317, Chalfont, PA 18914-0317. This proposed facility is located in Plumstead Township, **Bucks County**.

Description of Proposed Action/Activity: Renewal to discharge into the North Branch of Neshaminy Creek-2F-Neshaminy.

WQM Permit No. 0902407, Sewerage, **Bucks County Water and Sewer Authority**, 1275 Almshouse Road, Warrington, PA 18976. This proposed facility is located in Middletown Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the construction and operation of the JPI pumping station and force main to serve the proposed Jefferson at Middletown, a residential apartment development.

WQM Permit No. 1596432, Sewerage, **New Garden Township Sewer Authority**, 8934 Gap Newport Pike, Landenberg, PA 19350. This proposed facility is located in New Garden Township, **Chester County**.

Description of Proposed Action/Activity: Renewal of a 104,000 gpd (average annual) Somerset Lake WWTP.

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

NPDES Permit No. PA0062243, Sewage, **Borough of Nesquehoning**, 114 West Catawissa Street, Nesquehoning, PA 18240-1511. This proposed facility is located in Nesquehoning Borough, **Carbon County**.

Description of Proposed Action: Renewal of NPDES Permit.

NPDES Permit No. PA0070246, Sewage, **Parkland School District, Troxell Building**, 2219 N. Cedar Crest Boulevard, Allentown, PA 18104. This proposed facility is located in North Whitehall Township, **Lehigh County** and discharge to Jordan Creek.

Description of Proposed Action/Activity: Renewal of NPDES Permit.

NPDES Permit No. PA0032131, Sewage, **Locust Lake State Park, Bureau of State Parks**, P. O. Box 1467, Harrisburg, PA 17120. This proposed facility is located in Ryan Township, **Schuylkill County** and discharge to Locust Creek.

Description of Proposed Action/Activity: Renewal of NPDES Permit.

NPDES Permit No. PA0070289, Sewage, **Pinebrook II, A Limited Partnership**, P. O. Box 218, Orwigsburg, PA 17961. This proposed facility is located in West Brunswick Township, **Schuylkill County**.

Description of Proposed Action: Renewal of NPDES Permit.

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4707.

NPDES Permit No. PA026191, Amendment No. 2, Sewage, **Borough of Huntingdon**, 530 Washington Street, Huntingdon, PA 16652. This proposed facility is located in Huntingdon Borough, **Huntingdon County**.

Description of Proposed Action/Activity: Permit Amendment by extending the date for submitting of the re-evaluation of local limits in Part C ii.E. on page 15 to May 9, 2003.

Southwest Region: Water Management Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

NPDES Permit No. PA0000647, Industrial Waste, **Crucible Research, A Division of Crucible Materials Corporation**, 6003 Campbells Run Road, Pittsburgh, PA 15205-1022 is authorized to discharge from a facility located at Crucible Research Facility, Robinson Township, **Allegheny County** to receiving waters named Campbells Run.

NPDES Permit No. PA0040274-A1, Industrial, **Allegheny Ludlum Corporation**, 100 River Road, Brackenridge, PA 15014 is authorized to discharge from a facility located at Vandergrift Borough, **Westmoreland County** to receiving waters named Kiskiminetas River.

NPDES Permit No. PA0021148, Sewage, **Borough of Mt. Pleasant**, Etze Avenue, Mt. Pleasant, PA 15666 is authorized to discharge from a facility located at Mt.

Pleasant Sewage Treatment Plant, Mt. Pleasant Township, **Westmoreland County** to receiving waters named Shupe Run.

NPDES Permit No. PA0027111, Sewage, **Municipal Authority of the City of New Kensington**, 120 Logans Ferry Road, New Kensington, PA 15068 is authorized to discharge from a facility located at Municipal Sanitary Authority of the City of New Kensington Wastewater Pollution Control Plant, City of New Kensington, **Westmoreland County** to receiving waters named Pucketa Creek

NPDES Permit No. PA0035360, Sewage, **Plum Borough Municipal Authority**, 4555 New Texas Road, Pittsburgh, PA 15239 is authorized to discharge from a facility located at Holiday Park STP, Plum Borough, **Allegheny County** to receiving waters named Abers Creek.

NPDES Permit No. PA0036595, Sewage, **Department of Corrections**, 373 Prison Road, Waynesburg, PA 15370 is authorized to discharge from a facility located at State Correctional Institute at Waynesburg STP, Morgan Township, **Greene County** to receiving waters named unnamed tributary of South Fork Tenmile Creek.

NPDES Permit No. PA0093165, Sewage, **Claysville-Donegal Joint Municipal Authority**, 314 Main Street, P. O. Box 467, Claysville, PA 15323 is authorized to discharge from a facility located at Claysville Water Pollution Control Plant, Donegal Township, **Washington County** to receiving waters named Dutch Fork.

NPDES Permit No. PA0097411, Sewage, **Glendale School District**, 1466 Beaver Valley Road, Flinton, PA 16640-8900 is authorized to discharge from a facility located at Glendale High School STP, White Township, **Cambria County** to receiving waters named unnamed tributary of Dutch Run.

Permit No. 0202408, Sewage, **Aleppo Township Authority**, 1000 North Drive, Sewickley, PA 15143. Construction of I-79 North Wastewater Treatment Plant Expansion located in Aleppo Township, **Allegheny County** to serve 79 North Industrial Park, Aleppo Township, Masonic Village and Valley Care Nursing Facilities.

Permit No. 2670403-A4, Sewage, **Greater Uniontown Joint Sewage Plant Authority**, 90 Romeo Lane, Uniontown, PA 15401. Modifications of a sewage treatment plant located in North Union Township, **Fayette County** to serve Uniontown Sewage Treatment Plant.

Permit No. 2698401-A1, Sewage, **Redstone Township Sewer Authority**, P. O. Box 751, Republic, PA

15475. Construction of Sewage Treatment Plant Expansion and Merrittstown Pumping Station Upgrade located in Redstone Township, **Fayette County** to serve Allison Heights, Penncraft, Tower Hill No. 2, Thompson No. 2, Merrittstown, Keeney Row and Weinbrenner Avenue of Luzerne Township.

Permit No. 3202401, Sewage, **Burrell Township Sewer Authority**, 4345 Park Drive, Black Lick, PA 15716. Construction of Weirs Run Pump Station, Force Main and Sanitary Sewer Relocation located in Burrell Township, **Indiana County**.

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 Street, 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 and Address</i>	<i>County/Municipality</i>	<i>Receiving Water/Use</i>
PAS10G519	McDonald Run Homes, Inc. 2 Huntrise Lane West Chester, PA 19382	Chester County Lower Oxford Township	McDonald Run HQ-TSF-MF

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 Non-Exceptional 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

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Vernon Township Crawford County	PAR102324	Home Depot 3096 Hamilton Blvd. S. Plainfield, NJ 07080	Van Horne Creek CWF	Crawford County Conservation District (814) 724-1793
City of Erie Erie County	PAR10K094R	Department of Transportation 255 Elm Street, Box 398 Oil City, PA 16301	Garrison Run WWF-MF Eight Mile Run CWF-MF	Erie County Conservation District (814) 825-6403
Horton Township Elk County	PAR102530	Brockway Borough Municipal Authority 501 Main St. Brockway, PA 15824	Oyster Run, Johnson Run and Brandy Camp Creek CWF	Elk County Conservation District (814) 776-5373
North Beaver Township Lawrence County	PAR103753	Phillip Martello 198 Sunnyside Drive New Castle, PA 16102	UNT to Hickory Run TSF	Lawrence County Conservation District (724) 652-4512
Easttown Township Chester County	PAR10G480	Blackburn Farm P. O. Box 1906 West Chester, PA	Darby Creek CWF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
East Caln Township Chester County	PAR10G505	SLVI Concrete 355 Newbold Road Fairless Hills, PA	West Branch of the Brandywine Creek TSF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000

NOTICES

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
New Garden Township Chester County	PAR10G508	Brittingham Property P. O. Box 1180 Hockessin, DE	Agnews Run TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
East Goshen Township Chester County	PAR10G517	East Goshen Township 1580 Paoli Pike West Chester, PA	Chester Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
East Nottingham Township Chester County	PAR10G501	Jackson Farm P. O. Box 63 New London, PA	Blackburn Run TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
East Marlborough Township Chester County	PAR10G506	Unionville-Chadds Ford School District 740 Unionville Road Kennett Square, PA	East Branch Red Clay Creek CWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
West Sadsbury Township Chester County	PAR10G493	Stoltzfus Structures 587 Limeville Road Gap, PA	Officers Run TSF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Perkiomen Township Montgomery County	PAR10T877	MD Development Company 770 Crooked Lane King of Prussia, PA 19406	Perkiomen Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Lower Pottsgrove Township Montgomery County	PAR10T092-R2	Hancock Realty Corporation 602 East Board Street Soudertown, PA 18964	Tributary of Sprogels Run WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Lower Pottsgrove Township Montgomery County	PAR10T376-R2	Heritage-Summit Homes, LP 3326 Old York Rd., Suite A100 Furlong, PA 18925	Unnamed tributary to Sprogels Run WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
West Norriton Township Montgomery County	PAR10T844	Hanover Hills, Inc. 484 Norristown Road Blue Bell, PA 19422	Stoney Creek WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000

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<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Pennsburg Borough Montgomery County	PAR10T090-R2	Quaker Homes 2001 Swinging Bridge Road Green Lane, PA 18054	Tributary to Perkiomen Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
East Greenville Borough Montgomery County	PAR10T347-R2	D. Rotelle Builders, Inc. 219 Niautic Road Barto, PA 19504	Perkiomen Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Pennsburg Borough Montgomery County	PAR10T883	Gordon Baver 187 West Eighth Street Pennsburg, PA 18073	Perkiomen Creek WWF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Lackawanna County Blakely Borough	PAR10N142	Joseph Piwowarski 816 Poplar Ave. Mayfield, PA 18433	Lackawanna River CWF	Lackawanna County Conservation District (570) 281-9495
Lower Windsor Township York County	PAR10Y623	Carl Dallmeyer 4775 N. Sherman Street Mount Wolf, PA 17342	UNT to Canadochly Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
City of York York County	PAR10Y634	Robert E. Cooper Penn State University Room 214, Physical Plant Building University Park, PA 16802	Codorus Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
York Township York County	PAR10Y615	S&A/MGM Joint Venture 1 Waterford Professional Center York, PA 17402	Mill Creek WWF	York County Conservation District 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Ephrata Township Lancaster County	PAR10O583	Ephrata Area School District 803 Oak Blvd. Ephrata, PA 17522	Middle Creek WWF	Lancaster County Conservation District 1383 Arcadia Road, Room 6 Lancaster, PA 17601 (717) 299-5361
Bradford County South Waverly Borough	PAR10O833	Leo Wisniewski 402 W. Lockhart St. Sayre, PA 18840	Dry Brook WWF	Bradford County Conservation District R. R. 5, Box 5030C Stoll Natural Resource Center Towanda, PA 18848 (570) 265-5539 x 205
Tioga County Duncan Township	PAR10G646	Duncan Township Carl Borden P. O. Box 908 Wellsboro, PA 16901	Bridge Run Wilson Creek CWF	Tioga County Conservation District 29 East Ave. Wellsboro, PA 16901 (570) 724-1801

General Permit Type—PAG-3

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Falls Township Bucks County	PAR800117	Archer Daniels Midland Co. 4666 Fairies Pkwy. Decatur, IL 62526	Queen Anne Creek 2E Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Lower Salford Township Montgomery County	PAR230079	Pecora Corp. 165 Wambold Rd. Harleysville, PA 19438	UNT to Skippack Creek 3E Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Lower Gwynedd Township Montgomery County	PAR230066	Rohm & Haas Co. 727 Norristown Rd. P. O. Box 904 Spring House, PA 19477	Wissahickon Creek Little Creek 3F Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Falls Township Bucks County	PAR800119	Consolidated Rail Corp. 1000 Howard Blvd. Suite 432 Mount Laurel, NJ 08054	UNT to Delaware River 2F Watershed	DEP Southeast Region Lee Park, Suite 6010 555 North Lane Conshohocken, PA 19428 (610) 832-6130
Wyoming County Overfield Township	PAR602238	Winola Auto Equipment Box 1303 Post Hill Road Factoryville, PA 18419	Unnamed feeder to Susquehanna River CWF	DEP—NERO Water Management 2 Public Square Wilkes-Barre, PA 18711 (570) 826-2511

General Permit Type—PAG-7

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Contact Office and Telephone No.</i>
Earl Township Lancaster County	PAG073507	Borough of New Holland 436 East Main Street New Holland, PA 17557	DEP—SCRO 909 Elmerton Ave. Harrisburg, PA 17110-8200 (717) 705-4707

General Permit Type—PAG-8

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Contact Office and Telephone No.</i>
Slatington Borough Lehigh County	PAG082213	Slatington Borough Authority 125 S. Walnut St. Slatington, PA 18080	DEP—NERO 2 Public Square Wilkes-Barre, PA 18711

General Permit Type—PAG-9

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Contact Office and Telephone No.</i>
Metal Township Franklin County	PAG093541	Art Beidel Enterprises, LLC 11468 Creek Road Fannettsburg, PA 17221	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Contact Office and Telephone No.</i>
Southampton Township Franklin County	PAG093510	Chamberlin & Wingert Sanitary Services, LLC 535 Lurgan Avenue Shippensburg, PA 17257	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

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 Street, 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 taken 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. 0102501 , Public Water Supply.	
Applicant	Pine Run Mobile Home Park
Municipality	Hamilton Township
County	Adams
Type of Facility	Addition of a second source of supply, Well No. 2. The Construction Permit approves a withdrawal rate of 75 gpm for the new well. Treatment will be provided at existing disinfection facilities.
Consulting Engineer	Max E. Stoner, P. E. Glace Associates, Inc. 3705 Trindle Rd. Camp Hill, PA 17011

Permit to Construct Issued: November 18, 2002

Northcentral Region: Water Supply Management Program Manager; 208 West Third Street, Williamsport, PA 17701.

Permit No. Minor Amendment—Operation, Public Water Supply.

Applicant	F. Michael Smeal, Manager Pike Township Municipal Authority P. O. Box 27 Curwensville, PA 16833
Township	Pike Township
County	Clearfield
Type of Facility	PWS
Consulting Engineer	Stiffler, McGraw and Associates, Inc. 19 N. Juniata St. Hollidaysburg, PA 16648
Permit to Operate Issued	November 21, 2002

Permit No. Minor Amendment—Construction, Public Water Supply.

Applicant	Richard T. Subasic Pennsylvania Suburban Water Company Roaring Creek Division 204 East Sunbury Street Shamokin, PA 17872
Township	Monroe Township
County	Snyder County
Type of Facility	PWS
Consulting Engineer	CET Engineering Services 321 Washington Street Huntingdon, PA 16652

Permit to Construct Issued: November 21, 2002

Permit No. Minor Amendment—Construction, Public Water Supply.

Applicant	Donald Morrison, Chairperson Irvona Municipal Authority P. O. Box 247 Berwind Street Irvona, PA 16656
Township	Beccarria Township
County	Clearfield
Type of Facility	PWS

Consulting Engineer Gwin, Dobson & Foreman, Inc.
3121 Fairway Drive
Altoona, PA 16602

Permit to Construct November 21, 2002
Issued

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Lurgan Township	8650 McClays Mill Road Newburg, PA 17240	Franklin County

Plan Description: The approved plan provides for a small flow treatment facility to serve two residential dwellings with sewage flows of 800 gallons per day. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Required NPDES permits or WQM permits must be obtained in the name of the applicant.

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:

Northeast Regional Field Office, Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Bethlehem Steel Corporation—Bethlehem Works Site, Phase II Area, City of Bethlehem, **Northampton County**. Charles D. Campbell, Project Manager, SAIC, 6310 Allentown Boulevard, Harrisburg, PA 17112 submitted a Final Report (on behalf of Relay Service, Edwin P. Wilson, Director, Environmental Assessment and Remediation, Bethlehem Steel Corporation, 1170 Eighth Avenue, Bethlehem, PA) concerning the remediation of soils found or suspected to have been contaminated with metals and other inorganics. The report was submitted to document attainment of the site-specific standard.

PPL—Weissport Substation, Franklin Township, **Carbon County**. PPL Electric Utilities, 2 North Ninth Street, Allentown, PA 18101 submitted a Final Report concerning the remediation of site soils found or suspected to be contaminated with polychlorinated biphenyls. The report was submitted to demonstrate attainment of the Statewide Health Standard.

PPL—Jenkins Substation, Plains Township, **Luzerne County**. PPL Electric Utilities, 2 North Ninth Street, Allentown, PA, submitted a Final Report concerning the remediation of site soils found or suspected to be contaminated with polychlorinated biphenyls. 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 Road, Suite 202, Blue Bell, PA 19422 has submitted a Cleanup Plan (on behalf of Relay Service Dyno Nobel, 50 S. Main Street, Salt Lake City, UT 84144) concerning the remediation 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.

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. 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. 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. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the Act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. 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 plans and reports:

Northeast Region: Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

PPL—Weissport Substation, Franklin Township, **Carbon County**. PPL Electric Utilities, 2 North Ninth Street, Allentown, PA 18101 submitted a Final Report concerning the remediation of site soils found or suspected to be contaminated with polychlorinated biphenyls. The report demonstrated attainment of the Statewide Health Standard and was approved on November 12, 2002.

PPL—Jenkins Substation, Plains Township, **Luzerne County**. PPL Electric Utilities, 2 North Ninth Street, Allentown, PA, submitted a Final Report concerning the remediation of site soils found or suspected to be contaminated with polychlorinated biphenyls. The report demonstrated attainment of the Statewide Health Standard and was approved on November 12, 2002.

Haas Packaging & Design, Inc., Upper Nazareth Township, **Northampton County**. Mark Ellis, Senior Geologist, MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013 submitted a Final Report (on behalf of Relay Service, Daniel Haas, Haas Packaging & Design, Inc., 300 Industrial Park Drive, Nazareth, PA) concerning the remediation of site groundwater found to have been contaminated with a suspected petroleum-distillate compound. The report did not demonstrate attainment of the Statewide Health Standard and was disapproved on November 18, 2002.

Northwest Region: Environmental Cleanup Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Glen Gery Corp., Summerville Borough, **Jefferson County**, has submitted a Remedial Action/Act 2 Final Report concerning the remediation of site soil contami-

nated with petroleum. The report was disapproved. Final report did not demonstrate attainment of the standards and was disapproved by the Department on November 6, 2002.

Pure Sil, Inc., City of Bradford, **McKean County**. Northeastern Environmental Management, 917 West Washington Street, Bradford, PA 16701 (on behalf of Raymond W. McMahon, Rep. of Owner, City of Bradford, Office of Economic and Community Development, 20 Russell Boulevard, Bradford, PA 16701) has submitted a Baseline Remedial Investigation Work Plan concerning the remediation of site Special Industrial Area contaminated with CLSOL. The Plan was approved by the Department on November 13, 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.

Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

Permit No. 101615. Commonwealth Environmental Systems Landfill, Commonwealth Environmental Systems, L. P., P. O. Box 249, Dunmore, PA 18512-0249. A Major Permit Modification approving the Radiation Protection Action Plan at this municipal waste landfill located in Foster Township, **Schuylkill County**. The permit was issued by the Regional Office on November 14, 2002.

Permit No. 101615. Commonwealth Environmental Systems Landfill, Commonwealth Environmental Systems, L. P., P. O. Box 249, Dunmore, PA 18512-0249. A Major Permit Modification approving revisions to the Form R, Waste Analysis and Classification Plan, at this municipal waste landfill located in Foster Township, **Schuylkill County**. The permit was issued by the Regional Office on November 15, 2002.

Permits approved 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.

Northwest Region: Regional Solid Waste Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Permit No. 101602. Seneca Landfill Transfer Station, P. O. Box 1080, Mars, PA 16046-1080, Jackson Township, **Butler County**. This is an approval of major modification for a Radiation Protection Plan for a municipal waste facility. The revision was approved by the Northwest Regional Office on November 21, 2002.

Permit No. 101592. Tri-County Industries, Inc., 159 TCI Park Drive, Grove City, PA 16127, Pine Township, **Mercer County**. This is an approval of major modification for a Radiation Protection Plan for a municipal waste transfer facility. This revision was approved by the Northwest Regional Office on November 21, 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.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

09-320-056GP: Transcontinental Printing USA, Inc. (55 Hawk Road, Warminster, PA 18974) on November 19, 2002, for a nonheatset web offset press in Warminster Township, **Bucks County**.

Southcentral Region: Air Quality Program, 909 Elmer-ton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

GP1-21-05006A: Shippensburg University (1871 Old Main Drive, Shippensburg, PA 17257-2299) on November 19, 2002, was authorized to operate a small gas and No. 2 oil fired combustion unit under GP1 in Shippensburg Township, **Cumberland County**.

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.

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.

09-0157: Arawak Paving Co., Inc. (Steel Road North, Fairless Hills, PA 19030) on November 18, 2002, for operation of a bituminous concrete drum-mix plant in Bristol Township, **Bucks County**.

09-0106A: Univar USA, Inc. (200 Dean Sievers Place, Morrisville, PA 19067) on November 18, 2002, for operation of storage tanks in Falls Township, **Bucks County**.

09-0124D: Fairless Energy, LLC (USX Industrial Park, Fairless Hills, PA 19030) on November 20, 2002, for operation of a combined cycle electric power plant in Falls Township, **Bucks County**.

Northeast Region: Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711-0790; Contact: Mark Wejkszner, Acting New Source Review Chief, (570) 826-2531.

48-318-133: Milliken Valve Co., Inc. (1995 Highland Avenue, Suite 500, Bethlehem, PA 18020) on November 15, 2002, for construction of a paint spray booth and associated air cleaning device at the facility in Bethlehem Township, **Northampton County**.

Southcentral Region: Air Quality Program, 909 Elmer-ton Avenue, Harrisburg, PA 17110; Contact: Ronald Davis, New Source Review Chief, (717) 705-4702.

06-05079A: United Corrstack, Inc. (720 Laurel Street, Reading, PA 19602) on November 15, 2002, for modification of a boiler controlled by a low NOx burner in the City of Reading, **Berks County**. This source is subject to 40 CFR Part 60, Subpart Dc—Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.

06-05121A: Williams Metalfinishing, Inc. (P. O. Box 2029, Sinking Spring, PA 19602) on November 19, 2002, for construction of a vapor degreaser controlled by a refrigerated chiller in the Borough of Sinking Spring, **Berks County**. The source is subject to 40 CFR Part 63, Subpart T—National Emission Standards for Halogenated Solvent Cleaning.

36-05124: Guyon Industries, Inc. (1344 North Penryn Road, Manheim, PA 17545-8518) on November 15, 2002, for construction of a roll coater at their lumber prefinishing facility in Penn Township, **Lancaster County**.

67-03041C: County Line Quarry, Inc. (740 South Front Street, Wrightsville, PA 17368) on November 19, 2002, for construction of a screen and conveyor at its Wrightsville Quarry in Wrightsville Borough, **York County**. This facility is subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants.

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.

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.

46-0036D: Visteon SYS LLC (2750 Morris Road, Lansdale, PA 19446) on November 19, 2002, for operation of a Wave Solder No. 12 in Worcester Township, **Montgomery County**.

46-0198D: Blommer Chocolate Co. (1101 Blommer Drive, East Greenville, PA 18041) on November 19, 2002, for operation of a cocoa bean cleaning system in Upper Hanover Township, **Montgomery County**.

09-0015D: Rohm and Haas Co. (2900 River Road, Croydon, PA 19021) on November 19, 2002, for operation of a catalytic oxidizer in Bristol Township, **Bucks County**.

09-0040A: Consolidated Graphics (315A West Street Road, Warminster, PA 18974) on November 19, 2002, for operation of a lithographic printing press in Warminster Township, **Bucks County**.

46-0047: Mueller Streamline Co. (287 Wissahickon Avenue, North Wales, PA 19454) on November 19, 2002, for operation of two vapor degreasers in Upper Gwynedd Township, **Montgomery County**.

15-0027D: Johnson Matthey (434 Devon Park Drive, Wayne, PA 19087) on November 19, 2002, for operation of coating line No. 7 and SCR in Tredyffrin Township, **Chester County**.

46-0023: Transcontinental Printing USA, Inc. (2250 Easton Road, Willow Grove, PA 19090) on November 19, 2002, for operation of four UV webfed presses in Upper Moreland Township, **Montgomery County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: David Aldenderfer, Program Manager, (570) 327-3637.

41-00013A: Coastal Aluminum Rolling Mills, Inc. (2475 Trenton Avenue, Williamsport, PA 17701) for installation of an air cleaning device (a regenerative thermal oxidizer) on seven coil coating lines in the City of Williamsport, **Lycoming County**. The coil coating lines are subject to Subpart TT of the Federal Standards of Performance for New Stationary Sources.

8-317-003C: Taylor Packing Co., Inc. (P. O. Box 188, Wyalusing, PA 18853) on November 14, 2002, for operation of a rendering cooker and associated air cleaning devices (venturi scrubber/boiler operating in series or venturi scrubber and two packed bed scrubbers operating in series) on a temporary basis until March 14, 2003, in Wyalusing Township, **Bradford County**. The 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.

32-00297C: Creps United Publications (1163 Water Street, P. O. Box 746, Indiana, PA 15701) on November 19, 2002, to conduct stack testing on their thermal oxidizer in White Township, **Indiana County**. This plan approval was extended.

Title V Operating Permits Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Contact: Edward Braun, Chief, (215) 685-9476.

V01-005: Paid Steam Boiler Plant—Philadelphia Naval Business Center (2000 Constitution Avenue, Philadelphia, PA 19112) September 6, 2002, for operation of a facility that acquires, holds, constructs, improves, maintains, operates, owns, finances and leases, either in the capacity of lessor or lessee, industrial, commercial or specialized development projects in the City of Philadelphia, **Philadelphia County**. The Title V facility's air emission sources include a 100 hP diesel powered water pump and three 217/207 mmBtu/hr boilers that can burn natural gas/no. 6, no. 2 or waste oil controlled by low NOx burners with associated flue gas recirculation.

V00-006: Cardone Industries—Plants 11-14 and 20 (5660 Rising Sun Avenue, 321 Chew Street, Philadelphia, PA 19120) for operation of an automotive parts remanufacturing facility in the City of Philadelphia, **Philadelphia County**. The Title V facility's air emission sources include 10 spray booths, 12 steel shot blasting units, 21 combustion units, each less than or equal to 5.3 mmBtu/hr, 12 cold cleaning degreasers, a distillation unit and 2 settling tanks for used solvent, a holding tank for recovered solvent and a vapor condenser.

V00-005: Cardone Industries—American Street Facility, Plants 1, 4, 8 and 6-8 (4443 North American Street, Philadelphia, PA 19140) for operation of an automotive parts remanufacturing facility in the City of Philadelphia, **Philadelphia County**. The Title V facility's air emission sources include 2 combustion units, each less than or equal to 1.5 mmBtu/hr, 12 cold cleaning degreasers and a touch-up spray booth.

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.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

23-00095: Norquay Tech, Inc. (800 West Front Street, Chester, PA 19013) on November 8, 2002, for operation of a synthetic minor operating permit in the City of Chester, **Delaware County**.

09-00114: Active Brass Foundry, Inc. (330 Progress Drive, Telford, PA 18969) on November 18, 2002, for operation of a Natural Minor Operating Permit in Hilltown Township, **Bucks County**.

15-00082: Downingtown School District Sr. High School (455 Manor Avenue, Downingtown, PA 19335) on November 18, 2002, for operation of a Synthetic Minor Operating Permit in Downingtown Borough, **Chester County**.

Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Contact: Yasmin Neidlinger, Facilities Permitting Chief, (717) 705-4702.

21-03057: Pennsy Supply, Inc. (P. O. Box 3331, Harrisburg, PA 17104) on November 13, 2002, for operation of a crushing plant and concrete plant at the Silver Spring Quarry in Silver Spring Township, **Cumberland County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

65-00080: Duraloy Technologies (120 Bridge Street, Scottdale, PA 15683) for operation to manufacture specialty steel cast tubular and molded products at their Scottdale facility in **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.

Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Edward Brown, Facilities Permitting Chief, (610) 832-6242.

46-0172: Gemplus Corp. (101 Park Drive, Montgomeryville, PA 18936) revised November 18, 2002, for three printing presses in Montgomery Township, **Montgomery County**.

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); and The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and 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.

54851336R3 and NPDES Permit PA0223328. Summit Anthracite, Inc. (R. R. 1, Box 12A, Klingerstown, PA 17941), renewal of an underground mine operation in Porter Township, **Schuylkill County** affecting 199.643 acres, receiving stream: Good Spring Creek. Application received September 12, 2002. Renewal issued November 18, 2002.

Hawk Run District Mining Office: Empire Road, P. O. Box 209, Hawk Run, PA 16840-0209, (814) 342-8200.

17020901 and NPDES Permit No. PA0243256. Johnson Brothers Coal Company, R. D. 1, Box 580, Mahaffey, PA 15757. Commencement, operation and restoration of an Incidental Coal Extraction permit located in Penn Township, **Clearfield County** affecting 15.4 acres. Receiving streams: unnamed tributary to Kratzer Run. Application received May 24, 2002. Permit issued November 7, 2002.

Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.

65010102 and NPDES Permit No. PA0202967. V. P. Smith Co., Inc. (HC 64, Box 21, Intersection Highway 30 and 217, Latrobe, PA 15650). Permit revised to add 10 acres of mining area and a contractor at an existing bituminous surface mining site located in Fairfield Township, **Westmoreland County**, now affecting 133.6 acres. Receiving streams: unnamed tributaries to Hypocrite Creek. Application received July 25, 2002. Permit revision issued November 18, 2002.

03020102 and NPDES Permit No. PA0250058. D. J. & W. Mining, Inc. (Box 425, Indiana, PA 15701). Permit issued for commencement, operation and reclamation of a bituminous surface mining site located in Cadogan and North Buffalo Townships, **Armstrong County**, affecting 48.9 acres. Receiving streams: unnamed tributaries to Allegheny River. Application received October 4, 2002. Permit issued November 20, 2002.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56860106 and NPDES Permit No. PA0597716. Three S Coal Company, Box 337, Stoystown, PA 15563, permit renewal for continued restoration of a bituminous surface and auger mine for discharge of treated mine drainage in Shade Township, **Somerset County**, affecting 57.5 acres. Receiving streams: unnamed tributary to and Coal Run and Dark Shade Creek classified for CWF. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Water Authority Border Dam water intake. Application received September 20, 2002. Permit issued November 16, 2002.

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

5522-10990104-E-1. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127). Application for a stream encroachment to conduct mining activities within 100 feet and construct and maintain a temporary haul road crossing over unnamed tributary No. 2 to Muddy Creek in Clay and Center Townships, **Butler County**. Receiving streams: unnamed tributaries to Muddy Creek. Application received September 9, 2002. Permit issued October 25, 2002.

24990101 and NPDES Permit No. PA0241491. Energy Resources, Inc. (P. O. Box 259, Brockway, PA 15824). Renewal of an existing bituminous strip and auger operation in Horton Township, **Elk County** affecting 588.0 acres. Receiving streams: unnamed tributary to Mead Run and Mead Run; unnamed tributary to Little Toby Creek. Application received July 29, 2002. Permit issued October 29, 2002.

Noncoal Permits Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

8274SM1C5 and NPDES Permit PA0595705. D. M. Stoltzfus & Son, Inc. (P. O. Box 84, Talmage, PA 17580), renewal for existing discharge of treated mine drainage in Manheim and Upper Leacock Townships, **Lancaster County**, receiving stream: Conestoga River. Application received September 25, 2002. Renewal issued November 18, 2002.

58020834. Timothy A. Empet (R. R. 1 Box 315, Kingsley, PA 18826), quarry operation in Lenox Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received June 24, 2002. Permit issued November 20, 2002.

4873SM1A1C7 and NPDES Permit PA0020451. LWB Refractories Company (320 North Baker Road, York, PA 17404), renewal of existing discharge of treated mine water drainage in West Manchester Township, **York County**, receiving streams: unnamed tributary to Codorus Creek and Honey Run. Application received September 26, 2002. Renewal issued November 21, 2002.

01930301C and NPDES Permit PA0595591. Valley Quarries, Inc. (P. O. Box J, Chambersburg, PA 17201), renewal of existing discharge of treated mine water drainage in Hamiltonban Township, **Adams County**, receiving streams: Middle Creek and Spring Run. Application received October 4, 2002. Renewal issued November 21, 2002.

45900303C. Middle Smithfield Materials, Inc. (P. O. Box 674, Bushkill, PA 18324), renewal of existing discharge of treated mine water discharge in Middle Smithfield Township, **Monroe County**, receiving stream: Suise Creek. Application received October 7, 2002. Renewal issued November 21, 2002.

58022805. Rick Whitney (R. R. 1 Box 76, Montrose, PA 18801), quarry operation in Franklin Township, **Susquehanna County** affecting 3.0 acres, receiving stream: none. Application received July 18, 2002. Permit issued November 22, 2002.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

11020801. Laurel Sand & Stone, Inc., P. O. Box 629, 163 Cricket Lane, Carrolltown, PA 15722, commencement, operation and restoration of a small noncoal (shale) mine in Jackson Township, **Cambria County**, affecting 13.9 acres. Receiving streams: unnamed tributary to Laurel Run to Conemaugh River classified for HQ-CWF. There are no potable water supply intakes within 10 miles downstream. Application received May 7, 2002. Permit issued November 12, 2002.

Final Bond Release

Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.

42000804. George Harrier (R. R. 2, Box 67, Eldred, PA 16731). Final bond release for a small noncoal mining operation in Otto Township, **McKean County**. Restoration of 1.0 acre completed. Receiving streams: Knapps Creek. Application received August 5, 2002. Final bond release approved October 18, 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.

51024001. Controlled Demolition, Inc. (2737 Meryman's Mill Road, Phoenix, MD 21131), demolition of high rise buildings in the City of Philadelphia, **Philadelphia County** with an expiration date of November 24, 2002. Permit issued November 18, 2002.

67024045. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in West Manchester Township, **York County** with an expiration date of December 31, 2003. Permit issued November 18, 2002.

64024012. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting in Manchester Township, **Wayne County** with an expiration date of October 24, 2003. Permit issued November 18, 2002.

48024031. Schlouch Inc. (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting in Palmer Township, **Northampton County** with an expiration date of December 6, 2003. Permit issued November 18, 2002.

38024032. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in West Cornwall Township, **Lebanon County** with an expiration date of December 31, 2003. Permit issued November 18, 2002.

360240135. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in Upper Leacock Township, **Lancaster County** with an expiration date of January 31, 2003. Permit issued November 18, 2002.

360240134. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in Manheim Township, **Lancaster County** with an expiration date of December 31, 2003. Permit issued November 18, 2002.

360240133. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting in West Earl Township, **Lancaster County** with an expiration date of December 31, 2003. Permit issued November 18, 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 Street, 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 Street, 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

Northeast Region: Water Management Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.

E52-180. The Forest Lake Club, R. R. 1, Box 333, Hawley, PA 18428-9718. Lackawaxen Township, **Pike County**, Army Corps of Engineers Philadelphia District.

To remove the existing structure and to construct and maintain a 25-foot by 40-foot boathouse, extending approximately 19 feet lakeward from the shoreline, in Corilla Lake. The boathouse will be supported by a 40-foot by 6-foot concrete pad along the shore and pressure-treated piers. The project is located along the western shore of Corilla Lake (Narrowsburg, NY-PA Quadrangle N: 5.2 inches; W: 11.9 inches).

E48-327. Thomas G. Macarro, 3633 Drifting Drive, Hellertown, PA 18055. Lower Saucon Township, **Northampton County**, Army Corps of Engineers Philadelphia District.

To place fill in approximately 0.07 acre of wetlands for the purpose of constructing a road crossing consisting of approximately 205 L.F. of 48-inch diameter R.C.P. and roadway embankment to serve as an access for a proposed residential development known as Clover View Estates. The permittee is required to provide 0.09 acre of replacement wetlands. The project is located on the eastern side of Township Road T390 (Drifting Drive), just south of its intersection with Wassergass Road (Hellertown, PA Quadrangle N: 15.0 inches; W: 2.0 inches).

E45-396. West End Fair Association, P. O. Box 115, Gilbert, PA 18331. Chestnuthill Township, **Monroe County**, Army Corps of Engineers Philadelphia District.

To modify and maintain an existing low flow road crossing in Weir Creek and to place fill in a de minimis area of wetlands equal to 0.03 acre for the purpose of constructing a 16-foot extension to four 24-inch R.C.P. culverts. The road crossing will have a total length of 32 feet along Weir Creek and will provide two-way vehicular and pedestrian traffic within the fairgrounds. The project is located at the west end fairgrounds, southeast of the

intersection of SR 3005 and SR 3010 (Fairgrounds Road) (Brodheads ville, PA Quadrangle N: 6.3 inches; W: 7.6 inches).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

E22-442. Dauphin County Commissioners, P. O. Box 1295, Harrisburg, PA 17108 in Washington Township, **Dauphin County**, ACOE Baltimore District.

To remove an existing covered timber bridge from its foundation and to reconstruct and maintain the timber bridge in place using new timber members and to place R-6 rock riprap in a scour hole at the north corner of the west abutment in the Wiconisco Creek (WWF) and to construct a paved access drive and parking lot in the floodway of the Wiconisco Creek (WWF) all for the purpose of rehabilitating the Dauphin County Bridge No. 43A located on Henninger Road (T-J624) (Elizabethville, PA Quadrangle N: 14.0 inches; W: 4.7 inches) in Washington Township, Dauphin County.

E36-738. Columbia Downtown Development Corporation, P. O. Box 207, Columbia, PA 17512 in Columbia Borough, **Lancaster County**, ACOE Baltimore District.

To construct and maintain a stream restoration project approximately 750 feet within Shawnee Run (WWF) for the purpose of stream bank stabilization, improved sediment transport, establishment of riparian buffers and improved aquatic habitat while implementing a natural stream design approach consisting of channel relocation, stream and floodway excavation and filling, installation of rock vanes, cross vanes, J-hooks and willow fascines to be located at a point or points within the 400 block of Mill Street (Columbia East, PA Quadrangle N: 5.75 inches; W: 16.25 inches) in Columbia Borough, Lancaster County.

Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701.

E08-396. Department of Transportation, District 3-0, 715 Jordan Avenue, Montoursville, PA 17754. Bridge Construction in Athens Borough and Township, **Bradford County**, ACOE Baltimore District (Sayre, PA Quadrangle N: 15.1 inches; W: 2.1 inches).

To remove the existing twin span riveted thru-truss bridge which has an open steel grid deck, normal clear span lengths of 290 feet and 253 feet for the west and east span, respectively, a minimum underclearance of 21.0 feet and a hydraulic opening of 15,071 square feet and to construct and maintain a five span prestressed concrete I-beam bridge with normal clear spans of 118.25 feet for the two end spans and 118.75 feet for the three interior spans with a hydraulic opening of 16,184 square feet and a minimum underclearance of 20.6 feet. The piers and abutments will be built normal to the roadway and to construct a separate causeways constructed of clean rock material and 4-foot and 6-foot diameter pipes for existing bridge removal and new bridge construction. The bridge will span the Susquehanna River between Athens and East Athens on SR 1056, Section 001.

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

E10-361. Knockout Development Associates, 215 Executive Drive, Cranberry Township, PA 16066. Commercial Development, in Cranberry Township, **Butler County**, ACOE Pittsburgh District (Mars, PA Quadrangle N: 10.9 inches; W: 11.4 inches).

To fill a total of 0.121 acre of two wetland areas and impact a total of approximately 2,400 feet of a tributary to Brush Creek for the construction of a commercial development along the south side of SR 228 approximately 0.9 mile east of I-79. Project includes contribution to the Pennsylvania Wetland Replacement Fund for replacement of 0.121 acre of wetland.

ENVIRONMENTAL ASSESSMENTS

Central Office: Bureau of Waterways Engineering, Rachel Carson State Office Building, Floor 3, 400 Market Street, Harrisburg, PA 17105.

D38-002EA. Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797. South Lebanon Township, **Lebanon County**, ACOE Baltimore District.

To breach and remove the Rexmont Dam No. 2 across Hammer Creek (HQ-CWF) for the purpose of restoring the stream to a free flowing condition. The dam is located approximately 4,300 feet southwest of the intersection of Schaeffer Road (SR 419) and Rexmont Road (T349) (Richland, PA Quadrangle, N: 4.85 inches, W: 15.10 inches).

[Pa.B. Doc. No. 02-2176. Filed for public inspection December 6, 2002, 9:00 a.m.]

Availability of Final General NPDES Permit for Stormwater Discharges from Municipal Separate Storm Sewer Systems (PAG-13)

Under The Clean Streams Law (35 P. S. §§ 691.1—691.101), sections 1905-A, 1917-A and 1920-A of The Administrative Code of 1929 (71 P. S. §§ 510-5, 510-17 and 510-20) and 25 Pa. Code Chapter 92 (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance), the Department of Environmental Protection (Department) announces the availability of its final General Permit (and related documents) for stormwater discharges from municipal separate storm sewer systems (MS4s).

The permit materials consist of the following documents: (1) Fact Sheet; (2) Notice of Intent (NOI) and instructions; (3) the MS4 permit (PAG-13) and the Department's Approval of Coverage; (4) Request for Waiver and Instructions; and (5) Information Request Form and Instructions. There are also three other important documents: (1) the Department's Stormwater Management Protocol (Protocol), a set of preapproved minimum control measures that can be used to meet permit requirements; (2) a list of references; and (3) a description of the extent to which existing State law—the Stormwater Management Act (32 P. S. §§ 680.1—680.17)—can be used to help municipalities fund their permit requirements.

PAG-13 can be used by all eligible MS4s to comply with the Federal Phase II stormwater regulations (see 64 FR 68722-68851, December 8, 1999; 40 CFR 122-26—123.35), which are incorporated by reference into 25 Pa. Code § 92.2 (relating to incorporation of Federal regulations by reference). The Environmental Protection Agency (EPA) Region III has reviewed and approved the permit package for publication. Additional information about these Federal permit requirements is available on the EPA website: http://cfpub.epa.gov/npdes/home.cfm?program_id=6.

There are certain eligibility requirements for using PAG-13 described in the permit documents. For instance, PAG-13 is not available for discharges into water bodies classified as Exceptional Value or High Quality under 25 Pa. Code Chapter 93 (relating to water quality standards). An "individual permit" will be required for discharges to those categories of water bodies.

The Department proposed the General Permit package on July 13, 2002, for a 30-day comment period and subsequently extended the comment period for another 30 days. The comment period ended September 23, 2002. In addition to the General Permit, on December 13, 2001, the Department also published a proposed Phase II Storm Water Permitting Strategy (385-2000-012) for public comment. Numerous comments have been received on both documents. Many of the comments on the proposed strategy were addressed in the more detailed General Permit package proposed in July 2002. The Department has reviewed and considered the comments received on both documents and the final MS4 permit package available December 7, 2002, reflects the Department consideration of the comments. This final permit also makes the permit strategy document (385-2000-012) unnecessary, and it is therefore being withdrawn. A consolidated comment and response document will be available from the Department by calling or writing to the following address.

The General Permit and related documents can be obtained from the Department website at www.state.pa.us (directLINK "stormwater"), by contacting the local Department Regional Office or from the Department's Central Office by contacting the Department of Environmental Protection, Bureau of Watershed Management, Division of Water Use Planning, Rachel Carson State Office Building, P. O. Box 8555, 10th Floor, Harrisburg, PA 17105-8555, (717) 783-7420. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users or (800) 654-5988 (voice users).

To assist MS4s in developing the stormwater programs required by this General Permit, the Department is distributing the package to all affected MS4 municipalities. A detailed list of affected MS4s is included with the NOI instructions. In addition, the Department has developed a CD-ROM with a variety of materials which MS4s can use to meet their permit requirements, and this is also being sent to all affected MS4s. The Department also will be distributing the package to all "potential" small MS4s asking that a completed information request form be returned to facilitate Department permitting decisions for the potential MS4s.

The basic requirement of this General Permit is for MS4s to implement a plan to develop a stormwater management program within their municipality. To obtain that permit coverage, the MS4 must submit an NOI to be covered by the General Permit by March 10, 2003. The NOI must include a plan for developing and implementing that local program during the 5-year permit term (by March, 2008). The Protocol mentioned contains a plan to accomplish those goals that are acceptable to the Department.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-2177. Filed for public inspection December 6, 2002, 9:00 a.m.]

Availability of General NPDES Permit for Discharges from Petroleum Products Contaminated Groundwater Remediation Systems (PAG-5)

The Department of Environmental Protection (Department) announces the availability of the renewed PAG-5. This General Permit reflects revisions to the draft General Permit published at 32 Pa.B. 3147 (June 29, 2002) for a 30-day comment period. Comments received on the draft were considered in making the revisions. The renewed General Permit will be effective beginning December 13, 2002, and shall expire on December 12, 2007.

The final General Permit is now available and has been posted on the Department's website at www.dep.state.pa.us; directLINK "NPDES Permits"; click on "General Permits."

The General Permit package may also be obtained by contacting the Department of Environmental Protection, Bureau of Water Supply and Wastewater Management, Division of Wastewater Management, Rachel Carson State Office Building, P. O. Box 8774, 11th Floor, Harrisburg, PA 17105-8774, (717) 787-8184, trutrutma@state.pa.us.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-2178. Filed for public inspection December 6, 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) at the Public Participation Center page. The "July 2002 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 the 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 the 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

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.

Final Technical Guidance

DEP ID: 254-5900-001. Title: Guidelines for the Development and Implementation of Preparedness, Prevention

and Contingency Plans for Generators and Burners of Waste Oil. Description: This document provides a simplified alternative plan and example to the more comprehensive requirements in "Guidelines for the Development and Implementation of Environmental Emergency Response Plans" (Document I.D. 400-2200-001) to aid generators and burners of waste oil in complying with the preparedness, prevention and contingency requirements in 25 Pa. Code §§ 298.20(g) and 298.60(h). This document does not apply to generators and burners with a total oil storage exceeding 42,000 gallons in underground tanks, 1,320 gallons in aboveground tanks or 660 gallons in a single container. Effective Date: December 7, 2002. Contact: Scott Walters at (717) 787-7564 or e-mail scwalters@state.pa.us.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-2179. Filed for public inspection December 6, 2002, 9:00 a.m.]

Legislative/Regulatory Subcommittee of the Small Systems Technical Assistance Center Advisory Board Special Meeting

The Legislative/Regulatory Subcommittee of the Small Systems Technical Assistance Center Advisory Board will hold a special meeting on December 13, 2002, from 9:30 a.m. to 3 p.m. in the 14th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The purpose of the meeting is to complete review of revised concept papers for the Drinking Water and Wastewater Operator Certification Program.

The schedule, agenda and handouts for the meeting will be available on the Department of Environmental Protection's (Department) website at <http://www.dep.state.pa.us>; choose "Participate." Questions concerning the schedule or agenda may be directed to Ray Braun, (717) 787-0122, rbraun@state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Ray Braun, (717) 787-0122 or the Pennsylvania AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-2180. Filed for public inspection December 6, 2002, 9:00 a.m.]

NPDES General Permit for Stormwater Discharges Associated with Construction Activities (PAG-2); 2002 Amendment

The Department of Environmental Protection (Department) is amending and renewing the National Pollutant Discharge Elimination System (NPDES) General Permit for Stormwater Discharges Associated with Construction Activities (PAG-2) which was originally issued at 22 Pa.B. 5063 (October 10, 1992) and amended at 27 Pa.B. 5143 (October 4, 1997). The Department published a notice of proposed revisions to PAG-2 at 32 Pa.B. 2375 (May 11, 2002), with a 30 day public comment period. In addition,

the Department also published a notice of the proposed PAG-14 for NPDES permit coverage of small construction activities at 32 Pa.B. 3990 (August 10, 2002) with a 30-day public comment period.

Public Comment and Response

The Department received comments regarding the proposed revisions to PAG-2 from nine individuals representing the oil and gas development industry, environmental organizations, county conservation districts and State and Federal agencies. The Department also received comments regarding the proposed PAG-14 from 163 individuals representing the general public, oil and gas development industry, environmental organizations, consultants, county conservation districts and State and Federal agencies. The following is a summary of some of the major comments and the Department's responses:

A commentator questioned if technical reviews of Post Construction Stormwater Management (PCSM) Plans submitted with an Notice of Intent (NOI) for General Permit coverage will be required. Generally a technical review of the PCSM Plan will not be conducted. The applicant is required to certify that the PCSM Plan meets local ordinance and PAG-2 permit requirements. In special protection waters the Department's regional office will perform technical reviews of PCSM Plans submitted as part of an Individual Permit application.

One commentator questioned the Department's authority to incorporate the PCSM Plan requirements into the PAG-2 permit revisions. Existing State and Federal laws and regulations authorize post-construction stormwater management planning requirements as a condition of the NPDES permit for stormwater discharges associated with construction activities.

Several commentators questioned whether the Department is required to impose the new PCSM Plan requirements on all earth disturbance activities that would be subject to the NPDES General Permit. Specifically, the commentators did not believe that a separate PCSM Plan is needed to supplement the existing post-construction requirements of the Erosion and Sediment Control (E&S) Plan for development projects where the restored land surface will reflect the original topography, vegetative cover and stormwater infiltration regime of the preconstruction project area. The final PAG-2 requires the development of a PCSM Plan for all projects. The Department recognizes the level of analysis and detail required for the development of PCSM Plans for minimal or low impact projects may not be as great and has provided provisions in the NOI accordingly.

A commentator recommended that the proposed language should explicitly track the language of 25 Pa. Code §§ 92.81(a)(8) and 92.83(b)(9) (relating to general NPDES permits; and inclusion of individual dischargers in general NPDES permits) to put the permittee on explicit notice that the general permit cannot legally be utilized in waters that have a designated or existing use classification of High Quality or Exceptional Value waters. The Department has revised the final permit as recommended by amending the permit language as follows: ". . . prohibited under 25 Pa. Code Chapter 92, *including waters that have a designated or existing use classification of High Quality (HQ) or Exceptional Value (EV) Waters.*" (Emphasis added.)

A commentator recommended that the proposed language in the permit regarding activities that are not eligible for coverage under the general permit should

more closely track the legal requirements at 25 Pa. Code § 92.83(b)(3). The Department has revised the final permit accordingly.

One commentator suggested that the Department clarify how termination can occur in the face of post-construction stormwater management responsibilities. As required by both State (25 Pa. Code Chapter 102 (relating to erosion control)) and Federal regulations (40 CFR Part 122), PAG-2 provides coverage only for stormwater discharged from an industrial activity (construction activity). Unless otherwise provided under 40 CFR 122.26(b)(14), NPDES permit coverage for a regulated construction activity is no longer required once the post-construction Best Management Practices (BMPs) are established, the PCSM Plan is implemented, the site is stabilized and construction stormwater discharges are eliminated.

One commentator questioned the relevance of the August 2001 date regarding approved Act 167 Plans and PCSM Plans and suggested that the method to achieve consistency over time is through mandated Act 167 updates and that most municipal ordinances adopted under pre-August 2001 Act 167 Plans contain requirements critical to a comprehensive PCSM Plan. The Department has corrected the references to the August 2001 dates to Part C, Section 5 of the PAG-2 permit and to Section E of the NOI Instructions. The final permit makes reference to counties that have adopted Act 167 Stormwater Management Plans and that require the municipalities to adopt stormwater ordinances that incorporate measures to protect and maintain existing uses and protect and maintain water quality to maintain those existing uses. In areas where Act 167 Stormwater Management Plans exist and are supported by local ordinances, the applicant must design the PCSM Plan in accordance with the standards established under the ordinances.

In addition, a number of individuals commented on the draft PAG-14 permit document generally that:

- The permit fails to provide meaningful public participation opportunities for interested citizens. The Department should be encouraging, not inhibiting, public participation.
- The public has no opportunity to review or comment upon plans for erosion and sediment control for up to 5 acres of earth disturbance.
- The permit allowed persons to disturb up to 5 acres without having to submit its plans for erosion and sediment control to the Department or a delegated Conservation District (CD) for review.
- The permit allows the Department and delegated CDs to approve up to 5 acres of earth disturbance without having to review plans for erosion and sediment control.
- The permit fails to require compliance history information from persons proposing to disturb up to 5 acres of earth.
- The permit is in essence a legally unauthorized "permit-by-rule" rather than a General NPDES permit.
- The permit omits many basic elements and standard conditions required to be included in NPDES permits by State and Federal NPDES regulations.

In response to comments received, PAG-14 has been withdrawn. The Federal NPDES Phase I (5 acres and greater) and Phase II (1 acre to less than 5 acres with a point source discharge to a surface water) stormwater requirements for construction activities have been com-

bined into the amended PAG-2. The Department believes that the administration of the Phases I and II NPDES requirements for stormwater discharges associated with construction activities utilizing one general permit document is more efficient and effective for the regulated community as well as the CDs and Department regional offices.

After consideration of the comments for both proposals, the Department has amended the PAG-2 permit as follows:

- The amended general permit will generally apply to eligible existing and new stormwater discharges associated with construction activities including clearing and grading and excavation activities involving 5 acres or more of earth disturbance or an earth disturbance on any portion, part or during any stage of, a larger common plan of development or sale that involves 5 acres or more of earth disturbance over the life of the project.

- The amended general permit also incorporates the Federal Phase II requirements of NPDES permit coverage for persons proposing new or conducting existing small construction activities, including clearing, grading and excavation activities involving 1 acre to less than 5 acres of earth disturbance or an earth disturbance on any portion, part or during any stage of, a larger common plan of development or sale that involves 1 acre to less than 5 acres of earth disturbance over the life of the project, and that has a point source discharge to surface waters of this Commonwealth.

- General information and requirements have been added to clarify the information required for a PAG-2 permit.

- The PAG-2 permit requires the submission of an NOI that includes general operator, site information and a certification that a written E&S Plan, Preparedness, Prevention and Contingency Plan and PCSM Plan have been developed and BMPs will be implemented to protect the water quality of the receiving surface waters of this Commonwealth.

- The PAG-2 permit requires submission of a Notice of Termination when final stabilization of the site has been achieved as defined in PAG-2, or stormwater construction runoff is no longer being discharged from the construction activities.

- The NOI for a PAG-2 permit requires the submission of a complete and technically adequate E&S Plan and PCSM Plan.

- The application fee for PAG-2 permit coverage will be \$250. The application fee for individual permits will remain at \$500. State agencies and instrumentalities are exempt from the application fees.

New Authorizations for Stormwater Discharges Associated with Construction Activities

Persons requesting authorization on or after December 10, 2002, to discharge stormwater associated with construction activities must apply for coverage under PAG-2 (2002 amendment) accompanied by a \$250 filing fee, or apply for coverage under PAG-2 accompanied with a \$500 filing fee.

The amendments to this general permit have been sent to the EPA Regional Administrator for Region III. Persons wishing to obtain a copy of this general permit, notice of intent forms, instructions and other related documents should request them from the Department's Bureau of Watershed Management, Division of Waterways,

Wetlands and Erosion Control, one of the Department's Regional Offices, a local county conservation district office or the Department's website <http://www.dep.state.pa.us>. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-2181. Filed for public inspection December 6, 2002, 9:00 a.m.]

Proposed Revision to the State Implementation Plan for Ozone for the Philadelphia Ozone Nonattainment Area; Public Hearing

Ground-level ozone concentrations above the Federal health-based standard are a serious human health threat and can also cause damage to crops, forests and wildlife. The Department of Environmental Protection (Department) is seeking public comment on a State Implementation Plan (SIP) revision for the Philadelphia ozone nonattainment area (Bucks, Chester, Delaware, Montgomery and Philadelphia Counties).

On October 26, 2001, the Environmental Protection Agency (EPA) approved the Commonwealth's One-Hour Ozone Attainment Demonstration for the Philadelphia area. This approval included a requirement for the Commonwealth to revise the 2005 attainment year motor vehicle transportation conformity emissions budgets using a revised methodology (MOBILE6) to calculate vehicle highway emissions within 1 year after its release (January 29, 2002). The Commonwealth, therefore, must submit its revised budgets for the Philadelphia area to the EPA as a SIP revision by January 29, 2003.

The SIP revision will fulfill the Commonwealth's requirement to revise its existing motor vehicle emissions budgets and, once found adequate by the EPA, will establish a new 2005 motor vehicle emissions budget for the purposes of transportation conformity.

This proposal is available on the Department's website at <http://www.dep.state.pa.us> (choose Information by Subject/Air Quality/Ozone/Clean Air Plans) or through the following contact person.

The Department will hold a public hearing to receive comments on the SIP revision on January 7, 2003, at 1 p.m. at the Department of Environmental Protection, Southeast Regional Office Hearing Room, Lee Park, 555 North Lane, Suite 6010, Conshohocken, PA.

Persons wishing to present testimony at the hearing should reserve a time by contacting Connie Cross, P. O. Box 8468, Harrisburg, PA 17105, (717) 787-9495. Persons who do not reserve a time will be able to testify after preregistrants. Witnesses should keep testimony to 10 minutes and should also provide two written copies of their testimony at the hearing. Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate in the proceeding should contact Wick Havens at the previous telephone number. TDD users may contact the AT&T Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

Written comments should be sent to Wick Havens, Chief, Division of Air Resource Management, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468 by January 10, 2003.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-2182. Filed for public inspection December 6, 2002, 9:00 a.m.]

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Load for Catawissa Creek Watershed

The Department of Environmental Protection (Department) is holding a public meeting on December 18, 2002, at 7 p.m. at the Beaver Township Fire Company, Colum-

bia County, to discuss and accept comments on a proposed total maximum daily load (TMDL) established in accordance with the requirements of the section 303(d) of the Clean Water Act. Three stream segments in the Catawissa Creek Watershed have been identified as impaired on the 1996 Pennsylvania Section 303(d) list due to high levels of metals and low pH. The listed segments and miles degraded are shown in the following table:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
27529	Catawissa Creek	44.66
27571	Sugarloaf Creek	3.45
27567	Tomhickon Creek	11.03

The proposed plan provides calculations of the stream's total capacity to accept metals (iron, manganese and aluminum) and acidity (used as a surrogate for pH) in order to maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion Value (mg/l)</i>	<i>Duration</i>	<i>Total Recoverable/Dissolved</i>
Iron	1.50	1 day average	Total Recoverable
	0.3	Maximum	Dissolved
Manganese	1.00	Maximum	Total Recoverable
Aluminum	0.75	One Hour	Total Recoverable
pH*	6-9	At all times	NA

*According to research conducted by the Department, at pH 6.0, the net alkalinity of a stream has been found to be zero. Therefore, the water quality standard for pH will vary based on instream alkalinity at that site with a minimum net alkalinity of zero being maintained. In the case of freestone streams with little or no buffering capacity, the TMDL endpoint for pH will be the alkalinity contained in natural background water quality.

The primary pollutant for the watershed is abandoned mine workings. Portions of the Catawissa Creek Watershed had been mined for anthracite coal from the mid-1800s to the mid-1900s. Gravity-fed drainage tunnels were commonly built in the anthracite regions to help dewater the active mine complexes. Five of these tunnels continue to discharge acid mine drainage into the headwaters of the Catawissa Creek Watershed. All of the allocations made in the TMDL are load allocations that are made to nonpoint sources of pollution.

The TMDL was developed using mass balance modeling techniques coupled with Monte Carlo simulation to determine the long-term daily average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. Monte Carlo simulation allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL. Analyses were started at the headwaters of each stream segment and a mass balance of pollutant concentration was conducted moving downstream accounting for all sources of pollutants.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in establishment of the TMDL is field data collected from 1990 to 2002.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet, contact Chuck Yingling, Office of Water Management, Department of Environmental Protection, 400 Market Street, Harrisburg, PA 17105-8555, (717) 783-2300, cyingling@state.pa.us.

Written comments will be accepted at the previous address and must be postmarked by February 7, 2003. Persons who plan to make a presentation at the public meeting should notify the Department by December 13, 2002. The Department will consider all comments in developing the final TMDL, which will be submitted to Environmental Protection Agency for approval.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-2183. Filed for public inspection December 6, 2002, 9:00 a.m.]

State Solid Waste Plan Subcommittee of the Solid Waste Advisory Committee Meeting Cancellation

The Solid Waste Plan Subcommittee (Subcommittee) of the Solid Waste Advisory Committee meeting scheduled for December 12, 2002, from 10 a.m. to 3 p.m. in Harrisburg, has been cancelled. The next meeting of the Subcommittee will be held on January 9, 2003, from 10 a.m. to 3 p.m. in the 14th Floor Medium Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105.

Questions concerning this meeting should be directed to Sally Lohman at (717) 787-7382 or e-mail slohman@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 with a disability who require accommodations to attend this meeting should contact the Department at

(717) 705-8024 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

DAVID E. HESS,
Secretary

[Pa.B. Doc. No. 02-2184. Filed for public inspection December 6, 2002, 9:00 a.m.]

DEPARTMENT OF HEALTH

Patient Safety Authority Meeting

The Patient Safety Authority (Authority), established under section 303 of the Medical Care Availability and Reduction of Error Act (40 P. S. § 1303.303), will hold a meeting of the Authority's 11 member board at 9:30 a.m. on Monday, December 9, 2002, in Hearing Room 2, Ground Floor, North Office Building, Harrisburg, PA 17120.

Individuals having questions regarding this meeting, which is open to the public, should contact the Authority at (717) 346-0469.

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-2185. Filed for public inspection December 6, 2002, 9:00 a.m.]

Rate Adjustment

Under 42 Pa.C.S. § 6152 (relating to subpoena of records), the Secretary of Health (Secretary) is directed to adjust annually the amounts which may be charged by a health care facility or health care provider upon receipt of a request or subpoena for production of medical charges or records. Under 42 Pa.C.S. § 6152.1 (relating to limit on charges), the Secretary is directed to make a similar adjustment to the flat fee which may be charged by a health care facility or health care provider for the expense of reproducing medical charts or records where the request is: (1) for the purpose of supporting a claim or appeal under the Social Security Act or any Federal or State financial needs based benefit program; or (2) made by a district attorney.

The Secretary is directed to base these adjustments on the most recent changes in the consumer price index reported annually by the Bureau of Labor Statistics of the United States Department of Labor. For the annual period of October 30, 2001, through October 30, 2002, the consumer price index was 2.0%.

Accordingly, the Secretary provides notice that, effective January 1, 2003, the following payments may be charged by a health care facility or health care provider for production of records in response to subpoena or request:

Search and retrieval of records:	Not to Exceed: \$16.56
Amount charged per page for pages 1-20	\$ 1.11
Amount charged per page for pages 21-60	\$.84

Amount charged per page for pages 61-end \$.29

Amount charged per page for microfilm copies \$ 1.65

Flat fee, per request, for production of records to support claims under Social Security Act or claims under other Federal or State financial needs based benefit programs \$20.98

Flat fee, per request, for supplying records requested by a district attorney \$16.56

In addition to the amounts listed previously, charges may also be assessed for the actual cost of postage, shipping and delivery of the requested records.

The Department of Health (Department) has received numerous inquiries concerning specific requests and whether these charges apply to those requests. The duty of the Department is to update these charges annually, it is not empowered to enforce these charges or to resolve disputes concerning them. Individuals with questions concerning the applicability of these charges to specific records requests should contact private counsel.

Questions or inquiries concerning this notice should be directed to James T. Steele, Jr., Deputy Chief Counsel, Room 825 Health and Welfare Building, P. O. Box 90, Harrisburg, PA 17108, (717)-783-2500.

Persons with a disability who require an alternative format of this document or who wish to comment in an alternative format (for example, large print, audiotape or Braille) should contact Donald Hossler, Bureau of Human Resources, (717) 783-0296 or the Pennsylvania AT&T Relay Services at (800) 654-5984 [TT] or V/TT (717) 783-6514 for speech and/or hearing impaired persons.

ROBERT S. ZIMMERMAN, Jr.,
Secretary

[Pa.B. Doc. No. 02-2186. Filed for public inspection December 6, 2002, 9:00 a.m.]

Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.18(e) (relating to management):

Jameson Memorial Hospital Transitional Care Unit
1211 Wilmington Avenue
New Castle, PA 16105-2595

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.6 (relating to function of building):

The Village at Morrisons Cove
429 South Market Street
Martinsburg, PA 16662

The following long-term care nursing facility is seeking an exception to 28 Pa. Code §§ 205.23, 205.28(a), 205.36(d) and 205.38(e):

Inglis House
2600 Belmont Avenue
Philadelphia, PA 19131-2799

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.33 (relating to utility room):

UPMC Transitional Care Center Greenville
110 North Main Street
Greenville, PA 16125

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 211.12(f)(1) (relating to nursing services):

The Zendt Home
P. O. Box 248, Main Street
Richfield, PA 17086

These requests are on file with the Insurance Department (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 paexcept@health.state.pa.us.

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 require an alternative format of this document or who desire to comment in an alternative format (for example, large print, audiotape or Braille) should contact the Division of Nursing Care Facilities at the address or phone numbers listed previously, V/TT (717) 783-6514 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. 02-2187. Filed for public inspection December 6, 2002, 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Cash Extravaganza Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Cash Extravaganza.

2. *Price:* The price of a Pennsylvania Cash Extravaganza instant lottery game ticket is \$10.00.

3. *Play Symbols:* Each Pennsylvania Cash Extravaganza instant lottery game ticket will contain one play area featuring a "Lucky Numbers" area and a "Your Numbers" area. The play symbols and their captions located in the "Lucky Numbers" area and the "Your Numbers" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9

(NINE), 10 (TEN), 11 (ELEVEN), 12 (TWELVE), 13 (THIRTEEN), 14 (FOURTEEN), 15 (FIFTEEN), 16 (SIXTEEN), 17 (SEVENTEEN), 18 (EIGHTEEN), 19 (NINETEEN), 20 (TWENTY), 21 (TWENTYONE), 22 (TWENTYTWO), 23 (TWENTYTHREE), 24 (TWENTYFOUR), 25 (TWENTYFIVE), 26 (TWENTYSIX), 27 (TWENTYSEVEN), 28 (TWENTYEIGHT), 29 (TWENTYNINE) and 30 (THIRTY).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the 15 "Prize" areas are: \$5⁰⁰ (FIV DOL), \$10⁰⁰ (TEN DOL), \$15\$ (FIFTN), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$40\$ (FORTY), \$100 (ONE HUN), \$150 (ONEHUNFTY), \$450 (FORHUNFTY) and \$CASH\$ (10K/MTH/YR).

5. *Prizes:* The prizes that can be won in this game are \$5, \$10, \$15, \$20, \$25, \$40, \$100, \$150, \$450 and \$120,000 (\$10,000 a month for a year). A player can win up to 15 times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 2,520,000 tickets will be printed for the Pennsylvania Cash Extravaganza instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Lucky Numbers" play symbols and a prize play symbol of \$CASH\$ (10K/MTH/YR) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$120,000.

(b) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Lucky Numbers" play symbols and a prize play symbol of \$450 (FORHUNFTY) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$450.

(c) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Lucky Numbers" play symbols and a prize play symbol of \$150 (ONEHUNFTY) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$150.

(d) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Lucky Numbers" play symbols and a prize play symbol of \$100 (ONE HUN) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(e) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Lucky Numbers" play symbols and a prize play symbol of \$40\$ (FORTY) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(f) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Lucky Numbers" play symbols and a prize play symbol of \$25\$ (TWY FIV) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(g) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Lucky Numbers" play symbols and a prize play symbol of \$20\$ (TWENTY) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(h) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Lucky Num-

bers" play symbols and a prize play symbol of \$155 (FIFTN) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$15.

(i) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Lucky Numbers" play symbols and a prize play symbol of \$10⁰⁰ (TEN DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(j) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Lucky Numbers" play symbols and a prize play symbol of \$5⁰⁰ (FIV DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$5.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Win With Prize(s) Of:</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 2,520,000 Tickets</i>
\$5 × 2	\$10	1:15	168,000
\$10	\$10	1:60	42,000
\$5 × 3	\$15	1:30	84,000
\$5 + \$10	\$15	1:16.67	151,200
\$15	\$15	1:150	16,800
\$5 × 2 + \$10	\$20	1:150	16,800
\$5 × 4	\$20	1:150	16,800
\$15 + \$5	\$20	1:150	16,800
\$10 × 2	\$20	1:150	16,800
\$20	\$20	1:150	16,800
\$5 × 5	\$25	1:30	84,000
\$20 + \$5	\$25	1:75	33,600
\$10 + \$15	\$25	1:75	33,600
\$25	\$25	1:150	16,800
\$5 × 8	\$40	1:571.43	4,410
\$10 × 4	\$40	1:571.43	4,410
\$20 × 2	\$40	1:571.43	4,410
\$40	\$40	1:571.43	4,410
\$5 × 10 + \$10 × 5	\$100	1:120	21,000
\$10 × 10	\$100	1:300	8,400
\$20 × 5	\$100	1:398.67	6,321
\$100	\$100	1:398.67	6,321
\$10 × 15	\$150	1:30,000	84
\$15 × 10	\$150	1:30,000	84
\$25 × 6	\$150	1:30,000	84
\$150	\$150	1:30,000	84
\$25 × 14 + \$100	\$450	1:60,000	42
\$150 × 3	\$450	1:60,000	42
\$450	\$450	1:60,000	42
\$10,000/Month/1 Year	\$120,000	1:840,000	3

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Cash Extravaganza instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Cash Extravaganza, prize money from winning Pennsylvania Cash Extravaganza instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Cash Extravaganza instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regula-

tions contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Cash Extravaganza or through normal communications methods.

LARRY P. WILLIAMS,
Secretary

[Pa.B. Doc. No. 02-2188. Filed for public inspection December 6, 2002, 9:00 a.m.]

Pennsylvania Cupid Cash Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby

provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Cupid Cash.

2. *Price:* The price of a Pennsylvania Cupid Cash instant lottery game ticket is \$5.00.

3. *Play Symbols:*

(a) Each Pennsylvania Cupid Cash instant lottery game ticket will contain three play areas known as "Game 1," "Game 2" and "Game 3" respectively. Each game has a different game play method and is played separately. Each Pennsylvania Cupid Cash instant lottery game ticket will also contain a "Fast \$14" bonus area.

(b) The play symbols and their captions located in the play area for "Game 1" are: \$5⁰⁰ (FIV DOL), \$7⁰⁰ (SVN DOL), \$10⁰⁰ (TEN DOL), \$14\$ (FORTN), \$21\$ (TWY ONE), \$28\$ (TWY EGT), \$42\$ (FRY TWO), \$70\$ (SEVENTY), \$140 (ONEHUNFRY) and \$50,000 (FTY THO).

(c) The play symbols and their captions located in the play area for "Game 2" are: Rose Symbol (ROSE) and X Symbol (XXX).

(d) The play area for "Game 3" will contain a "Lucky Symbol" area and a "Your Symbols" area. The play symbols and their captions located in the "Lucky Symbol" area and the "Your Symbols" area are: Lips Symbol (KISS), Bear Symbol (BEAR), Candy Symbol (CANDY), Diamond Symbol (DIMND), Gift Symbol (GIFT), Cash Symbol (CASH), Balloon Symbol (BALLN), Crown Symbol (CROWN), Heart Symbol (HEART), Cupid Symbol (CUPID), Bow Symbol (BOW), Ring Symbol (RING) and Cake Symbol (CAKE).

4. *Prize Play Symbols:*

(a) The prize play symbols and their captions located in the "Prize" area for "Game 2" are: \$5⁰⁰ (FIV DOL), \$7⁰⁰ (SVN DOL), \$10⁰⁰ (TEN DOL), \$14\$ (FORTN), \$21\$ (TWY ONE), \$28\$ (TWY EGT), \$42\$ (FRY TWO), \$70\$ (SEVENTY), \$140 (ONEHUNFRY) and \$50,000 (FTY THO).

(b) The prize play symbols and their captions located in the "Your Symbols" area for "Game 3" are: \$5⁰⁰ (FIV DOL), \$7⁰⁰ (SVN DOL), \$14\$ (FORTN), \$21\$ (TWY ONE), \$28\$ (TWY EGT), \$42\$ (FRY TWO), \$70\$ (SEVENTY), \$140 (ONEHUNFRY) and \$50,000 (FTY THO).

(c) The prize play symbols and their captions located in the "Fast \$14" bonus area are: \$14\$ (FORTN) and NO BONUS (TRY AGAIN).

5. *Prizes:* The prizes that can be won in "Game 1" and "Game 2" are \$5, \$7, \$10, \$14, \$21, \$28, \$42, \$70, \$140 and \$50,000. The prizes that can be won in "Game 3" are: \$5, \$7, \$14, \$21, \$28, \$42, \$70, \$140 and \$50,000. The prize that can be won in the "Fast \$14" bonus is \$14. A player can win up to seven times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 1,680,000 tickets will be printed for the Pennsylvania Cupid Cash instant lottery game.

7. *Determination of Prize Winners:*

(a) Determination of prize winners for "Game 1" are:

(1) Holders of tickets with three matching play symbols of \$50,000 (FTY THO) in the play area, on a single ticket, shall be entitled to a prize of \$50,000.

(2) Holders of tickets with three matching play symbols of \$140 (ONEHUNFRY) in the play area, on a single ticket, shall be entitled to a prize of \$140.

(3) Holders of tickets with three matching play symbols of \$70\$ (SEVENTY) in the play area, on a single ticket, shall be entitled to a prize of \$70.

(4) Holders of tickets with three matching play symbols of \$42\$ (FRY TWO) in the play area, on a single ticket, shall be entitled to a prize of \$42.

(5) Holders of tickets with three matching play symbols of \$28\$ (TWY EGT) in the play area, on a single ticket, shall be entitled to a prize of \$28.

(6) Holders of tickets with three matching play symbols of \$21\$ (TWY ONE) in the play area, on a single ticket, shall be entitled to a prize of \$21.

(7) Holders of tickets with three matching play symbols of \$14\$ (FORTN) in the play area, on a single ticket, shall be entitled to a prize of \$14.

(8) Holders of tickets with three matching play symbols of \$10⁰⁰ (TEN DOL) in the play area, on a single ticket, shall be entitled to a prize of \$10.

(9) Holders of tickets with three matching play symbols of \$7⁰⁰ (SVN DOL) in the play area, on a single ticket, shall be entitled to a prize of \$7.

(10) Holders of tickets with three matching play symbols of \$5⁰⁰ (FIV DOL) in the play area, on a single ticket, shall be entitled to a prize of \$5.

(b) Determination of prize winners for "Game 2" are:

(1) Holders of tickets with three matching Rose Symbol (ROSE) play symbols in the same row, column or diagonal, and a prize play symbol of \$50,000 (FTY THO) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$50,000.

(2) Holders of tickets with three matching Rose Symbol (ROSE) play symbols in the same row, column or diagonal, and a prize play symbol of \$140 (ONEHUNFRY) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$140.

(3) Holders of tickets with three matching Rose Symbol (ROSE) play symbols in the same row, column or diagonal, and a prize play symbol of \$70\$ (SEVENTY) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$70.

(4) Holders of tickets with three matching Rose Symbol (ROSE) play symbols in the same row, column or diagonal, and a prize play symbol of \$42\$ (FRY TWO) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$42.

(5) Holders of tickets with three matching Rose Symbol (ROSE) play symbols in the same row, column or diagonal, and a prize play symbol of \$28\$ (TWY EGT) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$28.

(6) Holders of tickets with three matching Rose Symbol (ROSE) play symbols in the same row, column or diagonal, and a prize play symbol of \$21\$ (TWY ONE) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$21.

(7) Holders of tickets with three matching Rose Symbol (ROSE) play symbols in the same row, column or diagonal, and a prize play symbol of \$14\$ (FORTN) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$14.

(8) Holders of tickets with three matching Rose Symbol (ROSE) play symbols in the same row, column or diagonal,

nal, and a prize play symbol of \$10⁰⁰ (TEN DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$10.

(9) Holders of tickets with three matching Rose Symbol (ROSE) play symbols in the same row, column or diagonal, and a prize play symbol of \$7⁰⁰ (SVN DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$7.

(10) Holders of tickets with three matching Rose Symbol (ROSE) play symbols in the same row, column or diagonal, and a prize play symbol of \$5⁰⁰ (FIV DOL) in the "Prize" area for that game, on a single ticket, shall be entitled to a prize of \$5.

(c) Determination of prize winners for "Game 3" are:

(1) Holders of tickets where any one of the "Your Symbols" play symbols matches the "Lucky Symbol" play symbol and a prize play symbol of \$50,000 (FTY THO) appears under the matching "Your Symbols" play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(2) Holders of tickets where any one of the "Your Symbols" play symbols matches the "Lucky Symbol" play symbol and a prize play symbol of \$140 (ONEHUNFRY) appears under the matching "Your Symbols" play symbol, on a single ticket, shall be entitled to a prize of \$140.

(3) Holders of tickets where any one of the "Your Symbols" play symbols matches the "Lucky Symbol" play symbol and a prize play symbol of \$70\$ (SEVENTY) appears under the matching "Your Symbols" play symbol, on a single ticket, shall be entitled to a prize of \$70.

(4) Holders of tickets where any one of the "Your Symbols" play symbols matches the "Lucky Symbol" play symbol and a prize play symbol of \$42\$ (FRY TWO) appears under the matching "Your Symbols" play symbol, on a single ticket, shall be entitled to a prize of \$42.

(5) Holders of tickets where any one of the "Your Symbols" play symbols matches the "Lucky Symbol" play symbol and a prize play symbol of \$28\$ (TWY EGT) appears under the matching "Your Symbols" play symbol, on a single ticket, shall be entitled to a prize of \$28.

(6) Holders of tickets where any one of the "Your Symbols" play symbols matches the "Lucky Symbol" play symbol and a prize play symbol of \$21\$ (TWY ONE) appears under the matching "Your Symbols" play symbol, on a single ticket, shall be entitled to a prize of \$21.

(7) Holders of tickets where any one of the "Your Symbols" play symbols matches the "Lucky Symbol" play symbol and a prize play symbol of \$14\$ (FORTN) appears under the matching "Your Symbols" play symbol, on a single ticket, shall be entitled to a prize of \$14.

(8) Holders of tickets where any one of the "Your Symbols" play symbols matches the "Lucky Symbol" play symbol and a prize play symbol of \$7⁰⁰ (SVN DOL) appears under the matching "Your Symbols" play symbol, on a single ticket, shall be entitled to a prize of \$7.

(9) Holders of tickets where any one of the "Your Symbols" play symbols matches the "Lucky Symbol" play symbol and a prize play symbol of \$5⁰⁰ (FIV DOL) appears under the matching "Your Symbols" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(d) Determination of prize winners for the "Fast \$20" bonus area is: Holders of tickets with a prize play symbol of \$14\$ (FORTN) in the "Fast \$14" bonus area, on a single ticket, shall be entitled to a prize of \$14.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Fast \$14 bonus</i>	<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 1,680,000 Tickets</i>
	\$5			\$5	1:28.57	58,800
		\$5		\$5	1:28.57	58,800
			\$5	\$5	1:30	56,000
	\$7			\$7	1:100	16,800
		\$7		\$7	1:200	8,400
			\$7	\$7	1:200	8,400
			\$5 × 2	\$10	1:120	14,000
	\$10			\$10	1:120	14,000
		\$10		\$10	1:120	14,000
	\$7		\$7	\$14	1:100	16,800
	\$7	\$7		\$14	1:100	16,800
		\$7	\$7	\$14	1:100	16,800
\$14				\$14	1:13.04	128,800
	\$7	\$7	\$7	\$21	1:150	11,200
			\$7 × 3	\$21	1:200	8,400
\$14	\$7			\$21	1:200	8,400
\$14		\$7		\$21	1:200	8,400
\$14			\$7	\$21	1:200	8,400
	\$21			\$21	1:300	5,600
		\$21		\$21	1:600	2,800
			\$21	\$21	1:600	2,800
\$14	\$14			\$28	1:3,429	490
\$14		\$14		\$28	1:3,429	490
\$14			\$14	\$28	1:3,429	490
\$14			\$7 × 2	\$28	1:3,429	490
			\$7 × 4	\$28	1:3,429	490
	\$28			\$28	1:12,000	140

<i>Fast \$14 bonus</i>	<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winners Per 1,680,000 Tickets</i>
		\$28		\$28	1:12,000	140
			\$28	\$28	1:12,000	140
\$14			\$14 × 2	\$42	1:40,000	42
\$14			\$7 × 4	\$42	1:40,000	42
\$14	\$14	\$14		\$42	1:40,000	42
\$14		\$14	\$14	\$42	1:40,000	42
\$14	\$14		\$14	\$42	1:40,000	42
			\$21 × 2	\$42	1:60,000	28
			\$7 × 6	\$42	1:120,000	14
	\$42			\$42	1:120,000	14
		\$42		\$42	1:120,000	14
			\$42	\$42	1:120,000	14
\$14			\$14 × 4	\$70	1:120,000	14
\$14	\$14	\$14	\$7 × 4	\$70	1:120,000	14
	\$70			\$70	1:120,000	14
		\$70		\$70	1:120,000	14
			\$70	\$70	1:120,000	14
			\$70 × 2	\$140	1:84,000	20
	\$140			\$140	1:420,000	4
		\$140		\$140	1:420,000	4
			\$140	\$140	1:420,000	4
	\$50,000			\$50,000	1:1,680,000	1
		\$50,000		\$50,000	1:1,680,000	1
			\$50,000	\$50,000	1:1,680,000	1

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Cupid Cash instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Cupid Cash, prize money from winning Pennsylvania Cupid Cash instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Cupid Cash instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Cupid Cash or through normal communications methods.

LARRY P. WILLIAMS,
Secretary

[Pa.B. Doc. No. 02-2189. Filed for public inspection December 6, 2002, 9:00 a.m.]

Pennsylvania Fantasy 5's Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of

instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Fantasy 5's.

2. *Price:* The price of a Pennsylvania Fantasy 5's instant lottery game ticket is \$5.00.

3. *Play Symbols:*

(a) Each Pennsylvania Fantasy 5's instant lottery game ticket will contain five play areas known as Game 1, Game 2, Game 3, Game 4 and Game 5. Each game has a different game play method and is played separately.

(b) The play symbols and their captions located in the play area for Game 1 are: \$5⁰⁰ (FIV DOL), \$6⁰⁰ (SIX DOL), \$7⁰⁰ (SVN DOL), \$10⁰⁰ (TEN DOL), \$12\$ (TWELV), \$15\$ (FIFTN), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$55\$ (FTY FIV), \$110 (ONEHUNTEN) and \$55,55\$ (FTYFIVTHOFFF).

(c) The play symbols and their captions located in the "Your" and "Their" areas for Game 2, in the play area for Game 3 and in the "Lucky Number" and "Your Numbers" areas for Game 5 are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT) and 9 (NINE).

4. *Prize Play Symbols:*

(a) The prize play symbols and their captions located in the "Prize" area for Game 2 are: \$5⁰⁰ (FIV DOL), \$6⁰⁰ (SIX DOL), \$7⁰⁰ (SVN DOL), \$10⁰⁰ (TEN DOL), \$12\$ (TWELV), \$15\$ (FIFTN), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$55\$ (FTY FIV) and \$110 (ONEHUNTEN).

(b) The prize play symbols and their captions located in the "Prize" area for Game 3 and in the six "Prize" areas for Game 5 are: \$5⁰⁰ (FIV DOL), \$6⁰⁰ (SIX DOL), \$7⁰⁰ (SVN DOL), \$10⁰⁰ (TEN DOL), \$12\$ (TWELV), \$15\$ (FIFTN), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$55\$ (FTY FIV), \$110 (ONEHUNTEN) and \$55,55\$ (FTYFIVTHOFFF).

(c) The prize play symbols and their captions located in the "Fast Cash Bonus" area for Game 4 are: \$15\$ (FIFTN), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$55\$ (FTY FIV) and NO BONUS (TRY AGAIN).

5. *Prizes:* The prizes that can be won in Game 1, Game 3 and Game 5 are \$5, \$6, \$7, \$10, \$12, \$15, \$20, \$25, \$55, \$110 and \$55,555. The prizes that can be won in Game 2 are \$5, \$6, \$7, \$10, \$12, \$15, \$20, \$25, \$55 and \$110. The prizes that can be won in Game 4 are \$15, \$20, \$25 and \$55. A player can win up to nine times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 3,600,000 tickets will be printed for the Pennsylvania Fantasy 5's instant lottery game.

7. *Determination of Prize Winners:*

(a) Determination of prize winners for Game 1 are:

(1) Holders of tickets with three matching play symbols of \$55,555 (FTYFIVTHOFFF) in the play area, on a single ticket, shall be entitled to a prize of \$55,555.

(2) Holders of tickets with three matching play symbols of \$110 (ONEHUNTEN) in the play area, on a single ticket, shall be entitled to a prize of \$110.

(3) Holders of tickets with three matching play symbols of \$55\$ (FTY FIV) in the play area, on a single ticket, shall be entitled to a prize of \$55.

(4) Holders of tickets with three matching play symbols of \$25\$ (TWY FIV) in the play area, on a single ticket, shall be entitled to a prize of \$25.

(5) Holders of tickets with three matching play symbols of \$20\$ (TWENTY) in the play area, on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets with three matching play symbols of \$15\$ (FIFTN) in the play area, on a single ticket, shall be entitled to a prize of \$15.

(7) Holders of tickets with three matching play symbols of \$12\$ (TWELV) in the play area, on a single ticket, shall be entitled to a prize of \$12.

(8) Holders of tickets with three matching play symbols of \$10⁰⁰ (TEN DOL) in the play area, on a single ticket, shall be entitled to a prize of \$10.

(9) Holders of tickets with three matching play symbols of \$7⁰⁰ (SVN DOL) in the play area, on a single ticket, shall be entitled to a prize of \$7.

(10) Holders of tickets with three matching play symbols of \$6⁰⁰ (SIX DOL) in the play area, on a single ticket, shall be entitled to a prize of \$6.

(11) Holders of tickets with three matching play symbols of \$5⁰⁰ (FIV DOL) in the play area, on a single ticket, shall be entitled to a prize of \$5.

(b) Determination of prize winners for Game 2 are:

(1) Holders of tickets where the "Your" number is greater than the "Their" number, in the same Game, and a prize play symbol of \$110 (ONEHUNTEN) appears in the "Prize" area for that Game, on a single ticket, shall be entitled to a prize of \$110.

(2) Holders of tickets where the "Your" number is greater than the "Their" number, in the same Game, and a prize play symbol of \$55\$ (FTY FIV) appears in the "Prize" area for that Game, on a single ticket, shall be entitled to a prize of \$55.

(3) Holders of tickets where the "Your" number is greater than the "Their" number, in the same Game, and

a prize play symbol of \$25\$ (TWY FIV) appears in the "Prize" area for that Game, on a single ticket, shall be entitled to a prize of \$25.

(4) Holders of tickets where the "Your" number is greater than the "Their" number, in the same Game, and a prize play symbol of \$20\$ (TWENTY) appears in the "Prize" area for that Game, on a single ticket, shall be entitled to a prize of \$20.

(5) Holders of tickets where the "Your" number is greater than the "Their" number, in the same Game, and a prize play symbol of \$15\$ (FIFTN) appears in the "Prize" area for that Game, on a single ticket, shall be entitled to a prize of \$15.

(6) Holders of tickets where the "Your" number is greater than the "Their" number, in the same Game, and a prize play symbol of \$12\$ (TWELV) appears in the "Prize" area for that Game, on a single ticket, shall be entitled to a prize of \$12.

(7) Holders of tickets where the "Your" number is greater than the "Their" number, in the same Game, and a prize play symbol of \$10⁰⁰ (TEN DOL) appears in the "Prize" area for that Game, on a single ticket, shall be entitled to a prize of \$10.

(9) Holders of tickets where the "Your" number is greater than the "Their" number, in the same Game, and a prize play symbol of \$7⁰⁰ (SVN DOL) appears in the "Prize" area for that Game, on a single ticket, shall be entitled to a prize of \$7.

(10) Holders of tickets where the "Your" number is greater than the "Their" number, in the same Game, and a prize play symbol of \$6⁰⁰ (SIX DOL) appears in the "Prize" area for that Game, on a single ticket, shall be entitled to a prize of \$6.

(11) Holders of tickets where the "Your" number is greater than the "Their" number, in the same Game, and a prize play symbol of \$5⁰⁰ (FIV DOL) appears in the "Prize" area for that Game, on a single ticket, shall be entitled to a prize of \$5.

(c) Determination of prize winners for Game 3 are:

(1) Holders of tickets with three matching 5 (FIVE) play symbols in the same row, column or diagonal and a prize play symbol of \$55,555 (FTYFIVTHOFFF) appearing in the "Prize" area for the Game, on a single ticket, shall be entitled to a prize of \$55,555.

(2) Holders of tickets with three matching 5 (FIVE) play symbols in the same row, column or diagonal and a prize play symbol of \$110 (ONEHUNTEN) appearing in the "Prize" area for the Game, on a single ticket, shall be entitled to a prize of \$110.

(3) Holders of tickets with three matching 5 (FIVE) play symbols in the same row, column or diagonal and a prize play symbol of \$55\$ (FTY FIV) appearing in the "Prize" area for the Game, on a single ticket, shall be entitled to a prize of \$55.

(4) Holders of tickets with three matching 5 (FIVE) play symbols in the same row, column or diagonal and a prize play symbol of \$25\$ (TWY FIV) appearing in the "Prize" area for the Game, on a single ticket, shall be entitled to a prize of \$25.

(5) Holders of tickets with three matching 5 (FIVE) play symbols in the same row, column or diagonal and a prize play symbol of \$20\$ (TWENTY) appearing in the "Prize" area for the Game, on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets with three matching 5 (FIVE) play symbols in the same row, column or diagonal and a prize play symbol of \$15\$ (FIFTN) appearing in the "Prize" area for the Game, on a single ticket, shall be entitled to a prize of \$15.

(7) Holders of tickets with three matching 5 (FIVE) play symbols in the same row, column or diagonal and a prize play symbol of \$12\$ (TWELV) appearing in the "Prize" area for the Game, on a single ticket, shall be entitled to a prize of \$12.

(8) Holders of tickets with three matching 5 (FIVE) play symbols in the same row, column or diagonal and a prize play symbol of \$10^{.00} (TEN DOL) appearing in the "Prize" area for the Game, on a single ticket, shall be entitled to a prize of \$10.

(9) Holders of tickets with three matching 5 (FIVE) play symbols in the same row, column or diagonal and a prize play symbol of \$7^{.00} (SVN DOL) appearing in the "Prize" area for the Game, on a single ticket, shall be entitled to a prize of \$7.

(10) Holders of tickets with three matching 5 (FIVE) play symbols in the same row, column or diagonal and a prize play symbol of \$6^{.00} (SIX DOL) appearing in the "Prize" area for the Game, on a single ticket, shall be entitled to a prize of \$6.

(11) Holders of tickets with three matching 5 (FIVE) play symbols in the same row, column or diagonal and a prize play symbol of \$5^{.00} (FIV DOL) appearing in the "Prize" area for the Game, on a single ticket, shall be entitled to a prize of \$5.

(d) Determination of prize winners for Game 4 are:

(1) Holders of tickets with a \$55\$ (FTY FIV) play symbol in the "Fast Cash Bonus" area, on a single ticket, shall be entitled to a prize of \$55.

(2) Holders of tickets with a \$25\$ (TWY FIV) play symbol in the "Fast Cash Bonus" area, on a single ticket, shall be entitled to a prize of \$25.

(3) Holders of tickets with a \$20\$ (TWENTY) play symbol in the "Fast Cash Bonus" area, on a single ticket, shall be entitled to a prize of \$20.

(4) Holders of tickets with a \$15\$ (FIFTN) play symbol in the "Fast Cash Bonus" area, on a single ticket, shall be entitled to a prize of \$15.

(e) Determination of prize winners for Game 5 are:

(1) Holders of tickets upon which any one of the "Your Numbers" play symbols match the "Lucky Number" play symbol and a prize play symbol of \$55,555 (FTYFIVTHOFFF) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$55,555.

(2) Holders of tickets upon which any one of the "Your Numbers" play symbols match the "Lucky Number" play symbol and a prize play symbol of \$110 (ONEHUNTEN) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$110.

(3) Holders of tickets upon which any one of the "Your Numbers" play symbols match the "Lucky Number" play symbol and a prize play symbol of \$55\$ (FTY FIV) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$55.

(4) Holders of tickets upon which any one of the "Your Numbers" play symbols match the "Lucky Number" play symbol and a prize play symbol of \$25\$ (TWY FIV) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(5) Holders of tickets upon which any one of the "Your Numbers" play symbols match the "Lucky Number" play symbol and a prize play symbol of \$20\$ (TWENTY) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(6) Holders of tickets upon which any one of the "Your Numbers" play symbols match the "Lucky Number" play symbol and a prize play symbol of \$15\$ (FIFTN) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$15.

(7) Holders of tickets upon which any one of the "Your Numbers" play symbols match the "Lucky Number" play symbol and a prize play symbol of \$12\$ (TWELV) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$12.

(8) Holders of tickets upon which any one of the "Your Numbers" play symbols match the "Lucky Number" play symbol and a prize play symbol of \$10^{.00} (TEN DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(9) Holders of tickets upon which any one of the "Your Numbers" play symbols match the "Lucky Number" play symbol and a prize play symbol of \$7^{.00} (SVN DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$7.

(10) Holders of tickets upon which any one of the "Your Numbers" play symbols match the "Lucky Number" play symbol and a prize play symbol of \$6^{.00} (SIX DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$6.

(11) Holders of tickets upon which any one of the "Your Numbers" play symbols match the "Lucky Number" play symbol and a prize play symbol of \$5^{.00} (FIV DOL) appears in the "Prize" area under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$5.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

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<i>Game 1</i>	<i>Game 2</i>	<i>Game 4</i>	<i>Game 3</i>	<i>Game 5</i>	<i>Win</i>	<i>Approximate Odds</i>	<i>Approximate No. of Winner Per 3,600,000 Tickets</i>
\$5					\$5	1:27.27	132,000
	\$5				\$5	1:28.57	126,000
			\$5		\$5	1:28.57	126,000
				\$5	\$5	1:28.57	126,000
\$6					\$6	1:600	6,000
	\$6				\$6	1:600	6,000
			\$6		\$6	1:600	6,000
				\$6	\$6	1:300	12,000
\$7					\$7	1:600	6,000
	\$7				\$7	1:600	6,000
			\$7		\$7	1:600	6,000
				\$7	\$7	1:300	12,000
\$10					\$10	1:600	6,000
	\$10				\$10	1:600	6,000
			\$10		\$10	1:600	6,000
				\$10	\$10	1:600	6,000
\$5	\$5				\$10	1:600	6,000
\$5			\$5		\$10	1:600	6,000
	\$5		\$5		\$10	1:600	6,000
	\$5			\$5	\$10	1:600	6,000
			\$5	\$5	\$10	1:600	6,000
				\$5 × 2	\$10	1:600	6,000
\$12					\$12	1:600	6,000
	\$12				\$12	1:600	6,000
			\$12		\$12	1:600	6,000
				\$12	\$12	1:600	6,000
\$6	\$6				\$12	1:600	6,000
\$6			\$6		\$12	1:600	6,000
\$6				\$6	\$12	1:600	6,000
	\$6		\$6		\$12	1:600	6,000
	\$6			\$6	\$12	1:600	6,000
				\$6 × 2	\$12	1:600	6,000
\$15					\$15	1:600	6,000
	\$15				\$15	1:600	6,000
		\$15			\$15	1:100	36,000
			\$15		\$15	1:600	6,000
				\$15	\$15	1:600	6,000
\$5	\$5		\$5		\$15	1:600	6,000
\$5	\$5			\$5	\$15	1:600	6,000
	\$5		\$5	\$5	\$15	1:600	6,000
				\$5 × 3	\$15	1:600	6,000
\$20					\$20	1:600	6,000
	\$20				\$20	1:600	6,000
		\$20			\$20	1:600	6,000
			\$20		\$20	1:600	6,000
				\$20	\$20	1:600	6,000
\$5		\$15			\$20	1:600	6,000
	\$5	\$15			\$20	1:600	6,000
		\$15	\$5		\$20	1:600	6,000
		\$15		\$5	\$20	1:600	6,000
				\$5 × 4	\$20	1:600	6,000
\$25					\$25	1:600	6,000
	\$25				\$25	1:600	6,000
		\$25			\$25	1:600	6,000
			\$25		\$25	1:600	6,000
				\$25	\$25	1:600	6,000
\$5	\$5	\$15			\$25	1:600	6,000
	\$5	\$15	\$5		\$25	1:600	6,000
		\$15	\$5	\$5	\$25	1:600	6,000
\$5		\$20			\$25	1:600	6,000
		\$20	\$5		\$25	1:600	6,000
\$55					\$55	1:1,846	1,950
	\$55				\$55	1:1,846	1,950
		\$55			\$55	1:118.81	30,300
			\$55		\$55	1:1,846	1,950
				\$55	\$55	1:1,846	1,950

Game 1	Game 2	Game 4	Game 3	Game 5	Win	Approximate Odds	Approximate No. of Winner Per 3,600,000 Tickets
\$25	\$25		\$5		\$55	1:2,667	1,350
	\$25		\$25	\$5	\$55	1:2,667	1,350
\$5			\$25	\$25	\$55	1:2,667	1,350
\$5	\$5	\$15	\$5	\$5 × 5	\$55	1:2,667	1,350
\$10	\$10	\$15	\$10	\$10	\$55	1:2,667	1,350
\$15	\$15	\$15	\$10		\$55	1:2,667	1,350
\$20	\$20			\$5 × 3	\$55	1:6,000	600
	\$25			\$5 × 6	\$55	1:6,000	600
\$25		\$15		\$5 × 3	\$55	1:2,667	1,350
\$15	\$15	\$25			\$55	1:2,667	1,350
	\$15	\$25	\$15		\$55	1:2,667	1,350
		\$25		\$5 × 6	\$55	1:2,667	1,350
\$25		\$20		\$5 × 2	\$55	1:2,667	1,350
\$25		\$25	\$5		\$55	1:2,667	1,350
\$25				\$5 × 6	\$55	1:6,000	600
\$5	\$25	\$25			\$55	1:2,667	1,350
	\$5	\$25	\$25		\$55	1:2,667	1,350
		\$25	\$5	\$25	\$55	1:2,667	1,350
\$110					\$110	1:720,000	5
	\$110				\$110	1:720,000	5
			\$110		\$110	1:720,000	5
				\$110	\$110	1:720,000	5
\$55	\$55				\$110	1:720,000	5
	\$55		\$55		\$110	1:720,000	5
\$55		\$55			\$110	1:720,000	5
\$10				\$20 × 5	\$110	1:720,000	5
	\$10			\$25 × 4	\$110	1:720,000	5
				\$55 × 2	\$110	1:720,000	5
\$55,555					\$55,555	1:3,600,000	1
			\$55,555		\$55,555	1:3,600,000	1
				\$55,555	\$55,555	1:3,600,000	1

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Fantasy 5's instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Fantasy 5's, prize money from winning Pennsylvania Fantasy 5's instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Fantasy 5's instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law (72 P. S. §§ 3761-101—3761-314), the regulations contained in 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Fantasy 5's or through normal communications methods.

LARRY P. WILLIAMS,
Secretary

[Pa.B. Doc. No. 02-2190. Filed for public inspection December 6, 2002, 9:00 a.m.]

Rates of Tax on Aviation Gasoline and Jet Fuel for 2003; Oil Company Franchise Tax Rate for 2003

Aviation Gasoline and Jet Fuels

Under 74 Pa.C.S. § 6121(b) (relating to tax on aviation fuels), the Secretary of Revenue (Secretary) announces that for the calendar year 2003 the rate of tax on aviation gasoline and all other liquid fuels used or sold and delivered by distributors within this Commonwealth for use as fuel in propeller-driven piston engine aircraft or aircraft engines will remain at the current rate of 4 1/10¢* per gallon or fractional part thereof.

Under 74 Pa.C.S. § 6131(b) (relating to tax on jet fuels), the Secretary announces that for the calendar year 2003 the rate of tax on jet fuels used or sold and delivered by distributors within this Commonwealth for use as fuel in turbine-propeller jet, turbojet and jet-driven aircraft and aircraft engines will remain at the current rate of 1 8/10¢ per gallon or fractional part thereof.

The rate of tax on aviation gasoline is adjusted annually beginning on January 1, 1985, and each January 1 thereafter. The rate of tax on jet fuels is adjusted annually beginning on January 1, 1986, and each January 1 thereafter. Under 74 Pa.C.S. §§ 6121(b) and 6131(b) the rate of each tax increases or decreases 1/10¢ per gallon for each 10% increase or decrease in the producer price index for jet fuel as determined by the United States Department of Labor, Bureau of Labor Statistics,

* The rate of 4 1/10¢ per gallon consists of the 1 1/2¢ per gallon tax imposed by the Liquid Fuels and Fuels Tax Act, 75 Pa.C.S. § 9004(c)(1) (relating to imposition of tax, exemptions and deductions), and the 2 6/10¢ per gallon additional tax imposed by 74 Pa.C.S. § 6121(a). As limited by 74 Pa.C.S. § 6121(b), the combined rate of these two component taxes may never exceed 6¢ per gallon or be less than 3¢ per gallon.

for the most recent 12-month period available as of November 1, subject to a maximum rate of 6¢ per gallon for aviation gasoline and 2¢ per gallon for jet fuels. On November 1, 2002, the most recently available 12-month period was September 2001 to September 2002, as reported in Bureau of Labor Statistics, United States Department of Labor, Producer Price Indexes, September 2002, USDL 02-581, released October 11, 2002, for which the percentage change was -2.3%. Accordingly, as the percentage change is less than 10%, the current aviation gasoline tax rate and jet fuel tax rate will remain unchanged.

Oil Company Franchise Tax

The Secretary announces that for the calendar year 2003 there is a decrease in the current rate of the oil company franchise tax from 14.6¢ per gallon to 13.9¢ per gallon on all liquid fuels and from 19.8¢ per gallon to 18.8¢ per gallon on all fuels used or sold and delivered by distributors within this Commonwealth under 75 Pa.C.S. §§ 9002 and 9004(b) (relating to definitions; and imposition of tax, exemptions and deductions), definition of "cents per gallon equivalent basis."

The rate of the oil company franchise tax imposed under 75 Pa.C.S. Chapter 95 (relating to taxes or highway maintenance and construction), 75 Pa.C.S. § 9502 (relating to imposition of tax) and collected under 75 Pa.C.S. Chapter 90 (relating to liquid fuels and fuels tax), 75 Pa.C.S. § 9004(b), is determined annually by the Department of Revenue (Department) and announced by each December 15 for the following calendar year. The tax rate is determined on a "cents per gallon equivalent basis," which is defined by 75 Pa.C.S. § 9002 as:

The average wholesale price per gallon multiplied by the decimal equivalent of any tax imposed by section 9502 (relating to imposition of tax), the product of which is rounded to the next highest tenth of a cent per gallon. The rate of tax shall be determined by the Department of Revenue on an annual basis beginning every January 1 and shall be published as a notice in the Pennsylvania Bulletin no later than the preceding December 15. In the event of a change in the rate of tax imposed by section 9502, the Department shall redetermine the rate of tax as of the effective date of such change and give notice as soon as possible.

"Average wholesale price" is defined as:

The average wholesale price per gallon of all taxable liquid fuels and fuels, excluding the federal excise tax and all liquid fuels taxes, as determined by the Department of Revenue for the 12-month period ending on the September 30 immediately prior to January 1 of the year for which the rate is to be set. In no case shall the average wholesale price be less than 90¢ nor more than \$1.25 per gallon.

For the 12-month period ending September 30, 2002, the Department has determined that the average wholesale price of liquid fuels and fuels was less than 90¢ per gallon; accordingly, an average wholesale price of 90¢ per gallon is used to determine the rate for 2003.

The oil company franchise tax imposed under 75 Pa.C.S. § 9502 in terms of mills applicable to each gallon is:

<i>Imposition Section</i>	<i>Liquid Fuels</i>	<i>Fuels</i>
75 Pa.C.S. § 9502(a)(1)	60.0	60.0
75 Pa.C.S. § 9502(a)(2)	55.0	55.0
75 Pa.C.S. § 9502(a)(3)	38.5	38.5

<i>Imposition Section</i>	<i>Liquid Fuels</i>	<i>Fuels</i>
75 Pa.C.S. § 9502(a)(4)	00.0	55.0
Total Mills per Gallon:	153.5	208.5
Decimal Equivalent:	.1535	.2085
Multiply by Average Wholesale Price:	× 90.0¢	× 90.0¢
Product:	13.815¢	18.765¢
Oil Company Franchise Tax per Gallon (Rounded Up to Next Highest Tenth):	13.9¢	18.8¢

The act of April 17, 1997 (P. L. 6, No. 3) provides that the oil company franchise tax as computed is collected at the same time as the liquid fuels and fuels tax of 12¢ per gallon; therefore, effective January 1, 2003, the combined rate of tax for liquid fuels (primarily gasoline) is 25.9¢ per gallon and for fuels (primarily diesel fuel) is 30.8¢ per gallon.

LARRY P. WILLIAMS,
Secretary

[Pa.B. Doc. No. 02-2191. Filed for public inspection December 6, 2002, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Finding Indiana County

Under section 2002(b) of The Administrative Code 1929 (71 P. S. § 512(b)), the Secretary of Transportation makes the following written finding:

The Department of Transportation (Department) plans to replace the existing Lewis Bridge, carrying T-398 over the Little Mahoning Creek in West Mahoning Township, Indiana County. The existing Lewis Bridge has been determined eligible for the National Register of Historic Places. The effect of this project on the existing Lewis Bridge will be mitigated by the following measures to minimize harm to the resources.

1. The Department, in consultation with the State Historic Preservation Office (SHPO), shall ensure that a plan is prepared for marketing the Lewis Bridge. This marketing plan shall include the following elements:

- Photographs of the current bridge (the property).
- A tax parcel map.
- A current inspection report assessing the condition of the bridge.
- Information on the cost of purchasing the bridge.
- Information on the property's historic significance.
- Information on tax benefits available for rehabilitation of historic properties.
- Notification that the purchaser shall be responsible for the relocation of the property.
- Notification that the purchaser will be required to rehabilitate and maintain the property in accordance with the recommended approaches in the *Secretary of the Interior's Standards for Rehabilitation and Guidelines for*

Rehabilitating Historic Buildings (United States Department of the Interior, National Park Service, 1992);

- Notification that the transfer or sale of the property will include preservation covenants and deed restrictions in the documents transferring the property to the purchaser which shall be recorded with the appropriate local government authority.

- A distribution list of potential purchasers.
- An advertising plan and schedule.
- A schedule for receiving and reviewing offers.

2. The SHPO will be afforded 30 days to concur with the marketing plan. Upon the SHPO's concurrence with the marketing plan or after resolution of any disagreement, in accordance with Administrative Condition D.1 of the Memorandum of Agreement (MOA), the Department shall implement the marketing plan.

3. The Department, in consultation with the SHPO, shall review each offer it receives in response to the marketing plan and select one that meets the following requirements:

- The plan provides for the relocation and rehabilitation of the property as stipulated in the marketing plan.
- The SHPO will be afforded 30 days to review and to concur with the relocation site that provides an appropriate context for the preservation of the property.
- The offerer has the financial and technical ability to carry out the terms of the offer.
- The offerer agrees to accept transfer of the property with the preservation covenants and deed restrictions subject to subparagraph 5.

4. If the Lewis Bridge is successfully marketed, the SHPO will be afforded 30 days to review and concur with the preservation covenants and deed restrictions.

5. If the Department receives no offer that will conform to the requirements of subparagraph 3, the Department, in consultation with the SHPO, may modify the requirements and reoffer the property or the Department may demolish the property. Should the SHPO object to the Department's decision regarding the property, the SHPO shall implement Administrative Condition D.1 of the MOA.

6. The Department shall ensure that the Lewis Bridge is documented to State-level standards prior to its demolition. The documentation will include a short narrative on the bridge and photographic recordation which will be submitted to the SHPO for review and comment. Copies of the approved documentation will be made available to the SHPO and the Historical and Genealogical Society of Indiana County.

- The Department shall ensure that the narrative provides a physical description of the Lewis Bridge.

- The Department shall ensure that the photographic documentation of the bridge follows standards established by the Historical and Museum Commission. These standards include preparing archive quality, 35mm black and white photographs printed in a 5 inch by 7 inch format and each print labeled in pencil with the name and location of the bridge, date of photograph and view shown. The photographs will be keyed to a site plan/map.

7. The Department shall ensure that a display board about the Lewis Bridge will be prepared. The display board will outline a brief history of the bridge and provide information on other truss bridges in Indiana County. The

SHPO will be provided drafts of the text, graphics and layout of the display board for comment. The Department will make the display board available to the public through the public library, local schools, community groups or historical societies suggested by the SHPO.

The Secretary has considered the environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 and has concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize the effect.

No adverse environmental effect is likely to result from the removal of this bridge.

BRADLEY L. MALLORY
Secretary

[Pa.B. Doc. No. 02-2192. Filed for public inspection December 6, 2002, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

Solebury Township v. DEP and New Hope Crushed Stone and Lime Company; EHB Doc. No. 2002-288-MG

Solebury Township has appealed the issuance by the Department of Environmental Protection of an NPDES permit to New Hope Crushed Stone and Lime Company for a facility in Solebury Township, Bucks 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 § 1021.81 (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. 02-2193. Filed for public inspection December 6, 2002, 9:00 a.m.]

United States Steel Corporation v. DEP; EHB Doc. No. 2002-292-MG

United States Steel Corporation has appealed the issuance by the Department of Environmental Protection of an NPDES permit to United States Steel Corporation for a facility in Falls Township, Bucks 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 § 1021.81 (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. 02-2194. Filed for public inspection December 6, 2002, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, November 21, 2002, and announced the following:

Regulation Deemed Approved under section 5(g) of the Regulatory Review Act—Effective November 14, 2002:

State Architects Licensure Board #16A-416: Examination Fees (49 Pa. Code Chapter 9)

Actions Taken—Regulations Approved:

Department of Agriculture #2-135: Dog Licensure (amends 7 Pa. Code Chapter 21)

State Board of Education #6-275: Academic Standards and Assessment for Civics and Government; Economics; Geography and History (amends 22 Pa. Code Chapter 4)

State Board of Education #6-276: Academic Standards and Assessment for Arts and Humanities; Health, Safety and Physical Education; and Family and Consumer Sciences (amends 22 Pa. Code Chapter 4)

Department of Conservation and Natural Resources #7B-4: State Forest Picnic Areas (amends 17 Pa. Code Chapter 23)

Insurance Department #11-210: Workers' Compensation Security Fund (amends 31 Pa. Code Chapter 165)

Underground Storage Tank Indemnification Board #11-216: Fees and Collection Procedures (amends 25 Pa. Code Chapter 977)

Department of Public Welfare #14-452: Early Intervention Services (amends 55 Pa. Code by adding Chapter 4226 and deleting Chapter 4225)

State Board of Certified Real Estate Appraisers #16A-7011: Fees for Board Services (amends 49 Pa. Code Chapter 36)

Approval Order

Public Meeting held
November 21, 2002

Commissioners Voting: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III, by phone; John F. Mizner, by phone

*Department of Agriculture—Dog Licensure;
Regulation No. 2-135*

On December 21, 2001, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Agriculture (Department). This rulemaking amends 7 Pa. Code Chapter 21. The proposed regulation was published in the January 5, 2002, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 21, 2002.

This regulation amends the dog licensure regulations to make them consistent with licensure requirements in Act 151 of 1996. Specifically, the regulation establishes procedures for obtaining a lifetime license when a dog is implanted with a microchip. It also updates record keeping requirements.

We have determined this regulation is consistent with the statutory authority of the Department (3 P. S. § 459-201(b)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
November 21, 2002

Commissioners Voting: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III, by phone; John F. Mizner, by phone

State Board of Education—Academic Standards and Assessment for Civics and Government; Economics; Geography and History; Regulation No. 6-275

On January 31, 2002, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Education (Board). This rulemaking amends 22 Pa. Code Chapter 4. The proposed regulation was published in the February 16, 2002, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on September 3, 2002. On September 11, 2002, the Board withdrew this final-form regulation. On October 18, 2002, the Board resubmitted the final-form regulation to the Commission.

The regulation establishes specific academic standards for the subject areas of Civics and Government, Economics, Geography and History. The standards describe what students are expected to know by the end of the third, sixth, ninth and twelfth grades.

We have determined this regulation is consistent with the statutory authority of the Board (24 P. S. § 26-2603-B(k)) and the intention of the General Assembly. Having

considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
November 21, 2002

Commissioners Voting: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III, by phone; John F. Mizner, by phone

State Board of Education—Academic Standards and Assessment for Arts and Humanities; Health, Safety and Physical Education; and Family and Consumer Sciences; Regulation No. 6-276

On January 31, 2002, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Education (Board). This rulemaking amends 22 Pa. Code Chapter 4. The proposed regulation was published in the February 16, 2002, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was initially submitted to the Commission on September 3, 2002, but was subsequently withdrawn to correct some technical errors. The final-form regulation was resubmitted on October 18, 2002.

The final-form regulation incorporates three sets of academic standards. The first set describes what students are expected to know by the end of the third, fifth, eighth and twelfth grades for Arts and Humanities. The second and third sets describe what students are expected to know by the end of third, sixth, ninth and twelfth grades for Health, Safety and Physical Education, and Family and Consumer Sciences.

We have determined this regulation is consistent with the statutory authority of the Board (24 P. S. § 26-2603-B(k)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
November 21, 2002

Commissioners Voting: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III, by phone; John F. Mizner, by phone

Department of Conservation and Natural Resources—State Forest Picnic Areas; Regulation No. 7B-4

On May 22, 2002, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Conservation and Natural Resources (Department). This rulemaking amends 17 Pa. Code Chapter 23. The proposed regulation was published in the June 8, 2002, *Pennsylvania Bulletin* with a 60-day public comment period. The final-form regulation was submitted to the Commission on October 25, 2002.

This regulation modifies some rules of conduct for visitors, eliminates duplicative language, makes clarifications, and adds definitions.

We have determined this regulation is consistent with the statutory authority of the Department (71 P. S. §§ 1340.302 and 1340.313, and 18 Pa.C.S. §§ 7505 and 7506) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
November 21, 2002

Commissioners Voting: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III, by phone; John F. Mizner, by phone

Insurance Department—Workers' Compensation Security Fund; Regulation No. 11-210

On July 2, 2002, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Insurance Department (Department). This rulemaking amends 31 Pa. Code Chapter 165. The proposed regulation was published in the July 13, 2002, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 25, 2002.

This final-form regulation establishes procedures to administer the Workers' Compensation Security Fund (Fund) and sets forth how contributions will be made to the Fund. Mandated by Act 49 of 2000, the regulation will apply to all insurers licensed to write Workers' Compensation insurance in this Commonwealth.

We have determined this regulation is consistent with the statutory authority of the Department (77 P. S. §§ 1051—1066) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
November 21, 2002

Commissioners Voting: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III, by phone; John F. Mizner, by phone

Underground Storage Tank Indemnification Board—Fees and Collection Procedures; Regulation No. 11-216

On October 25, 2002, the Independent Regulatory Review Commission (Commission) received this regulation from the Underground Storage Tank Indemnification Board (Board). This rulemaking amends 25 Pa. Code Chapter 977. Notice of proposed rulemaking was omitted for this regulation; it will become effective upon publication in the *Pennsylvania Bulletin*.

This final-omitted rulemaking increases the gallon fee from \$0.001 per gallon to \$0.01; the capacity fee from \$0.02 per gallon of capacity to \$0.075; and reflects the increase of the limits of liability prescribed by Act 99 of 2001. The fee increases are needed to ensure the solvency of the Underground Storage Tank Indemnification Fund based on an actuarial analysis.

We have determined this regulation is consistent with the statutory authority of the Board (35 P. S. § 6021.705) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
November 21, 2002

Commissioners Voting: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III, by phone; John F. Mizner, by phone

Department of Public Welfare—Early Intervention Services; Regulation No. 14-452

On May 23, 2000, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Department of Public Welfare (Department). This rulemaking amends 55 Pa. Code by adding Chapter 4226 and deleting Chapter 4225. The proposed regulation was published in the June 3, 2000, *Pennsylvania Bulletin* with a 150-day public comment period. The final-form regulation was submitted to the Commission on October 24, 2002.

This final-form regulation codifies procedures and standards for providing early intervention services to children under age 3 who receive services from the County Mental Health and Mental Retardation programs. Mandated by Act 212 of 1990, the regulation sets forth a county's responsibilities for early intervention services.

We have determined this regulation is consistent with the statutory authority of the Department (11 P. S. §§ 875-101—875-503) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
November 21, 2002

Commissioners Voting: John R. McGinley, Jr., Chairperson; Alvin C. Bush, Vice Chairperson; Arthur Cocodrilli; Robert J. Harbison, III, by phone; John F. Mizner, by phone

State Board of Certified Real Estate Appraisers—Fees for Board Services; Regulation No. 16A-7011

On October 4, 2000, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Certified Real Estate

Appraisers (Board). This rulemaking amends 49 Pa. Code Chapter 36. The proposed regulation was published in the October 14, 2000, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 24, 2002.

The Board is required to establish fees that cover expenditures over a biennial period. As a result of an audit, the Board identified five existing fees that were less than the actual cost of providing the services. In addition to increases in these five fees, the Board has also added a new fee for processing an application to be a continuing education provider.

We have determined this regulation is consistent with the statutory authority of the Board (63 P. S. § 457.5(6)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 02-2195. Filed for public inspection December 6, 2002, 9:00 a.m.]

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 Committee comment period. The Commission 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 has issued comments on the following proposed regulations. Each agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of Public Comment Period</i>	<i>IRRC Comments Issued</i>
10-155	Department of Health Recreational Swimming Establishment Lifeguard Requirements (32 Pa.B. 4581 (September 21, 2002))	10/21/02	11/22/02
10-169	Department of Health Supplemental Nutrition Program for Women, Infants and Children (32 Pa.B. 4585 (September 21, 2002))	10/21/02	11/22/02

**Department of Health Regulation No. 10-155
Recreational Swimming Establishment Lifeguard
Requirements**

November 22, 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 Health (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

1. Section 18.1. Definitions.—Clarity.

The term “bather” is defined as “a person using a recreational swimming establishment . . . for the purpose of swimming, water sports or other recreational activity.” The final-form regulation should clarify if “bather” includes a person in the pool area who does not intend to swim, such as a parent who accompanies a child to the pool.

2. Section 18.42(a)(1)—Clarity.

This section lists the three organizations that the Department recognizes as lifeguard certification authorities. Subsection (a)(1) outlines the requirements that other organizations, that want to become lifeguard certifying authorities, must follow to obtain qualification. For clarity, subsection (a)(1) should be renumbered to become subsection (b), with paragraphs (2)—(4) being renumbered and placed under the new subsection (b). Current subsections (b)—(d) should also be renumbered accordingly.

3. Section 18.42(c)(1)—Legislative Intent; Reasonableness; Economic Impact; Clarity.

Subsection (c)(1) requires at least one lifeguard for every 4,000 square feet of water surface area “at all times the establishment is open to use by bathers for general swim purposes.” In the Preamble, the Department notes “Nationally recognized lifeguard training organizations, such as the Red Cross and Ellis and Associates, recommend that each lifeguard be able to survey the lifeguard’s assigned area every 10 seconds and be able to respond to a distressed swimmer within 20 seconds.” The Department further notes that the “10/20 rule” is the basis upon which most lifeguards are trained. We have several questions.

- Given that the Red Cross and Ellis and Associates are listed in the proposed regulation as recognized lifeguard certifying authorities, why didn’t the Department utilize the “10/20 rule” for determining lifeguard staffing requirements?

- Did the Department consider allowing swimming establishments to use either the “10/20 rule” or square footage of water surface area to determine the required number of lifeguards under a Department-approved plan?

- Has the Department considered reviewing lifeguard coverage plans for individual facilities?

- Alternatively, has the Department considered including provisions in the regulation which would allow a swimming establishment to petition the Department for a waiver of the standard lifeguard requirements where the facility can demonstrate that an alternate lifeguard coverage plan achieves an adequate level of safety?

Furthermore, a review of the House of Representative’s Legislative Journal leads us to question whether the proposed regulation is consistent with the legislative intent of Act 75 of 1998. The prime sponsor of Act 75 of 1998, Senator Michael L. Waugh, during the floor debate on the legislation stated, “The two amendments primarily will require that the Department of Health use industry standards when creating regulations for the required numbers of lifeguards at public bathing facilities . . .” (1998 House Legislative Journal, page 1457). We request the Department explain how the proposed requirement for one lifeguard for every 4,000 square feet is consistent with the legislative intent of Act 75 of 1998.

In addition, some commentators are concerned that the proposed lifeguard staffing requirements will significantly increase facility operating costs without enhancing bather safety. Commentators have suggested that a more effective approach would be to require each swimming establishment to submit a lifeguard coverage plan for the Department’s review and approval. They assert this approach would allow more flexibility in determining the required minimum number of lifeguards, while maintaining safety.

Representative Keith R. McCall commented on this issue on behalf of Palmerton Memorial Park Association (PMPA). He writes that “PMPA believes that lifeguard staffing is best suited to times of the day and attendance at the pool.” We note that the square footage standard contained in the proposed regulation does not take into account the number of patrons using the facility. Will sole reliance on the square footage standard create an undue financial burden on facilities at times when there are only a small number of bathers using the facility?

4. Section 18.42(c)(1)(iii)—Clarity.

This provision requires a minimum of “two certified lifeguards present and available whenever the recreational swimming establishment is being used by bathers.” There are two issues.

First, commentators assert that during restricted access swimming periods, such as early morning lap swimming, requiring two lifeguards is neither feasible nor necessary. They suggest amending the regulation to require a minimum of two lifeguards “when the establishment is open to the general public for recreational swimming.” It is our understanding that during restricted swimming access, only one certified lifeguard is required under subsection (c)(3). The language suggested by commentators would clarify this provision. Therefore, the Department should adopt the revision.

Second, the phrase “present and available” is vague. Does this phrase mean that both lifeguards are required to be at the waterside at all times? Or does the lifeguard location depend on the square footage of the water surface area?

5. Section 18.42(c)(1)(iii)—Clarity.

This subsection provides that the Department may require additional lifeguards under certain circumstances, such as when the shape or size of the pool prevents the lifeguard from monitoring the assigned area. Does the Department make this determination as part of the initial permitting process? The final-form regulation should specify how and when the swimming establishment will be notified that additional lifeguards are required.

6. Section 18.42(c)(3)—Clarity.

This subsection addresses instances in which access to the swimming establishment is limited, such as swim

meets, swim team practices, learn-to-swim programs, lifeguard training and other special events. During these activities "at least one certified lifeguard, whose sole duty is to protect the bathers, shall be present at waterside during the event." The Department should clarify whether the certified lifeguard is required to be an employee of the swimming establishment, or if the group holding the special event can provide the certified lifeguard.

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Department of Health Regulation No. 10-169

**Supplemental Nutrition Program for Women,
Infants and Children**

November 22, 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 Health (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

1. Section 1103.4. Selection criteria for authorization and reauthorization.—Clarity.

Paragraph (5) states "the maximum allowable prices for allowable foods" will be published in the *Pennsylvania Bulletin* each quarter. Some stores, such as smaller independent stores, may not have ready access to the *Pennsylvania Bulletin*, or would have to monitor the *Pennsylvania Bulletin* for this information to maintain compliance. This notice could be provided more directly. In addition to the *Pennsylvania Bulletin* publication, the Department could state this information will also be available on the Department's website along with its website address. Alternatively, notice along with prices could be sent directly to authorized stores.

2. Section 1107.1a. Disqualification.—Reasonableness; Clarity.

This section contains provisions for store disqualification. The United States Department of Agriculture recommends that the phrase, "two or more instances of" be included in § 1107.1a(d)(2), (5), (6), (11) and (12). The Department should add this phrase or explain why it is not necessary.

3. General—Fiscal Impact; Reasonableness.

A commentator believes the cost and savings projected for this regulation do not properly reflect a hardship on Nutritional Services and Administration funds. In the Preamble to the final-form regulation, the Department should further explain the fiscal impact of the new regulation.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 02-2196. Filed for public inspection December 6, 2002, 9:00 a.m.]

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INSURANCE DEPARTMENT

Geisinger Health Plan; Rate Filing

On November 22, 2002, Geisinger Health Plan submitted a filing to increase the nongroup base medical and pharmacy plan rates. The proposed rate adjustment for the medical program is 5.7% and 42.6% for the 50% pharmacy plan. Additionally, the filing proposes age/gender rating factors for the nongroup subscribers. The proposed effective date is April 1, 2003.

This filing is available for public inspection during normal working hours at the Insurance Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions, or objections to Cherri Sanders-Jones, Actuary, Insurance Department, Bureau of Accident and Health Insurance, Office of Rate and Policy Regulation, 1311 Strawberry Square, Harrisburg, PA 17120, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-2197. Filed for public inspection December 6, 2002, 9:00 a.m.]

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Pennsylvania Compensation Rating Bureau; Workers' Compensation Loss Cost Filing

On November 26, 2002, the Insurance Department received from the Pennsylvania Compensation Rating Bureau (PCRB) a filing for a loss cost level change for workers' compensation insurance. This filing is made in accordance with section 705 of Act 44 of 1993. The PCRB requests an overall 2.41% decrease in collectible loss costs, effective April 1, 2003, on a new and renewal basis. Also, the PCRB has calculated the Employer Assessment Factor effective April 1, 2003, to be 2.80%, as compared to the currently approved provision of 3.37%. The PCRB proposes varying surcharges to four classifications (code 807—nonvolunteer ambulance services, code 985—salaried police or firefighters, code 993—volunteer ambulance corps and code 994—volunteer fire companies) to reflect increased likelihood of workers' compensation claims for Hepatitis C under provisions of House Bill 1633 as enacted in December 2001. Updates to a variety of other rating values to reflect the most recent available experience are also being submitted for approval. Finally, the filing includes proposed additions and/or changes to other manual rules consistent with intended practice as regards workers' compensation insurance options, classification procedures and related matters.

The entire April 1, 2003, loss cost filing will be available for review on the PCRB website at www.pcrb.com in the "Filings" section.

Interested parties are invited to submit written comments, suggestions or objections to Ken Creighton, ACAS, Insurance Department, Insurance Product Regulation and

Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, e-mail kcreighton@state.pa.us, within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-2198. Filed for public inspection December 6, 2002, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68), in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of the act, 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Pittsburgh and Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Pittsburgh Regional Office, Room 304, State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Randolph K. Schneider, file no. 02-4904-91301, State Farm Mutual Automobile Insurance Company; doc. no. E02-11-022; February 26, 2003, at 12:30 p.m.

The following hearings will be held in the Philadelphia Regional Office, Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Marta Alicea; file no. 02-267-05511; Great American Insurance Company; doc. no. PH02-11-011; January 30, 2003, at 9 a.m.

Appeal of Cecelia M. and Dennis J. White-Powell; file no. 02-215-05306; Erie Insurance Exchange; doc. no. PH02-11-012; January 30, 2003, at 11:30 a.m.

Parties may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and

stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend the previously referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing, should contact Tracey Pontius, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-2199. Filed for public inspection December 6, 2002, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their company's termination of the insureds' policies. The administrative hearings will be held in the Insurance Department's regional offices in Pittsburgh and Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Pittsburgh Regional Office, Room 304, State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of William C. Brick; file no. 02-124-08978; State Farm Fire and Casualty Insurance Company; doc. no. PI02-11-005; February 26, 2003, at 10:30 a.m.

The following hearings will be held in the Philadelphia Regional Office, Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Matthew A. and Deborah A. Delp, Jr.; file no. 02-215-05148; Erie Insurance Exchange; doc. no. PH02-11-010; March 5, 2003, at 12:30 p.m.

Appeal of Joann Boyd; file no. 02-210-05711; Erie Insurance Exchange; doc. no. PH02-11-019; March 5, 2003, at 2 p.m.

Appeal of Terence Roy; file no. 02-215-04735; Keystone Insurance Company; doc. no. PH02-11-009; March 5, 2003, at 3:30 p.m.

Each party may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or

their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-2200. Filed for public inspection December 6, 2002, 9:00 a.m.]

Viatical Settlements Act Applications Notice; Notice No. 2002-14

Under section 17 of the act of July 4, 2002 (P. L. 699, No. 107), known as the Viatical Settlements Act (act), the Insurance Department (Department) is hereby publishing notice that applications for viatical settlement broker licenses and viatical settlement provider licenses are now available.

Viatical settlement broker license applications are available by contacting Refa Brown, Supervisor, Bureau

of Producer Services, 1300 Strawberry Square, Harrisburg, PA 17120, (717) 787-3840, rebrown@state.pa.us.

Viatical settlement provider license applications are available by contacting Robert Brackbill, Chief, Company Licensing Division, 1345 Strawberry Square, Harrisburg, PA 17120, (717) 783-2143, rbrackbill@state.pa.us.

Both applications are available to be downloaded from the Department's website: <http://www.insurance.state.pa.us>.

The effective date of the act is January 2, 2003, and although the Department will accept applications prior to that date, no viatical settlement broker or viatical settlement provider licenses will be issued until on or after the effective date. As provided in section 17 of the act, those persons who are engaged in the business of viatical settlements in this Commonwealth on or before the effective date of the act may continue to do so pending the Department's approval or disapproval, so long as they have submitted a completed application to the Department within 30 days of this publication. Questions regarding this notice, the viatical settlement broker license application or the viatical settlement provider application should be directed to the persons previously identified.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 02-2201. Filed for public inspection December 6, 2002, 9:00 a.m.]

VBL-02 (Corporation) Rev 08-02



COMMONWEALTH OF
DEPARTMENT OF INSURANCE
BUREAU OF PRODUCER SERVICES
1300 STRAWBERRY SQUARE
HARRISBURG, PA 17120
www.insurance.state.pa.us
717-787-3840

**VIATICAL SETTLEMENT BROKER
BUSINESS ENTITY LICENSE APPLICATION**

① Applicant Name		② Incorporation/Formation Date (month) ___(day) ___(year) ____		③ FEIN #: -	
④ DBA/Trade Name(s) (if applicable)		⑤ State of Domicile			
⑥ Corporate Address			⑦ City		⑧ State
					⑨ Zip
⑩ Corporate Phone Number () -		⑪ Corporate Fax Number () -		⑫ Corporate Web Site Address	
				⑬ Corporate E-Mail Address	
⑭ Mailing Address (if different from above)		⑮ P.O. Box		⑯ City	
				⑰ State	
				⑱ Zip	

Designated Licensed Individual Broker or Provider

⑲ Designate every individual licensed as a viatical settlement broker who is authorized to act for the Broker Business Entity or is otherwise employed by or affiliated with the Broker Business Entity. The Broker Business Entity must have at least one Designated Licensed Individual Viatical Settlement Broker.

Name: _____ SSN: _____ - - - Broker License #: _____
 Name: _____ SSN: _____ - - - Broker License #: _____
 Name: _____ SSN: _____ - - - Broker License #: _____
 Name: _____ SSN: _____ - - - Broker License #: _____
 Name: _____ SSN: _____ - - - Broker License #: _____

(Please list any additional Individual Brokers on separate sheet)

Owners, Partners, Officers and Directors

⑳ Identify all owners, partners, officers directors, board members, stockholders owning 10% or more interest, and any other persons having a material influence over the activities of the Broker Business Entity:

Name: _____ Title: _____ SSN: _____ - - -
 Address: _____
 Name: _____ Title: _____ SSN: _____ - - -
 Address: _____
 Name: _____ Title: _____ SSN: _____ - - -
 Address: _____
 Name: _____ Title: _____ SSN: _____ - - -
 Address: _____
 Name: _____ Title: _____ SSN: _____ - - -
 Address: _____
 Name: _____ Title: _____ SSN: _____ - - -
 Address: _____

(Please list additional owners partners, officers, directors, board members, stockholders owning 10% or more interest, and any other persons having a material influence over the activities of the applicant on separate sheet)

VBL-02 (Corporation) Rev 08-02

Background Information

② Please read the following very carefully and answer every question:

A. Has the applicant or any person disclosed, or required to be disclosed, under question 20 above ever been convicted of, or currently charged with, committing a crime, whether or not adjudication was withheld? Yes No

“CRIME” includes a misdemeanor, felony or a military offense. You may exclude misdemeanor traffic citations, summary offenses and juvenile offenses. “CONVICTED” includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere, or having been given probation, a suspended sentence or a fine. “CHARGED” includes, but is not limited to, pending criminal charges that have not been subject to a final adjudication or disposition and any charges that are pending completion of an accelerated rehabilitative disposition program or any similar program.

If you answer yes, you must attach to this application:

- a) a written statement explaining the circumstances of each incident,
- b) an official, certified copy of the charging document, and
- c) a certified copy of the official document which demonstrates the resolution of the charges or any final judgment or disposition related to the charges.

B. Has the applicant or any person disclosed, or required to be disclosed, under question 20 ever been involved in an administrative proceeding regarding any professional or occupational license? Yes No

“INVOLVED” means having a license censured, suspended, revoked, cancelled or terminated; or being assessed a fine, or any monetary penalty, placed on probation or supervision or surrendering a license to resolve an administrative action or investigation. “INVOLVED” also means being named as a party to an administrative or arbitration proceeding that is related to a professional or occupational license. “INVOLVED” also means having a license application denied or the act of withdrawing an application to avoid a denial. You may exclude terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal fee. “LICENSE” includes any license, certificate, permit, certification or designation issued by any federal, state or local governmental entity, administrative board, regulatory body or any other public or private entity, the issuance of which permits or authorizes a person to engage in a profession or occupation or perform specific activities relating to a profession or occupation.

If you answer yes, you must attach to this application:

- a) a written statement identifying the type of license, the license number and the issuing body, and explaining the circumstances of each incident,
- b) an official, certified copy of the Notice of Hearing or other document that states the charges and allegations, and
- c) an official, certified copy of the document that demonstrates the resolution of the charges or any final judgment or disposition entered in relation to the charges or allegations.

C. Does the applicant or any person disclosed, or required to be disclosed, under question 20 currently hold, or has such entity or person ever held, a license related to the business of insurance or securities? Yes No

“BUSINESS OF INSURANCE OR SECURITIES” includes, but is not limited to, acting as an insurance producer, agent, broker, third party administrator, bail bondsman, motor vehicle physical damage appraiser, securities dealer or broker, or under any license issued by the Department or any other state or federal insurance or securities regulator.

D. Has any demand been made or judgment rendered against the applicant or person disclosed, or required to be disclosed, under question 20 for overdue monies by an insurer, insured, insurance producer, or a viatical settlement or securities entity or client, or has the applicant or any person disclosed or required to be disclosed under question 20 ever been subject to a bankruptcy proceeding? Yes No

If you answer yes, you must attach to this application a written statement summarizing the details of the indebtedness and arrangements for repayment, and/or the type, date and location of the bankruptcy, as well as official, certified copies of any court documents pertaining to such demand, judgment or bankruptcy

E. Has the applicant or any person disclosed, or required to be disclosed, under question 20 ever been notified by any jurisdiction in Pennsylvania of any delinquent tax obligation that is not the subject of a repayment agreement? Yes No

If you answer yes, you must attach to this application a written statement identifying the jurisdiction(s) to which delinquent taxes are owed and the amount(s) owed.

F. Is the applicant or any person identified, or required to be identified, under question 20 a party to, or ever been found liable, or adjudged guilty in, in any lawsuit, arbitration or other civil, criminal or administrative proceeding involving allegations or charges of fraud, misappropriation, improper commingling or conversion of funds, misrepresentation or breach of trust or fiduciary duty? Yes No

If you answer yes, you must attach to this application:

- a) a written statement summarizing the details of each incident,
- b) an official, certified copy of the Petition, Complaint or other document that commenced the lawsuit or arbitration or legal proceeding, and
- c) an official, certified copy of the documents that demonstrate the resolution of the allegations or charges or any final judgment.

G. Has the applicant or any person disclosed, or required to be disclosed, under question 20 ever had an insurance agency contract or any other business relationship with an insurance company terminated for any alleged misconduct? Yes No

VBL-02 (Corporation) Rev 08-02

If you answer yes, you must attach to this application:

- a) a written statement summarizing the details of each incident and explaining why you feel this incident should not prevent you from receiving a viatical settlement license, and
- b) copies of all relevant documents.

H. Is any person disclosed, or required to be disclosed, under question 20 the subject of a child support related subpoena or warrant? Yes No

If you answer yes, you must attach to this application an official, certified copy of the subpoena or warrant.

I. Does any person disclosed, or required to be disclosed, under question 20 have any child support obligation in arrearage? Yes No

If you answer yes, you must attach to this application a statement identifying the number of months and the amounts that you are in arrearage.

Applicant's Certification and Attestation
Viatical Settlement Broker Business Entity Officer Signature

22 The undersigned owner, partner, officer or director of the applicant hereby certifies, under penalty of perjury, that:

1. All of the information submitted in this application and all attachments is true and complete and that the undersigned is aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license or registration revocation or denial and may subject the applicant and the undersigned to civil or criminal penalties.
2. The applicant grants permission to the Insurance Department to verify any information supplied in this application or any attachment with any federal, state or local government agency, current or former employer, or any insurance, securities or viatical settlement related entity.
3. The Insurance Department may give any information concerning the applicant or any person identified, or required to be identified, under question 20 to any federal, state or local agency, or any other organization and the applicant and any person identified, or required to be identified, under question 20 releases the Insurance Department and any person acting on its behalf from any and all liability of whatever nature by reason of furnishing such information.
4. The applicant and any person identified, or required to be identified, under question 20 is familiar with the insurance and viatical settlement laws and regulations of the Commonwealth of Pennsylvania.
5. The undersigned is an authorized representative of the applicant and any person identified, or required to be identified, under question 20, and is permitted to answer the aforementioned questions and provide the information supplied in this application and any attachments on behalf of the applicant and any person identified, or required to be identified, under question 20. All answers and information provided in this application and any attachments are binding on the applicant and any person identified, or required to be identified, under question 20.

SIGNATURE for Certification and Attestation

Authorized Representative Signature

Contact Person Name

Print/Type Name and Title of Authorized Representative

Contact Person Phone Number

Contact Person's E-Mail Address

Attachments

1. Submit copies of the following documentation, as applicable: (i) Articles of Incorporation, (ii) Partnership Agreement, or (iii) Articles of Organization.
2. Certified copy of Certificate of Good Standing from the applicant's state of incorporation and domicile (if different than state of incorporation).
3. Certified copy of Fictitious Name Filing, if required, from Pennsylvania Department of State.
4. Certified copy of PA-100.
5. Resolutions are necessary if there are General Partners of the Partnership or Limited Partnership, Members of the Limited Liability Company, or Officers of the Corporation who will not be acting on behalf of the Partnership, Company, or Corporation under its agent license.
6. Each application for licensure shall be accompanied by a **non-refundable fee in the amount of \$100**

VBL-01 (Individual) Rev. 07-31-02



**COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF INSURANCE
BUREAU OF PRODUCER SERVICES
1300 STRAWBERRY SQUARE
HARRISBURG, PA 17120
www.insurance.state.pa.us
717-787-3840**

VIATICAL SETTLEMENT BROKER (INDIVIDUAL)

1. Social Security Number		Mail correspondence to my: <input type="checkbox"/> Residence <input type="checkbox"/> Business			
2. Last Name	3. First Name	4. Middle Name	5. Date of Birth (Month) (Day) (Year)		
6. Residence/Home Address (Physical Location)		7. P. O. Box	8. City	9. State	10. Zip
11. Home Phone Number ()	12. Gender <input type="checkbox"/> Male <input type="checkbox"/> Female		13. Are you a Citizen of the United States? (If NO, of which Country are you a citizen?) <input type="checkbox"/> YES <input type="checkbox"/> NO		
14. Business Entity Name (If Applicable)					
15. Business Entity Address (Physical Location)		16. P. O. Box	17. City	18. State	19. Zip
20. Business Phone Number ()	21. Business Fax Number ()	22. Business E-Mail Address		23. Business Website Address	
24. Fictitious Name or Alias (If Any)					
Viatical Settlement Broker/ Business Entity Affiliations					
25. List your Viatical Settlement Broker or Entity Affiliation: (Complete only if the applicant engages in the business of viatical settlements under the name of, or will otherwise be affiliated or associated with, a business entity).					
Name of Business Entity _____					
26. Account for all time for the past five years. Give all employment experience starting with your present employer working back five years. Include full and part-time work, self-employment, military service, unemployment and full-time positions. Attach a separate sheet if necessary.					
Name _____		From _____	To _____	Position Held _____	
City _____		State _____	Reason for Separation _____		
Name _____		From _____	To _____	Position Held _____	
City _____		State _____	Reason for Separation _____		
Name _____		From _____	To _____	Position Held _____	
City _____		State _____	Reason for Separation _____		
Name _____		From _____	To _____	Position Held _____	
City _____		State _____	Reason for Separation _____		

VBL-01 (Individual) Rev. 07-31-02

Background Information27. The applicant **MUST READ** the following very carefully and **ANSWER EVERY QUESTION:**

- A. Have you ever been convicted of, or are you currently charged with, committing a crime, whether or not adjudication was withheld? YES NO

“CRIME” includes a misdemeanor, felony or a military offense. You may exclude misdemeanor traffic citations, summary offenses and juvenile offenses. “CONVICTED” includes, but is not limited to, having been found guilty by verdict of a judge or jury, having entered a plea of guilty or nolo contendere, or having been given probation, a suspended sentence or a fine. “CHARGED” includes, but is not limited to, pending criminal charges that have not been subject to a final adjudication or disposition and any charges that are pending completion of an accelerated rehabilitative disposition program or any other similar program.

If you answer yes, you must attach to this application:

- i. a written statement explaining the circumstances of each incident,
- ii. an official, certified copy of the charging document, and
- iii. a certified copy of the official document which demonstrates the resolution of the charges or any final judgment or disposition related to the charges.

- B. Have you or any business in which you are or were an owner, partner, officer, director, stockholders owning 10% or more interest, or manager, or any business over which you had a material influence of its activities ever been involved in an administrative proceeding regarding any professional or occupational license? YES NO

“INVOLVED” means having a license censured, suspended, revoked, canceled, terminated; or being assessed a fine, or any monetary penalty, placed on probation or supervision or surrendering a license to resolve an administrative action or investigation. “INVOLVED” also means being named as a party to an administrative or arbitration proceeding that is related to a professional or occupational license. “INVOLVED” also means having a license application denied or the act of withdrawing an application to avoid a denial. You may exclude terminations due solely to noncompliance with continuing education requirements or failure to pay a renewal fee. “LICENSE” includes any license, certificate, permit, certification, qualification, or designation issued by any federal, state or local governmental entity, administrative board, regulatory body or any other public or private entity, the issuance of which permits or authorizes a person to engage in a profession or occupation or perform specific activities relating to a profession or occupation.

If you answer yes, you must attach to this application:

- i. a written statement identifying the type of license, the license number and the issuing body, and explaining the circumstances of each incident,
- ii. an official, certified copy of the Notice of Hearing or other document that states the charges or allegations, and
- iii. an official, certified copy of the document that demonstrates the resolution of the charges or any final judgment or disposition entered in relation to the charges or allegations.

- C. Are you currently, or have you ever, held a license related to the business of insurance or securities? YES NO

“BUSINESS OF INSURANCE OR SECURITIES” includes acting as an insurance producer, agent, broker, third party administrator, bail bondsman, motor vehicle physical damage appraiser, securities dealer or broker, or under any other individual or business entity license issued by the Department or any other state or federal insurance or securities regulator.

If you answer yes, you must attach to this application a written statement identifying the type of license, the license number (including any national license number if applicable) and the issuing body.

- D. Has any demand been made or judgment rendered against you for overdue monies by an insurer, insured, insurance producer, or a viatical settlement or securities entity or client, or have you ever been subject to a bankruptcy proceeding? YES NO

If you answer yes, you must attach to this application a written statement summarizing the details of the indebtedness and arrangements for repayment, and/or type, date, and location of the bankruptcy, as well as official, certified copies of any court documents pertaining to such demand, judgment or bankruptcy.

- E. Have you been notified by any jurisdiction in Pennsylvania of any delinquent tax obligation that is not the subject of a repayment agreement?

YES NO

If you answer yes, you must attach to this application a written statement identifying the jurisdiction(s) to which delinquent taxes are owed and the amount(s) owed.

- F. Are you currently a party to, or have you ever been found liable, or adjudged guilty in, any lawsuit, arbitration or other civil, criminal or administrative proceeding involving allegations or charges of fraud, misappropriation, improper commingling or conversion of funds, misrepresentation or breach of trust or fiduciary duty? YES NO

VBL-01 (Individual) Rev. 07-31-02

If you answer yes, you must attach to this application:

- i. a written statement summarizing the details of each incident,
- ii. an official, certified copy of the Petition, Complaint or other document that commenced the lawsuit, r arbitration or legal proceeding, and
- iii. an official, certified copy of the documents that demonstrate the resolution of the allegations or charges or any final judgment.

G. Have you or any business in which you are or were an owner, partner, officer or director ever had an insurance agency contract or any other business relationship with an insurance company terminated for any alleged misconduct? YES NO

If you answer yes, you must attach to this application:

- i. a written statement summarizing the details of each incident and explaining why you feel this incident should not prevent you from receiving a viatical settlement license, and
- ii. copies all relevant documents.

H. Are you the subject of a child support related subpoena or warrant? YES NO

I. Do you have a child support obligation in arrearage? YES NO

If you answer yes, you must attach to this application a statement identifying the number of months and the amounts that you are in arrearage.

Applicant must complete Certification and Attestation.
Please include any attachments that need to accompany this application.

28. The Applicant must read the following very carefully.

1. I hereby certify that, under penalty of perjury, all of the information submitted in this application and attachments is true and complete. I am aware that submitting false information or omitting pertinent or material information in connection with this application is grounds for license revocation or denial of the license and may subject me to civil or criminal penalties.
2. I further certify that I grant permission to the Insurance Department to verify or investigate any information included in, or related to, this application or any attachment with any federal, state or local government agency, current or former employer, or any insurance, securities or viatical settlement related entity.
3. I further certify that, under penalty of perjury, either a.) I have no child-support obligation, or b.) I have a child-support obligation and I am currently in compliance with that obligation.
4. I authorize the Insurance Department to give any information concerning me, as permitted by law, to any federal, state or local agency, or any other organization and I release the Insurance Department and any person acting on its behalf from any and all liability of whatever nature by reason of furnishing such information.
5. I acknowledge that I am familiar with and agree to comply with the applicable insurance and viatical settlement laws and regulations of the Commonwealth of Pennsylvania.

Month Day Year

Original Applicant Signature (No photocopies or stamps allowed)

Full Legal Name (Typed or Printed)

LIQUOR CONTROL BOARD

Expiration of Leases

The Liquor Control Board seeks the following new site:

Northampton County, Wine & Spirits Shoppe #4808, Bethlehem Township, PA.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,500 to 6,000 net useable square feet of new or existing retail commercial space located within 1 mile of the intersection of Route 33 and Freemansburg Avenue, Bethlehem Township.

Proposals due: December 27, 2002, at 12 a.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Willard J. Rhodes, (717) 657-4228

JONATHAN H. NEWMAN,
Chairperson

[Pa.B. Doc. No. 02-2202. Filed for public inspection December 6, 2002, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission (Commission). Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code § 3.381 (relating to the applications for transportation of property, household goods in use and persons). Each protest should indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before December 30, 2002. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary from 8 a.m. to 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Application of the following for approval to *begin* operating as *common carrier* for transportation of *persons* as described under the application.

A-00119401. Joyce Joyner Puckett (35 Blackburn Road, Quarryville, Lancaster County, PA 17566)—persons in paratransit service, whose personal convictions prevent them from owning or operating a motor vehicle, between points in the County of Lancaster, and from points in said county, to points in Pennsylvania, and vice versa.

Application of the following for approval of the right to *begin* to operate as a *broker* for the transportation of *persons* as described under the application.

A-00119402. Gary and Sarah Hock t/d/b/a G & S Tours Representatives (1278 Black Gap Road,

Fayetteville, Franklin County, PA 17222)—brokerage license—to arrange for the transportation of persons, between points in Pennsylvania.

Complaint

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Atlantic Limousine Services Inc.; Doc. No. A-00117753C02

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 Atlantic Limousine Services, Inc., respondent, maintains its principal place of business at 250 Beverly Blvd., Apt. E 107, Upper Darby, Pennsylvania 19082.

2. That respondent was issued a certificate of public convenience by this Commission on October 19, 2001, at Application Docket No. A-00117753.

3. That respondent, on May 14, 2002, at approximately 5:00 p.m., at Philadelphia, Philadelphia County, Pennsylvania, permitted a certain 1995 Lincoln Limousine bearing Pennsylvania License No. LM22169, Vehicle Identification No. 1LNLM81W4SY645625, to be operated.

4. That the vehicle described in Paragraph 3 of this complaint was inspected by Enforcement Officer Ralph G. Kane, a duly authorized officer of this Commission, on the date and at the place specified in Paragraph 3 and the following violation was disclosed:

(a) No trip sheet.

5. That respondent, by failing to have a driver log sheet or a trip sheet in its vehicle, violated 52 Pa. Code § 29.335(a). Penalty is \$50.00.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission fine Atlantic Limousine Services, Inc., the sum of fifty dollars (\$50.00) for the illegal activity described in this complaint and order such other remedy as the Commission may deem to be appropriate.

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 (20) 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 (3) 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 (20) days, the Bureau of Transportation and Safety will request that the Commission issue a Secretarial Letter imposing a penalty. The penalty could include a fine, the suspension or revocation of your certificate of public convenience or other remedy.

C. You may elect not to contest this complaint by paying the fine proposed in this complaint by certified check or money order. Payment must be made to the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Your payment is an admission that you committed the alleged violation and an agreement to cease and desist from further violations. Upon receipt of your payment, the complaint proceeding shall be closed.

D. 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 (see B).

E. If you file an answer which contests the complaint, the matter will be assigned to an administrative law judge for hearing and decision. The judge is not bound by the optional fine set forth in C, above.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Technical Unit at (717) 783-5945.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 02-2203. Filed for public inspection December 6, 2002, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept proposals until 2 p.m. on Thursday December 19, 2002, for Project #02-125.P, Purchase of 12 Steel Doors and Hardware (without installation). The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available Tuesday, December 10, 2002. PRPA is an equal opportunity em-

ployer. Contractor must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 02-2204. Filed for public inspection December 6, 2002, 9:00 a.m.]

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #02-119.9, maintenance dredging at five marginal berths and Ro/Ro berth, Packer Avenue Marine Terminal (PAMT) until 2 p.m. on Thursday, December 19, 2002. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available on December 10, 2002. The cost of the bid documents is \$35.00 (includes 7% PA Sales Tax). The cost is nonrefundable. PRPA is an equal opportunity employer. Contractor must comply with all applicable equal opportunity laws and regulations.

The mandatory prebid meeting will be held on December 12, 2002, at 10 a.m. at the PRPA office previously listed. PRPA will consider only those bids received from parties who attend the prebid meeting.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 02-2205. Filed for public inspection December 6, 2002, 9:00 a.m.]

STATE BOARD OF EDUCATION

Approval of Standards of the Department of Education Necessary to Comply with the No Child Left Behind Act of 2001

Section 2603-B(d)(10)(i) of the Public School Code of 1949, added by section 31 of the act of June 29, 2002 (P. L. 524, No. 88) (Act 88), empowers the State Board of Education (Board) to:

Approve or disapprove standards proposed by the [D]epartment [of Education] in order to comply with the provisions of the No Child Left Behind Act of 2001 (Public Law 107-110, 115 Stat. 1425) to maintain the eligibility of this Commonwealth to receive Federal funding for education programs. The [State B]oard shall approve or disapprove the standards within 30 days of submission to the [State B]oard's office or at its next scheduled meeting, whichever is sooner. Failure of the board to approve or disapprove the standards within the time established under this section shall be deemed an approval of the standards.

24 P. S. § 26-2603-B(d)(10)(i). The standards proposed by the Department of Education (Department) and approved or deemed approved by the State Board under § 2603-B(d)(10)(i) must be deposited with the *Pennsylvania Bulletin* for publication. See 24 P. S. § 26-2603-B(d)(10)(ii). However, as provided by Act 88, standards promulgated by the Department under § 2603-B(d)(10) are exempt from the following laws:

(A) Sections 201 through 205 of the act of July 31, 1968 (P. L. 769, No. 240), referred to as the Commonwealth Documents Law.

(B) Section 204(b) of the act of October 15, 1980 (P. L. 950, No. 164), known as the Commonwealth Attorneys Act.

(C) The act of June 25, 1982 (P. L. 633, No. 181), known as the Regulatory Review Act.

See 24 P. S. § 26-2603-B(d)(10)(iii).

On November 13, 2002, the Department presented to the State Board two sets of proposed standards necessary to comply with the provisions of the No Child Left Behind Act of 2001, 20 U.S.C. § 6301 et seq. At its meeting held November 14, 2002, the State Board approved both sets of proposed standards. The resolutions adopted by the State Board reflecting its approval of the Department standards appear as follows. The State Board expects the Department to deposit the approved standards for publication in the *Pennsylvania Bulletin*.

JIM BUCKHEIT,
Acting Executive Director

RESOLUTION

Whereas, The United States Congress passed the No Child Left Behind Act of 2001 (NCLB) (P. L. 107-110, 115 Stat. 1425), which was signed into law by President George W. Bush on January 8, 2002; and

Whereas, NCLB, inter alia, amends Title I of the Elementary and Secondary Education Act of 1965 (P. L. 89-10, 79 Stat. 27) (Improving the Academic Achievement of the Disadvantaged), 20 U.S.C. § 6301 et seq.; and

Whereas, The purpose of Title I is to ensure that all children have the opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State achievement standards and academic assessments; and

Whereas, Section 1119 of Title I (20 U.S.C. § 6319 (relating to qualifications for teachers and paraprofessionals)) provides that each local educational agency receiving assistance under the act must ensure that all teachers hired after the first day of the first school year after the date of enactment of the NCLB are highly qualified; and

Whereas, Section 1119 of Title I further provides that each state educational agency receiving assistance under the act must ensure that all teachers teaching in core academic subjects within the state are highly qualified by the end of the 2005-2006 school year; and

Whereas, Section 9101 of the Elementary and Secondary Education Act of 1965 (ESEA) (20 U.S.C. § 7801 (relating to definitions)), as amended by NCLB, defines a highly qualified elementary teacher (grades K-6) as a teacher who has a bachelor's degree and who has passed a rigorous state test in reading, writing, mathematics, and other basic parts of elementary school curriculum; and

Whereas, Section 9101 of the ESEA defines a highly qualified middle or secondary school teacher as a teacher who has a bachelor's degree and has either passed a core content area test or has an academic major, graduate degree, or coursework equivalent to an undergraduate major in the subject area to be taught; and

Whereas, Teachers fully certified in Pennsylvania are highly qualified with the exception of teachers teaching grades seven and eight without a content area certification; and

Whereas, Pennsylvania currently has approximately 5200 teachers teaching with emergency certification who may not be highly qualified; and

Whereas, It is likely that Pennsylvania will face highly qualified teacher shortages due to the aging teacher workforce and retention and recruitment trends; and

Whereas, State and local educational agencies must comply with the requirements of NCLB in order to maintain eligibility for continued funding under Title I; and

Whereas, The Pennsylvania Department of Education (Department) solicited recommendations for meeting NCLB requirements for highly qualified teachers; and

Whereas, The Committee of Practitioners established under section 1903(b) of Title I, added by NCLB (20 U.S.C. § 6573(b)(relating to committee of practitioners)), recommends that Pennsylvania allow certified teachers to obtain additional instructional certification by demonstrating competency on a subject area test in the area to be certified; and

Whereas, The Committee of Practitioners further recommends that Pennsylvania's interstate reciprocity agreement be modified to allow teachers who are fully certified in other states and who have a qualifying score on an appropriate subject matter test to be certified in Pennsylvania without meeting additional academic and testing requirements, provided the teacher has completed three years of teaching experience within the prior seven years, all of which has been satisfactory, and satisfies the basic certification requirements of the Public School Code of 1949 (Public School Code) (see 24 P. S. §§ 12-1202 (relating to State certificates) and 12-1209 (relating to disqualifications)), such as having good moral character, being at least 18 years old, and having a bachelor's degree; and

Whereas, The Department, under 22 Pa. Code § 49.91 (relating to criteria for eligibility), has the authority to certify teachers who have completed a Department approved intern program in Pennsylvania and have satisfactory achievement on required assessments; and

Whereas, Pursuant to this authority, the Committee of Practitioners agrees with the continued use of the existing intern program to provide a flexible and accelerated pedagogical training program for teachers who have demonstrated subject area competency, provided that the first year of teaching includes intensive supervision by an approved institution; and

Whereas, The Secretary of Education (Secretary) has the authority under 22 Pa. Code § 49.18 (relating to testing) to develop an assessment program for candidates for certification; and

Whereas, Pursuant to this authority, the Committee of Practitioners agrees that the student teaching semester be structured to include assessment of the pedagogical skills of teachers in lieu of the Principals of Learning (PLT) assessment currently required for teacher certification in Pennsylvania; and

Whereas, The Committee of Practitioners further recommends that teachers successfully completing other national teacher training programs that require a candidate to demonstrate mastery of the subject area to be taught and professional knowledge needed for classroom effectiveness, including the American Board and Teach for America programs and such other programs as approved by the State Board of Education, be certified to teach in Pennsylvania without meeting further academic and testing requirements, provided the teacher satisfies the basic

certification requirements of the Public School Code (see 24 P. S. §§ 12-1202 and 12-1209), such as having good moral character, being at least 18 years old, and having a bachelor's degree; and

Whereas, Section 2603-B(d)(10) of the Public School Code (24 P. S. § 26-2603-B(d)(10)), added by section 31 of Act 88 of 2002, provides that the State Board of Education shall have the authority and duty, within thirty days of submission to the State Board or at the next scheduled meeting (whichever is sooner), to approve or disapprove standards proposed by the Department in order to comply with the provisions of NCLB and to maintain eligibility for funding; and

Whereas, The Department submitted its proposed standards to the State Board on November 13, 2002; and

Whereas, On November 13, 2002, the special committee of the State Board established to work with the Department in the development and review of standards necessary to comply with NCLB (the NCLB Committee) conducted a public meeting to review and discuss the standards presented by the Department for approval by the State Board and to receive public comment on the proposals; and

Whereas, The NCLB Committee on November 13, 2002 approved a motion to recommend to the State Board that it approve the standards proposed by the Department; and

Whereas, At the regular business meeting of the State Board held November 14, 2002, the Secretary made a detailed presentation explaining the standards presented by the Department for approval by the State Board; and

Whereas, The State Board, at its November 14, 2002 meeting, publicly voted to approve the proposed standards presented by the Department.

Now, Therefore, Be It

Resolved: That certified teachers in Pennsylvania might add instructional certificate areas by passing content area tests in the areas to be certified; and be it further

Resolved: That the Department may continue to structure the Pennsylvania intern program to provide flexible and accelerated pedagogical training to teachers who have demonstrated competency in a subject area, provided that the first year of teaching includes intensive supervision by an approved institution; and be it further

Resolved: That the student teaching semester may be structured to include assessment of the pedagogical skills of teachers in lieu of the PLT assessment; and be it further

Resolved: That teachers certified to teach in other states who have completed three years of teaching experience within the prior seven years, all of which has been satisfactory, and have qualifying scores on appropriate subject matter tests, may be certified to teach in Pennsylvania without meeting further academic and testing requirements, provided the teacher satisfies the basic certification requirements of the Public School Code (see 24 P. S. §§ 12-1202 and 12-1209), such as having good moral character, being at least 18 years old, and having a bachelor's degree; and

Resolved: That teachers successfully completing other national teacher training programs that require a candidate to demonstrate mastery of the subject area to be taught and professional knowledge needed for classroom effectiveness, including the American Board and Teach for America programs and such other programs as approved

by the State Board of Education, will be certified to teach in Pennsylvania without meeting further academic and testing requirements, provided the teacher satisfies the basic certification requirements of the Public School Code (see 24 P. S. §§ 12-1202 and 12-1209), such as having good moral character, being at least eighteen years old, and having a bachelor's degree.

RESOLUTION

Whereas, The United States Congress passed the No Child Left Behind Act of 2001 (NCLB) (P. L. 107-110, 115 Stat. 1425), which was signed into law by President George W. Bush on January 8, 2002; and

Whereas, NCLB, inter alia, amends Title I of the Elementary and Secondary Education Act of 1965 (P. L. 89-10, 29 Stat. 27) (Improving the Academic Achievement of the Disadvantaged), 20 U.S.C. § 6301 et seq.; and

Whereas, The purpose of Title I is to ensure that all children have the opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging State achievement standards and academic assessments; and

Whereas, Because paraprofessionals play a critical, often daily, role in the education of children, NCLB includes these important educators as part of the staff quality improvement effort; and

Whereas, Section 1119(f) of Title I (20 U.S.C. § 6319(f) (relating to general requirement for all paraprofessionals)) requires all Title I funded instructional paraprofessionals to hold a high school diploma or GED; and

Whereas, Section 1119(c) of Title I (20 U.S.C. § 6319(c) (relating to new paraprofessionals)) requires all Title I funded instructional paraprofessionals hired after January 8, 2002 to hold an associate's degree, or have completed at least two years of study at an institution of higher education, or meet a rigorous standard of quality demonstrated through a state or local assessment; and

Whereas, Section 1119(d) of Title I (20 U.S.C. § 6319(d) (relating to existing paraprofessionals)) requires all Title I funded instructional paraprofessionals hired prior to January 8, 2002 to obtain an associate's degree, or complete at least two years of study at an institution of higher education, or meet a rigorous standard of quality demonstrated through a state or local assessment by January 8, 2006; and

Whereas, In furtherance of this purpose, NCLB provides grants to State education agencies and sub-grants to local education agencies (LEAs) for purposes of professional development of paraprofessionals; and

Whereas, State and local educational agencies must comply with the requirements of Title I, as amended by NCLB, in order to maintain eligibility for continued funding under Title I; and

Whereas, There are about 5,000 paraprofessionals working in Title I related programs; and

Whereas, Of the 5,000 paraprofessionals working in Title I related programs, about 4,000 do not meet the requirements of NCLB; and

Whereas, Approximately 2,000 of the paraprofessionals not meeting the requirements of NCLB are employed in the School District of Philadelphia; and

Whereas, Approximately 400 of the paraprofessionals not meeting the requirements of NCLB are employed in the Pittsburgh School District; and

Whereas, The School District of Philadelphia and the Pittsburgh School District have already developed local paraprofessional assessments for purposes of satisfying the requirements of NCLB; and

Whereas, The Pennsylvania Department of Education (Department) solicited recommendations for meeting the NCLB requirements related to Title I instructional paraprofessionals; and

Whereas, The Committee of Practitioners established under section 1903(b) of Title I, added by NCLB (20 U.S.C. § 6573(b) (relating to committee of practitioners)), agreed that a local assessment model allows for local control and flexibility while meeting the requirements of NCLB; and

Whereas, Title I instructional paraprofessionals may also meet the NCLB requirements by obtaining an associates degree or two years of study at an institution of higher education; and

Whereas, The phrase, "two years of study at an institution of higher education," is undefined and must have a meaning different from that of "an associates degree"; otherwise, the reference to "an associates degree" would have no meaning; and

Whereas, The Department has recommended as a standard the development of a process for reviewing local assessments to determine that they satisfy the requirements of NCLB; and

Whereas, The Department has determined that "two years of study at an institution of higher education" is satisfied upon completing 48 credits; and

Whereas, Section 2603-B(d)(10) of the Public School Code of 1949 (Public School Code) (24 P.S. § 26-2603-B(d)(10)), added by section 31 of Act 88 of 2002, provides that the State Board of Education (State Board) shall have the authority and duty, within thirty (30) days of submission to the State Board office or at the next

scheduled meeting (whichever is sooner), to approve or disapprove standards proposed by the Department in order to comply with the provisions of NCLB and to maintain eligibility for funding; and

Whereas, The Department submitted its proposed standards to the State Board on November 13, 2002; and

Whereas, On November 13, 2002, the special committee of the State Board established to work with the Department in the development and review of standards necessary to comply with NCLB (the NCLB Committee) conducted a public meeting to review and discuss the standards presented by the Department for approval by the State Board and to receive public comment on the proposals; and

Whereas, The NCLB Committee on November 13, 2002 approved a motion to recommend to the State Board that it approve the standards proposed by the Department; and

Whereas, At the regular business meeting of the State Board held November 14, 2002, the Secretary of Education (Secretary) made a detailed presentation explaining the standards presented by the Department for approval by the State Board; and

Whereas, The State Board at its November 14, 2002, meeting publicly voted to approve the proposed standards presented to it by the Department.

Now, Therefore, Be It

Resolved: That "two years of study at an institution of higher education" is satisfied upon completing 48 credits; and be it further

Resolved: That the Department will develop a process for reviewing local assessments to determine that they satisfy the requirements of NCLB.

[Pa.B. Doc. No. 02-2206. Filed for public inspection December 6, 2002, 9:00 a.m.]

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.

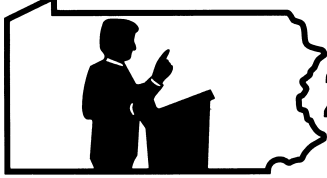
Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) 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.

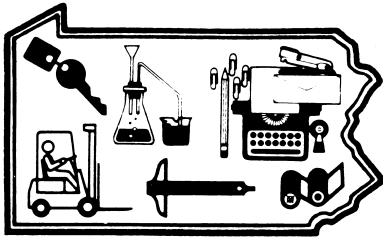
⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.
 (For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

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



Commodities

102068 Furnish and install operable partitions and suspension system. Provide all labor, materials, tools, equipment and services for operable walls in accordance with provisions of contract documents. 1 ea. 5540R 30'- 3" wide x 9' - 11" - high located in maintenance building. Additional specifications are available at the County Office.

Department: Transportation
Location: Pa. Department of Transportation - Fayette County Maintenance Classroom
Duration: February 3, 2003, through April 30, 2003
Contact: April Jackson/Mike Kisko, (724) 439-7471 ext. 320

LBLA 1103C Furnish only 29 hollow metal doors and frames.

Department: Public Welfare
Location: North Central Secure Treatment Unit, Green Building, 210 Clinic Road, Danville, PA 17821
Contact: Dee Kuhn, Purchasing Agent, (717) 789-5509

CN00000744 Purchasing herbicides arsenal and veteran for grounds at Fort Indiantown Gap, Annville, PA. For information regarding this bid package, please send inquiries to the fax number listed (717-861-2932) or e-mail to sloy@state.pa.us. Bid opening will be held on December 12, 2002, at 2 p.m. VENDORS: If you are not on the Commonwealth Vendor List, you need to go to www.imaginepa.state.pa.us to register.

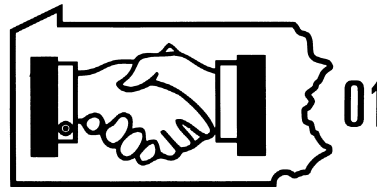
Department: Military Affairs
Location: State Army Board, Purchasing Section, Bldg. SO-47, Fort Indiantown Gap, Annville, PA 17003-5002
Contact: Sharon Loy, (717) 861-8519

SU-02-14 SU-02-14: Contractor to provide a turnkey scanning probe microscope that includes hardware, software, interfaces and cables to permit systems operation. It shall be the responsibility of the bidder to provide installation and on-site operator training as part of their priced response. Detailed specifications are included in the solicitation package. Requests for the bid package may be faxed to 717-477-1350, Shippensburg University.

Department: State System of Higher Education
Location: Shippensburg University, Shippensburg, PA 17257
Duration: System to be furnished by February 2003.
Contact: Mona M. Holtry, 717-477-1386

LBLA 1007C Furnish only 2 supply and 2 return sets of metal ductwork.

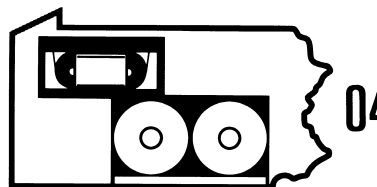
Department: Public Welfare
Location: North Central Secure Treatment Unit, Green Building, 210 Clinic Road, Danville, PA 17821
Contact: Dee Kuhn, Purchasing Agent, (717) 789-5509



Advertising

SU-02-13 SU-02-13 Alumni On-Line Community. Shippensburg University is seeking vendors interested in providing a proposal for an Alumni On-Line Community. Vendors interested in receiving the Request For Proposal package may do so by faxing their request to Deborah K. Martin, at FAX: 717-477-4004.

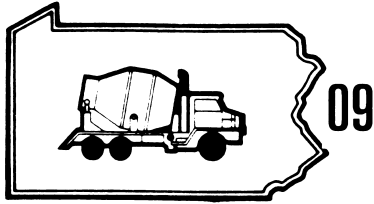
Department: State System of Higher Education
Location: Shippensburg University, Shippensburg, PA 17257
Duration: Base Year with 4 one year options
Contact: Deborah K. Martin, (717) 477-1121



Audio/Video

SU-02-12 SU-02-12 Telecommunications Revenue Programs Shippensburg University is seeking vendors interested in providing information concerning conceptual responses for revenue producing programs for telecommunications and technology fields at Shippensburg University. Vendors interested in receiving the Request For Information package may do so by faxing their request to Deborah K. Martin, at FAX: 717-477-4004.

Department: State System of Higher Education
Location: Shippensburg University, Shippensburg, PA 17257
Duration: Up to 5 years
Contact: Deborah K. Martin, (717) 477-1121

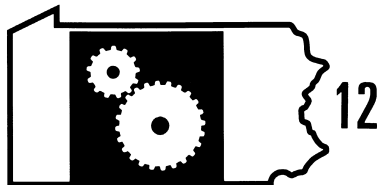


Construction & Construction Maintenance

63-0165 The work consists of an Electrical System Upgrade to the campus of West Chester University. The upgrade shall include an additional 15MVA substation class transformer, 15KV outdoor switchgear replacement, approximately one mile of three phase 15KV underground feeder, the conversion of five building substations from 5KV to 15KV and the change-out of three 15KV oil filled automatic transfer switches. Work shall include, but is not necessarily limited to, the furnishing of all labor, superintendence, materials, tools and equipment and the performing of all work necessary to complete all Electrical Construction.

Department: State System of Higher Education
Location: West Chester University, West Chester, Chester County, PA.
Duration: 28 weeks from the Notice to Proceed or August 20, 2003, whichever is first.
Contact: Barbara Cooper, (610) 436-2706

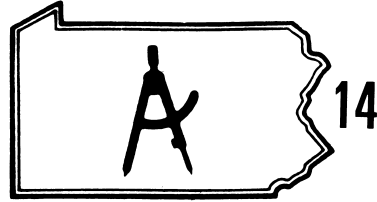
SP 20781016 Expansion and upgrade of driveway and parking area at Building 34.
Department: Public Welfare
Location: Wernersville State Hospital, Route 422 West, Wernersville, PA 19565
Duration: April 1, 2003
Contact: Nancy Deininger, Purchasing Agent, (610) 670-4129



Drafting and Design Services

MI-869:870:871. Student Housing Design It is the intention of Millersville University to select a qualified professional to provide a design of renovations to existing residence halls. During the summer break of 2004, 2005 and 2006, the University will be installing a sprinkler and fire alarm in five residence halls (design for this phase has been contracted). During the install, the University plans to renovate each building, Summer 2004 Hull and Hobbs, approximately 110,000 square feet; Summer 2005 Bard and Gilbert, approximately 70,000 square feet; and Summer 2006 Burrows, approximately 80,000 square feet. The deadline for submitting an RFP is 12/20/02. <http://muweb.millersville/~muonline/direction.html>

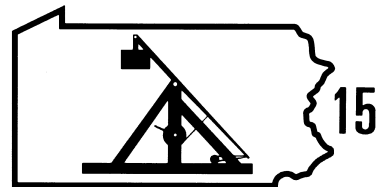
Department: Education
Location: Millersville University, Millersville, PA
Duration: Begin 2004 design approximately May 2003, 5 month design phase; bid/award construction 5-month, and construction NTP March 2004, on-site. Construction begins May 2004. Approximate repeat year 2005 and 2006. Design phase may come earlier in 2005 and 2006.
Contact: Bernadette Wendler, (717) 872-3730



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.

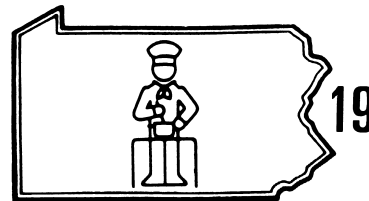
Department: Transportation
Location: Various
Contact: www.dot2.state.pa.us



Environmental Maintenance Service

OSM 54(4208)201.1 Abandoned Mine Reclamation, Robinson, Frailey Township, Schuylkill County. Work consists of mobilizing and demobilizing equipment, 432 l.f. drilling boreholes, 88 l.f. furnishing and installing 12 inch I.D. steel casing pipe, 165 c.y. drainage excavation, 180 l.f. 24 inch corrugated polyethylene pipe and cleanup of the area. This project issues December 6, 2002. Payment in the amount of \$10.00 must be received before bid documents will be sent.

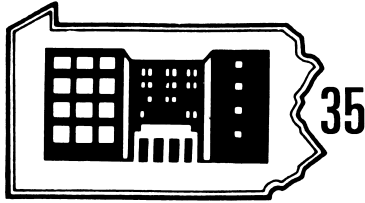
Department: Environmental Protection
Location: Frailey Township, Schuylkill County
Duration: 90 calendar days after notice to proceed
Contact: Construction Contracts Section, (717) 783-7994



Food

633651 Bread and Bread Products for January, February and March, 2003.

Department: Public Welfare
Location: Warren State Hospital, 33 Main Dr., N. Warren, PA 16365-5099
Duration: January, February and March, 2003
Contact: Bobbie D. Muntz, PA III, (814) 726-4496



Real Estate Services

93536 LEASE OFFICE SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Department of Labor and Industry with 8,600 useable square feet of office space in Allentown, Lehigh County, PA. with a minimum parking for 45 vehicles. Downtown locations will be considered. For more information on SFP #93536, which is due on January 22, 2003, visit www.dgs.state.pa.us to download an SFP package or call (717) 787-4394.

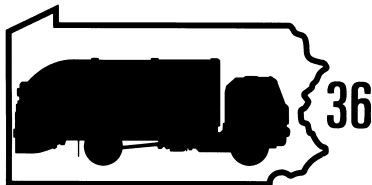
Department: Labor and Industry
Location: 505 North Office Building, Harrisburg, PA 17125
Contact: Mr. Jennings K. Ward, (717) 787-7412

93537 LEASE OFFICE SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Department of Labor and Industry with 13,542 useable square feet of office space in Blair County, PA. with a minimum parking for 70 vehicles, within Altoona/City limits and Logan Townships. Downtown locations will be considered. For more information on SFP #93537 which is due on January 27, 2003, visit www.dgs.state.pa.us to download a SFP package or call (717) 787-4394.

Department: Labor and Industry
Location: 505 North Office Building, Harrisburg, PA 17125
Contact: Mr. Jennings K. Ward, (717) 787-7412

93540 LEASE OFFICE SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Office of Attorney General with 2,533 useable square feet of office space with a minimum parking for 10 vehicles, within the City limits as follows: North: Colver Road; South: Wilmore Road; East: Route 53; West: Route 271, Ebensburg, Cambria County. Downtown locations will be considered. For more information on SFP #93540 which is due on January 13, 2003, visit www.dgs.state.pa.us to download an SFP package or call (717) 787-4394.

Department: Attorney General
Location: 505 North Office Building, Harrisburg, PA 17125
Contact: Mrs. Cynthia T. Lentz, (717) 787-0952



Sanitation

15566 Removal of garbage and trash at the SCI-Fayette. Anticipated period being 12/01/02 - 05/30/03, initial Contract to include 2 (two) 30 cubic yard containers to be emptied on an on-call basis. Additional containers may be added at the quoted price.

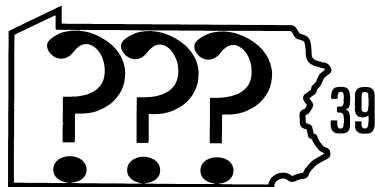
Department: Corrections
Location: State Correctional Institution at Fayette, 421 LaBelle Road, East Millsboro, PA 15433
Duration: 12/01/02 to 05/30/03
Contact: James Crytzer, (412) 761-1955 ext. 260



Security Services

SU-02-11 SU-02-11 New Card Access System. Shippensburg University is seeking vendors interested in replacing a card access system that includes alarm monitoring. Vendors interested in receiving a Request For Proposal package should fax their request to Shippensburg University, Deborah K. Martin at FAX: 717-477-4004.

Department: State System of Higher Education
Location: Shippensburg, PA 17257
Duration: Base year with 4 option years
Contact: Deborah K. Martin, (717) 477-1121



Miscellaneous

2003-ACS-1 PennSERVE: The Governor's Office of Citizen Service announces the availability of grant funding for operation of AmeriCorps community service programs by local nonprofit organizations, faith-based organizations, government agencies and educational institutions. A substantial cash match is required based on funding levels. Priority areas for funding are to meet local needs in public safety, education, homeland security, environment and other human needs. To access an electronic copy of the AmeriCorps*State Grant application (2003-ACS-1), visit the PA PowerPort at www.state.pa.us, PA Keyword "pennserve." If unable to access electronically or if you have questions, please email PennSERVE at pennserve@state.pa.us. All applications must be completed in Microsoft WORD and submitted in computer disk format, along with one paper copy. Application deadline is 4 p.m., January 16, 2003. Mail or deliver applications by the deadline to PennSERVE, 1306 Labor and Industry Bldg, 7th and Forster Sts., Harrisburg, PA 17120. No faxes or email applications accepted.

Department: Labor and Industry
Location: PennSERVE, 1306 Labor and Industry Bldg, Harrisburg, PA 17120
Duration: One year upon award
Contact: Peg Davis, (717) 787-1971

RFP 2002-WC-01 Contract Information: The Pennsylvania Insurance Department, Workers' Compensation Security Fund is issuing a Request for Proposal for vendors to provide workers' compensation and longshore and harbor workers compensation claims management services. Prospective vendors must provide services including, but not limited to, claims management, medical cost management, managed care and reporting services in accordance with the RFP.

Department: Insurance
Location: Bureau of Special Funds, Capitol Associates Building, Room 101, 901 North 7th Street, Harrisburg, PA 17102. The drop off location for the proposals is: 13th Floor Strawberry Square, Reception Desk, Harrisburg, Pa 17120

Duration: Five years with five one-year renewals
Contact: Laura S. Keller, (717) 783-8093

[Pa.B. Doc. No. 02-2207. Filed for public inspection December 6, 2002, 9:00 a.m.]

DESCRIPTION OF LEGEND

- | | |
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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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KELLY POWELL LOGAN,
Secretary

Contract Awards

The following awards have been made by the Department of General Services, Bureau of Purchases:

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
5610-37 rip#2	11/27/02	Glenn Hawbaker	\$21,127.20
5610-37 rip#2	11/27/02	Heilman Pavement Specialties	18,328.08
5610-37 rip#2	11/27/02	Hempt Brothers	10,000.00
5610-37 rip#2	11/27/02	HRI	8,535.00
5610-37 rip#2	11/27/02	IA Construction	11,592.50
5610-37 rip#2	11/27/02	New Enterprise Stone/Lime	23,879.40
5610-37 rip#2	11/27/02	Pennsy Supply	28,065.00
5610-37 rip#2	11/27/02	QPR/Better Materials	10,000.00
5610-37 rip#2	11/27/02	Russell Standard	10,000.00
5610-37 rip#2	11/27/02	Valley Quarries	15,242.50

Requisition or Contract No.	PR Award Date or Contract Effective Date	To	In the Amount Of
5610-37 rip#2	11/27/02	York Building Products	6,626.70
5820-01 sup#5	11/27/02	Dell Marketing LLP	10,000.00
5820-01 sup#5	11/27/02	Rodata	50,000.00
5820-01 sup#5	11/27/02	Sage Technology Solutions	15,000.00
5820-01 sup#5	11/27/02	Visual Sound	20,000.00
9140-04 rip#1	11/27/02	Farm & Home Oil	88,558.77
9140-04 rip#1	11/27/02	J J Powell	15,795.60
9140-04 rip#1	11/27/02	Montour Oil Service	284,064.80
9140-04 rip#1	11/27/02	Naughton Energy	12,663.00
7314530-01	11/25/02	All American Poly KELLY POWELL LOGAN, <i>Secretary</i>	54,046.76

[Pa.B. Doc. No. 02-2208. Filed for public inspection December 6, 2002, 9:00 a.m.]

RULES AND REGULATIONS

Title 34—LABOR AND INDUSTRY

DEPARTMENT OF LABOR AND INDUSTRY

[34 PA. CODE CHS. 111 AND 131]

Special Rules of Administrative Practice and Procedure Before the Workers' Compensation Appeal Board and Workers' Compensation Judges

The Department of Labor and Industry (Department), Bureau of Workers' Compensation (Bureau), adopts the following amendments to clarify and provide detailed guidance for practice and procedure before workers' compensation judges ("judges," formerly "referees") and the Workers' Compensation Appeal Board ("Board," formerly, "Workmen's Compensation Appeal Board"). The Department also amends Chapters 111 and 131 (relating to special rules of administrative practice and procedure before the Workers' Compensation Appeal Board; and special rules of administrative practice and procedure before workers' compensation judges) to provide additional guidance for the litigation of matters before judges and the Board and to refine existing regulations governing practices and procedures before judges and the Board.

Statutory Authority

The Department adopts these Special Rules of Administrative Practice and Procedure before Workers' Compensation Judges and Special Rules of Administrative Practice and Procedure before the Workers' Compensation Appeal Board (collectively, the "Rules") under the authority contained in sections 401.1 and 435(a) and (c) of the Workers' Compensation Act (act) (77 P.S. §§ 710 and 991(a) and (c)); section 2205 of The Administrative Code of 1929 (71 P.S. § 565); and section 414 of the Occupational Disease Act (77 P.S. § 1514).

Background

In 1980, the Secretary of the Department established a Rules Committee (committee) to develop rules and procedures for the workers' compensation system. The committee consisted of workers' compensation judges, as well as equal numbers of representatives of the claimant's and defense bar and representatives of the Department. This committee was reactivated in 1987 to revise the existing rules. These revisions were published in 1991 and this final-form rulemaking is intended to amend the 1991 publication. The committee, composed of the same general representation, again met in 1996 to review the Rules because of amendments to the act. The committee wanted to incorporate legislative amendments and changes in workers' compensation jurisprudence which occurred since the 1991 publication. Since assembling in 1996, the committee has established various subcommittees to review various subchapters and specific provisions of the regulations. From 1991 to the present, the committee received written comments from various parties suggesting changes to the 1991 publication of the Rules. The commentators included members of the bar and representatives of various parties who litigate within the Commonwealth workers' compensation system. The committee as a whole reviewed these comments and forwarded the meritorious comments to subcommittees for further review and analysis. In response, the various subcommittees issued written reports regarding the recommended

changes. Thereafter, the committee as a whole drafted proposed revisions which have been incorporated into this final-form rulemaking.

Similarly, the committee allowed interested parties an opportunity to address the committee. Since at least 1996, the committee has undertaken an outreach program through announcements and addresses at workers' compensation section meetings of the Pennsylvania Bar Association, which meets at least annually. In March 1998, the committee circulated its first draft of the proposed changes to the Rules. Additionally, the committee has met with the Workers' Compensation Advisory Council (Advisory Council). In a meeting on September 17, 1998, the committee explained to the Advisory Council the committee's purpose and the process by which it reviewed commentary or suggested regulatory amendments.

The Department previously submitted the final-form rulemaking for review as a final-omitted rulemaking on November 16, 2001, and withdrew the final-omitted rulemaking on December 7, 2001.

At 32 Pa.B. 1518 (March 23, 2002), the Department published the notice of proposed rulemaking. As a result, the Department received written comments from the following group and individual: the Pennsylvania Workers' Compensation Judges' Professional Association (PWCJPA) and Thomas C. Lowry, Esquire (Attorney Lowry). The Department also received written comments from the Independent Regulatory Review Commission (IRRC) by means of a letter dated May 23, 2002. In response to comments received, some changes have been made in the final-form rulemaking.

Purpose

The final-form rulemaking clarifies and expedites the hearing and determination of matters in the workers' compensation system and updates existing regulations to ensure timely and fair disposition of matters as required by the act. The present Rules have not been comprehensively reviewed since at least 1991. Since that time, the act has been amended on at least three occasions. See the act of July 2, 1993 (P.L. 190, No. 44); the act of February 23, 1995 (P.L. 1, No. 1); and the act of June 24, 1996 (P.L. 350, No. 57). The final-form rulemaking incorporates changes made necessary by these legislative amendments and ensure that parties will continue to be advised of up-to-date rules for practice and procedures before judges and the Board.

Affected Persons

Those affected by the final-form rulemaking include workers' compensation judges, Workers' Compensation Appeal Board Commissioners and officials, employees of the Department, Bureau of Workers' Compensation and Workers' Compensation Appeal Board, and attorneys and litigants in the Commonwealth workers' compensation system.

Fiscal Impact

There is no significant fiscal impact associated with this final-form rulemaking. However, the final-form rulemaking may provide the following savings to the regulated community: (a) reduced travel costs, as hearings may now take place electronically; (b) reduced copying costs, reflecting the final-form rulemaking's reduced copy requirements; and (c) reduced overall litigation expenses attributable to the more expeditious process defined by the final-form rulemaking.

Response to Comments

The comments received as a result of the notice of proposed rulemaking are addressed on a section-by-section basis as follows.

Chapter 111

As a general comment, IRRC noted that some of the section titles in Chapter 111 were inconsistent. In response, the Department revised the section titles for §§ 111.16 and 111.21 (relating to briefs: content and form and time for filing; and content and form) to make these section titles consistent with § 111.11 (relating to content and form).

The Department had amended § 111.3 (relating to definitions) to clarify that documents are properly filed and served by mail only upon deposit in the United States mail as evidenced by a United States Postal Service postmark. By way of comment to this section, IRRC noted that a number of sections in Chapters 111 and 131 contain language referring to forms provided or prescribed by the Board or the Department. IRRC suggested that the Department add information identifying and addressing the handling of these forms, including reference to either the form number or title. The Department does not believe, however, that reference to specific form titles or numbers is helpful with respect to these rules, given the unusually large number of forms used in the workers' compensation system. Consistent with longstanding practice, forms are easily attainable by title by contacting the Bureau's helpline at (800) 482-2383 or (717) 772-4447 or accessing the Department's website at www.dli.state.pa.us. In light of IRRC's comment that § 131.5 (relating to definitions) should include a definition of "supersedeas," the Department has added a definition of "supersedeas" in § 111.3.

The Department had amended § 111.11 to provide for cross appeals. IRRC commented with regard to § 131.21(a) (relating to identifying number), that for confidentiality reasons, Social Security numbers should not be used for purposes of identification. The Department generally agrees with these confidentiality concerns and has amended § 111.11(a)(1) to replace the reference to the Social Security number of the claimant with a reference to the Bureau claim number.

The Department had amended § 111.16 to modify the time periods for filing of briefs before the Board. IRRC commented that the Department should clarify the Board's ability to extend or shorten the time for filing a brief "[u]pon request of a party" in § 111.16(c) to indicate how and to whom requests may be made. As a result, the Department has amended the first sentence of § 111.16(c) to indicate that a party's request may be made in writing to the Secretary of the Board or orally at the time of oral argument.

The Department had amended § 111.18 (relating to decisions of the Board) to provide for the filing of cross appeals. IRRC further requested that a time limit for Board decisions be included in § 111.18(a), suggesting that the phrase "as promptly as possible" is vague in this regard. The Department did not make this change because no time period could be given in light of the many variables involved in the issuance of a decision, including briefing schedules, obtaining a complete record for adjudicating the appeal, resolving Commonwealth Court remands and the possibility of resolution by agreement of the parties. These issues are often outside the Board's control and make it difficult to determine a specific time period.

The Department had amended § 111.22 (relating to filing) to provide that only two copies of the request for supersedeas, rather than four, must be filed with the Board. The final-form rulemaking now further provides for the time period in which requests for supersedeas from a judge's decision or from a Board order shall be filed. IRRC suggested that the Department should include in § 111.22(a) either the specific time period allowed for a supersedeas request to be filed or the statutory citation where that time period can be found because the phrase "within the time allowed by law" is unclear. The Department agrees and has modified this section accordingly for both supersedeas requests from a judge's decision and from a Board order.

Chapter 131

Section 131.3 (relating to waiver and modification of rules) allows judges to waive or modify provisions within Chapter 131 for good cause, upon motion or agreement. PWCJPA suggested that the language "for good cause" should be replaced by "within the Judge's discretion" for consistency and to prevent litigation of what constitutes good cause. The Department determined that it is not necessary to change this language because the "good cause" requirement is intended to limit waiver or modification to cases with specific facts that warrant action and to discourage blanket waiver of rules in all cases. Moreover, judges may still use their discretion to determine whether good cause exists in a given case.

The Department had amended § 131.5 to include definitions for the terms "Bureau record," "insurer" and "judge," and to delete the definitions of the terms "close of the record" and "referee." IRRC commented that the definition of the term "insurer" in the regulation differs from that found in section 109 of the act (77 P. S. § 29), and that the definition in the regulation should be replaced with a citation to section 109 of the act. The term "insurer" is defined in more than one place in the act, however as this final-form rulemaking is procedural in nature, the Department chose as its analytical framework the procedural definition of the term which is found in section 401 of the act (77 P. S. § 701). Thus, the Department has not changed the definition to that found in section 109 of the act. The Department also has amended § 131.5 to include the definitions for the terms "challenge proceeding," "penalty proceeding" and "supersedeas" to further clarify the final-form rulemaking.

The Department had amended § 131.11 (relating to filing, service and proof of service) to clarify that items required to be served upon a party must also be served upon the party's attorney in the same manner as the party is served, and that documents are properly filed and served by mail only upon deposit in the United States mail as evidenced by a United States Postal Service postmark. PWCJPA requested that the language "as evidenced by the postmark" in § 131.11(b) be left unchanged, without specific reference to a "United States Postal Service" postmark. The Department does not concur, as the inclusion of this reference reflects the current workers' compensation case law, as articulated in the Pennsylvania Supreme Court case of *Sellers v. Workers' Compensation Appeal Board*, 713 A.2d 87 (Pa. 1998).

Section 131.21 had provided for identification of submissions in proceedings before judges by the social security number of the employee, unless another identifying number has been assigned by the Bureau. IRRC and PWCJPA commented that, for confidentiality reasons, social security numbers should not be used for purposes of identification. IRRC further suggested that the use of

the phrase "another identifying number" is unclear and should be deleted. The Department agrees with the confidentiality concerns of IRRC and PWCJPA, and has amended § 131.21(a) to eliminate reference to social security numbers and to simply indicate that submissions in proceedings before judges shall be identified "by an identifying number assigned by the Bureau."

Section 131.22 (relating to transfer of cases or petitions on agreement of all parties) had provided for the transfer or reassignment of cases upon agreement of the Bureau, the parties and the judge. PWCJPA suggested that the reference to the Bureau be deleted, so that only agreement of the parties and the judge would be necessary for the transfer of a case. The Department chose not to adopt this suggestion, as it is necessary for the Bureau to retain the discretion in the transfer and reassignment of cases to properly manage case loads and limit forum shopping.

The Department had added § 131.24 (relating to recusal of judge) to require that the judge hold a hearing regarding a motion for recusal and issue a decision within 15 days following receipt of the evidentiary hearing transcript and post-hearing submissions. The amendment also had provided that decisions on motions for recusal are interlocutory unless certified for immediate appeal. PWCJPA requested the addition of language indicating that recusal may be upon the judge's own motion and that, for privacy reasons, the judge may recuse himself or herself "without comment." The Department has modified and rearranged this section to set forth in subsection (a) the judge's inherent right to recuse himself on the judge's own motion. The language formerly in subsections (a) and (b) in the proposed rulemaking may now be found in subsections (b) and (c), respectively. The Department did not accept the suggestion to allow recusal "without comment," however, as the Department believes that the parties have a right to know the reason for the judge's recusal.

The Department had amended § 131.32 (relating to petitions except petitions for joinder and challenge proceedings) to provide that petitions shall be on a Bureau petition form. In addition, this amendment had clarified that the number of copies required shall be as prescribed on the Bureau form. Additionally, the amendment had required that the facts on which a cause of action or defense is based shall be stated in a concise and summary form. IRRC raised concerns about the service of the notice of assignment of petitions under § 131.32(b). IRRC suggested the inclusion of a timeline for assignment by the Bureau and a description of what will constitute notice. The Department has not made this change. The Department believes that it is inappropriate to include this information in these rules because these regulations govern procedures before judges, and not Bureau procedures themselves.

The Department had amended § 131.33 (relating to answers except answers to petitions for joinder and challenge proceedings) to clarify that a failure to answer a claim petition within 20 days of assignment of the petition shall result in the admission of all allegations of the claim petition, and that answers must specifically admit or deny the averments of each paragraph of the petition, where applicable. The amendment further clarifies that all petitions other than claim petitions may be answered within 20 days after assignment by the Bureau. Further, this amendment specifies the form and number of copies of answers, as well as service requirements for answers. IRRC commented that the phrase "challenge proceeding" should be defined. The Department has added

a definition of the term "challenge proceeding" in § 131.5. IRRC further questioned whether the term "claim petition" was synonymous with the term "petition" as used elsewhere in the rulemaking and, if not, commented that the term "claim petition" should be described or defined. There are many types of petitions, including a claim petition, addressed throughout the regulations. The Department does not believe that a description or definition of the self-evident term "claim petition" is warranted in the final-form rulemaking, however, as the act itself specifically refers to and describes a claim petition in sections 410 and 416 of the act (77 P. S. §§ 751 and 821).

In addition, IRRC suggested that the term "adequate excuse" in § 131.33(a) is unclear and should either be defined or explained by example. PWCJPA commented that the changes to § 131.33 that reflected case law and addressed what may or may not be contested on a petition should be eliminated. Attorney Lowry additionally requested that § 131.33(b) be clarified to reflect that, under that subsection, the filing of an answer to petitions other than claim petitions was not mandatory. In light of the changing case law in this area and to avoid confusion, the Department has redrafted subsection (a), thereby removing the reference to "adequate excuse" in the final-form rulemaking and replacing it with a general reference to section 416 of the act. This change further allowed the Department to consolidate subsections (a) and (b) to improve the clarity of the section regarding the filing of answers.

Attorney Lowry further commented that the requirement that answers must be responsive in denying or admitting allegations in § 131.33(e) is in the nature of "notice pleading," which unfairly burdens employers in light of time constraints in the transmittal of files to employer counsel. Attorney Lowry further questions whether this will open the door for a "motion for judgment on the pleadings" practice in workers' compensation. The Department does not agree with this position. The Department believes that meaningful, responsive answers are possible under this section without creating these problems. The Department does not believe the requirements of § 131.33(e) place an undue burden on respondents, particularly in light of the existing, more detailed requirements for answers filed with State courts. In addition, the issue of time constraints in the transmittal of files from employers to their counsel is an internal issue that is not appropriately addressed in the final-form rulemaking.

The Department had amended § 131.36 (relating to joinder) to require that the petition for joinder have attached to it a list of the dates and locations of all prior hearings held and depositions taken, to require that an original and the number of copies specified on the Bureau petition for joinder form be filed and to provide that answers to petitions for joinder may be filed within 20 days following service of the petition for joinder. IRRC and PWCJPA suggested that the Department revise the language in subsection (f) to reflect the fact that, although the filing of the joinder petition itself is optional, the timeline following the filing of a joinder petition is mandatory. In response, the Department acknowledges the validity of these suggestions and thus has amended § 131.36(f) to remove any ambiguity about the timeline. IRRC additionally commented that the term "joinder" was unclear and suggested that it be defined. The Department has determined that it is not necessary to define the term, as the meaning of the term is obvious from the

context and plain meaning of this section and because there is a specific Bureau form for joinder of an additional defendant.

The Department had added § 131.40 (relating to frivolous pleadings) to provide a mechanism for the dismissal or other disposition of frivolous pleadings. IRRC commented that the phrase “or issue some other decision within the judge’s discretion” in this section is vague. IRRC suggested that the Department specify the types of decision, other than dismissal, which can be issued. The Department believes that inclusion of a list is not warranted, as there are several alternatives to dismissing a petition that may be appropriate based upon individual circumstances including, among others, the options discussed in § 131.13(m) (relating to continuances or postponements of hearings).

Section 131.41 (relating to request for supersedeas or reconsideration of supersedeas) had addressed the procedural aspects of requests for supersedeas before judges. IRRC commented that there is no definition of “supersedeas” in § 131.5 and suggested that the Department explain the meaning of the term as used in this section. The Department agrees and has included a definition in § 131.5.

The Department had amended § 131.52 (relating to first hearing procedures) to clarify the chapter’s purpose of providing a fair and prompt hearing process, and of allowing all parties to introduce appropriate evidence and to receive a timely decision from the judge. The Department also had amended § 131.52 to reaffirm that, where practicable and appropriate, the entire record shall be completed at the first hearing. The amendment further had provided that the procedures utilized for hearings may differ based upon a number of factors and that the process ultimately utilized in any particular case is within the discretion of the judge. IRRC commented that subsections (a) and (b) are redundant insofar as the general purpose and scope of this chapter are addressed by §§ 131.1 and 131.2 (relating to purpose; and scope). The Department does not concur. Although these sections address common issues, the information in § 131.52 is specific to first hearing procedures and does not appear to be redundant in light of §§ 131.1 and 131.2.

IRRC further commented that the phrase “all documents required by law” in § 131.52(f) is vague and should be replaced with a citation to applicable law or a list of specific documents. The Department determined that it is not necessary to replace this language as there are numerous sections of the act, regulations and other acts that may require the filing of documents, and citation to all of these provisions would unreasonably lengthen the regulation.

PWCJPA additionally commented that § 131.52(f) should be revised to require that the Bureau, in addition to the parties, shall provide the judge with all documents required by law. The Department has declined to place an additional administrative burden on the Bureau, which is not a party, by subjecting it to this requirement in all cases. Moreover, it is up to the parties to determine what documents may be relevant for introduction in any given case. PWCJPA further requested the removal of the sentence in § 131.52(f) prohibiting the judge and employee from introducing the Employer’s Report of Occupational Injury or Disease. The Department does not believe that removal of the sentence is warranted because the language is consistent with the statutory prohibition on the use of these reports as evidence against employers, found in section 438 of the act (77 P. S. § 994).

Attorney Lowry also commented that the discretionary nature of the first hearing procedures allowed by § 131.52 may lead to widespread differences among judges and may lead to conflicts for a busy law practice. The Department believes no change is warranted, as any conflicts caused by the scheduling of judges should be worked out between the judge and the parties on a case-by-case basis. Attorney Lowry further commented that this section is at variance with the time periods set forth for the exchange of information in § 131.61 (relating to exchange of information). The Department disagrees with this position, insofar as § 131.53a (relating to consolidated hearing procedure) gives the judge authority to waive or modify the rules in § 131.61 for the purposes of conducting a 1-day trial.

The Department had added § 131.53a to provide a mechanism for the implementation of expedited hearing procedures including 1-day trials. The amendment further had provided that trial or deposition testimony may be taken from witnesses prior to a party’s obligation to conduct medical depositions. IRRC questioned the reasonableness of the provision in subsection (a) which allows judges to waive or modify rules to accommodate 1-day trials. IRRC further suggested that subsections (a) and (b) be consolidated into one subsection. The Department has not adopted this suggestion. The Department believes that the waiver provision is necessary to allow judges to manage their caseload and to be flexible to meet docket demands. In addition, the Department believes that combining the subsections would reduce clarity.

IRRC also commented that the terms “trial deposition” and “medical deposition” in § 131.53a are not defined. PWCJPA also requested that the term “trial deposition” be changed simply to “deposition.” The Department utilized the term “trial deposition” to distinguish it from a discovery deposition, which is not allowed in workers’ compensation matters. The term “trial deposition” is used to provide clarity to indicate that the deposition is to be for use at the hearing rather than as a means of discovery prior to the hearing. The term “medical deposition” is commonly used in workers’ compensation proceedings and its meaning is obvious by its use, without further definition. Thus, the Department has declined to accept these suggestions. PWCJPA further commented that subsection (b)(2) should be redrafted to specifically address concerns about parties waiting months to testify. The Department believes that this suggestion is not warranted, as it would interfere with the judge’s existing ability to set hearing procedures under the Rules. Moreover, the Rules already provide the judge with the discretion to vary the hearing procedures in any given case.

The Department had amended § 131.54 (relating to manner and conduct of hearings) to clarify that hearings may, at the discretion of the judge, be conducted by telephone or other electronic means if the parties do not object. The amendment also had provided that a witness whose identity has not been revealed as provided in this chapter shall not be permitted to testify on behalf of the defaulting party unless the testimony is allowed within the judge’s discretion. PWCJPA suggested that the “if the parties do not object” language would limit the judge’s use of his discretion where a party objects. PWCJPA therefore requested that it be stricken. The Department does not concur, as a party’s objection and the judge’s discretion are not mutually exclusive. In addition, the inclusion of this language necessarily addresses due process and fairness concerns in these circumstances.

The Department had amended § 131.55 (relating to attorney fees and costs) to provide that a decision on the fee award will be made on the application and response submitted, if any, and the record of the case. If deemed appropriate by the judge, a hearing may be held and evidence presented. PWCJPA commented that the phrasing of subsection (d), requiring that the decision will be made "based on the application and response submitted, if any, and the record of the case," is in conflict with current case law on this subject. In response, for purposes of clarity, the Department has rearranged the language to provide that a decision will be made "based on the record of the case and, if filed, the application and response."

The Department had added § 131.57 (relating to compromise and release agreements) to delineate procedures for the filing and approval of compromise and release agreements under section 449 of the act (77 P.S. § 1000.5). The proposed amendment had clarified that compromise and release agreements are subject to an expedited resolution, and that the judge will circulate a decision within 30 days after a hearing on the compromise and release agreement. IRRC commented that the phrase "[t]he judge will circulate a decision" in subsection (d) is vague. IRRC requested an explanation as to whom the decision is distributed. The Department disagrees and believes that the parties to whom the decision is circulated is clear from the language of this section and the context of section 449 of the act. PWCJPA requested that the language "after the hearing" in subsection (d) be changed to "after the close of the record" to reflect that the record may stay open after the hearing for exhibits. The Department does not believe that a change is necessary, as the language "after the hearing" is a valid interpretation of the statutory provision.

The Department had added § 131.58 (relating to informal conferences) to provide procedures for requesting and participating in informal conferences. The amendment had provided that requests for informal conferences shall be recorded on a form prescribed by the Bureau, and shall be filed with the judge to whom a pending petition has been assigned. If no petition is pending, a petition and the request for informal conference shall be filed with the Bureau. IRRC commented that the instructions and procedures specified in the Bureau form and section 402.1 of the act (77 P.S. § 711.1), which are referenced in subsection (e), should be specifically included. The Department does not believe the inclusion of this information is warranted, however, as the Bureau form already contains the necessary instructions and procedures for the parties. Moreover, the procedures in this area are new and evolving.

The Department had amended § 131.61 to clarify that digital recordings, including CD-ROMs and diskettes, are included in the types of information which must be exchanged prior to the first hearing. Additionally, the amendment had clarified the requirement that the moving party provide this information prior to the first hearing and that the respondent provide it within 45 days after the first hearing. PWCJPA commented that the phrase "no later than" in subsection (b) was redundant and should be stricken in light of the Department's addition of the phrase "prior to" in that subsection. The Department agrees and, accordingly, has removed the "no later than" language from this subsection.

The Department had amended § 131.81 (relating to subpoenas) to require that witness fees for witness testimony and travel: (1) be tendered upon the witness' demand at the time of the service of the subpoena; or (2)

accompany the subpoena if served by mail. The fee for 1 day's attendance and roundtrip mileage is as prescribed in 42 Pa.C.S. §§ 5901—5988 (relating to depositions and witnesses). PWCJPA suggested that subsection (b)(3), providing for subpoena fees, be stricken in its entirety. PWCJPA commented that this subsection will complicate cases and place individuals who are receiving no income at a disadvantage. The Department does not agree with this position. This provision reflects the current state of the law and is intended to provide necessary notice since this statutory requirement is in addition to those requirements found in the act.

The Department had amended § 131.101 (relating to briefs, findings of fact and close of record) to set forth that the record is closed when the parties have submitted all of their evidence and rested, when the judge has closed the evidentiary record on a party's motion or on the judge's own motion. The amendment also had provided that the judge may hold open the record if the judge determines that additional hearings are necessary, additional evidence needs to be submitted, or, if the judge schedules additional written or oral argument, the evidentiary record may be held open by the judge. The amendment had further provided for certification of the record at or before the filing of proposed findings of fact, conclusions of law or briefs. The amendment had provided that the judge will specify the contents of the evidentiary record in the decision. IRRC and PWCJPA suggested that the final use of the word "evidentiary" in the last sentence of § 131.101(c) was not necessary and should be deleted. The Department concurs with this suggestion. As a result, the Department has clarified the sentence by removing the final "evidentiary" reference in that sentence. PWCJPA also commented that, since certification of the record is not required in each case, the word "shall" in the first sentence of § 131.101(f) should be changed to "may." The Department has not made this change, as the use of the word "shall" was intended to provide a clear directive to the parties of their obligation to provide a certification of the record, to assist the judges in identifying the evidentiary record and properly deciding cases.

PWCJPA further commented regarding § 131.101 that the judge should have discretion to have the parties' written arguments submitted in a format most useful to the judge, and therefore requested that the word "shall" in § 131.101(h) be changed to "may." The Department does not agree. The intent of the change is to provide uniform Statewide standards with respect to the content and form of briefs; however, judges may still waive or modify requirements under § 131.3.

The Department had amended § 131.121 (relating to penalty proceedings initiated by a party) to clarify that answers may be filed as provided in § 131.33. Additionally, the amendment had specified that penalty proceedings may be initiated by petition or by motion on the record of a pending proceeding. Further, the amendment had provided that a party complaining of a violation of the act or this chapter bears the burden of proving the violation. IRRC requested that the Department include a definition of the term "penalty proceeding." In response, the Department has added a definition of the term "penalty proceeding" in § 131.5. PWCJPA suggested that § 131.121(g), which refers to the burden of proof, be stricken because it is substantive and follows case law rather than the act. The Department disagrees with this suggestion. This subsection is merely informational with the intent to give guidance to the parties.

Section 131.122 (relating to other penalty proceedings) had provided that penalty proceedings not conducted

under § 131.121 will be conducted in accordance with other applicable regulations of the Bureau. IRRC commented that the Department should provide a citation for the other “applicable regulations” referenced in this section. The Department concurs and has therefore included in § 131.122 a citation to the regulations in Chapter 121 (relating to general provisions).

PWCJPA proposed that the Department further add § 131.59 with language reflecting the use of mediation and settlement conferences and the Bureau’s effort to promote the use of alternative dispute resolution within the workers’ compensation system. The Department does not believe that the addition of this new section is warranted, however, as the procedures in this area are still new and evolving. In addition, the Department believes that the use of these conferences is presently encompassed under the language in § 131.53a.

Reporting, Recordkeeping and Paperwork Requirements

The final-form rulemaking does not require the creation of any new forms. Existing forms relating to practice before the Board and judges require few modifications. Therefore, the final-form rulemaking does not impose any additional reporting, recording or paperwork requirements on either the Commonwealth or the regulated community.

Effective Date

The final-form rulemaking will be effective on publication in the *Pennsylvania Bulletin*.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 7, 2002, the Department submitted a copy of the notice of proposed rulemaking, published at 32 Pa.B. 1518, to IRRC and to the Chairpersons of the Senate Committee on Labor and Industry and the House Labor Relations Committee for review and comment.

Under section 5(c) of the Regulatory Review Act (71 P. S. § 745.5(c)), IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing this final-form rulemaking, the Department has considered the comments received from IRRC, the Committees and the public.

Under section 5.1(d) of the Regulatory Review Act (71 P. S. § 745.5a(d)), on October 14, 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 October 24, 2002, and approved the final-form rulemaking.

Contact Persons

The contact persons are Elizabeth A. Crum, Acting Deputy Secretary of Compensation and Insurance, Department of Labor and Industry, 1700 Labor and Industry Building, Seventh and Forster Streets, Harrisburg, PA 17120, (717) 787-5082; and Susan McDermott, Chairperson, Workers’ Compensation Appeal Board, 1712 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130, (215) 560-4583.

Findings

The Department finds that:

(a) Public notice of proposed rulemaking was given under sections 201 and 202 of the act of July 31, 1968

(P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202), and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(b) The amendment of the regulations of the Department in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

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

(a) The regulations of the Department, 34 Pa. Code Chapters 111 and 113, are amended by adding §§ 131.15, 131.24, 131.30, 131.40, 131.53a, 131.57 and 131.58; and by amending §§ 111.1—111.3, 111.11—111.18, 111.21—111.24, 111.31—111.35, 131.1—131.5, 131.11—131.13, 131.21, 131.22, 131.31—131.36, 131.41—131.43, 131.49, 131.50, 131.50a, 131.52—131.55, 131.61—131.70, 131.81, 131.91, 131.101, 131.102, 131.111, 131.112, 131.121 and 131.122 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 to legality and form 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 upon publication in the *Pennsylvania Bulletin* as a final-form regulation.

JOHNNY J. BUTLER,
Secretary

Fiscal Note: Fiscal Note 12-61 remains valid for the final adoption of the subject regulations.

(Editor’s Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 32 Pa.B. 5582 (November 9, 2002).)

Annex A

TITLE 34. LABOR AND INDUSTRY

PART VII. WORKERS’ COMPENSATION APPEAL BOARD

CHAPTER 111. SPECIAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE BEFORE THE WORKERS’ COMPENSATION APPEAL BOARD

Subchapter A. GENERAL PROVISIONS

§ 111.1. Scope.

(a) This chapter applies to proceedings before the Board under the act and the Disease Law.

(b) Subsection (a) supersedes 1 Pa. Code § 31.1 (relating to scope of part).

§ 111.2. Applicability of General Rules of Administrative Practice and Procedure.

(a) This chapter is intended to supersede 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure). The General Rules of Administrative Practice and Procedure are not applicable to activities of and proceedings before the Board.

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

§ 111.3. Definitions.

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

Act—The Pennsylvania Workers' Compensation Act (77 P. S. §§ 1—1041.4 and 2501—2506).

Appeal—A proceeding to review a ruling or decision by a judge.

Board—The Workers' Compensation Appeal Board.

Bureau—The Bureau of Workers' Compensation of the Department.

Disease Law—The Pennsylvania Occupational Disease Act (77 P. S. §§ 1201—1603).

Filing—Delivery in person or by mail. If filing is by mail, it is deemed complete upon deposit in the United States mail, as evidenced by a United States Postal Service postmark, properly addressed, with postage or charges prepaid.

Judge—A workers' compensation judge assigned by the Bureau as provided in section 401 of the act (77 P. S. § 701) or assigned by the Bureau to determine a petition filed under the Disease Law.

Party—A petitioner or respondent. An act required or authorized by this chapter, to be done by or to a party, may be done by or to that party's counsel of record.

Petitioner—Anyone seeking to review a ruling or decision by a judge or the moving party in a petition filed under Subchapter D (relating to other petitions).

Respondent—Anyone in whose favor the matter was decided by the judge or other than the moving party in any petition filed under Subchapter D.

Service—Delivery in person or by mail. If service is by mail, it is deemed complete upon deposit in the United States mail, as evidenced by a United States Postal Service postmark, properly addressed, with postage or charges prepaid.

Supersedeas—A temporary stay affecting a workers' compensation case.

(b) Subsection (a) supersedes 1 Pa. Code §§ 31.3, 31.11 and 33.34 (relating to definitions; timely filing required; and date of service).

Subchapter B. APPEALS

§ 111.11. Content and form.

(a) An appeal or cross appeal shall be filed with the Board on a form provided by the Board or on a form containing substantially the following information:

(1) The name and address of the claimant, name and address of the defendant, date of the injury, type of petition, Bureau claim number, insurance carrier and circulation date of the decision at issue.

(2) A statement of the particular grounds upon which the appeal is based, including reference to the specific findings of fact which are challenged and the errors of the law which are alleged. General allegations which do not specifically bring to the attention of the Board the issues decided are insufficient.

(3) A statement of the relief which is requested.

(4) A statement whether the petitioner seeks an opportunity to file a brief or present oral argument or whether the case should be heard on the record without brief or oral argument.

(5) Identification of the judge whose decision is in question, including as an attachment, a copy of that judge's decision.

(6) A proof of service as specified in § 111.12(d) (relating to filing, service and proof of service).

(b) An appeal or a cross appeal shall be served on all parties and the judge.

(c) A request for supersedeas, if desired, shall be indicated on the appeal and shall conform to § 111.21 (relating to content and form).

(d) Subsections (a)—(c) supersede 1 Pa. Code §§ 31.5, 33.1—33.4, 33.11, 33.12, 35.17 and 35.20.

§ 111.12. Filing, service and proof of service.

(a) An original and two copies of each appeal or cross appeal shall be filed. Only the original appeal shall have attached a copy of the judge's decision which is in question as required by § 111.11(a)(5) (relating to content and form).

(b) The petitioner shall serve a copy of any appeal upon all parties and the judge.

(c) The respondent shall serve a copy of any cross appeal upon all parties and the judge.

(d) The petitioner or respondent shall, concurrently with the filing of an appeal or a cross appeal, on a form prescribed by the Board or in substantial compliance therewith, file a proof of service with the Board containing:

(1) A statement of the date of service.

(2) The names of parties and judge served.

(3) The mailing address, the applicable zip code and the manner of service on the parties and judge served.

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 31.26, 33.15, 33.21—33.23, 33.32, 33.33 and 33.35—33.37.

§ 111.13. Processing of appeals and cross appeals.

(a) Upon receipt of an appeal or a cross appeal, the Board will acknowledge receipt to all parties. The date of acknowledgment will be 3 days subsequent to the date the acknowledgment is mailed.

(b) The Board will, in addition to acknowledging receipt of the appeal or the cross appeal, establish the briefing schedule and indicate that the appeal and the cross appeal will be scheduled for oral argument unless all parties agree to submission of the case on only briefs or record.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 33.31 (relating to service by the agency).

§ 111.14. Motions to quash.

(a) A party may submit a motion to quash an appeal or a cross appeal within 20 days of service of the appeal or the cross appeal.

(b) A motion to quash shall be served on all parties.

(c) A motion to quash shall be accompanied by a proof of service conforming to § 111.12(d) (relating to filing, service and proof of service), insofar as applicable.

(d) The Board shall dispose of a motion to quash in conformity with the procedures set forth in § 111.35 (relating to dispositions of petitions).

(e) An original and two copies of a motion to quash shall be filed.

(f) Subsections (a)—(e) supersede 1 Pa. Code §§ 31.26, 33.15, 33.32, 33.33, 33.35—33.37, 35.54 and 35.55 and also supersede Chapter 35, Subchapter D.

§ 111.15. No other pleadings allowed.

(a) Other than a motion to quash as set forth in § 111.14 (relating to motions to quash) and a cross-appeal, as set forth in § 111.11 (relating to content and form), no answer or other pleading may be filed or considered in conjunction with an appeal or a cross appeal.

(b) Subsection (a) supersedes 1 Pa. Code §§ 31.24, 31.25, 33.41, 33.42, 33.61, 35.1, 35.2, 35.5—35.7, 35.9—35.11, 35.14, 35.18, 35.19, 35.23, 35.24, 35.27—35.30, 35.35—35.41, 35.48—35.51, 35.54, 35.55, 35.211, 35.213, 35.231, 35.241 and 35.251.

§ 111.16. Briefs: content and form and time for filing.

(a) A brief on behalf of a petitioner shall be filed with the Board at or before the date of oral argument. If oral argument is waived, petitioner shall file a brief within 30 days of the date of the Board's acknowledgment of receipt of the appeal as set forth in § 111.13 (relating to processing of appeals and cross appeals).

(b) A brief on behalf of a respondent shall be filed with the Board 30 days after oral argument. Otherwise, the respondent shall file a brief with the Board within 60 days of the date of the Board's acknowledgment of receipt of the appeal as set forth in § 111.13.

(c) Upon written request of a party directed to the Secretary of the Board or upon oral request at the time of oral argument, and with notice to all parties, the Board may extend or shorten the time for filing of the party's brief only for good cause shown. A party shall present a request to extend or shorten the time at or before the date set for filing that party's brief.

(d) Briefs not filed with the Board in accordance with the schedule in this section or as modified by the Board under subsection (c), will not be considered and will result in disposition of the appeal without further notice or consideration of the brief of the party failing to comply with these deadlines or schedule.

(e) Briefs, except as otherwise allowed, shall consist of the following items, separately and distinctly set forth:

- (1) A short statement of the questions involved.
 - (2) A statement of the facts by the petitioner, or counterstatement of the facts by the respondent.
 - (3) The argument.
 - (4) A short conclusion setting forth the precise relief sought.
 - (5) A proof of service as specified in § 111.12(d) (relating to filing, service and proof of service) insofar as applicable.
- (f) An original and two copies of briefs shall be filed.
- (g) Briefs shall be served on all parties.
- (h) Subsections (a)—(g) supersede 1 Pa. Code §§ 31.15, 33.37, 35.212 and 35.221 and also supersede Chapter 35, Subchapter F.

§ 111.17. Oral argument.

(a) The Board will schedule oral argument in every appeal or cross appeal unless all parties to the appeal or the cross appeal, upon receiving the acknowledgment of

appeal or cross appeal, indicate that no oral argument is requested, or that it is waived.

(b) The Board will hear oral argument on appeals and cross appeals according to a schedule prepared in advance for each calendar year. Oral argument will be conducted in Harrisburg, Philadelphia and Pittsburgh and in other locations throughout this Commonwealth, as the Board may schedule, or, as is appropriate in the Board's judgment.

(c) Oral argument will be scheduled at the earliest possible date pursuant to the schedule as established by the Secretary of the Board.

(d) Parties shall be advised as far in advance as possible of the date of oral argument by the acknowledgment of appeal or cross appeal as specified in § 111.13(b) (relating to processing of appeals and cross appeals).

(e) Oral argument shall consist of a presentation, including rebuttal, if necessary, by the petitioner and respondent.

(f) A petitioner or respondent represented by counsel need not be present at oral argument.

(g) Oral argument may be conducted before one or more members of the Board.

(h) Subsections (a)—(g) supersede 1 Pa. Code §§ 33.51, 35.204, 35.214 and 35.221.

§ 111.18. Decisions of the Board.

(a) The decision of the Board on an appeal and a cross appeal shall be issued as promptly as possible following oral argument or the receipt of briefs, whichever occurs later.

(b) Decisions of the Board on an appeal shall be issued under section 441 of The Administrative Code of 1929 (71 P. S. § 151).

(c) Decisions of the Board will be served on all parties and the judge from whose decision the appeal was taken.

(d) Subsections (a)—(c) supersede 1 Pa. Code §§ 31.13, 31.14, 35.201—35.207 and 35.226.

Subchapter C. SUPERSEDEAS ON APPEAL TO THE BOARD AND COURTS

§ 111.21. Content and form.

(a) A request for supersedeas shall be filed as a separate petition from the appeal and be accompanied by the following:

- (1) A copy of the decision of the judge or order and opinion of the Board from which the supersedeas is requested.
- (2) A short statement setting forth reasons and bases for the request for supersedeas.
- (3) A specific statement as to the issues of law, if any, involved in the underlying appeal.
- (4) Information on the current employment status of the claimant, if known.
- (5) The court, if any, to which an appeal from the Board decision has been taken.

(6) Other relevant information for the Board's consideration in determining whether the supersedeas request meets the following standards:

- (i) The petitioner makes a strong showing that it is likely to prevail on the merits.

(ii) The petitioner shows that, without the requested relief, it will suffer irreparable injury.

(iii) The issuance of a stay will not substantially harm other interested parties in the proceeding.

(iv) The issuance of a stay will not adversely affect the public interest.

(7) A proof of service as specified in § 111.12(d) (relating to filing, service and proof of service), insofar as applicable.

(b) Requests for supersedeas shall be served on all parties.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.1, 35.2, 35.17, 35.190 and 35.225.

§ 111.22. Filing.

(a) A request for supersedeas from the judge's decision shall be filed with the Board within the time specified in section 423(a) of the act (77 P. S. § 853).

(b) A request for supersedeas from a Board order shall be filed under the applicable Pennsylvania Rules of Appellate Procedure.

(c) An original and two copies of the request for supersedeas shall be filed. Only the original request for supersedeas shall have attached a copy of the judge's decision or Board order from which the supersedeas is requested.

(d) A request for supersedeas shall be served on all the parties and be accompanied by a proof of service as specified in § 111.12(d) (relating to filing, service and proof of service).

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

§ 111.23. Answers.

(a) An answer to a request for supersedeas may be filed with the Board within 10 days of service of the request for supersedeas.

(b) An original and two copies of an answer shall be filed.

(c) An answer filed under this subsection shall be served on all parties.

(d) An answer filed under this subsection shall be accompanied by a proof of service as specified in § 111.12(d) (relating to filing, service and proof of service), insofar as applicable.

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 33.15 and 35.35 (relating to number of copies; and answers to complaints and petitions).

§ 111.24. Disposition of request for supersedeas.

(a) The Board may grant the request for supersedeas in whole or in part.

(b) The Board will rule on requests for supersedeas within 20 days of the date when the answer is due, or the request shall be deemed denied.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.190 and 35.225 (relating to appeals to agency head from rulings of presiding officers; and interlocutory orders).

Subchapter D. OTHER PETITIONS

§ 111.31. Applicability.

This subchapter applies to the following petitions or requests:

(1) A petition under section 306 of the act (77 P. S. § 513).

(2) A petition for appointment of guardian under section 307 of the act (77 P. S. § 542).

(3) A petition alleging a meretricious relationship under section 307 of the act (77 P. S. § 562).

(4) A petition for commutation under section 316 of the act (77 P. S. § 604).

(5) A petition under section 317 of the act (77 P. S. § 603).

(6) A petition for rehearing under section 426 of the act (77 P. S. § 871).

(7) A petition for attorney's fees under section 442 or 501 of the act (77 P. S. §§ 998 or 1021).

§ 111.32. Form/content.

(a) Petitions and requests shall contain and be accompanied by the following:

(1) A short statement setting forth the reasons and basis for the petition or request.

(2) The facts upon which the petition or request is based.

(3) A specific statement as to the issues of law, if any, involved in the petition or request.

(4) An explanation as to the status of the case, including the status of a pending appeal or petition before a judge, the Board or a court.

(5) The employment status of the claimant.

(6) A proof of service as specified in § 111.12(d) (relating to filing, service and proof of service), insofar as applicable.

(b) Petitions and requests shall be served on all parties and on the judge if the case is pending before a judge.

(c) An original and two copies of petitions and requests shall be filed.

(d) Subsections (a)—(c) supersede 1 Pa. Code §§ 31.5, 33.1—33.4, 33.11, 33.12, 33.15, 33.21—33.23, 35.1, 35.2 and 35.17.

§ 111.33. Specific petitions/requirements.

(a) A petition for commutation under section 316 of the act (77 P. S. § 604), in addition to the information required by § 111.32(a) (relating to form/content), shall have attached to it:

(1) The decision or document evidencing the employer/insurer's or self-insurer's responsibility to make current workers' compensation payments.

(2) The affidavit of the claimant, stipulation or other agreement signed by the parties which, if approved, will form the basis of the proposed commutation.

(3) An original and one copy of an order to be made by the Board if the commutation is approved.

(b) A petition under section 317 of the act (77 P. S. § 603), in addition to the information required by § 111.32(a), shall have attached to it:

(1) The document or agreement evidencing the annuity or trust.

(2) The stipulation or agreement, if any, entered into by the party which, if approved, would form the basis of the approval of the annuity or trust.

(3) An original and one copy of an order to be made by the Board if the annuity or trust is approved.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 33.15, 35.17 and 35.155 (relating to number of copies; petitions generally; and presentation and effect of stipulations).

§ 111.34. Answers to petitions.

(a) An answer to a petition or request may be filed with the Board within 20 days of service of the petition or request.

(b) An original and two copies of an answer shall be filed.

(c) An answer filed shall be served on all parties.

(d) An answer filed shall be accompanied by a proof of service as specified in § 111.12(d) (relating to filing, service and proof of service), insofar as applicable.

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 33.15 and 35.35 (relating to number of copies; and answers to complaints and petitions).

§ 111.35. Dispositions of petitions.

(a) The Board will allow and consider briefs which are submitted simultaneously with the petition or request or answer thereto. A brief which is not submitted simultaneously with the petition, request or answer thereto, will not be considered by the Board and the petition or request may be determined on the petition or request and answer thereto without further argument or brief.

(b) A brief submitted with a petition, request or answer thereto shall conform to the requirements of § 111.16(e)—(g) (relating to briefs).

(c) Oral argument on a petition may be scheduled at the discretion of the Board. Parties will be notified of the scheduling of oral argument as far in advance of the argument date as possible. The scheduling and conduct of oral argument will conform to the requirements of § 111.17 (relating to oral argument).

(d) The Board may, if appropriate, or will, if required by law, refer a petition or request to a judge for conducting hearings, preparing findings or proposed orders. Thereafter, the petition or request shall, if appropriate or required, be returned to the Board.

(e) Subsections (a)—(d) supersede 1 Pa. Code Chapter 35, Subchapters B, C, E and I.

CHAPTER 131. SPECIAL RULES OF ADMINISTRATIVE PRACTICE AND PROCEDURE BEFORE WORKERS' COMPENSATION JUDGES

Subchapter A. GENERAL PROVISIONS

§ 131.1. Purpose.

(a) The purpose of this chapter is to promote, consistent with fairness and due process, the orderly and expeditious determination of proceedings before judges under the act and the Disease Law to implement the remedial intent of the act and the Disease Law.

(b) Subsection (a) supersedes 1 Pa. Code § 31.2 (relating to liberal construction).

§ 131.2. Scope.

(a) This chapter applies to proceedings before judges under the act and the Disease Law.

(b) Subsection (a) supersedes 1 Pa. Code § 31.1 (relating to scope of part).

§ 131.3. Waiver and modification of rules.

(a) The judge may, for good cause, waive or modify a provision of this chapter upon motion of a party, agreement of all parties or upon the judge's own motion.

(b) Subsection (a) supersedes 1 Pa. Code §§ 33.61, 35.18, 35.54 and 35.55 and also supersedes 1 Pa. Code Chapter 35, Subchapter D.

§ 131.4. Applicability of General Rules of Administrative Practice and Procedure.

(a) This chapter is intended to supersede 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure). The General Rules of Administrative Practice and Procedure are not applicable to activities of and proceedings before judges.

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

§ 131.5. Definitions.

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

Act—The Pennsylvania Workers' Compensation Act (77 P. S. §§ 1—1041.4 and 2501—2506).

Additional defendant—An insurance carrier, the Commonwealth or an employer, other than the insurance carrier or employer against which the original petition was filed, joined under this chapter.

Bureau—The Bureau of Workers' Compensation of the Department.

Bureau record—Official copies of documents received by the Bureau, on forms prescribed by the Bureau, if forms prescribed by the Bureau are available, or official copies of documents received by the Bureau on forms prepared by a party if no forms prescribed by the Bureau are available, which record transactions between the parties and which are determined by the judge to pertain to the case.

Challenge proceeding—A proceeding governed by § 131.50a (relating to employee request for special supersedeas hearing under section 413(c) and (d) of the act).

Claimant—An individual who files a petition for, or otherwise receives, benefits under the act or the Disease Law.

Defendant—An employer, insurance carrier and the Commonwealth, unless specifically designated individually.

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

Disease Law—The Pennsylvania Occupational Disease Act (77 P. S. §§ 1201—1603).

Insurer—A workers' compensation insurance carrier or self-insured employer, as applicable.

Judge—A workers' compensation judge assigned by the Bureau as provided in section 401 of the act (77 P. S. § 701) or assigned by the Bureau to determine a petition filed under the Disease Law.

Party—A claimant, defendant, employer, insurance carrier, additional defendant and, if relevant, the Commonwealth. An act required or authorized by this chapter, to be done by or to a party, may be done by or to that party's counsel of record.

Penalty proceeding—A proceeding governed by section 435(d) of the act (77 P. S. § 991(d)).

Records of work environment—Records and documents relating to work place health, safety, hazards and exposure, including records or documents which may be obtained under the Worker and Community Right-to-Know Act (35 P. S. §§ 7301—7320) and 29 CFR 1901.1—1928.1027 (relating to Occupational Safety and Health Administration, Department of Labor).

Statement previously made—A written statement signed or otherwise adopted or approved by the persons making it, or a stenographic, mechanical, electrical, computer-generated or other recording, or transcription thereof, which is a substantially verbatim recital of an oral statement by the person making it and contemporaneously recorded. The term does not include statements made by parties which are protected by the attorney-client privilege or which are protected as the work product of counsel.

Supersedeas—A temporary stay affecting a workers' compensation case.

(b) Subsection (a) supersedes 1 Pa. Code §§ 31.3 and 33.33 (relating to definitions; effect of service upon an attorney).

Subchapter B. TIME

§ 131.11. Filing, service and proof of service.

(a) Whenever filing is required by this chapter, it is deemed complete upon delivery in person or, if by mail, upon deposit in the United States Mail, as evidenced by a United States Postal Service postmark, properly addressed, with postage or charges prepaid.

(b) Whenever service is required by this chapter, it is deemed complete upon delivery in person or, if by mail, upon deposit in the United States Mail, as evidenced by a United States Postal Service postmark, properly addressed, with postage or charges prepaid, except as provided in § 131.81(b) (relating to subpoenas).

(c) Any notice or other written communication required to be served upon or furnished to a party shall also be served upon or furnished to the party's attorney in the same manner as it is served upon the party.

(d) Whenever a proof of service is required by this chapter, the proof of service shall contain the following:

- (1) A statement of the date of service.
- (2) The names of the judge and others served.
- (3) The mailing address, the applicable zip code and the manner of service on the judge and others served.

(e) Unless otherwise specifically provided in this chapter, whenever the filing or service is required to be made upon the Bureau, it shall be made to the principal office of the Bureau at: 1171 South Cameron Street, Harrisburg, Pennsylvania 17104-2501, (717) 783-5421, or another address and telephone number as may be published in the *Pennsylvania Bulletin*.

(f) Subsections (a)—(e) supersede 1 Pa. Code §§ 31.5, 31.11, 31.13, 31.14, 31.26, 33.32 and 33.34—33.36.

§ 131.12. Modification of time.

(a) Except for answers to petitions as set forth in § 131.33 (relating to answers except answers to petitions for joinder and challenge proceedings), the time fixed or the period of time prescribed in this chapter may, in the exercise of sound discretion and for good cause, be

shortened or extended by the judge upon the judge's motion or at the request of a party.

(b) Modifications of time, other than continuances or postponements of hearings, will be governed by the following:

(1) Requests for extensions of time shall be filed at least 3 days before the time specified or as shortened or extended. Requests made within 3 days prior to the time specified or as shortened or extended may be considered if the judge is satisfied that the circumstances relating to the request occurred within those 3 days. After the expiration of the time specified, the act may be permitted to be done if reasonable grounds are shown for the failure to act within the time specified or as previously shortened or extended.

(2) Requests for extensions of time shall be made in writing and state the facts upon which the request rests. During the course of a hearing, the request may be made by oral motion to the judge.

(3) Requests for extensions of time, except those made orally at a hearing, shall be filed with the judge, served upon all parties, and a proof of service of same shall be filed with the judge.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 31.6, 31.11, 31.15 and 35.18.

§ 131.13. Continuances or postponements of hearings.

(a) It is the intent of this chapter to discourage repeated continuances or postponements of hearings.

(b) Parties shall make every effort to avoid continuances or postponements by the prompt scheduling and submission of expert and medical testimony and by the prompt presentation of lay testimony.

(c) A continuance or postponement may be granted as set forth in this chapter for substantial or compelling reasons at the discretion of the judge, if the continuance or postponement is consistent with this chapter and its purpose of providing an orderly and expeditious determination of proceedings before judges.

(d) Requests for a continuance or postponement shall be:

- (1) Made in writing or at a hearing. If not made in writing or at a hearing, confirmed in writing as required by this subsection and served as required by subsection (h).
- (2) Made not later than 10 calendar days prior to the hearing date, except as set forth in subsection (f).

(e) Prior to the request for a continuance or a postponement, the party requesting the continuance or postponement shall ascertain the position of all counsel of record and unrepresented parties in the case relating to the continuance or postponement and shall advise the judge of the foregoing at the time of the request.

(f) A request for a continuance or postponement made within 10 calendar days prior to the hearing date will not be considered unless the judge is satisfied that circumstances relating to the requested continuance or postponement occurred within 10 calendar days of the hearing date.

(g) Requests for a continuance or postponement or written confirmation of the continuance or postponement shall contain at least the following information:

- (1) The identity of the requesting party.

(2) A detailed statement of the position of all counsel of record and unrepresented parties on the request for a continuance or postponement or an explanation of why counsel of record or unrepresented parties could not be contacted.

(3) A detailed statement of the reasons why the continuance or postponement is requested and the date on which the need to request a continuance or postponement arose.

(4) A summary of prior continuances or postponements in the case, at whose request the continuances or postponements were granted and the position of other parties in each continuance or postponement.

(h) A party requesting or confirming in writing a request for a continuance or a postponement other than a request made at a hearing shall serve a copy of the request or the confirmation upon all counsel of record, unrepresented parties and the judge. Counsel requesting or confirming in writing a request for a continuance or a postponement shall serve a copy of the request or confirmation on counsel's client.

(i) Anyone requesting a continuance or postponement shall concurrently with the service of the request or the confirmation file a proof of service with the judge.

(j) In ruling on requests for a continuance or postponement, the judge may consider one or more of the following, giving consideration to subsection (a):

(1) The positions of the various parties relating to the request for a continuance or postponement.

(2) The number of prior continuances or postponements or denials of continuances or postponements and at whose request they were granted or denied.

(3) Whether the requested continuance or postponement will work an undue hardship on a party.

(4) The unavailability of the parties, witnesses or counsel.

(5) The illness or death of the parties or counsel or members of their immediate families.

(6) The desirability of unrepresented parties obtaining counsel.

(7) The necessity to replace the services of an expert witness who becomes unavailable.

(8) Another reason deemed to be substantial or compelling by the judge and consistent with this chapter and the purposes of the act and the Disease Law.

(k) A scheduling conflict in another tribunal may be considered but may or may not be determinative.

(l) If a continuance or a postponement is granted, the judge may impose conditions and direct action by the parties which the judge deems reasonable under the circumstances.

(m) In addition to the conditions and actions referred to in subsection (l), the judge may:

(1) Determine why the proceeding should not be dismissed for lack of prosecution or grant the relief sought without the receipt of further evidence or testimony upon the making of appropriate findings of fact.

(2) Schedule a hearing to determine whether to impose penalties under section 435(d) of the act (77 P. S. § 991(d)) and issue an appropriate written order.

(3) Issue a written order modifying in whole or in part a supersedeas ordered or denial previously entered or

modifying an order previously entered upon a showing of compliance with the directions of the judge.

(4) Issue a written order at the end of the case, in the case of a claim petition, with appropriate findings of fact, directing that interest be disallowed. The judge may limit the disallowance of interest to a specified period on good cause shown.

(5) Issue a written order with appropriate findings of fact closing the record and deciding a case if a party has unreasonably delayed the proceeding.

(n) Subsections (a)—(m) supersede 1 Pa. Code §§ 31.15, 33.33 and 35.102 (relating to extensions of time; effect of service upon an attorney; and hearing calendar).

§ 131.15. Computation of time.

(a) Except as otherwise provided by law, in computing a period of time prescribed or allowed by this chapter, the day of the act, event or default after which the designated period of times begins to run may not be included. The last day of the period so computed shall be included, unless it is Saturday, Sunday or a legal holiday in this Commonwealth, in which event the period shall run until the end of the next day which is neither a Saturday, Sunday nor a legal holiday. A part-day holiday shall be considered as other days and not as a legal holiday. Intermediate Saturdays, Sundays and legal holidays shall be included in the computation.

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

Subchapter C. FORMAL PROCEEDINGS

GENERAL

§ 131.21. Identifying number.

(a) Pleadings, documents and other submittals filed in a proceeding shall be identified by an identifying number assigned by the Bureau.

(b) Subsection (a) supersedes 1 Pa. Code § 31.5, 33.1 and 33.51 (relating to communications and filings generally; title; and docket).

§ 131.22. Transfer of cases or petitions on agreement of all parties.

(a) If the transfer of the case is agreed to by the Bureau, the parties and the judge, the Bureau will promptly reassign the case or petition. Notice of reassignment will be given to all parties.

(b) Transfer or reassignment under subsection (a) will take place prior to the date of the first hearing unless circumstances dictate otherwise.

§ 131.24. Recusal of judge.

(a) The judge may recuse himself on the judge's own motion.

(b) A party may file a motion for recusal, which shall be addressed to the judge to whom the proceeding has been assigned. The judge will conduct an evidentiary hearing and issue a decision within 15 days following receipt of the evidentiary hearing transcript and post-hearing submissions of the parties. The decision will be interlocutory, unless the judge certifies the record for immediate appeal to the Board.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.54, 35.55, 35.186, 35.190 and 35.225 and also supersede 1 Pa. Code, Subchapter D.

§ 131.30. Consolidation.

(a) Where proceedings involve a common question of law or fact, the judge may consolidate the proceedings for hearing on all matters in issue, and may make any appropriate orders concerning the conduct of the proceedings to avoid any unnecessary costs or delay.

(b) Subsection (a) supersedes 1 Pa. Code § 35.45 (relating to consolidation).

PLEADINGS

§ 131.31. Form of pleadings.

(a) All proceedings, except challenges under sections 413(c) and 413(d) of the act (77 P. S. §§ 774.2 and 774.3), shall be initiated by petition.

(b) Subsection (a) supersedes 1 Pa. Code §§ 33.1—33.4, 33.11, 33.12 and 35.17.

§ 131.32. Petitions except petitions for joinder and challenge proceedings.

(a) Petitions shall be in the form prescribed by the Bureau.

(b) If the petition is filed on a Bureau petition form, an original and the number of copies specified on the petition form shall be filed with the Bureau. If there is no applicable Bureau petition form available, an original of the petition shall be filed with the Bureau. The Bureau will serve a notice of assignment specifying the judge to whom the petition has been assigned. The notice will be served on the parties named in the petition.

(c) Concurrently with filing the petition with the Bureau, the moving party shall serve a copy of the petition on all other parties, including the insurance carrier, if the insurance carrier is known, and on the attorneys of all other parties, if the attorneys are known.

(d) The material facts on which a cause of action or defense is based shall be stated in a concise and summary form.

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 31.26, 33.15, 33.21—3.23, 33.31, 33.32, 33.37, 35.1, 35.2, 35.5—35.7, 35.9—35.11, 35.14, 35.17—35.20, 35.23, 35.24 and 35.27—35.32.

§ 131.33. Answers except answers to petitions for joinder and challenge proceedings.

(a) Answers to all petitions except petitions for joinder and challenge proceedings shall be filed in accordance with section 416 of the act (77 P. S. § 821) within 20 days after the date of assignment by the Bureau to the judge.

(b) If the answer is filed on a Bureau answer form, an original and the number of copies specified on the answer form shall be filed with the judge to whom the petition has been assigned. If there is no applicable Bureau answer form available, an original of the answer shall be filed with the judge to whom the petition has been assigned.

(c) Concurrently with filing the answer with the judge, the responding party shall serve a copy of the answer on unrepresented parties and on counsel of record.

(d) An answer shall admit or deny each averment of fact in the petition or any part of the averment to which it is responsive. A party denying only a part of the averment shall specify so much of it as is admitted and shall deny the remainder. Where applicable, admissions and denials in an answer shall refer to the specific paragraph in which the averment admitted or denied is set forth.

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 33.15, 33.37, 35.35—35.41, 35.54, 35.55 and 35.161 and also supersede 1 Pa. Code Chapter 35, Subchapter D.

§ 131.34. Other filings.

(a) Unless otherwise specifically provided by this chapter, the party filing or submitting a document to the judge shall serve an original on the judge and shall serve a copy on unrepresented parties and counsel of record.

(b) Subsection (a) supersedes 1 Pa. Code §§ 31.24, 31.25, 33.42, 35.51 and 35.169.

§ 131.35. Amendments to pleadings.

(a) A party has the right to amend a pleading at any time in a proceeding before a judge, unless the judge determines that another party has established prejudice as a result of the amendment.

(b) Subsection (a) supersedes 1 Pa. Code §§ 33.41, 33.42, 35.40 and 35.48—35.51.

§ 131.36. Joinder.

(a) A party desiring to join another defendant to assert a claim relevant to the pending petition may do so as a matter of right by filing a petition for joinder.

(b) A petition for joinder shall set forth the identity of employers and insurance carriers sought to be joined and the reasons for joining a particular employer or insurance carrier as well as the specific facts and the legal basis for the joinder.

(c) The petition for joinder shall have attached to it copies of petitions and answers previously filed and a list of the dates and locations of all prior hearings held and depositions taken.

(d) An original and the number of copies specified on the Bureau petition for joinder form shall be filed no later than 20 days after the first hearing at which evidence is received regarding the reason for which joinder is sought, unless the time is extended by the judge for good cause shown.

(e) The petition for joinder shall be filed with the Bureau and an original of any answer shall be filed with the office of the judge to whom the case has been assigned.

(f) An answer to a petition for joinder shall be filed in accordance with section 416 of the act (77 P. S. § 821) within 20 days after the date of assignment by the Bureau to the judge and may include a motion to strike.

(g) A party filing a petition for joinder or an answer to it shall serve unrepresented parties and counsel of record.

(h) A proof of service shall be attached to the petition for joinder or answer.

(i) After joinder, the original petition shall be deemed amended to assert a claim of the claimant against an additional defendant. The additional defendant is liable to any other party as the judge orders. The additional defendant shall have the same rights and responsibilities under this chapter as the original defendant.

(j) The judge may strike the petition for joinder, and the judge may order the severance or separate hearing of a claim presented therein, or as a result of the joinder.

(k) The judge will issue an order when the motion to strike a petition for joinder is granted.

(l) An order to strike a petition for joinder does not preclude or delay further proceedings before the judge.

(m) Subsections (a)—(l) supersede 1 Pa. Code §§ 31.5, 33.41, 33.42, 35.11, 35.35, 35.40, 35.48—35.51, 35.54 and 35.55 and also supersede 1 Pa. Code Chapter 35, Subchapter D.

§ 131.40. Frivolous pleadings.

If a judge determines after a hearing that a petition or other pleading is frivolous, the judge may, upon the judge's own motion or upon motion by a party, issue a decision dismissing the petition or pleading or issue some other decision within the judge's discretion.

SUPERSEDEAS

§ 131.41. Request for supersedeas or reconsideration of supersedeas.

(a) When a petition contains a request for supersedeas, or when a request for supersedeas is made, the judge may rule on the request only after a hearing.

(b) After a hearing, the judge may grant or deny the request for supersedeas in whole or in part. The grant or denial may be for specified or indefinite periods and may be subject to conditions that the judge orders to implement the intent of the act, Disease Law or this chapter. If a supersedeas has been granted or denied in whole or in part, the judge may, upon request and after hearing, review and modify the grant or denial as warranted.

(c) The decision of a judge on a request for or reconsideration of a supersedeas is an interlocutory order.

(d) Subsections (a)—(c) supersede 1 Pa. Code §§ 35.190 and 35.225 (relating to appeals to agency head from rulings of presiding officers; and interlocutory orders).

§ 131.42. Evidence relating to supersedeas.

(a) A party has the right to submit, and the judge may consider, one or more of the following solely in relation to a request for supersedeas.

- (1) Testimony of a party or witness.
- (2) The report of a physician.
- (3) The records of a physician, hospital, clinic or similar entity.
- (4) The written statements or reports of another person expected to be called by a party at the hearing of the case.
- (5) The report of an organization or governmental body or agency stating the right of the claimant to receive, be denied, have increased or decreased benefits, and the amount of the benefits being paid or payable to the claimant.
- (6) Other materials relevant to the request for supersedeas.

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.137, 35.138, 35.161, 35.162 and 35.166.

§ 131.43. Disposition of request for supersedeas.

(a) The judge hearing the request for supersedeas will, within 14 days of the hearing, issue a written decision on the request for supersedeas, if granted. Unless a supersedeas is granted by a written order, it will be deemed denied from the date of filing of the request.

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.190 and 35.225 (relating to appeals to agency head from rulings of presiding officers; and interlocutory orders).

§ 131.49. Disposition of automatic request for special supersedeas under section 413(a.1) of the act (77 P. S. § 774(1)).

(a) The filing of a petition alleging full recovery, accompanied by a physician's affidavit to that effect, which was

prepared in connection with an examination of the employee no more than 21 days from the filing of the petition, shall act as an automatic request for supersedeas.

(b) A special supersedeas hearing will be held within 21 days of the assignment of the petition filed under this section.

(c) The judge will approve the request for supersedeas if prima facie evidence of a change in the medical status or of any other fact which would serve to modify or terminate the payment of compensation is submitted at the hearing, unless the employee establishes by a preponderance of the evidence a likelihood of prevailing on the merits of the employee's defense. In making this determination the judge will consider the physician's affidavit alleging full recovery and may consider the following:

- (1) The report of the physician.
- (2) The testimony of a party or witness.
- (3) The records of a physician, hospital or clinic or other similar entity.
- (4) The written statements or reports of another person expected to be called by a party at the hearing of the case.
- (5) Other evidence relevant to the request for supersedeas.

(d) If the judge to whom the special supersedeas request has been assigned fails to hold a hearing within 21 days of assignment of the request to the judge or fails to issue a written order within 7 days of the hearing of the supersedeas request, the automatic request for supersedeas will be deemed denied. The automatic request for supersedeas will remain denied until the judge issues a written order granting the supersedeas, in whole or in part.

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 35.137, 35.138, 35.161, 35.162, 35.166, 35.190 and 35.225.

§ 131.50. Return to work-modification or suspension.

(a) If an employee returns to work, the insurer may modify or suspend the workers' compensation benefits.

(b) The insurer shall complete and file the form prescribed by the Bureau. The form shall be provided to the employee, employee's counsel, if known, and the Bureau within 7 days of the effective date of the suspension or modification of the workers' compensation benefits.

(c) When the insurer previously modified or suspended the employee's benefits under sections 413(c) or 413(d) of the act (77 P. S. §§ 774.2 and 774.3), to effectuate a subsequent modification or suspension of the employee's workers' compensation benefits, the insurer shall file the form specified in subsection (b), indicating the change in the employee's wages and corresponding change in the employee's workers' compensation benefits.

(d) Subsections (a)—(c) supersede 1 Pa. Code § 33.33 (relating to effect of service upon an attorney).

§ 131.50a. Employee request for special supersedeas hearing under section 413(c) and (d) of the act.

(a) This section governs the disposition of an employee's request for a special supersedeas hearing made in connection with a challenge to the suspension or modification of

workers' compensation benefits under sections 413(c) and 413(d) of the act (77 P. S. §§ 774.2 and 774.3).

(b) A special supersedeas hearing will be held within 21 days of the employee's filing of the notice of challenge.

(c) The judge to whom the notice of challenge has been assigned will issue a written order on the challenge within 14 days of the hearing.

(d) If the judge fails to hold a hearing within 21 days or fails to issue a written order approving the suspension or modification of benefits within 14 days of the hearing, the insurer shall reinstate the employee's workers' compensation benefits at the weekly rate the employee received prior to the insurer's suspension or modification of benefits under sections 413(c) or 413(d) of the act (77 P. S. §§ 774.2 and 774.3).

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 35.161, 35.162, 35.190 and 35.225.

HEARING PROCEDURE

§ 131.51. Assembly of medical records.

The moving party shall assemble medical records to the extent practical prior to the filing of a petition.

§ 131.52. First hearing procedures.

(a) The purpose of this chapter is to provide a fair and prompt hearing process, to allow all parties to introduce appropriate evidence and to receive a timely decision from the judge. Where practicable and appropriate, the entire record relating to any petition shall be completed at the initial hearing.

(b) The hearing process may differ based upon several variables including geographic location, number of parties involved, case volume and availability of experts for testimony.

(c) The hearing process chosen in any specific case, including a determination of whether testimony will be accepted at the initial hearing, is within the discretion of the judge.

(d) The moving party, at the first hearing, shall advise the judge and opposing parties of the following:

- (1) Allegations and issues of fact and law involved in the moving party's petition.
- (2) Proposed amendments to pleadings.
- (3) Stipulations of fact.
- (4) Names, addresses and method of presentation of witnesses.
- (5) Whether the items and information specified in § 131.61(a) (relating to exchange of information), which are intended to be used as evidence or exhibits, have been provided to the responding party at or before the first hearing.
- (6) Dates of depositions.
- (7) Estimate of hearing time.
- (8) Other subjects which may aid in the disposition of the proceeding.

(e) The moving party, at the first hearing, unless otherwise directed by the judge, shall offer and have marked for identification available exhibits of the moving party.

(f) The parties shall provide the judge with all documents required by law to be filed with the Bureau and which are relevant to issues in dispute with the same injury date and pertaining to the same claim. The judge

will place those documents in evidence along with any other documents required to be filed by law with the Bureau or prior judges and which the judge deems relevant to the proceeding. The judge and the employee may not introduce the Employer's Report of Occupational Injury or Disease into evidence.

(g) Evidence furnished under this section does not become part of the record, unless otherwise admissible.

(h) Unless otherwise ordered by the judge, the moving party shall present testimony.

(i) Subsections (a)—(h) supersede 1 Pa. Code §§ 35.101—35.106, 35.111—35.116, 35.121—35.128, 35.137, 35.138, 35.155 and 35.161—35.169.

§ 131.53. Procedures subsequent to the first hearing.

(a) Within 45 days after the date of the first hearing actually held, the responding party shall comply with § 131.52(d) (relating to first hearing procedures) and shall submit, in writing, to the judge, with copies to counsel of record and unrepresented parties, the items and information specified in § 131.52(d).

(b) The responding party, in accordance with the directions of the judge, shall offer and have marked for identification the responding party's exhibits.

(c) The judge may issue an order directing the parties to proceed with the litigation in a manner that promotes expeditious resolution and avoids delay.

(d) A party wishing to present testimony in the form of rebuttal or surrebuttal shall notify the judge in writing within 21 days after conduct of the hearing or deposition at which the testimony to be rebutted or surrebutted has been given.

(e) Following a request to present rebuttal or surrebuttal testimony, the testimony shall be presented at a hearing or deposition provided the testimony shall be taken no later than 45 days after the conclusion of the case of the party presenting the testimony or evidence to be rebutted or surrebutted.

(f) Dates of the medical examinations, if not scheduled prior to the first hearing actually held, shall be scheduled within 45 days after the first hearing actually held.

(g) Subsections (a)—(f) supersede 1 Pa. Code §§ 35.101—35.106, 35.111—35.116, 35.121—35.128, 35.137, 35.138, 35.155 and 35.161—35.169.

§ 131.53a. Consolidated hearing procedure.

(a) One day trials or other consolidated hearing procedures may be scheduled and conducted pursuant to these rules to the extent practical. The judge may waive or modify these rules as may be appropriate and adopt and direct procedures which are fair and just for a determination of the issues.

(b) Subject to § 131.3(a) (relating to waiver and modification of rules) in cases proceeding under a consolidated hearing procedure:

- (1) Upon request, or on the judge's own motion, testimony from a party or witness may be taken by a trial deposition prior to the obligation of a party to conduct medical depositions, or at another appropriate time to clarify the issues.
- (2) Upon request, a party shall have the opportunity to testify before the judge at the pretrial or other hearing

prior to the obligation of a party to conduct medical depositions, or at another appropriate time to clarify the issues.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.101—35.106, 35.111—35.116, 35.121—35.128, 35.137, 35.138, 35.155 and 35.161—35.169.

§ 131.54. Manner and conduct of hearings.

(a) The judge will conduct fair and impartial hearings and maintain order. At the discretion of the judge, the hearings may be conducted by telephone or other electronic means if the parties do not object. Disregard by participants or counsel of record of the rulings of the judge shall be noted on the record, and if the judge deems it appropriate, will be made the subject of a written report to the Bureau's Director of Adjudication together with recommendations.

(b) If the participants or counsel are guilty of disrespectful, disorderly or contumacious language or conduct in connection with a hearing, the judge may suspend the hearing or take other action as the judge deems appropriate, including the submission of a written report to the Bureau's Director of Adjudication together with recommendations.

(c) A witness whose identity has not been revealed as provided in this chapter may not be permitted to testify on behalf of the defaulting party unless the testimony is allowed within the judge's discretion.

(d) In addition to subsections (a)—(c), the judge may proceed under § 131.13(m) (relating to continuances or postponements of hearings).

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 31.21—31.23, 31.27 and 31.28 and also supersede 1 Pa. Code Chapter 35, Subchapter E.

§ 131.55. Attorney fees and costs.

(a) Under section 440 of the act (77 P. S. § 996), in a disputed claim under the act when the employer or insurer has contested liability in whole or in part, the employee or a dependent, in whose favor the proceeding has been finally decided, will be awarded attorney fees and costs against the employer or insurer, unless the employer or insurer had a reasonable basis for contesting the petition.

(b) Claimant's counsel may file an application for quantum meruit fees at or before the filing of proposed findings of fact, proposed conclusions of law and briefs, and if there are no proposed findings of fact, proposed conclusions of law or briefs requested, at or before the close of the record. The application shall detail the calculation of the fee requested, shall itemize the services rendered and time expended and shall address all factors enumerated in section 440 of the act (77 P. S. § 996) in support of the application.

(c) Within 15 days after service of the application for quantum meruit fees, an opposing party may file a response to the application detailing the objections to the fee requested.

(d) A decision on the fee award will be made based on the record of the case and, if filed, the application and response. If deemed appropriate by the judge, a hearing may be held and evidence presented.

(e) The application and response will be made exhibits of record and shall be served on unrepresented parties and counsel of record as provided in § 131.34(a) (relating to other filings).

(f) Subsections (a)—(e) supersede 1 Pa. Code §§ 35.1 and 35.2 (relating to applications generally; and contents of applications).

§ 131.57. Compromise and release agreements.

(a) Under section 449 of the act (77 P. S. § 1000.5), upon or after filing a petition, the parties may engage in a compromise and release of any and all liability which is claimed to exist under the act on account of injury or death, subject to approval by the judge after consideration at a hearing.

(b) Proposed compromise and release agreements, including the stipulations of the parties, shall be recorded on a form prescribed by the Bureau. The parties may attach additional information to the form if circumstances so require.

(c) If another petition is pending before a judge at the time of the agreement of the parties to compromise and release the claim, any party may, in writing, request the judge to schedule a hearing on the proposed compromise and release agreement. The written request will be treated as an amendment of the pending matter to a petition to seek approval of a compromise and release agreement.

(d) The judge will expedite the convening of a hearing on the compromise and release agreement. The judge will circulate a written decision on the proposed compromise and release agreement within 30 days after the hearing.

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 33.42, 35.40, 35.41, 35.48—35.51, 35.101—35.106, 35.111—35.116, 35.121—35.128 and 35.155.

§ 131.58. Informal conferences.

(a) Under section 402.1 of the act (77 P. S. § 711.1), the parties upon, or after, filing a petition may agree to participate in an informal conference.

(b) All parties shall agree to participate in the informal conference.

(c) The request for the informal conference shall be recorded on a form prescribed by the Bureau and filed with the judge to whom the pending petition has been assigned.

(d) If no petition is pending, a petition and corresponding request for the informal conference shall be filed with the Bureau on a form prescribed by the Bureau.

(e) The informal conference will be governed by the instructions and procedures specified on the form prescribed by the Bureau and by section 402.1 of the act (77 P. S. § 711.1).

(f) The request shall be served on all parties and the adjudicating judge.

(g) Subsections (a)—(f) supersede 1 Pa. Code §§ 31.21—31.23 and 35.111—35.116.

EXCHANGE OF INFORMATION AND DEPOSITIONS AND DISCOVERY

§ 131.61. Exchange of information.

(a) Parties shall exchange all items and information, including medical documents, reports, records, employment records, wage information, affidavits, tapes, films and photographs, lists of witnesses, CD ROMs, diskettes and other digital recordings, to be used in or obtained for the purpose of prosecuting or defending a case, unless the foregoing are otherwise privileged or unavailable, whether or not intended to be used as evidence or exhibits.

(b) The moving party shall provide the items and information referred to in subsection (a) to the responding party prior to the commencement of the first pretrial hearing or hearing actually held. The responding party shall provide the items and information referred to in subsection (a) to the moving party no later than 45 days after the first pretrial hearing or hearing actually held.

(c) A witness whose identity has not been revealed as provided in subsections (a) and (b) may not be permitted to testify on behalf of the defaulting party unless the testimony is allowed within the judge's discretion.

(d) An item or information not exchanged as provided in subsections (a) and (b), which becomes available after the times set forth in subsection (b) shall be exchanged within 15 days after receipt by the party of the item or information.

(e) Statements, documents or other records required to be provided by this chapter, if not provided within the time periods in this chapter or modified under § 131.12 (relating to modification of time), will not be admitted, relied upon or utilized in the proceedings or judge's rulings, as appropriate.

(f) Failure to comply with this section may result in the application of § 131.13(m) (relating to continuances or postponements of hearings).

(g) Subsections (a)—(f) supersede 1 Pa. Code §§ 35.161 and 35.162 (relating to form and admissibility of evidence; and reception and ruling on evidence).

§ 131.62. Oral depositions.

(a) The oral deposition of a witness other than a party may be taken and, if taken, may be used only as evidence at hearings. Depositions for discovery may be taken only as provided in § 131.68 (relating to discovery of records).

(b) The oral deposition of a party may be taken only upon approval of the judge and, if taken, may be used only as evidence.

(c) Depositions may be taken by telephone or other electronic means upon agreement of counsel of record and unrepresented parties or, upon motion, as directed by the judge.

(d) Subsections (a)—(c) supersede 1 Pa. Code §§ 35.145—35.152.

§ 131.63. Time for taking oral depositions.

(a) An oral deposition may be taken at any time subsequent to 30 days after the date of service of the petition by the Bureau.

(b) Oral depositions shall be completed so as not to delay unreasonably the conclusion of the proceedings, and within a time schedule agreed upon by the parties and approved by the judge provided that medical depositions shall be completed as specified in subsections (c) and (e).

(c) The deposition of a medical expert testifying for the moving party shall be taken within 90 days of the date of the first hearing scheduled unless the time is extended or shortened by the judge for good cause shown. The deposition of a medical expert testifying for the responding party shall be taken within 90 days of the date of the deposition of the last medical expert testifying on behalf of the moving party.

(d) A party wishing to present depositions for rebuttal or surrebuttal shall notify the judge in writing within 21 days after the conduct of the hearing or deposition at which the testimony to be rebutted or surrebutted has been given.

(e) Depositions for rebuttal or surrebuttal shall be taken in accordance with § 131.53(e) (relating to procedures subsequent to the first hearing).

(f) If a party fails to abide by the time limits established by this section for submitting evidence, the evidence will not be admitted, relied upon or utilized in the proceedings or the judge's rulings.

(g) Subsections (a)—(f) supersede 1 Pa. Code §§ 35.145—35.152, 35.161 and 35.162.

§ 131.64. Notice of oral depositions.

(a) The notice of an oral deposition shall be served at least 20 days prior to the date scheduled for the taking of the deposition.

(b) The notice of an oral deposition shall contain the following:

(1) The name or identity, address and occupation of the witness.

(2) The date, time and place of the taking of the oral deposition.

(3) A statement of a relevant reason for the taking of the oral deposition.

(4) The following legend:

Notice to Parties and/or Witness:

You may object to this oral deposition by mailing or delivering a letter listing your objections to (name and address of party scheduling deposition) at least 10 days before (date of deposition).

(c) The notice of an oral deposition shall be served by the party scheduling the deposition upon each witness to be deposed, counsel of record, unrepresented parties and the judge.

(d) Subsections (a)—(c) supersede 1 Pa. Code §§ 33.33 and 35.145—35.152.

§ 131.65. Objections to taking of oral depositions.

(a) A party or witness may object to the oral deposition by serving, at least 10 days prior to the scheduled date of the oral deposition, a written notice upon the party who has scheduled the oral deposition, counsel of record, unrepresented parties and the judge. The objections shall state the specific reason supporting the objections. The objections shall stay the deposition until it is ordered to be held by the judge.

(b) A party or witness may request a ruling on objections by filing a written request with the judge, which shall be accompanied by a copy of the notice of an oral deposition, any subpoena and the objections lodged as required by subsection (a). The requesting party shall serve a copy of the request for ruling on counsel of record, unrepresented parties and the objecting witnesses.

(c) Upon receipt of a request for ruling, as specified in subsection (b), the judge will, after giving parties and objecting witnesses notice and opportunity to be heard by written submission, in person, or by telephone conference, as the judge may direct, rule on the objections within 5 business days after the parties and objecting witnesses are heard.

(d) Subsections (a)—(c) supersede 1 Pa. Code §§ 35.145—35.152.

§ 131.66. Admissibility of oral depositions.

(a) Oral depositions taken in accordance with §§ 131.62—131.65 (relating to oral depositions) or upon waiver of the formal requirements of those sections by

agreement of all parties, will be admissible at the time of hearing or by mail if allowed by the judge in the same manner as if the deponent appeared before the judge and testified.

(b) Objections shall be made and the basis for the objections stated at the time of the taking of the depositions. Only objections which are identified in a separate writing, introduced prior to the close of the evidentiary record, as close of the record is specified in §§ 131.101(c), 131.101(d) and 131.101(e) (relating to briefs, findings of fact and close of record), and stating the specific nature of the objections and the pages where they appear in the deposition will be preserved for ruling. Objections not so preserved are waived.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 35.126, 35.151, 35.161 and 35.162.

§ 131.67. Expenses of taking depositions.

(a) If a deposition is to be taken more than 100 miles from where the hearing is or would be scheduled, the judge may order the payment of reasonable expenses of attorneys, not including counsel fees, to attend the deposition.

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.148 and 35.152 (relating to officer before whom deposition is taken; and fees of officers and deponents).

§ 131.68. Discovery of records.

(a) A party may schedule and take the deposition of a custodian of records or a person in a similar capacity. A party has the right to inspect and analyze the records listed in this subsection. Title 42 Pa.C.S. §§ 6151—6160 (relating to medical records) shall be followed, if applicable. The deposition may be used to locate, authenticate and obtain copies of records which are material and relevant to the proceeding, including:

- (1) Employment, earnings or work environment.
- (2) Treatment, including vocational and physical rehabilitation.
- (3) Mental or physical examination.
- (4) Hospitalization.
- (5) Testing.
- (6) X-rays.
- (7) Autopsy.
- (8) Tissue slides and samples.
- (9) Surveillance.

(b) A party may take the discovery deposition at any time after the assignment of the petition to a judge.

(c) The notice of discovery shall conform to § 131.64(b) (relating to notice of oral depositions) and shall also contain a description of the items to be produced at the deposition.

(d) The service of the notice of discovery shall conform to § 131.64(c).

(e) Objections shall conform to § 131.65 (relating to objections to taking of oral depositions).

(f) A deposition under this section shall be in the form of a written affidavit of the custodian of records as deponent without interrogation. The affidavit shall be in the form, and contain the information specified in § 131.69 (relating to form of deposition affidavit). Title 42 Pa.C.S. §§ 6151—6160 shall be followed, if applicable.

(g) The deposition affidavit and the records or items authenticated thereby will be admissible into evidence in the proceeding before the judge in the same manner as if the deponent appeared before the judge and testified to the authenticity of the records or items.

(h) Failure to comply with this section may result in the application of §§ 131.13(m), 131.61(d) and 131.61(e) (relating to continuances or postponements of hearings; and exchange of information).

(i) Subsections (a)—(h) supersede 1 Pa. Code §§ 35.145—35.152.

§ 131.69. Form of deposition affidavit.

(a) The deposition affidavit required by § 131.68(f) (relating to discovery of records) shall be in the following form:

**DEPOSITION AFFIDAVIT OF RECORD
CUSTODIAN**

I, the undersigned, being duly sworn according to law, depose and say, that I am the duly authorized custodian of records for (name of hospital, doctor, employer, etc.) with the authority to certify said records, and I hereby certify to the following:

(1) The records attached hereto are true and correct copies of the records in my custody, pertaining to (claimant or decedent); and

(2) All records called for in the attached subpoena duces tecum, including this certification, which are in my custody, have been photocopied at my office, in my presence, at my discretion and under my supervision, by (name of copy service, if any); and

(3) All records produced in my presence, unless qualified below, were prepared in the ordinary course of business by authorized persons or personnel at or near the time of the act, condition or event; and

(4) A careful search has been made by me or at my direction for records pertaining to the above identified individual and the records produced pursuant to the attached subpoena duces tecum constitute all of the records of the individual so identified.

(b) Subsection (a) supersedes 1 Pa. Code § 35.149 (relating to oath and reduction to writing).

§ 131.70. Discovery of statements of parties or witnesses.

(a) Upon written request, a party is entitled to receive a photostatic copy or other reproduction of a statement previously made concerning the petition or its subject matter by that party, another party or a witness.

(b) Upon written request, a person not a party, is entitled to receive a photostatic copy or other reproduction of a statement concerning the petition or its subject matter previously made by that person.

(c) This section may not apply to statements made by a party to the party's counsel which are protected by the attorney-client privilege or which are protected as the work product of counsel.

(d) Failure to adhere to this section may result in the application of §§ 131.13(m), 131.61(d) and 131.61(e) (relating to continuances or postponements of hearings; and exchange of information), as appropriate.

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 35.145—35.152.

SUBPOENAS

§ 131.81. Subpoenas.

(a) Upon written request of a party or counsel of record in a pending proceeding, the judge will issue a subpoena to compel the attendance of a witness or require the production of books, documents, records, CD ROMs, diskettes, other digital recordings or other things relevant to the proceeding at a scheduled hearing or deposition within the scope of, and scheduled under, this chapter. The party requesting a subpoena shall serve the judge with the original written request and shall serve a copy of the written request on unrepresented parties and counsel of record as provided in § 131.34(a) (relating to other filings).

(b) The party, counsel of record or their respective agents requesting a subpoena shall serve the subpoena upon the witness or person subpoenaed and upon opposing counsel.

(1) Service shall be made by one of the following:

(i) Personal service under the Pennsylvania Rules of Civil Procedure.

(ii) Any form of mail requiring a return receipt postage prepaid, restricted delivery or as provided in § 131.11(b) (relating to filing, service and proof of service).

(2) The fee for 1 day's attendance and roundtrip mileage shall be tendered upon demand at the time the person is served with the subpoena. If a subpoena is served by mail, a check in the amount of 1 day's attendance and round-trip mileage shall be enclosed with the subpoena. The fee for 1 day's attendance and roundtrip mileage is as prescribed in 42 Pa.C.S. §§ 5901—5988 (relating to depositions and witnesses).

(c) Upon the filing of written objections by a person served with a subpoena or a party, the judge may, after notice to counsel of record and unrepresented parties, promptly quash or limit the scope of a subpoena issued or served.

(d) If the person fails to appear, or has given notice of the intention not to appear, as required by a subpoena duly served, the judge will upon request of a party, communicate to the witness the requirements of the act that the person so appear and advise the person of the enforcement provisions under section 436 of the act (77 P. S. § 992).

(e) Subsections (a)—(d) supersede 1 Pa. Code §§ 35.139 and 35.142 (relating to fees of witnesses; and subpoenas).

STIPULATIONS

§ 131.91. Stipulations of fact.

(a) Stipulations of fact may be filed with the judge to whom the case has been assigned.

(b) The judge may issue a decision based on stipulations of fact, if the judge is satisfied that:

(1) The stipulations of fact are fair and equitable to the parties involved.

(2) The claimant understands the stipulations of fact and the effect of the stipulations of fact on future payments of compensation and medical expenses.

(c) Subsections (a) and (b) supersede 1 Pa. Code § 35.155 (relating to presentation and effect of stipulations).

BRIEFS, FINDINGS OF FACT, CLOSE OF RECORD AND ORAL ARGUMENT

§ 131.101. Briefs, findings of fact and close of record.

(a) The judge may require the parties to submit proposed findings of fact, conclusions of law and legal briefs or memoranda to the judge for review and consideration.

(b) Submissions referred to in subsection (a) shall be made within the time specified by the judge, but not later than 30 days following the close of the record.

(c) The evidentiary record is closed when the parties have submitted all of their evidence and rested or when the judge has closed the evidentiary record on a party's motion or the judge's own motion. If the judge determines that additional hearings are necessary, or that additional evidence needs to be submitted, or if the judge schedules additional written or oral argument, the evidentiary record may be held open by the judge. When the judge determines that the evidentiary record is closed, the judge will notify the parties that the evidentiary record is closed on the record or in writing.

(d) A party may move to close the evidentiary record and all other parties shall advise the judge within 20 days as to whether the evidentiary record is closed or whether there is additional evidence to be submitted. At the conclusion of the 20-day period, the judge will determine whether the evidentiary record will be closed or will remain open.

(e) A judge may close the evidentiary record on the judge's own motion even if all parties have not rested when the judge determines that the parties have had reasonable opportunity to present their case, provided that reasonable notice of the closing of the evidentiary record has been given to all parties.

(f) All parties shall provide a certification of the contents of the evidentiary record before the judge, including hearing dates, a list of witnesses testifying and a list of offered exhibits. The certification of the evidentiary record shall be provided to the judge after the close of the evidentiary record and at or before the filing of proposed findings of fact, conclusions of law or brief. The judge will specify the contents of the evidentiary record in the decision.

(g) Proposed findings of fact, proposed conclusions of law, briefs and certification of the evidentiary record not timely filed with the judge may not be considered unless, in advance of the date specified in this section, a request for an extension of time has been made to, and granted by, the judge for good cause shown.

(h) Briefs submitted under this section shall consist of at least the following items separately and distinctly set forth:

(1) A short statement of the questions involved.

(2) A statement of the facts by the moving party or counter-statement of the facts by the responding party.

(3) An argument.

(4) Short conclusions setting forth the precise relief sought.

(5) A proof of service.

(i) Subsections (a)—(h) supersede 1 Pa. Code §§ 35.54, 35.55, 35.131—35.133, 35.163, 35.173, 35.191—35.193, 35.212, 35.221 and 35.231—35.233 and also supersede 1 Pa. Code Chapter 35, Subchapter D.

§ 131.102. Oral argument.

(a) The judge, with notice to the parties, may require oral argument at any time before or after the close of the evidentiary record. A party may request oral argument at any time prior to the submission of the parties proposed findings of fact, proposed conclusions of law or brief. If no proposed findings of fact, proposed conclusions of law or brief are filed, a party may request oral argument prior to the close of the evidentiary record.

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.204, 35.214 and 35.221 (relating to oral argument before presiding officer; oral argument on exceptions; and briefs and oral argument in absence of proposed report).

DECISIONS**§ 131.111. Decision of judges.**

(a) Following the close of the evidentiary record and the hearing of oral argument, if any, as provided in § 131.102(a) (relating to oral argument), the judge will issue a written decision, which will contain findings of fact, conclusions of law and an appropriate order based upon the entire evidentiary record.

(b) The decision of the judge will be a final order, subject to correction or amendment under § 131.112 (relating to correction or amendment of decision), or appeal.

(c) Subsections (a) and (b) supersede 1 Pa. Code §§ 31.13, 31.14, 35.190, 35.201—35.207, 35.225, 35.226 and 35.241.

§ 131.112. Correction or amendment of decision.

(a) A decision or an order of a judge may be amended or corrected by the judge subsequent to the service of notice of the decision and order. A typographical or clerical error or obvious omission or error on the part of the judge may be corrected on the judge's motion or on the motion of one or both parties. Other amendments or corrections will be made only upon written agreement of the parties. A request for correction or amendment shall be made within 20 days of the date of service of notice of the decision and order.

(b) The corrected decision and order will specifically set forth the items in the prior decision and order which are being corrected and amended, and will contain the following provision: "In all other respects the prior decision and order in the case are hereby reaffirmed."

(c) Neither the request for correction nor the corrected decision and order will extend the appeal period of the original decision and order as to any part of that decision and order which is not the subject of the request for correction or amendment.

(d) Subsections (a)—(c) supersede 1 Pa. Code §§ 31.13, 31.14, 35.54, 35.55, 35.190 and 35.211—35.214 and also supersede 1 Pa. Code Chapter 35, Subchapter D.

PENALTY PROCEEDINGS**§ 131.121. Penalty proceedings initiated by a party.**

(a) Penalty proceedings may be initiated by a party filing a petition for penalties as provided in § 131.32

(relating to petitions except petitions for joinder and challenge proceedings). Answers shall be filed as provided in § 131.33 (relating to answers except answers to petitions for joinder and challenge proceedings).

(b) Penalty proceedings initiated by a party in a pending proceeding may be initiated by a petition under subsection (a) or by motion on the record in the pending proceeding. If penalties are requested by motion on the record, an answer may be made either orally on the record or as provided in subsection (a).

(c) If, in a pending proceeding where no separate penalty petition has been filed in accordance with subsection (a), it appears to the judge in proceedings before the judge that there has been noncompliance with the act or this chapter, the judge will schedule a hearing for the purpose of determining if noncompliance has occurred unless the hearing is waived by the parties. The hearing will be scheduled either upon motion of a party or on the judge's own motion unless waived.

(d) The judge will give notice of the scheduling of any penalty hearing to all parties and this notice will specify the nature of the penalty proceeding and that the hearing will involve the question of the imposition of penalties under the act or this chapter.

(e) The penalty hearing may be conducted in conjunction with a hearing on the merits in a pending proceeding or at a separate hearing.

(f) At the penalty hearing, the judge will take testimony, receive evidence and hear arguments necessary to create a record sufficient to support, defend or appeal the decision of the judge regarding noncompliance with the act or this chapter and the imposition of penalties.

(g) A party complaining of a violation of the act or this chapter shall have the burden of proving the violation.

(h) The judge, in a separate order prior to a final order or in conjunction with the final decision in the proceeding, will rule on the request for penalties and will determine whether noncompliance with the act or this chapter exists, and, if appropriate, impose penalties.

(i) Subsections (a)—(h) supersede 1 Pa. Code §§ 35.1, 35.2, 35.5—35.7, 35.9—35.11, 35.14, 35.17—35.20, 35.23, 35.24, 35.35—35.41, 35.54, 35.55 and 35.251 and also supersede 1 Pa. Code Chapter 35, Subchapter D.

§ 131.122. Other penalty proceedings.

(a) Penalty proceedings not conducted under § 131.121 (relating to penalty proceedings initiated by a party) will be conducted in accordance with 34 Pa. Code Chapter 121 (relating to general provisions).

(b) Subsection (a) supersedes 1 Pa. Code §§ 35.14, 35.37 and 35.251 (relating to orders to show cause; answers to orders to show cause; and reports of compliance).

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