

PENNSYLVANIA BULLETIN

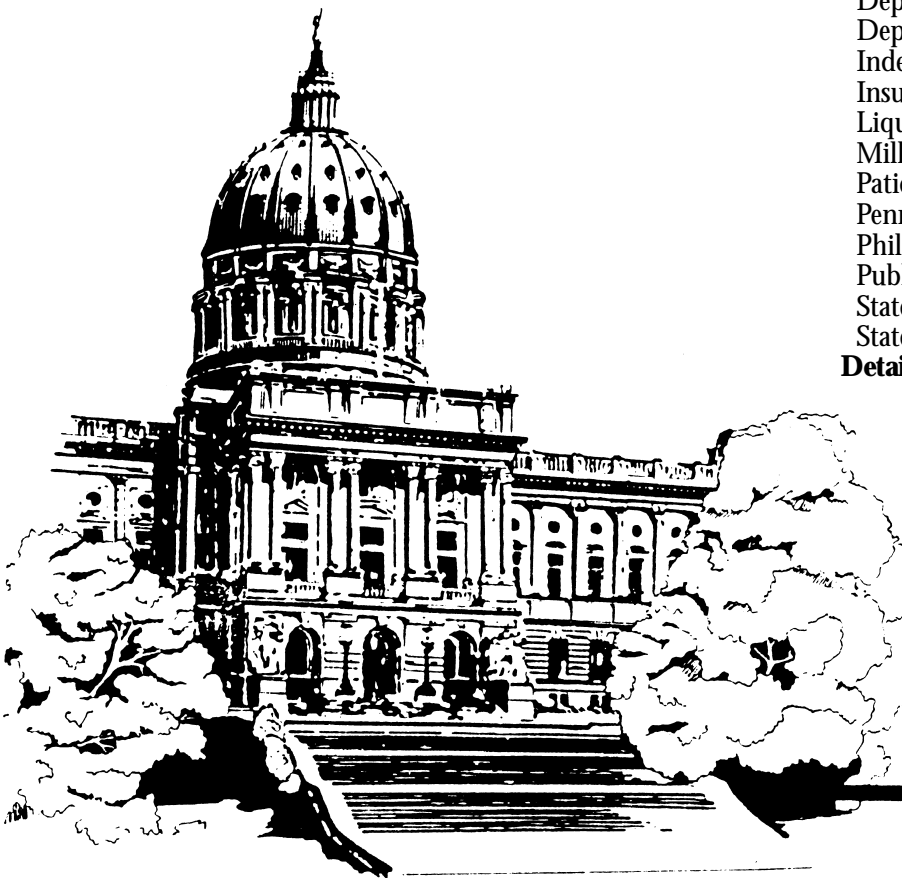
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the Subject Index for
January—September 2003

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 6]

[EXECUTIVE ORDER NO. 2003-11]

Governor's Office of Housing and Community Revitalization

September 10, 2003

Whereas, safe, decent, and affordable housing is a cornerstone to healthy and happy families as well as to stable communities; and

Whereas, the special needs of Pennsylvanians with lower incomes and with disabilities, its seniors and its homeless, require greater attention and choice in housing alternatives; and

Whereas, the condition of Pennsylvania's housing stock and urban infrastructure has deteriorated in recent years, making many core communities less than attractive places in which to live or to do business; and


Whereas, Pennsylvania's economic future may well depend on the revitalization of these core communities; and

Whereas, though several Commonwealth agencies have policies and programs designed to address housing and community revitalization, there is currently no single agency of state government or other high-level office or official responsible for the overall housing and community revitalization policy of the Commonwealth; and

Whereas, the coordination of policy and program development across agency lines will foster more comprehensive, effective, and efficient use of scarce resources, and will enhance the evaluation of program delivery; and

Whereas, creating a single focal point for state housing policy will enable the Commonwealth to develop more productive partnerships with federal agencies and programs, as well as foundations and other charitable organizations.

Now, Therefore, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority invested in me by the Constitution of the Commonwealth of Pennsylvania and other laws of the Commonwealth, do hereby establish the Governor's Office of Housing and Community Revitalization (hereinafter referred to as the "Office") and the Governor's Housing Cabinet (hereinafter referred to as the "Cabinet"), and do order and direct as follows:



Governor

Fiscal Note: GOV 03-12. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

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GOVERNOR'S OFFICE OF HOUSING AND COMMUNITY REVITALIZATION

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- 6.91. Cooperation by Commonwealth agencies.

TERM

- 6.101. Effective date.

GOVERNOR'S OFFICE OF HOUSING AND COMMUNITY REVITALIZATION

§ 6.71. Establishment.

The Governor's Office of Housing and Community Revitalization is created.

§ 6.72. Executive Director.

The Governor will appoint an Executive Director who serves at the pleasure of the Governor. The Executive Director shall manage the Office of Housing and Community Revitalization and report to the Governor.

§ 6.73. Administrative support.

(a) In accordance with an appropriate resolution of its governing board, the Pennsylvania Housing Finance Agency (Agency) shall provide appropriate support services and other resources for the operation of the Office of Housing and Community Revitalization (Office).

(b) The staff of the Office serves as part of the complement of the Agency, but the substantive operations of the Office shall be conducted independently of the Agency.

(c) The operations of the Office shall be consistent with Agency policies and procedures, including its fiscal and audit requirements.

(d) The Office shall annually provide an accounting of all expenditures made by the Office to the Agency.

(e) The Executive Director of the Office shall serve as an advisor to the board of the Agency and shall report to the Governor's Office.

§ 6.74. Responsibilities.

The responsibilities of the Office of Housing and Community Revitalization (Office) shall be to:

- (1) Coordinate overall housing policy for the Commonwealth.
- (2) Serve as primary liaison among all State agency programs, resources and policy areas involved in housing and community revitalization.
- (3) Make recommendations to the Governor on housing policy and community revitalization matters, including legislative issues and program development, and advise the Governor of the results of the recommendations.
- (4) Represent the Governor in developing partnerships with appropriate public and private housing agencies, including the Federal Home Loan Banks, Fannie Mae, Freddie Mac, the United States Department of Housing and Urban Development, Rural Housing Services and foundations and other charitable entities. In these activities, the Office shall coordinate its efforts with those of the Agency and the Department of Community and Economic Development.
- (5) Participate in special projects as directed by the Governor.
- (6) Exercise other responsibilities and duties as directed by the Governor.

GOVERNOR'S HOUSING CABINET

§ 6.81. Establishment and membership.

(a) The Governor's Housing Cabinet (Cabinet) is established and consists, at a minimum, of the following members:

- (1) Executive Director of the Governor's Office of Housing and Community Revitalization, who is chairperson of the Cabinet.

- (2) The Secretary of Banking.
 - (3) The Secretary of Community and Economic Development.
 - (4) The Secretary of Environmental Protection.
 - (5) The Secretary of Labor and Industry.
 - (6) The Secretary of Public Welfare.
 - (7) The Secretary of Transportation.
 - (8) The Secretary of Aging.
 - (9) The Executive Director of the Pennsylvania Infrastructure Investment Authority (PENNVEST).
 - (10) The Governor's Chief of Staff or a designee.
 - (11) The General Counsel or a designee.
 - (12) The Governor's Director of Policy or a designee.
- (b) The Governor will appoint additional members to the Cabinet as deemed appropriate.

§ 6.82. Powers and duties.

The Governor's Housing Cabinet (Cabinet) has the following powers and duties:

- (1) Advise and assist the Governor and the Office of Housing and Community Revitalization in identifying opportunities to improve the management or operation of State government programs affecting housing.
- (2) Assist in the development and implementation of housing strategies and programs, including the identification of barriers to sound housing policy and program efficiency and appropriate program performance measures.
- (3) Assist in evaluating the efficacy of the management of housing programs.
- (4) Carry out other responsibilities assigned to the Cabinet by the Governor.

RESPONSIBILITIES OF COMMONWEALTH AGENCIES

§ 6.91. Cooperation by Commonwealth agencies.

The Office of Housing and Community Revitalization (Office) does not have direct responsibility for the day-to-day operations of any State agency. Commonwealth agencies under the direction of the Governor shall cooperate with the Office and the Governor's Housing Cabinet (Cabinet). At a minimum, Commonwealth agencies shall:

- (1) Provide information, records and materials as necessary for the Office and the Cabinet to carry out their responsibilities.
- (2) Recommend to the Office and the Cabinet areas of investigation that might result in improvements to State government housing programs.

TERM

§ 6.101. Effective date.

This subchapter shall take effect immediately and shall expire September 11, 2006.

[Pa.B. Doc. No. 03-1925. Filed for public inspection October 3, 2003, 9:00 a.m.]

GOVERNOR'S OFFICE

Proclamation of Disaster Emergency

September 18, 2003

Whereas, The spring and summer seasons have been unusually wet and the ground is heavily saturated throughout the Commonwealth resulting in severe flooding in numerous northwestern and northeastern counties; and

Whereas, on September 14th and 15th heavy rains caused severe and widespread flooding in Chester County and surrounding counties resulting in extensive damage to public and private property; and

Whereas ongoing monitoring and projections made at my direction have disclosed that Hurricane Isabel is going to strike the Commonwealth of Pennsylvania; and

Whereas, Hurricane Isabel has the potential to cause widespread and unusually heavy rains and high winds throughout the Commonwealth of Pennsylvania, which in turn poses a serious threat for flash flooding and other adverse impacts throughout the state; and

Whereas, Hurricane Isabel's potentially heavy rains, high winds, and risk of flash flooding may result in extensive damage to roads, streets, bridges, private homes, and businesses, and may cause other adverse impacts upon the general population of Pennsylvania; and

Whereas, the emergency situation caused by Hurricane Isabel may be of such magnitude and severity as to render essential the Commonwealth's supplementation of county and municipal efforts and resources and the activation of all applicable state, county, and municipal emergency response plans.

Now Therefore, pursuant to the provisions of Subsection 7301(c) of the Emergency Management Services Code (35 Pa.C.S. Section 7101 et seq.), I do hereby proclaim the existence of a disaster emergency in the Commonwealth of Pennsylvania and I direct all Commonwealth agencies and departments to utilize all available resources and personnel as is deemed necessary to cope with the magnitude and severity of this emergency situation.

Further, I hereby transfer up to \$5 million in unused appropriated funds to the Pennsylvania Emergency Management Agency. The aforementioned funds shall be used for disaster-related expenses that may be incurred by various state agencies and departments. These funds shall be credited to a special account established by the Office of the Budget. All Commonwealth agencies and departments purchasing supplies or services in response to this emergency are authorized to utilize the emergency procurement procedures set forth in Section 516 of the Commonwealth Procurement Code, 62 Pa.C.S. § 516. This Proclamation shall serve as the written determination of the basis for the emergency under Section 516; and

Further, I hereby direct the Pennsylvania Emergency Management Agency to activate and fully staff the State Emergency Operations Center for the duration of this emergency situation and to augment it with personnel from other state agencies and departments. I also authorize the Agency to coordinate and direct the emergency preparedness and response activities of other state agencies and departments as deemed necessary to deal with the exigencies of this impending emergency situation through implementation of the State Emergency Operations Plan; and

Further, I hereby authorize the Secretary of Transportation to use all available equipment, resources, and personnel of the Department of Transportation, in whatever manner that he deems necessary, to ensure that all state highways in the potential disaster emergency area are cleared of debris and any other obstructions that may result from this hurricane. In addition, I hereby waive any laws or regulations that would restrict the application and use of the Department's equipment, resources, and person-

nel to assist local jurisdictions in the clearing and removal of debris and other types of obstructions from non-state-owned highways. This assistance to local jurisdictions may be provided solely at the discretion of the Secretary of Transportation. This assistance, however, does not apply to privately owned highways, roads, streets, or other types of property; and

Further, I hereby authorize the Secretary of Transportation to use all available equipment, resources, and personnel of the Department, in whatever manner he deems necessary, to ensure that highways, bridges, roadbeds, and related facilities and structures, including federal-aid highways, that may sustain damage in the disaster emergency area are immediately repaired, maintained, reconstructed, or replaced or that new construction is undertaken where necessary. In addition, I hereby waive any laws or regulations that would restrict the ability of the Department to respond immediately and effectively in repairing, maintaining, reconstructing, or replacing any potentially damaged highways, bridges, roadbeds, and related facilities and structures, including federal-aid highways, and areas adjacent thereto, or in undertaking necessary new construction; and

Further, I have directed that the emergency response and recovery aspects of the Commonwealth and all applicable county, municipal, and other disaster emergency response and recovery plans be activated and that all state, county, and municipal actions taken to implement those plans be coordinated through the Pennsylvania Emergency Management Agency; and

Further, pursuant to the powers vested in me by the Constitution and laws of this Commonwealth, I hereby authorize the Adjutant General of Pennsylvania to place on state active duty for the duration of the emergency/disaster proclamation, such individuals and units of the Pennsylvania National Guard, as requested by the Pennsylvania Emergency Management Agency, to alleviate the potential danger to public health and safety caused by the aforementioned emergency; and

Still Further, I hereby urge the governing bodies and executive officers of all political subdivisions that may be affected by this emergency to act as necessary to meet the current exigencies as legally authorized under this Proclamation, namely: by the employment of temporary workers; by the rental of equipment; and by entering into such contracts and agreements as may be required to meet the emergency, all without regard to those time-consuming procedures and formalities normally prescribed by law, mandatory constitutional requirements excepted.

Given under my hand and the Seal of the Governor, at the city of Harrisburg, this 18th day of September in the year of our Lord, two thousand and three and of the Commonwealth, the two hundred and twenty-eighth.

Edmund G. Rendall

Governor

[Pa.B. Doc. No. 03-1926. Filed for public inspection October 3, 2003, 9:00 a.m.]

THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CH. 83]

Amendment of Rules 203(b), 207(b) and 208(b) of the Pennsylvania Rules of Disciplinary Enforcement; No. 22 Disciplinary Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 19th day of September, 2003, Rules 203(b), 207(b) and 208(b) of the Pennsylvania Rules of Disciplinary Enforcement are amended to read as follows.

This Order shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration. The amendments adopted hereby shall take effect upon publication in the *Pennsylvania Bulletin* and shall govern all matters thereafter commenced and, insofar as just and practicable, matters then pending.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter B. MISCONDUCT

Rule 203. Grounds for discipline.

* * * * *

(b) The following shall also be grounds for discipline:

* * * * *

(4) Failure by a respondent-attorney without good cause to comply with any order under the Enforcement Rules of the Supreme Court, the Board, a hearing committee or special master.

* * * * *

Rule 207. Disciplinary counsel.

* * * * *

(b) Disciplinary Counsel shall have the power and duty:

* * * * *

(2) To dispose of all matters (subject to review by a member of a hearing committee) involving alleged misconduct by dismissal, informal admonition, recommendation for private reprimand or the prosecution of formal charges before a hearing committee or special master. Except in matters requiring dismissal because the complaint is frivolous or falls outside the jurisdiction of the Board, no disposition shall be recommended or undertaken by Disciplinary Counsel until the accused attorney

[shall have been afforded the opportunity to state a position with respect to the allegations against the attorney] has been notified of the allegations and the time for response under Enforcement Rule 208(b) (relating to formal hearing), if applicable, has expired.

* * * * *

Rule 208. Procedure.

* * * * *

(b) *Formal hearing.* Formal disciplinary proceedings before a hearing committee or special master shall be as follows:

* * * * *

(2) A copy of the petition **containing a notice to plead** shall be personally served upon the respondent-attorney.

(3) Within 20 days after such service, the respondent-attorney shall serve an answer upon Disciplinary Counsel and file the original thereof with the Board. **[In the event the respondent-attorney fails to file an answer, the charges shall be deemed at issue.] Any factual allegation that is not timely answered shall be deemed admitted.**

(4) Following the service of the answer, if there are any issues raised by the pleadings or if the respondent-attorney requests the opportunity to be heard in mitigation, the matter shall be assigned to a hearing committee or a special master. **No evidence with respect to factual allegations of the complaint that have been deemed or expressly admitted may be presented at any hearing on the matter, absent good cause shown.**

* * * * *

[Pa.B. Doc. No. 03-1927. Filed for public inspection October 3, 2003, 9:00 a.m.]

[204 PA. CODE CH. 83]

Amendment of Rule 218(c) of the Pennsylvania Rules of Disciplinary Enforcement; No. 23 Disciplinary Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 19th day of September, 2003, Rule 218(c) of the Pennsylvania Rules of Disciplinary Enforcement is amended to read as follows.

This Order shall be processed in accordance with Rule 103(b) of the Pennsylvania Rules of Judicial Administration. The amendments adopted hereby shall take effect upon publication in the *Pennsylvania Bulletin* and shall govern all matters thereafter commenced and, insofar as just and practicable, matters then pending.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart B. DISCIPLINARY ENFORCEMENT

CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter B. MISCONDUCT

Rule 218. Reinstatement

* * * * *

(c)(1) Petitions for reinstatement by formerly admitted attorneys shall be filed with the Board.

(2) Within 60 days after the filing of a petition for reinstatement, Disciplinary Counsel shall file a response thereto with the Board and serve a copy on the formerly admitted attorney. Upon receipt of the [petition] response, the Board shall refer the petition and response to a hearing committee in the disciplinary district in which the [respondent-attorney] formerly admitted attorney maintained an office at the time of the disbarment, suspension or transfer to inactive status. If any other formal disciplinary proceedings are then pending or have been authorized against the formerly admitted attorney, the reinstatement and disciplinary matters may be heard by the same hearing committee. In such case the combined hearing shall be held not later than 45 days after receipt by the Board of the response to the petition for reinstatement.

Official Note: If Disciplinary Counsel objects to reinstatement of the formerly admitted attorney, the response to the petition for reinstatement should explain in reasonable detail the reasons for the objection.

* * * * *

[Pa.B. Doc. No. 03-1928. Filed for public inspection October 3, 2003, 9:00 a.m.]

Title 246—MINOR COURT CIVIL RULES

PART I. GENERAL

[246 PA. CODE CHS. 200—500]

Definitions; Representation in District Justice Proceedings; Attorneys of Record; Notices

The Minor Court Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rules 202, 207, 304, 315, 318, 324, 421, 503, 504, 511, and 514, and adopt a new Rule 207.1 of the Rules of Conduct, Office Standards and Civil Procedure for District Justices to clarify the rules regarding, and further provide for, definitions, representation in district justice proceedings, attorneys of record, and notices. The Committee has not submitted this proposal for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. The Committee's Report should not be confused with the Committee's Official Notes to the rules. The Supreme

Court does not adopt the Committee's Official Notes or the contents of the explanatory reports.

The text of the proposed changes precedes the Report. Additions are shown in bold; deletions are in bold and brackets.

We request that interested persons submit suggestions, comments, or objections concerning this proposal to the Committee through counsel,

Michael F. Krimmel, Counsel
Supreme Court of Pennsylvania
Minor Court Rules Committee
5035 Ritter Road, Suite 700
Mechanicsburg, PA 17055
Fax 717-795-2175

or e-mail to: minorrules@pacourts.us

no later than Monday, November 17, 2003.

By the Minor court Rules Committee

THOMAS E. MARTIN, Jr.,
Chair

Annex A

TITLE 246. MINOR COURT CIVIL RULES

PART I. GENERAL

CHAPTER 200. RULES OF CONSTRUCTION; GENERAL PROVISIONS

Rule 202. Definitions.

As used in these rules, the following words and phrases shall have the following meanings unless the context clearly indicates otherwise or the particular word or phrase is expressly defined in the chapter in which the particular rule is included:

* * * * *

"attorney at law" means an individual admitted to practice law by the Supreme Court of Pennsylvania;

"attorney of record" means an attorney at law who has filed a written document in accordance with Rule 207.1 as appearing for and representing a party in a legal proceeding;

* * * * *

Official Note:

* * * * *

Amended April 25, 1979, effective in 30 days, June 30, 1982, effective 30 days after July 17, 1982; amended effective Dec. 1, 1983; amended July 16, 2001, effective August 1, 2001; amended September 3, 2003, effective January 1, 2004; amended _____, effective _____.

Rule 207. Representation in District Justice Proceedings.

[In district justice proceedings, individuals may be represented by themselves or by counsel and corporations may be represented by their officers or counsel.]

In district justice proceedings governed by these rules a party may be represented only by an attorney at law or

(1) where the party is an individual, by himself or herself,

(2) where the party is a corporation or similar entity, by an officer of the corporation or similar entity who has documentation of such status, or,

(3) where the party is a partnership or unincorporated association, by a partner or officer of the association who has documentation of such status.

Official Note: See Section 2524 of the Judicial Code (Penalty for unauthorized practice of law), 42 Pa.C.S. § 2524.

Subparagraph (2) of this rule is less restrictive than the rule relating to representation of corporations in courts of record. See *Walacavage v. Excell 2000, Inc.*, 331 Pa. Super. 137, 480 A.2d 281 (1984); Phila.M.C.R.Civ.P. No. 131.

See rules in [the 800 Series] Chapter 800 as to representation of minors and [incompetents] incapacitated persons by guardians.

Adopted September 23, 1985, effective October 12, 1985; amended _____, effective _____.

Rule 207.1. Attorney of Record; Notices.

A. An attorney at law shall be deemed the attorney of record for a party if and only if the attorney files with the district justice a written statement acknowledging that he or she represents the party in the proceeding. The written statement must include the attorney's name, mailing address, and Supreme Court of Pennsylvania attorney identification number.

B. An attorney of record for a party shall remain the attorney of record for that party until:

(1) the attorney of record gives written notice to the district justice and the party that he or she is withdrawing as the attorney of record for the party, or;

(2) another attorney becomes the attorney of record for the party in accordance with subdivision A.

C. Except as otherwise provided in these rules, when a party has an attorney of record and when a rule specifies that a notice is to be given or mailed to the party, a copy of the notice shall also be given or mailed to the attorney of record.

Official Note: Subdivision B provides for the withdrawal of an attorney of record. Nothing in this rule requires leave of court or that another attorney become the attorney of record before an attorney may withdraw. But compare Pa.R.C.P. No. 1012(b). Nothing in subdivision B is intended to affect an attorney's ethical duty to his or her client.

Subdivision C makes clear that copies of all notices must be given or mailed to all parties of record as well as to all attorneys of record.

Adopted _____, effective _____.

CHAPTER 300. CIVIL ACTION

Rule 304. Form of Complaint.

A. The complaint shall be made in writing on a complaint form [which shall be prescribed by the State Court Administrator].

B. The complaint shall be signed by the plaintiff [or plaintiff's agent] and verified as follows:

* * * * *

C. The complaint shall set forth:

* * * * *

(4) Such other information as shall be required on the complaint form.

Official Note: Rule 304 is designed to promote uniformity, simplification of procedure and better access by the public to the judicial services of district justices. The use of a complaint form [will help to accomplish] accomplishes this purpose and [will also provide] also provides easier statistical and other administrative control by the Supreme Court. See Rule 212.

Amended June 30, 1982, effective 30 days after July 17, 1982; amended December 16, 1983, effective December 1, 1983; amended September 18, 1990, effective immediately; amended _____, effective _____.

Rule 315. Claim by Defendant.

* * * * *

B. The rules governing the form, processing, and service of a plaintiff's complaint shall apply also to the defendant's complaint. The district justice shall set a date and time for the consolidated hearing of both complaints [together] that shall not be less than 12 or more than 30 days from the filing of the defendant's complaint. The district justice shall promptly notify the parties of the date and time set for the consolidated hearing of both complaints.

* * * * *

D. [If the defendant files a cross-complaint, the district justice shall promptly notify the plaintiff of the time and date set for the hearing of both complaints together. If the plaintiff has an attorney of record, the notice shall be given to the attorney of record instead of to the plaintiff.] Rescinded.

Official Note: Subdivision A of this rule permits the defendant to file a cross-complaint against the plaintiff at least five days before the date originally set for the hearing, if it is for a claim cognizable by a district justice. See Section 1515(a)(3) of the Judicial Code, 42 Pa.C.S. § 1515(a)(3), as to waiver of jurisdictional limits, a defendant filing a cross-complaint being considered a "plaintiff" as to the cross-complaint within the meaning of this statute. The requirement that a cross-complaint be filed at least five days before the hearing is intended to give the district justice time to notify the [plaintiff or the plaintiff's attorney, under subdivision D of the rule, of any new hearing time and date] parties of any new hearing date and time. Notice under subdivision [D] B is not a substitute for [the] proper service [required under subdivision B]. If the defendant does not file an action at least five days before the hearing, the defendant may still file a complaint against the plaintiff but it will not be processed as a cross-complaint.

* * * * *

Amended Oct. 17, 1975, effective in 90 days; Jan. 29, 1976, effective in 30 days; April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; amended April 5, 2002, effective January 1, 2003; amended _____, effective _____.

Rule 318. Informing Plaintiff of Notice of Intention to Defend.

If the defendant gives the district justice notice of [his] intention to defend [under] in accordance

with Rule 305(4)(a), the district justice shall promptly [inform the plaintiff in writing that he has received such a notice by mailing to the plaintiff a copy of the completed Notice of Intent to Defend form] give the plaintiff written notice that the defendant intends to enter a defense. [If the plaintiff has an attorney of record named in the complaint form, this information shall be given to the attorney of record instead of to the plaintiff.]

Official Note: No specific form of notification from the defendant to the district justice is required by this rule, but entries on the [complaint form] docket will show that the defendant gave notice of [his] intention to defend and that the district justice [informed] gave written notice to the plaintiff [or his attorney of record thereof, when these events have occurred. A notation that a copy of the Notice of Intent to Defend form was sent to the plaintiff or his attorney of record shall be made on the complaint maintained in the district justice's files].

Amended Oct. 17, 1975, effective in 90 days; June 30, 1982, effective 30 days after July 17, 1982; March 27, 1992, effective in 90 days; amended _____, effective _____.

Rule 324. Notice of Judgment[,] or Dismissal [or Continuance,] and the Right to Appeal.

A. [The] Upon the entry of the judgment, the district justice shall promptly give or mail to the parties written notice of judgment[,] or dismissal [or continuance. The written notice shall be given or mailed to all parties, but if any party has an attorney of record, the written notice shall be given or mailed to the attorney of record instead of to the party].

B. The written notice of judgment or dismissal shall contain:

(1) [advice as to] notice of the right of the parties to appeal, the time within which the appeal must be taken, and that the appeal is to the court of common pleas,

(2) [a statement advising] notice that, except as otherwise provided in the rules, if the judgment holder elects to enter the judgment in the court of common pleas, all further process must come from the court of common pleas and no further process may be issued by the district justice, and

(3) [a statement advising] notice that unless the judgment is entered in the court of common pleas anyone interested in the judgment may file a request for entry of satisfaction with the district justice if the justice debtor pays in full, settles, or otherwise complies with the judgment.

Official Note:

* * * * *

Amended effective Feb. 1, 1973; amended Oct. 17, 1975, effective in 90 days; April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; amended effective Dec. 1, 1983; amended March 27, 1992, effective June 25, 1992 [The March 27, 1992, Order provided in part: "In promulgating this Order, the Court recognizes that the District Justice Automation Project will be affected by said Rule changes and that, therefore, those Rules which affect the

Project will become effective as the District Justice offices are brought on-line."]; amended and Note added April 5, 2002, effective January 1, 2003; amended _____, effective _____.

CHAPTER 400. EXECUTION OF JUDGMENTS FOR THE PAYMENT OF MONEY

Rule 421. Time for Hearing and Determination; Effective Date of Orders and Determination.

* * * * *

B. The district justice shall promptly give or mail to the parties written notice of the determination. [If a party has an attorney of record the written notice shall be given or mailed to the attorney of record instead of to the party.] Notice of the determination shall contain advice as to the right of the parties to file a Statement of Objection, the time within which the statement must be filed, and that the statement is to be filed with the court of common pleas.

* * * * *

Official Note:

* * * * *

Amended June 1, 1971; April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; March 27, 1992, effective June 25, 1992; amended September 3, 2003, effective January 1, 2004; amended _____, effective _____.

CHAPTER 500. ACTIONS FOR THE RECOVERY OF POSSESSION OF REAL PROPERTY

Rule 503. Form of Complaint.

A. The complaint shall be made in writing on a complaint form [which shall be prescribed by the State Court Administrator].

B. The complaint shall be signed by the plaintiff [or plaintiff's agent] and verified as follows: The facts set forth in this complaint are true and correct to the best of my knowledge, information and belief. This statement is made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Signature

* * * * *

Official Note: As in the [other rules of civil procedure for district justices, the complaint will be] rules governing civil actions, the complaint is on a printed form. See Rule 212. As to notice to remove, the form will simply state that such a notice, when required, was given to the defendant in accordance with law. See § 501 of the Landlord and Tenant Act, 68 P. S. § 250.501, as amended by § 2(a) of the Judiciary Act Repealer Act, Act of April 28, 1978, P. L. 202, No. 53, 42 P. S. § 20002(a). In subdivision C(8) the landlord is permitted to claim, in addition to the specific amount of rent due and unpaid at the date of filing, whatever unspecified amount of rent will remain due and unpaid at the date of the hearing. As to claiming damages for injury to property, compare Pa.R.C.P. No. 1055.

* * * * *

Amended June 1, 1971; April 25, 1979, effective in 30 days; June 30 1982, effective 30 days after July 17, 1982; amended December 16, 1983, effective December 1, 1983; amended _____, effective _____.

Rule 504. Setting the Date for Hearing; Delivery for Service.

The district justice, at the time the complaint is filed, shall:

* * * * *

(3) Deliver a copy of the complaint form with hearing time and date thereon to the plaintiff [or the plaintiff's agent].

* * * * *

Official Note:

* * * * *

Amended Oct. 17, 1975, effective in 90 days; June 30, 1982, effective 30 days after July 17, 1982; March 28, 1996, effective March 29, 1996; Note revised February 12, 2002, effective immediately; amended _____, effective _____.

Rule 511. Continuances.

Continuances may be granted for cause or by agreement. Continuances shall be to a specific time and date and shall be noted on the original complaint form. Continuances shall not be granted to extend the date of the hearing beyond thirty (30) days from the date the plaintiff's complaint is filed or, if the defendant files a cross-complaint, beyond twenty (20) days from the date that complaint is filed, whichever is the longer period from the filing of the plaintiff's complaint. The district justice shall promptly give or mail to the parties written [or other] notice of a continuance [to the parties on a Notice of Continuance form, but if a party has an attorney of record named in the complaint form, the notice, unless given at the hearing in the presence of the party, shall be given to the attorney instead of to the party. See Rule 209].

Official Note:

* * * * *

Amended April 25, 1979, effective in 30 days; June 30, 1982, effective 30 days after July 17, 1982; March 27, 1992, effective in 90 days; March 15, 1994, effective April 2, 1994; amended _____, effective _____.

Rule 514. Judgment; Notice of Judgment or Dismissal and the Right to Appeal.

* * * * *

C.(1) Judgment shall be given at the conclusion of the hearing or within three [(3)] days thereafter [and shall be entered upon the form prescribed for the entry of judgment by the State Court Administrator].

(2) Upon the entry of the judgment, [copies of the prescribed form shall be given or mailed to all parties, but if any party has an attorney of record named in the complaint form the written notice shall be given to the attorney instead of to the party] the district justice shall promptly give or mail to the parties written notice of judgment or dismissal. [Notice of judgment shall inform the parties of the right to appeal, the time within which the appeal must be taken and that the appeal is to the court of common pleas.]

D. The written notice of judgment or dismissal shall contain:

(1) notice of the right of the parties to appeal, the time within which the appeal must be taken, and that the appeal is to the court of common pleas,

(2) notice that, except as otherwise provided in the rules, if the judgment holder elects to enter the judgment in the court of common pleas, all further process must come from the court of common pleas and no further process may be issued by the district justice, and

(3) notice that unless the judgment is entered in the court of common pleas anyone interested in the judgment may file a request for entry of satisfaction with the district justice if the debtor pays in full, settles, or otherwise complies with the judgment.

Official Note:

* * * * *

As to subdivision D(2), see Rule 402D and Note. As to subdivision D(3), see Rule 341.

Amended April 25, 1979, effective in 30 days; June 30 1982, effective 30 days after July 17, 1982; amended effective Dec. 1, 1983; amended March 27, 1992, effective June 25, 1992 [**The March 27, 1992, Order provided in part: "In promulgating this Order, the Court recognizes that the District Justice Automation Project will be affected by said Rule changes and that, therefore, those Rules which affect the Project will become effective as the District Justice offices are brought on-line"**]; March 28, 1996, effective March 29, 1996; Note revised April 5, 2002, effective January 1, 2003; Note revised November 25, 2002, effective July 1, 2003; amended _____, effective _____.

REPORT

Proposed Amendments to Rules 202, 207, 304, 315, 318, 324, 421, 503, 504, 511, and 514, and Proposed New Rule 207.1, of the Rules of Conduct, Office Standards and Civil Procedure for District Justices

DEFINITIONS; REPRESENTATION IN DISTRICT JUSTICE PROCEEDINGS; ATTORNEYS OF RECORD; NOTICES

I. Background

The Minor Court Rules Committee (hereinafter the Committee) undertook a review of the rules relating to representation in district justice proceedings, attorneys of record, and notices to parties and attorneys in response to a number of inquiries and requests for clarification in the rules. As a result of the Committee's review, the Committee is proposing a number of rule changes, as described below, to

- clarify who may represent parties in district justice proceedings;
- establish a more formal procedure for an attorney to become the attorney of record in a case, and;
- clarify that all notices sent by the district justice should go to all parties of record and all attorneys of record.

II. Discussion

A. Representation in District Justice Proceedings

A number of correspondents requested that the Committee clarify Pa.R.C.P.D.J. No. 207, regarding representation in district justice proceedings. The Committee learned that many district justices, attorneys, and parties

are confused by the seemingly permissive language in the current version of the rule; i.e. "... individuals may be represented..." and "... corporations may be represented..." Apparently, some court users are interpreting this language to mean that parties may be represented by someone other than the persons listed in the rule. Of particular note, the Committee received inquiries about property managers "representing" landlords in landlord/tenant hearings. The Committee learned that it is not uncommon for property managers to file landlord/tenant cases on behalf of their landlord clients, to appear at hearings, present testimony, and examine witnesses. The property managers argue that this is a service they should be permitted to perform for their landlord clients because the property managers are paid to handle the day-to-day operations of their clients' rental properties. The Committee disagrees. The Committee noted that in a landlord/tenant action, the landlord is the plaintiff in the action, not the property manager who handles the landlord's affairs. For the landlord to be represented by anyone other than himself or herself (where the landlord is an individual), an officer (where the landlord is a corporation or similar entity), a partner (where the landlord is a partnership), or an attorney at law, is contrary to Rule 207 and the well established law of Pennsylvania.¹

The Committee heard from one property manager who put forth the argument that since his property management firm is organized as a corporation, and since he is an officer of the corporation, he should be permitted to represent his landlord clients under the provision in Rule 207 that permits corporations to "be represented by their officers." The Committee disagreed with this argument since the property management firm is not the actual party in interest (plaintiff) in the case; the party in interest (plaintiff) is the landlord. If the landlord is a corporation, the Committee agrees that an officer of that corporation could represent it in district justice court. It was also argued that Allegheny County local civil Rule 200(c)(2) permits a corporation to be represented in the Court of Common Pleas of Allegheny County by an officer of the corporation in "an appeal from a judgment entered into a District Justice Court in an action for the recovery of the possession of real property," and that such a rule should be adopted in the statewide general rules for district justices to permit officers of property management corporations to represent their landlord clients in court. The Committee rejected this argument for the same reason stated above, i.e., the Committee believes the Allegheny County rule relates to cases in which the corporation being represented by its officer is the actual party in interest,² not merely an agent of the plaintiff.

The Committee also received inquiries regarding a district manager or similar non-officer employee representing a corporation. Again, the argument was made that the use of the word "may" in the current version of Rule 207 suggests that there is flexibility in the rule for someone other than a corporate officer or attorney to represent a corporation. The Committee believes, however, that the intent of the rule is to limit representation of corporations to only corporate officers or attorneys.³

¹ See Section 2524 of the Judicial Code (Penalty for unauthorized practice of law), 42 Pa.C.S. § 2524; *In re Campanella*, 207 B.R. 435 (Bankr. E.D. Pa. 1997).

² See discussion *infra* note 3.

³ The Committee notes that the provision in Rule 207 permitting corporations to be represented by corporate officers is less restrictive than the general rule relating to representation of corporations in courts of record. See *Walacavage v. Excell 2000, Inc.*, 331 Pa. Super. 137, 480 A.2d 281 (1984) (holding that a corporation may appear and be represented in Pennsylvania courts only by an attorney admitted to practice); *Phila.M.C.R.Civ.P. No. 131*. The court in *Walacavage* noted that exceptions to their holding, relating to small claims cases, could be created by statute or rule. *Walacavage*, 331 Pa. Super. at 143-44, 480 A.2d at 284-85, n.4.5. The Supreme Court of Pennsylvania adopted the current version of Rule 207 in 1985.

B. Attorneys of Record and Notices

In an issue tangentially related to representation in district justice court proceedings, the committee considered the rules relating to attorneys of record and notices to parties and attorneys. The Committee noted that the term "attorney of record" is used throughout the rules. There is no definition for the term, however, and no formal procedural mechanism for an attorney to become the attorney of record in a case. In addition, the Committee noted that the rules make reference to notices being sent to the attorney of record in 11 different instances. The rules, however, are somewhat inconsistent as to when a notice is to be given to the party, to the attorney of record, or both.

With regard to the procedure for an attorney to become the attorney of record in a case, the Committee believed it advisable that a more formal procedure be established. The Committee recognized that the rules require important notices, many affecting the rights of parties,⁴ are to be sent to the parties and their counsel. Without a procedure in place to determine that a party has an attorney of record, some important notices might not get to counsel. At the same time, however, recognizing the relative informality and expedited nature of district justice court proceedings, the Committee wanted to avoid a very formal procedure for the "entry of an appearance" as is used in the courts of record. Specifically, the Committee did not want to propose a rule that would require leave of court before an attorney could withdraw as the attorney of record in a matter.

As noted above, the Committee found 11 different instances in the rules that provide for notices being sent to a party or the party's attorney of record. For example, the Committee discovered, among others, the following instances:

- Pa.R.C.P.D.J. No. 421B provides that, "[i]f a party has an attorney of record the written notice shall be given or mailed to the attorney of record instead of to the party."

- Pa.R.C.P.D.J. No. 514C provides that, "... if a party has an attorney of record *named in the complaint form*, the written notice shall be given to the attorney instead of to the party. (Emphasis added.)

The Committee found a number of other variations of these notice provisions throughout the rules. While some of these inconsistencies might be necessitated by differences in the procedures addressed in particular rules, the Committee reviewed each instance and attempted to draft procedures that are as consistent as possible in all the rules. Because attorneys often do not become involved in district justice court proceedings until later in the court process (e.g., after judgment is entered but before execution of the judgment), the Committee believed it advisable that all notices be sent to all parties of record and all attorneys of record.

III. Proposed Rule Changes

To address the issues discussed above, the Committee proposes the following rule changes.⁵

A. Rule 202

The Committee proposes that two new definitions, for "attorney at law" and "attorney of record" be added to

⁴ Examples of such notices include, among others, hearing notices (Rules 305 and 504), judgment notices (Rules 324 and 514), notices regarding property rights determinations (Rule 421), etc.

⁵ In addition to the substantive changes discussed here, the Committee proposes minor technical or "housekeeping" changes to address gender neutrality issues, add or correct cross-references, and to conform to modern drafting style.

Rule 202. The proposed definition of “attorney at law” is similar, but not identical to the definition in Pa.R.C.P. No. 76.

B. Rule 207

The Committee proposes that Rule 207 be amended to make clear that individuals may be represented only by themselves or by an attorney at law; that a corporation or similar entity may be represented only by a corporate officer or an attorney at law; and that a partnership or unincorporated association may be represented only by a partner or an officer of the association, or an attorney at law. In addition, an officer or partner undertaking representation in accordance with the rule would be required to have documentation of his or her status as an officer or partner. The Official Note to the rule would be revised to cross-reference Section 2524 of the Judicial Code (relating to penalty for unauthorized practice of law), 42 Pa.C.S. § 2524. The Note would also cross-reference the *Walacavage case*.⁶

C. New Rule 207.1

The Committee proposes an entirely new Rule 207.1 (Attorney of Record; Notices) to provide a procedure for an attorney to become and withdraw as the attorney of record in a case, and provide for notices. Subdivision A of the new rule would establish the procedure for becoming attorney of record, essentially requiring that the attorney file a written document with the district justice. Subdivision B would provide for the withdrawal of the attorney of record. Subdivision C would serve as a blanket provision requiring that all notices sent from the district justice court be sent to all parties of record and all attorneys of record.

The proposed Official Note would cross reference Pa.R.C.P. No. 1012(b). Also, given the relative ease with which an attorney can withdraw, the Note would make clear that nothing in the rule is intended to affect an attorney’s ethical duty to his or her client.⁷

D. Rules 304, 503, and 504

To further clarify that parties may be represented only as provided in Rule 207, the Committee proposes that Rules 304, 503, and 504 be amended to delete references to the “plaintiff’s agent.” The Committee could contemplate no situation in which the actual party in interest would not sign the complaint, or in which the hearing notice would be sent to anyone other than the plaintiff and the plaintiff’s attorney, if any.

E. Rules 315, 318, 324, 421, 511, and 514

The Committee proposes that rules 315, 318, 324, 421, 511, and 514 be amended to delete the duplicative and inconsistent notice provisions.⁸ These notice provisions are no longer necessary because of the proposed blanket provision in new Rule 207.1 requiring that “when a party has an attorney of record and when a rule specifies that a notice is to be given or mailed to the party, a copy of the

notice shall also be given or mailed to the attorney of record.”

[Pa.B. Doc. No. 03-1929. Filed for public inspection October 3, 2003, 9:00 a.m.]

Title 255—LOCAL COURT RULES

CRAWFORD COUNTY

Adoption of Procedural Rules Applicable to the Orphans Court of the Court of Common Pleas; No. OC 2002-96

Order

And Now, September 17, 2003 it is ordered as follows:

1. The revisions and amendments to Rules 1 and 3 of the Crawford County Orphans Court Rules are hereby approved, adopted and promulgated as rules of the court.

2. These Rules shall become effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

3. The Clerk of Courts of Crawford County is ordered and directed to do the following:

a. File seven (7) certified copies of this Order and Rules with the Administrative Office of Pennsylvania Courts.

b. File two (2) certified copies of this Order and Rules with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette reflecting the text of the hard copy version.

c. File one (1) certified copy of this Order and Rules with the Pennsylvania Orphans Court Procedural Rules Committee

d. Keep continuously available for public inspection, copies of this Order and Rules.

e. Keep continuously available for purchase by attorneys, members of the public and the like, copies of this Order and Rules.

5. The Court Administrator of Crawford County is ordered and directed to publish a copy of this Order and Rules on the internet web page maintained by Crawford County as well as the Internet web page maintained by the Administrative Office of Pennsylvania courts that lists local Common Pleas rules.

By the Court

GORDON R. MILLER,
President Judge

RULE 1. JUDGES—LOCAL RULES

Rule 1.2.1 (No change)

Rule 1.2.2 (No Change)

Rule 1.2.3

This rule shall be changed by adding thereto subparagraph (e) as follows:

(e) Withdrawal of Appearance.

(1) An attorney may withdraw an appearance for any party in proceeding in the Orphans’ Court Division only in accordance with Pa.R.C.P. 1012(b) and Crawford County Civil Rule L1012B.

⁶ See discussion *supra* note 3.

⁷ See Rule 1.16 of the Rules of Professional Conduct.

⁸ As noted in Section II.B., *supra*, there are additional instances in which the rules require a notice be sent to a party or attorney of record. These instances, however, relate to appeals in the courts of common pleas and must be dealt with in a slightly different context. These instances will be addressed in a separate proposal.

(2) An attorney may withdraw an appearance for personal representative(s) of a decedent's estate in proceedings before the Register of Wills in the following manner:

(i) By filing a written Notice of Withdrawal with the Register of Wills with the signed consent of all personal representative(s) attached or where another attorney has entered, or simultaneously enters, an appearance for the personal representative(s) before the Register of Wills; or

(ii) With leave of Court after having given five (5) days written notice to the personal representative(s) and thereafter filing a written motion for leave to withdraw an appearance with a certification attached thereto that the required notice has been given.

RULE 3. PLEADING AND PRACTICE

Rule 3.1.1. Conformity to Equity.

The pleading and practice procedures shall conform to State Rule 3.1 and, where local rules do not conflict with state rules, shall conform to pleading and practice in the Court of Common Pleas in accordance with Crawford County Civil Rules, unless otherwise provided herein.

Rule 3.2.1. Pleadings.

The pleadings in matters before the Orphans' Court are limited to a petition, (including a petition for a citation or for declaratory relief), an answer (which may include new matter), a reply, preliminary objections and an answer to preliminary objections.

(a) *New Matter.* Any defense which is not a denial of the averments of fact in the petition shall be set forth under the heading "New Matter."

(b) *Preliminary Objections.*

(1) Preliminary objections are available to any party, but shall be limited to questions of:

- (i) law;
- (ii) form; or
- (iii) jurisdiction.

(2) An answer to preliminary objections is limited to the averments of fact set forth in the preliminary objections.

Rule 3.2.2. Disposition of Pleadings.

(a) *Failure to Answer.* If the respondent is required to file an answer but fails to do so, all averments of fact in the petition may be deemed by the court to be admitted.

(b) *Failure to Reply.* If the petitioner is required to file a reply to an answer which contains new matter and fails to do so, the averments of fact set forth in the new matter may be deemed admitted and the case will be at issue.

(c) *Failure to File an Answer to Preliminary Objections.* If a party is required to file an answer to preliminary objections and fails to do so, the averments of fact set forth in the preliminary objections may be deemed admitted by the court and the case will be at issue on the preliminary objections.

Rule 3.4.1. Form. Additional Requirements.

(a) *Typing. Endorsements.* Every pleading shall be endorsed with the name, address, Pennsylvania Supreme Court Identification Number and telephone number and fax number (if any) of counsel and, where practicable, typewritten and double-spaced or printed. If a party is not represented by counsel every pleading shall be en-

dorsed with the name, address and telephone number of that party.

(b) *Notice to Plead.* A notice to plead shall neither be required nor used where a return day has been fixed in a citation or order as well as in cases where State Rule 3.2 applies (See also 20 Pa.C.S.A. 764). As to any other pleading to which a response is required said pleading shall have endorsed thereon, or included therein as the first page thereof, in a conspicuous place, a notice to defend and notice to plead addressed specifically to each party from whom a response is required. The form as required by Pa.R.C.P. 1018.1 and Pa.R.C.P. 1361 (as said Rules may be in force or hereafter amended) shall be used. (See Pa.R.C.P. 1026).

(c) *Signature and Verification.* All pleadings shall be signed by the attorney (if any) and verified by at least one of the parties involved. If this is impracticable, they may be signed and verified by someone familiar with the facts, in which case the reason for the failure of the parties to verify shall be set forth.

(d) *Decree.* Every proposed decree shall bear the caption of the case and shall be attached to the petition.

(e) *Consents.* The petition shall recite that all necessary consents are attached or shall set forth the names and addresses of the persons who do not consent. The Court may direct that notice be given or that a citation be directed to persons who do not consent to show cause why the prayer of the petition shall not be granted.

(f) *Paper Size.* No paper or other document may be filed in the Register of Wills or Clerk of Orphans' Court Division other than paper 8 1/2" x 11" in size. The only exception to this Rule is the filing of a Will or Trust.

(g) *Cover Sheet.* All motions presented at motion court shall include a completed motion court cover sheet in the form required by the Court.

(h) *Notice Requirements Prior to Presentation at Motion Court.* Prior to the presentation to the Court of any motion or petition requesting an immediate Order of Court, other than a Rule to Show Cause which grants no relief, opposing counsel and unrepresented parties must be given notice, subject to the following:

(1) *Contents of Notice.* The notice must give the date and time when the motion or petition will be presented to the Court and must be accompanied by a copy of the proposed motion or petition and order.

(2) *Certification of Notice.* The motion or petition must contain a certificate signed by counsel or a party that has no counsel, verifying that proper notice was given under this Rule. The certificate shall be in the same or substantially same form as the form contained in the appendix to these rules.

(3) *Length of Notice Required.* Except where otherwise required under the Local Rules and except in cases of an emergency as determined by the court, the following notice shall be required:

(i) Two (2) full business days' notice must be given by personal delivery or facsimile transmission to each party or their counsel's office,¹ or

(ii) Five (5) full business days' notice must be given if notice is by mail.²

¹ Notice is deemed given when it is received.

² Mail notice is deemed given when delivered to the postal authorities.

(4) *Failure to Give Notice.* The Court will not enter an Order on a petition or motion with the Certificate of Notice being attached unless a special cause is shown to the Court.

[Pa.B. Doc. No. 03-1930. Filed for public inspection October 3, 2003, 9:00 a.m.]

MONTGOMERY COUNTY

**Amendment to Local Rule of Civil Procedure
1018.1***

Order

And Now, this 8th day of September, 2003, the Court approves and adopts the following Amendment to Montgomery County Local Rule of Civil Procedure—Rule 1018.1* Notice To Defend—Office to be Contacted. The Revision and Renumbering shall become effective thirty (30) days from the date of publication in the *Pennsylvania Bulletin*.

The Court Administrator is directed to publish this Order once in the *Montgomery County Law Reporter* and in the *Legal Intelligencer*. In conformity with Pa.R.C.P. 239, seven (7) certified copies of the within Order shall be filed by the Court Administrator with the Administrative Office of Pennsylvania Courts. Two (2) certified copies shall be distributed to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*. One (1) certified copy shall be filed with the Civil Procedural Rules Committee. One (1) copy shall be filed with the Prothonotary, one (1) copy with the Clerk of Courts, and (1) copy with the Court Administrator of Montgomery County, one (1) copy with the Law Library of Montgomery County and one (1) copy with each Judge of this Court.

By the Court

S. GERALD CORSO,
President Judge

Rule 1018.1*. Notice To Defend—Office to be Contacted.

As provided by Pennsylvania Rule of Civil Procedure 1018.1, the following office is designated to be named in the Notice to Defend prescribed by that rule as the office from which **[advise on where to get legal help]** information about hiring a lawyer can be obtained.

Lawyer Reference Service
100 West Airy Street (Rear)
Norristown, Pennsylvania 19404-0268
(610) 279-9660, Extension 201

[Pa.B. Doc. No. 03-1931. Filed for public inspection October 3, 2003, 9:00 a.m.]

**DISCIPLINARY BOARD OF
THE SUPREME COURT**

Notice of Suspension

Notice is hereby given that Patrick J. Moore, having been suspended from the practice of law in the State of New Jersey for a period of one year, the Supreme Court of Pennsylvania issued an Order dated September 22, 2003 suspending Patrick J. Moore, from the practice of law in this Commonwealth for a period of one year, effective October 22, 2003. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

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

[Pa.B. Doc. No. 03-1932. Filed for public inspection October 3, 2003, 9:00 a.m.]

RULES AND REGULATIONS

Title 28—HEALTH AND SAFETY

DEPARTMENT OF HEALTH

[28 PA. CODE CHS. 1101, 1103, 1105, 1107,
1109 AND 1113]

Supplemental Nutrition Program for Women, Infants and Children

The Department of Health (Department) adopts amendments to Chapters 1101, 1103, 1105, 1107, 1109 and 1113 to read as set forth in Annex A. This final-form rulemaking governs the authorization, management and appeal rights of stores participating in the Women, Infants and Children (WIC) Program (WIC authorized stores).

A. *Purpose and Background*

The primary purpose of the final-form rulemaking is to achieve compliance with recent amendments to the Federal regulations governing the WIC Program in 7 CFR Part 246 (relating to supplemental nutrition program for women, infants and children), adopted by the United States Department of Agriculture, Food Nutrition Service (USDA-FNS). The Federal amendments, adopted on December 29, 2000, mandate selection criteria, training requirements, criteria to be used to identify high-risk stores and monitoring requirements, including compliance investigations.

The final-form rulemaking also implements the Department's decision, permitted by Federal regulation, to eliminate the limitation criteria used to limit the number of stores authorized to participate in the WIC Program. Prior to the final-form rulemaking, a store desiring to become a WIC authorized store had to satisfy the selection and limitation criteria in § 1103.4 (relating to selection criteria for authorization and reauthorization). Through the final-form rulemaking, the Department will allow any store that meets the revised selection criteria to participate in the WIC Program. The Department has retained all previous selection criteria with some additions and revisions. The most significant of the revisions is to the manner in which the Department imposes price limitations on foods that may be purchased with WIC checks (allowable foods). Prior to the final-form rulemaking, the Department had maintained limited control on prices for allowable foods by establishing the total maximum allowable cost for two defined "food prescriptions" consisting of food items that participants purchase most frequently. The Department has established maximum prices for all allowable foods. Stores are required to have allowable foods available at or below the published prices. Payment by the WIC Program of WIC checks submitted for redemption by WIC authorized stores is limited to no more than the sum total of the maximum prices for each of the WIC food items authorized for purchase on the check.

The Department held a series of meetings for the purpose of soliciting comments from persons affected by the final-form rulemaking. The discretionary changes to the Department's regulations published as proposed rulemaking at 32 Pa.B. 4585 (September 21, 2002) were, to a large measure, the result of the discussions held during these meetings.

The Department's regulations are also a part of the State Plan of Operations required to be submitted to the USDA-FNS under 7 CFR 246.4 (relating to state plan). Therefore, in addition to meeting the Commonwealth's statutory requirements for promulgating regulations, the Department was required to submit changes to its WIC Program regulations to the USDA-FNS for approval. The Department submitted both the proposed and the final-form regulations to the USDA-FNS, which approved the regulations.

The Department published a proposed rulemaking and provided a 30-day public comment period. Additionally, the Department sent out a Retail Store Alert to each local agency WIC director, local agency WIC retail store coordinator and WIC authorized store informing them of the publication of the proposed rulemaking and directing their attention to the revised sections.

The Department received comments to the proposed rulemaking from four commentators. The comments and the Department's responses to the comments appear in the summary of this final-form rulemaking. If a section is not mentioned in the summary, no comments were received on that section and it was adopted as proposed.

B. *Summary*

One commentator expressed overall support for the stated general purpose of the proposed rulemaking. Additionally, the commentator expressed specific support for the elimination of existing § 1103.4(b) and (c), the imposition of price limitations on all allowable foods in § 1103.4(5), the deletion of references to the appeal rights of local agencies in § 1101.1(b) (relating to background and scope) and Chapter 1113 (relating to store appeals) and the establishment of the Vendor Advisory Workgroup (Workgroup) in § 1101.3(b) (relating to administration).

One commentator expressed agreement with the establishment of the Workgroup in § 1101.3(b) and with § 1103.4(5), which establishes price limitations on WIC allowable foods.

§ 1101.2. Definitions.

One commentator expressed the opinion that all "onsite reviews" should be unannounced to achieve the greatest level of compliance with the terms and conditions that govern participation of authorized stores.

The definition of "onsite review" states that an onsite review may be announced or unannounced. An onsite review for purposes of store authorization or reauthorization is announced for the reason that the review represents the store's single opportunity to demonstrate understanding and compliance with the criteria governing authorization and reauthorization. Under the final-form rulemaking, failure to demonstrate compliance during the announced onsite review results in denial of the store's application for authorization or reauthorization.

Onsite monitoring reviews are unannounced because the purpose of the monitoring review is to assess compliance with terms and conditions for participation in the WIC Program. If the WIC Program provided notice of the monitoring review, a store routinely not complying with terms and conditions of participation could avoid detection and eventual sanction. For that reason no notice is given. To ensure fairness, the WIC Program does not impose a sanction until at least three monitoring reviews reveal violations of terms and conditions of WIC Program

participation. Moreover, the WIC Program notifies the store of the results of each review, gives the store notice that the investigation will continue and imposes training requirements after the second problematic store review. See § 1105.6(b)(3) (relating to monitoring of WIC authorized stores). Unannounced onsite reviews allow the WIC Program to monitor WIC authorized stores for abuse and errors as well as to take corrective action when appropriate as mandated in 7 CFR 246.12(j)(2) (relating to routine monitoring).

§ 1103.4. Selection criteria for authorization and reauthorization.

The Independent Regulatory Review Commission (IRRC) expressed concern that the Department's plan to publish in the *Pennsylvania Bulletin* the maximum allowable prices for allowable foods quarterly, as provided for under proposed § 1103.4(5), would place an undue burden on stores by requiring them to monitor the *Pennsylvania Bulletin* to maintain compliance with the WIC Program. IRRC recommended that the information be made available on the Department's website or mailed directly to vendors.

The Department concurs with this suggestion and will inform each WIC authorized store of the maximum allowable prices for WIC allowable foods by mailing the information to the stores prior to publication in the *Pennsylvania Bulletin*. Section 1103.4(5) has been revised to state that the Department will mail to stores maximum price information for WIC allowable foods.

One commentator expressed concern that an increase in the number of WIC authorized stores as a result of the Department's proposal to eliminate the limitation criteria in § 1103.4(b) and (c), now deleted, would cause an overall increase in the administrative costs associated with mandated onsite reviews. IRRC supported this commentator in its comments and specifically requested that the Department further explain the fiscal impact of this change.

The Department has not revised the final-form rulemaking in response to these comments. The fiscal impact of the increase in store numbers participating in the WIC Program will be neutral for two reasons: (1) while the number of stores participating in the WIC Program and the administrative costs associated with those stores will increase, the total number of onsite store reviews the Department must conduct each year and the costs associated with those reviews will decrease; and (2) the administrative costs associated with the very labor-intensive overcharge recovery system, being replaced by the computer-driven price adjustment system, will be eliminated.

Under prior regulations, WIC authorized stores were reviewed once every 2 years to determine whether the store would continue as a WIC authorized store. Accordingly, the WIC Program conducted onsite reauthorization reviews of 50% of all WIC authorized stores each year. In addition, the WIC Program conducted onsite monitoring reviews in accordance with Federal requirements, of a minimum of 5% of all WIC authorized stores. Therefore, the WIC Program performed onsite reviews of 55% of all WIC authorized stores annually. Under the final-form rulemaking, each WIC authorized store must be reviewed once every 3 years, reducing the number of annual onsite authorization and reauthorization reviews performed by the WIC Program to 34% of all WIC authorized stores. Even considering the Federal monitoring requirement, the overall annual onsite review requirement will be

reduced from 55% to 39% of the total number of all WIC authorized stores. The total number of WIC authorized stores would have to increase by 41% before the cost of onsite reviews required under the final-form rulemaking would equal the previous cost of reviews to the WIC Program.

After store reviews, the next highest cost component of the retail store management area of the WIC Program is the overcharge recovery system. Under the overcharge recovery system, all WIC authorized stores are required to submit to the local agency a quarterly price report in which the store lists its highest price during the quarter for each WIC allowable food. WIC Program staff responsible for direct client services have performed the task of manually entering store specific price data, for each WIC authorized store, into the WIC Program's computer data system. The final-form rulemaking replaces the overcharge recovery system with the price adjustment system, which requires no manual input of store specific price data into the computer data system. Therefore, the cost to the Department will remain neutral.

§ 1103.5. Minimum inventory.

The Department has significantly revised proposed § 1103.5. Proposed § 1103.5 listed all foods to which minimum inventory requirements would apply along with exact quantities of the foods that WIC authorized stores would be expected to have on the store premises at all times. Because exact quantities can vary as a result of manufacturer product or packaging changes, the Department determined that the most effective means to identify the minimum inventory requirements of allowable foods adopted by the Department is to publish in the *Pennsylvania Bulletin* a list of all categories and types of allowable foods for which minimum inventory requirements exist. The list will be published by September 15 of each year and when the Department adopts a revised list. The list will be distributed to all WIC authorized stores at the time of publication of this final-form rulemaking and to any new store when it is authorized to participate in the WIC Program.

The section, as revised, also contains a list of WIC allowable foods for which minimum inventory requirements exist, restricts the minimum inventory requirement of each WIC allowable food to the maximum quantity which could be authorized for one participant for 1 month under 7 CFR 246.10 (relating to supplemental foods), contains a provision for exceptions to the minimum inventory requirements, contains a list of WIC allowable foods for which exceptions may apply and defines when an exception to the minimum inventory requirements expires. Also, as a consequence of the elimination of the list of specific minimum inventory requirements in § 1103.5, the Department has eliminated the reference to the list of minimum inventory requirements in § 1103.4(5).

§ 1103.7. Inadequate participant access.

One commentator expressed concern that the effect of the Department's decision to delete § 1103.7(c)(5)—(7) (relating to inadequate participant access) would be to narrow the definition of "inadequate participant access" which might have an adverse impact on participant access to the supplemental foods the WIC Program provides.

Adequate participant access is a fundamental concern for the Department. The purpose of § 1103.7(c)(5)—(7) was to reduce for the WIC Program the administrative burden associated with the transfer of a large number of

participants to another store in the context of a denial of reauthorization of a store or a store's disqualification for violation of the terms and conditions that govern participation in the program. Deletion of the paragraphs has no substantive impact on participant access decisions, which are driven by numerous factors. Before denying authorization to a store or disqualifying a store from the WIC Program, the Department gives consideration to availability of public transportation, the proximity of other WIC authorized stores in relation to the number of WIC participants, special dietary needs or ethnicity of participants, existence of physical barriers or other conditions which make access for participants to another WIC authorized store impractical and whether or not there are participants with physical disabilities that cannot be accommodated by another WIC authorized store. By considering all of these factors, and with the increase in the number of WIC authorized stores as a result of the elimination of limitation criteria, the Department is able to ensure adequate participant access to WIC authorized stores that offer a sufficient inventory of fresh WIC allowable foods to meet the nutritional needs of the WIC participants. The Department has not changed the final-form rulemaking in response to this comment.

§ 1107.1. Imposition of sanctions.

Section 1107.1(d)(2), (5), (6), (11) and (12) (relating to imposition of sanctions), as proposed, would have allowed for a 1-year disqualification for the following violations of the terms and conditions governing participation in the WIC Program: providing an allowable food in excess of the amount authorized for purchase on the WIC check (proposed subsection (d)(2)), failing to request a WIC identification card prior to accepting a WIC check (proposed subsection (d)(5)), accepting a WIC check made payable to another store without prior written approval from the Department (proposed subsection (d)(6)), securing the signature of the participant or authorized representative prior to completing the "Pay Exactly" box on the WIC check (proposed subsection (d)(11)) or charging the WIC Program sales tax (proposed subsection (d)(12)). The USDA-FNS commented that 7 CFR 246.12(l)(1)(i)(iv) require a state agency to disqualify a store from participation in the WIC Program after a pattern of each of the previous violations of the terms and conditions governing participation in the WIC Program. The Department revised proposed § 1107.1(d)(2), (5), (6), (11) and (12) to require a pattern before the State agency may impose a 1-year term of disqualification. Subsection (d)(2), (5), (6), (11) and (12) now state that the State agency will disqualify a store for having committed two or more incidences of any of the specific violations.

§ 1113.2. Administrative appeal procedures.

The Department has revised proposed § 1113.2 (relating to administrative appeal procedures). Proposed § 1113.2 provided that an administrative appeal had to be filed within 30 days after the effective date of the adverse action. According to 7 CFR 246.18(a)(2) (relating to effective date of adverse actions against vendors), the Department must set the effective date of denials of authorization and disqualifications (other than those imposed under 7 CFR 246.12(l)(1)(i)) no earlier than 15 days and no later than 90 days after the date of the notice of the adverse action.

Additionally, 7 CFR 246.18(b)(2) provides that the Department must give an authorized store or local agency the opportunity to appeal an adverse action within a time period specified by the Department in its notification of the adverse action. Prior to the proposed rulemaking, the

Department defined the time period for allowance of appeal of an adverse action as 30 days from the date that the Department mailed the notice of adverse action.

Due to the mandatory time period of at least 15 days between the notice of an adverse action and the effective date of that action required under 7 CFR 246.18(a)(2), the language in the regulations as proposed allowed for, at a minimum, a 45-day time period between the date when the Department mailed a notice of an adverse action and expiration of the 30-day time period allowed for any resulting notice of appeal.

The Department has determined that the long standing time period of 30 days from the date a notice of adverse action is mailed is sufficient for an authorized store or local agency to file an appeal. As a result, in the final-form rulemaking, the Department has revised the language of § 1113.2 to state that an authorized store or local agency may appeal an adverse action within 30 days from the date the Department mailed the notice of the adverse action.

C. Fiscal Impact

The WIC Program is 100% Federally funded. No State dollars are involved in the operation of the WIC Program. The amendment to § 1103.3 (relating to temporary authorization), regarding authorization of stores, eliminating provisions regarding store slots and competition for those slots based upon prices, in and of itself, has the potential for increasing dramatically the number of stores that may be authorized to participate in the WIC Program. Through introduction of provisions regarding maximum allowable prices for all WIC allowable foods, however, the Department hopes to realize two objectives: (1) to keep the number of stores applying for authorization within reasonable limits; and (2) to achieve savings in foods costs that may translate into the additional administrative dollars needed to monitor the additional stores. Other aspects of the final-form rulemaking, such as deletion of the provisions that imposed limitations on the number of store slots available, deletion of the provisions requiring store input and WIC Program collection of quarterly prices from each retail store, as well as the decrease in the annual onsite review requirement will generate program savings. Overall, the Department anticipates the fiscal impact of the final-form rulemaking to be neutral.

D. Paperwork Requirements

The final-form rulemaking will not increase paperwork for WIC Program participants or those grocery stores voluntarily participating in the WIC Program. The increase in the Department's paperwork requirements that will result from the increase in the number of authorized stores will be offset by the decrease in paperwork associated with identifying, based on price calculations, which stores will be awarded available store slots. Paperwork requirements also will decrease as a result of the elimination of the overcharge recovery system and less frequent annual onsite review requirements. Moreover, the Department anticipates fewer appeals by stores denied authorization. Only stores failing to meet selection criteria will be denied authorization and reauthorization and, through temporary authorization, stores may have more than one opportunity to meet selection criteria.

E. Effective Date/Sunset Date

The final-form rulemaking will become effective upon final publication in the *Pennsylvania Bulletin*. The final-form rulemaking will be monitored continually and will be updated as required by changes in Federal statute or

Federal regulations governing the WIC Program. Therefore, no sunset date has been set.

F. *Statutory Authority*

The WIC Program was authorized through an amendment to the Child Nutrition Act of 1966 (42 U.S.C.A. § 1786). Congress authorized the USDA-FNS to contract with and make funds available to states to administer the WIC Program. In this Commonwealth, the WIC Program receives 100% of its funding from the USDA-FNS.

There are no State statutes governing the operation or administration of the WIC Program. The Women's, Infants' and Children's Nutrition Improvement Act (62 P. S. §§ 2951—2955) authorizes additional State funding for the expansion of the WIC Program. The Commonwealth, however, has not provided funding for the expansion of the program since State Fiscal Year 1996.

The State regulations governing the WIC Program were published at 29 Pa.B. 3841 (July 24, 1999), following the decision of the Commonwealth Court in *Giant Food Stores, Inc. v. Commonwealth of Pennsylvania, Department of Health*, 713 A.2d 177 (Pa. Cmwlth. 1998). The Commonwealth Court held that the Department was required to promulgate regulations governing the selection and management of grocery stores to participate in the WIC Program. The State regulations added Part VIII (relating to supplemental nutrition program for women, infants and children (WIC program)). The regulations also deleted §§ 8.41—8.74, the Department's then existing regulations pertaining to WIC Program administrative appeals.

The final-form rulemaking is promulgated under section 2102(g) of The Administrative Code of 1929 (code) (71 P. S. § 532(g)), which provides the Department general power to promulgate regulations to carry out its duties. Section 2102(a) of the code gives the Department the authority and duty to protect the health of the people of this Commonwealth and the *Giant supra* decision.

G. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 11, 2002, the Department submitted a copy of the notice of proposed rulemaking, published at 32 Pa. B. 4585, to IRRC and the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare for review and comment.

Under section 5(c) of the Regulatory Review Act, 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 the final-form rulemaking, the Department has considered all comments from IRRC, the Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on August 13, 2003, the 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 August 14, 2003, and approved the final-form rulemaking. The Attorney General approved the final-form rulemaking on September 4, 2003.

H. *Contact Person*

Questions regarding the final-form rulemaking may be submitted to Greg Landis, Chief, Grants and Retail Store Management Unit, WIC Program, Room 604, Health and Welfare Building, Harrisburg, PA 17108, (717) 783-1289.

Persons with a disability may submit questions in alternative formats such as audio tape or Braille or by using V/TT, (717) 783-6514 for speech or hearing impaired persons or the Pennsylvania AT&T Relay Service, (800) 654-5984 (TT). Persons who require an alternative format of this document (that is, large print, audio tape or Braille) should contact Greg Landis at the previous address or telephone numbers to make necessary arrangements.

I. *Findings*

The Department finds that:

(1) Public notice of the intention to adopt the amendments adopted by this order has been given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations 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 adoption of the final-form rulemaking in the manner provided by this order is necessary and appropriate for the administration of the authorizing statutes.

J. *Order*

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

(a) The regulations of the Department, 28 Pa. Code Chapters 1101, 1103, 1105, 1107, 1109 and 1113, are amended by amending §§ 1101.1—1101.3, 1103.1—1103.5, 1103.7, 1105.1—1105.6, 1107.1, 1107.1a, 1107.2, 1109.2 and 1113.1—1113.5 and by deleting § 1103.6 to read as set forth in Annex A.

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

(c) The Secretary shall submit this order, Annex A and a Regulatory Analysis Form to IRRC, the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare for their review and action as required by law.

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

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

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 33 Pa.B. 4372 (August 30, 2003).)

Fiscal Note: Fiscal Note 10-169 remains valid for the final adoption of the subject regulations.

Annex A

**TITLE 28. HEALTH AND SAFETY
PART VIII. SUPPLEMENTAL NUTRITION
PROGRAM FOR WOMEN, INFANTS AND
CHILDREN (WIC PROGRAM)
CHAPTER 1101. GENERAL PROVISIONS**

§ 1101.1 Background and scope.

(a) *Background.* Through an amendment to section 17 of the Child Nutrition Act of 1966 (42 U.S.C.A. § 1786), Congress has authorized the USDA-FNS to contract with state agencies for the establishment of the WIC Program.

The USDA-FNS contracts with and makes funds available to the Department to administer the WIC Program in this Commonwealth.

(1) The purpose of the WIC Program is to provide allowable foods to income eligible pregnant, breast-feeding or postpartum women, infants and children up to 5 years of age, who are at nutritional risk because of medical problems or poor diets. The WIC Program provides these individuals with nutritious foods to supplement their diets during critical stages of growth and development. These foods are chosen to correct, prevent or minimize health and nutritional problems. The foods are not intended to be a complete diet, but, rather, to supplement other foods available to the participants.

(2) In addition to providing supplemental foods, the WIC Program refers applicants and participants to health services and offers nutrition education so that the food will be properly used and will improve the dietary and health habits of the entire family. The Department uses a retail purchase system to provide the majority of food benefits to participants.

(b) *Scope.* This part establishes design and operational requirements for the food delivery system for the WIC Program, and prescribes procedures to be used by applicants, participants and stores to appeal actions of the Department and local agencies that may adversely impact upon them.

§ 1101.2. Definitions.

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

Allowable foods—Foods and infant formula on the WIC food list. These products meet nutritional standards established by the USDA-FNS and are authorized by the Department for purchase with WIC checks.

Applicant—An individual applying to become a participant.

Authorization—The grant of authority to a store to serve as a WIC authorized store.

Authorized representative—

(i) For an applicant or participant, a parent or guardian of an applicant or participant who is an infant or child, a proxy or endorser, or an individual designated to represent the applicant or participant in administrative proceedings involving the WIC Program.

(ii) For a store, an individual designated by the store to represent it in administrative proceedings involving the WIC Program.

(iii) For a compliance buy or WIC transaction review, the person conducting the compliance buy or WIC transaction review.

Breastfeeding woman—A woman, during 1 year postpartum, who is breastfeeding her infant.

Certification—The Department's acceptance of an applicant to participate in the WIC Program as a participant.

Child—A person 1 year of age or older but under 5 years of age.

Claim—A demand for reimbursement of an overcharge or other improper charge to the WIC Program as a result of a store violation.

Clinic—A facility where applicants apply for and participants receive WIC Program services other than food benefits.

Compliance buy—A covert purchase at a WIC authorized store, with a WIC check, conducted to enable the Department to evaluate adherence by a WIC authorized store with this part governing the store's participation in the WIC Program.

Compliance investigation—A series of at least two compliance buys conducted at the same WIC authorized store.

Competent professional authority—

(i) An individual on the staff of the local agency authorized to determine nutritional risk and prescribe supplemental foods. The following persons are the only persons the Department will authorize to serve as a competent professional authority: physicians, nutritionists (Bachelor's or Master's Degree in Nutritional Sciences, Community Nutrition, Clinical Nutrition, Dietetics, Public Health Nutrition or Home Economics with emphasis on nutrition), dieticians, registered nurses, physician's assistants (certified by the National Committee on Certification of Physician's Assistants or certified by the State medical certifying authority), or State or local medically trained health officials.

(ii) The term also applies to an individual who is not on staff at the local agency but who is qualified to provide data upon which nutritional risk determinations are made by a competent professional authority on staff of the local agency.

Contract brand—The specific manufacturer brand of an allowable food that the Department is contractually bound to prescribe for participants.

Department—The Department of Health of the Commonwealth.

Disqualification—

(i) For the purposes of Chapters 1101, 1103, 1105, 1107, 1109 and 1113, the term means the action by the Department to end participation of a WIC authorized store in the WIC Program for reasons of fraud, abuse or other violations of this part governing the store's participation in the WIC Program.

(ii) For purposes of Chapter 1111, the term means action by the Department or local agency to end participation of a participant who no longer meets the qualifications necessary to participate in the WIC Program or for reasons of fraud, abuse or violation of standards governing the participant's enrollment in the WIC Program.

Division of WIC—Division of WIC in the Department.

Endorser—The parent or guardian of an infant or child participant who is authorized to use and sign the WIC checks of the infant or child for purchase of allowable foods.

Filing date—The date on which the local agency or the Department receives an appeal.

Food prescription—A designation by a competent professional authority of allowable foods in specified quantities to meet a participant's nutritional needs based upon a determination of nutritional risk.

Health services—Routine pediatric and obstetric care (such as infant and child care and prenatal and postpartum examinations) or referral for treatment.

High risk store—A store identified as a possible perpetrator of fraud or abuse through analysis of redemption patterns of WIC checks or WIC sales, or by complaints of participants or WIC Program staff.

Infant—A person under 1 year of age.

Inventory audit—A comparison of a WIC authorized store's inventory levels of a particular allowable food over a specific period of time, to purchases of the allowable food with WIC checks during the same period of time, to determine if the store had a quantity of the allowable food available for sale during that time sufficient to support its claim for reimbursement for the sale of the allowable food.

Local agency—A public or private nonprofit health or human service agency with which the Department contracts to provide WIC Program services for a specific geographic area.

Maximum allowable price—The maximum price the Department will pay for an allowable food.

Nutritional risk—A determination that one of the following exists:

- (i) Detrimental or abnormal nutritional conditions detectable by biochemical or anthropometric measurements.
- (ii) Other documented nutritionally related medical conditions.
- (iii) Dietary deficiencies that impair or endanger health.
- (iv) Conditions that predispose persons to inadequate nutritional patterns or nutritionally related medical conditions.

Onsite review—A visit to a store by Federal, Department or local agency personnel to determine if the store meets the selection criteria necessary to be a WIC authorized store, or a visit to a WIC authorized store to determine whether the store is complying with this part governing the store's participation in the WIC Program. An onsite review may be announced or unannounced.

Overcharge—A charge by a WIC authorized store to the WIC Program through redemption of a WIC check for an allowable food in excess of the store's shelf price for that food or in excess of the price charged a non-WIC participant for that food.

Overpayment—Payment to a WIC authorized store of a WIC check redeemed by the store in an amount in excess of the amount to which the store was entitled based upon the maximum allowable price of each allowable food authorized for purchase on the WIC check.

Participant—A pregnant woman, breast-feeding woman, postpartum woman, infant or child enrolled in the WIC Program.

Participant certification period—The period of time during which an individual is authorized to participate in the WIC Program.

Periodic review—Contemporaneous announced onsite reviews of stores in a trade area conducted not less than once every 3 years to select stores for reauthorization.

Postpartum woman—A woman, during 6 months after termination of pregnancy.

Pregnant woman—A woman determined to have one or more embryos or fetuses in utero.

Premises—The sales floor and storage areas within the building housing the WIC authorized store.

Price adjustment—The retroactive reduction in the amount paid for a redeemed check as a result of a determination of overpayment.

Probationary authorization—The Department's probationary authorization of a WIC authorized store when inadequate participant access would occur if the store were not authorized or reauthorized or when the store is reviewed prior to opening to the public and has not yet stocked its dairy section or its frozen juice section.

Proxy—A person authorized by the local agency and the participant, or by the participant's parent or guardian if the participant is an infant or child, to pick up or use WIC checks to make purchases for that participant.

Reauthorization—The Department's renewal of authorization.

Redemption—Submission of a WIC check by a WIC authorized store to its bank for the purpose of securing a money payment for the amount appearing in the "Pay Exactly" box on the WIC check.

Routine review—An unannounced onsite review of a WIC authorized store to evaluate adherence by the store with the requirements in this part governing the store's participation in the WIC Program.

Sales floor—The display shelving, the floor in the area normally used for retail trade and the area behind the customer service desk, excluding other areas not accessible to the general public.

Sanction—

(i) A penalty imposed by the Department upon a WIC authorized store for violation of this part governing the store's participation in the WIC Program.

(ii) The term does not include a decision to deny authorization or reauthorization following an announced onsite review.

Secretary—The Secretary of the Department.

Selection criteria—Criteria in § 1103.4 (relating to selection criteria for authorization and reauthorization) which the Department has established which a store seeking to be authorized or reauthorized is required to satisfy.

Stale-dated—After the date imprinted on the product as the recommended last date for sale or use.

Standard formula—Infant formula products that do the following:

(i) Meet the Federal WIC regulatory definition of an iron-fortified formula (7 CFR 246.10(c)(1)(I) (relating to supplemental foods)).

(ii) Comply with the Infant Formula Act of 1980, the act of September 26, 1980 (Pub. L. No. 96-359, 94 Stat. 1190), which amended the Food and Drug Act.

(iii) Meet the requirements of an "infant formula" as opposed to an "exempt infant formula" or "medical food" as determined by the Food and Drug Administration (FDA), United States Department of Health and Human Services.

Store violation—Intentional or unintentional action by the owners, officers, managers, agents or employees of a WIC authorized store that violates the requirements in this part governing the store's participation in the WIC Program and that may result in a claim.

Temporary authorization—The Department's temporary and conditional authorization of a WIC authorized store that fails to meet specified selection criteria during the initial onsite review for purpose of reauthorization.

Trade area—A designated geographic area within the geographical area assigned to a local agency, which is organized to serve the participant populations in that designated area.

USDA-FNS—The United States Department of Agriculture, Food and Nutrition Service.

WIC authorized store—A retail food store which is authorized or reauthorized in accordance with § 1103.1 (relating to authorization and reauthorization process and requirements) to provide allowable foods to participants by accepting WIC checks.

WIC check—A negotiable instrument issued to participants to purchase allowable foods at WIC authorized stores.

WIC food list—A list published by the Department in the *Pennsylvania Bulletin* of foods and infant formula which may be purchased with WIC checks.

WIC identification card—A document issued by the Department to a participant, which is used for identification purposes and verification of eligibility to purchase allowable foods with WIC checks at a WIC authorized store.

WIC Program—The Special Supplemental Nutrition Program for Women, Infants and Children.

WIC Program benefits—Supplemental foods, nutrition education and referral to health services.

WIC transaction—The presentation of a WIC check by a participant or authorized representative to a WIC authorized store resulting in the purchase of one or more of the allowable foods designated on the check.

WIC transaction review—The presentation of a WIC check by a Federal, Department or local agency representative to purchase foods at a WIC authorized store, which does not result in the actual tender of the WIC check or the purchase of the foods, to evaluate adherence by a WIC authorized store with the requirements in this part governing the store's participation in the WIC Program.

§ 1101.3. Administration.

(a) *Department responsibilities.* The Department will develop policies and procedures for the operation of the WIC Program, distribute funds to local agencies to assist the Department in operating the WIC Program, authorize stores to participate in the WIC Program, monitor and evaluate WIC Program services provided by WIC authorized stores, maintain fiscal records, submit reports and carry out all other responsibilities delegated to it by the USDA-FNS for the operation of the WIC Program.

(b) *Vendor Advisory Workgroup.* The Department will form a Vendor Advisory Workgroup with representation from the retail store community, appropriate advocacy groups and associations for retail stores and participants, and from the State and local agencies. The Department will schedule at least two meetings of the Vendor Advisory Workgroup annually to review and discuss retail store and food delivery issues. The Vendor Advisory Workgroup shall function in an advisory capacity only; acceptance of Workgroup recommendations shall be at the discretion of the Department.

(c) *Local agency responsibilities.* Local agencies shall determine whether participants meet eligibility criteria developed by the Department, develop food prescriptions for participants, provide nutrition education to participants, provide referral information regarding ongoing health services, issue WIC checks to participants to

purchase allowable foods and ensure that all participants are served without discrimination. Local agencies shall function as representatives of the Department in conducting onsite reviews, and in monitoring the activities of WIC authorized stores.

CHAPTER 1103. AUTHORIZATION OF STORES

§ 1103.1. Authorization and reauthorization process and requirements.

(a) *Duration of authorization or reauthorization.* To serve as a WIC authorized store, a store shall be authorized in accordance with subsection (b) or reauthorized in accordance with subsection (c). A store's authorization or reauthorization shall remain in effect until the Department acts on the store's application for reauthorization when the next periodic review is conducted in the trade area in which the store is located, unless terminated earlier in accordance with subsection (d). At least once every 3 years, the Department will conduct a periodic review in each trade area. Failure to submit an application for reauthorization as prescribed under subsection (c) shall result in expiration of the store's authorization or reauthorization. The Department will provide 30 days written notice to the store prior to expiration of authorization or reauthorization for any store failing to submit an application. A store that has received a letter of authorization dated less than 60 days prior to the date of the notice of the periodic review in the store's trade area shall be exempt from the periodic review.

(b) *Authorization process.*

(1) The store's representative shall contact the local agency responsible for the trade area where the store is located to request an application for authorization. The local agency shall send WIC Program information and an application for authorization to the store. The store shall complete the application for authorization and return it to the local agency.

(2) The Department will refuse to accept an application from a store if the store has been provided notice of disqualification or is disqualified from the WIC Program, if the Department determines that the store relocated or effected a change of ownership to avoid a disqualification, or if the store has been denied authorization or reauthorization and is not eligible to apply for authorization.

(3) The Department will not accept an application for authorization less than 90 days prior to the scheduled start date of the periodic review in that trade area unless the Department finds that there would be inadequate participant access, as set forth in § 1103.7 (relating to inadequate participant access), if it does not consider the application.

(4) If the store's application for authorization is accepted, the local agency shall schedule, as expeditiously as possible, an announced onsite review of the store to determine if the store meets the selection criteria in § 1103.4 (relating to selection criteria for authorization and reauthorization). The local agency shall notify the store in advance of the approximate date of the review.

(5) The local agency shall conduct the onsite review and forward the results to the Department for a decision on the store's application.

(6) The Department will deny the application if the selection criteria in § 1103.4 are not satisfied, unless the Department grants probationary authorization under § 1103.2 (relating to probationary authorization). The Department will notify the store in writing whether the store's application for authorization is granted or denied.

If the Department denies the application for authorization, the store shall be eligible to reapply for authorization 6 months after the effective date of the denial.

(c) *Reauthorization process.*

(1) The Department will include an application for reauthorization with the notice of periodic review it sends to the store. The local agency will collect the application for reauthorization at the time of the announced onsite review of the store to determine if the store meets the selection criteria in § 1103.4. The local agency shall notify the store in advance of the approximate date of the review.

(2) The local agency shall conduct the onsite review and forward the results to the Department for a decision on the store's application.

(3) The Department will deny the application without advance warning if the selection criteria in § 1103.4 are not satisfied, unless the store requests and the Department grants temporary authorization in accordance with § 1103.3 (relating to temporary authorization) or the Department grants probationary authorization in accordance with § 1103.2. The Department will notify the store in writing whether the store's application for reauthorization is granted or denied. If the Department denies the application for reauthorization, the store shall be eligible to apply for authorization 6 months after the effective date of the denial. If the Department grants and later rescinds temporary authorization, the store shall be eligible to apply for authorization 1 year from the date of the first onsite review for reauthorization.

(d) *Termination of authorization or reauthorization.* The Department will terminate a store's authorization or reauthorization if:

- (1) The store has been disqualified.
- (2) The store supplied false information in the application for authorization or reauthorization.
- (3) The store is not serving at least 25 participants 8 months following authorization.
- (4) Ownership of the store changes.
- (5) The store relocates in excess of 1 mile of its current location and to a geographical area assigned to another local agency.
- (6) The store closes for more than 3 business days and does not notify the Department.

§ 1103.2. Probationary authorization.

(a) *Criteria for probationary authorization.* If during the onsite review, the store fails to meet selection criteria in § 1103.4(3), (4), (5), (6), (7) or (8) (relating to selection criteria for authorization and reauthorization), the Department will grant probationary authorization to the store for a period not to exceed 6 months when either of the following applies:

- (1) Inadequate participant access would occur if the store is not authorized or reauthorized.
- (2) A store is reviewed prior to opening to the public and the store has not yet stocked its dairy section or its frozen juice section.

(b) *Reviews during probationary authorization period.* If a store receives probationary authorization, the Department will conduct an unannounced onsite review during the probationary authorization period to determine whether the store is in compliance with selection criteria in § 1103.4. The Department will rescind probationary

authorization and deny the store's application to serve as a WIC authorized store if the store fails to meet one or more of the selection criteria during this review, unless extension is required under subsection (c). The Department will grant authorization or reauthorization, as applicable, if the store meets all selection criteria during the second onsite review.

(c) *Extension of probationary authorization.* If the store fails the review conducted during the probationary authorization period, and inadequate participant access exists as determined by the Department, the Department will extend probationary authorization for an additional 3 months during which time at least one representative of the store who is responsible for training store personnel on the WIC Program shall attend corrective training.

(d) *Extended probationary authorization reviews.* The Department will conduct an unannounced onsite review during the extended probationary authorization period after the store representative has attended corrective training, to determine whether the store is in compliance with the selection criteria in § 1103.4. The Department will rescind probationary authorization and deny the store's application to serve as a WIC authorized store if the store fails to meet one or more of the selection criteria during this review. The Department will grant authorization or reauthorization, as applicable, if the store meets all selection criteria during the third and final unannounced onsite review.

(e) *Rescission of probationary authorization.* If the Department rescinds the probationary or extended probationary authorization of a store, the store is eligible to apply for authorization 6 months from the date of the Department's rescission of probationary or extended probationary authorization.

§ 1103.3. Temporary authorization.

(a) *Failure to meet selection criteria during onsite review.* If a WIC authorized store that applies for reauthorization fails to meet one or more of the selection criteria in § 1103.4 (relating to selection criteria for authorization and reauthorization) during the announced onsite review, the store may request temporary authorization, except that a store that fails to meet the price and minimum inventory requirements of § 1103.4(5) shall be ineligible for temporary authorization. A store that is a high risk store or the subject of an ongoing compliance investigation also shall be ineligible for temporary authorization.

(b) *Conditions of temporary authorization.* Temporary authorization shall be conditioned upon the following:

(1) The Department will conduct a second announced onsite review during the temporary authorization period to determine whether the store is in compliance with the selection criteria in § 1103.4. The Department will grant reauthorization if the store meets all selection criteria during this review. The Department will rescind temporary authorization and deny the store's application for reauthorization if the store fails to meet one or more of the selection criteria during the second review.

(2) If the Department rescinds the temporary authorization of a store, the store is eligible to apply for authorization 1 year after the date of the first onsite review that was conducted following the Department's receipt of the store's application for reauthorization.

(3) The Department will reduce by 10% the maximum allowable prices for foods authorized for purchase on WIC checks the store redeems for WIC transactions that occur during the first 90 days of the temporary authorization period.

§ 1103.4. Selection criteria for authorization and reauthorization.

The Department will use the following selection criteria to identify stores that meet the operational criteria to serve as a WIC authorized store:

(1) In counties with WIC participant density greater than 100 participants per square mile, the Department will assign one store slot for every 175 WIC participants.

(2) A store seeking reauthorization shall serve at least 25 participants per month. The Department will deny reauthorization if the store is not serving 25 participants per month in the most recent month for which the Department has participant data at the time the onsite review for reauthorization is conducted.

(3) The store shall have allowable foods properly stored and refrigerated.

(4) The store may not have stale-dated allowable foods on its sales floor.

(5) The store shall have available on the premises at all times the minimum inventory of allowable foods as established by the Department under § 1103.5 (relating to minimum inventory) at shelf prices that are equal to or less than the maximum allowable prices for those foods. The Department will publish in the *Pennsylvania Bulletin* and mail to all WIC authorized stores, quarterly, the maximum allowable prices for allowable foods for the next quarter.

(6) The store shall be open for business and able to serve participants at least 8 hours per day, 6 days per week.

(7) The store shall be sanitary. There may not be unremoved rubbish, vermin, or general lack of cleanliness.

(8) The store shall operate in a permanent fixed location where participants may purchase allowable foods with their WIC checks.

(9) If the store has been denied authorization or reauthorization within the past 12 months, the store must be eligible to apply for authorization under § 1103.1(b) or (c) or § 1103.3(b)(2) (relating to authorization and reauthorization process and requirements; and temporary authorization).

(10) The store may not be currently disqualified from participation in the Food Stamp Program or have been assessed a civil money penalty in lieu of a disqualification from the Food Stamp Program that, had it been imposed, would not yet have expired.

(11) The store may not be currently disqualified from the WIC Program.

(12) The store shall have implemented all required corrective actions resulting from monitoring by the Department, including reimbursement of any overcharges or overpayments, and shall be in compliance with the applicable Federal and State regulations.

(13) None of the store's current owners, officers, or managers shall have been convicted of or had a civil judgment entered against them for conduct demonstrating a lack of business integrity.

§ 1103.5. Minimum inventory.

(a) *Minimum inventory requirements.*

(1) The Department will adopt minimum inventory requirements and their effective dates, for the following WIC allowable foods:

- (i) Contract brand infant formula.
- (ii) Milk.
- (iii) Natural domestic cheese.
- (iv) Grade "A" eggs.
- (v) Juice.
- (vi) Cereal.
- (vii) Peanut butter.
- (viii) Dried peas and beans.
- (ix) Tuna.
- (x) Carrots.

(2) The Department will set minimum inventory requirements for all allowable foods for which minimum inventory requirements exist at a level not to exceed the maximum quantity of supplemental food authorized per month as set forth in 7 CFR 246.10(c)(1)–(7) (relating to supplemental foods).

(3) The Department will publish minimum inventory requirements in the *Pennsylvania Bulletin* and distribute those requirements to all WIC-authorized stores by September 15 of each year, and when manufacturer product or packaging changes occur.

(b) *Exceptions to minimum inventory requirements.* The Department will grant an exception to the minimum inventory requirements for an allowable food listed in subsection (c) when the Department's most recent check redemption information for a store shows no purchases of the allowable food for a period in excess of 90 days.

(c) *Allowable foods to which exceptions may apply.* These foods are:

- (1) Contract brand milk-based with iron liquid concentrate infant formula.
- (2) Contract brand milk-based with iron ready-to-feed infant formula.
- (3) Contract brand milk-based with iron powdered infant formula.
- (4) Contract brand soy-based liquid concentrate infant formula.
- (5) Contract brand soy-based ready-to-feed infant formula.
- (6) Contract brand soy-based powdered infant formula.
- (7) Nonfat dry milk.
- (8) Evaporated milk.
- (9) Carrots.
- (10) Tuna.

(d) *Expiration of exception to minimum inventory requirements.* The exception to minimum inventory requirements for an allowable food granted by the Department shall expire upon the presentation to the store, on behalf of a participant, of a WIC check for the purchase of that allowable food. The WIC-authorized store shall provide the food item within 48 hours after presentation of the WIC check.

§ 1103.6. (Reserved).

§ 1103.7. Inadequate participant access.

(a) The Department will consider whether there is inadequate participant access when considering whether to place a store on probation, rather than deny authorization or reauthorization, for failure to meet selection

criteria in § 1103.4 (relating to selection criteria for authorization and reauthorization) during the onsite review.

(b) The Department may consider whether there is inadequate participant access when deciding whether to impose a civil money penalty in lieu of disqualification under § 1107.1 (relating to imposition of sanctions).

(c) Inadequate participant access is any of the following:

(1) Ten or more participants whose specific nationality, ethnicity or religious dietary needs can not be served properly by another WIC authorized store located in accordance with one of the following:

(i) Less than 3 miles of the store for counties with participant density less than 25 participants per square mile.

(ii) Less than 2 miles of the store for counties with participant density of 25 to 100 participants per square mile.

(iii) Less than 1 mile of the store for counties with participant density greater than 100 participants per square mile.

(2) Ten or more participants will be required to travel in accordance with one of the following:

(i) Three or more miles to the next closest WIC authorized store for counties with participant density less than 25 participants per square mile.

(ii) Two or more miles to the next closest WIC authorized store for counties with participant density of 25 to 100 participants per square mile.

(iii) One or more miles to the next closest WIC authorized store for counties with participant density greater than 100 participants per square mile.

(3) A participant has a physical disability that cannot be accommodated by another WIC authorized store in accordance with one of the following:

(i) Within 3 miles of the store for counties with participant density less than 25 participants per square mile.

(ii) Within 2 miles of the store for counties with participant density of 25 to 100 participants per square mile.

(iii) Within 1 mile of the store for counties with participant density greater than 100 participants per square mile.

(4) Ten or more participants are affected by physical barriers or conditions which make normal travel to another WIC authorized store impractical.

CHAPTER 1105. REQUIREMENTS OF WIC AUTHORIZED STORES

§ 1105.1. Training.

(a) *Initial training.* Following authorization, the local agency shall provide initial training for the personnel the WIC authorized store designates. The training shall be mandatory and shall occur within 30 days after the date of authorization. A store receiving authorization may not accept WIC checks prior to having its designated personnel attend the initial mandatory training.

(b) *Annual training.* The Department will provide for WIC authorized stores annual training which is designed to prevent WIC Program errors and abuses and to improve WIC Program services. The following apply to annual training:

(1) A WIC authorized store shall ensure that at least one representative from the store who is responsible for training store personnel on the WIC Program shall attend.

(2) Attendance is mandatory.

(3) The Department will offer each WIC authorized store two opportunities to attend.

(4) The Department will ensure that annual training is offered to a WIC authorized store either within the county in which it is located or in an adjoining county within the appropriate local agency's jurisdiction.

(5) Failure to have at least one representative attend training shall result in the Department imposing sanctions against the WIC authorized store under § 1107.1a(d)(16) (relating to disqualifications).

(c) *Corrective training.* The Department will provide corrective training as set forth in §§ 1103.2 and 1105.6 (relating to probationary authorization; and monitoring of WIC authorized stores). Attendance is mandatory.

§ 1105.2. Price adjustment.

(a) *Determination of overpayment.* In each calendar quarter, the Department will compare the maximum amount for which a WIC authorized store could have redeemed a WIC check based upon the maximum allowable prices for foods authorized for purchase on the check against the actual amount for which the WIC check was redeemed, to determine whether there was an overpayment.

(b) *Pursuit of reimbursement.* The Department will seek reimbursements from a WIC authorized store when the price comparison reveals overpayments to the store in excess of \$10 in a calendar quarter.

(c) *Reimbursement of overpayments.* A WIC authorized store shall reimburse the Department for overpayments within 20-calendar days of the date on the Department's notice of the overpayment, unless the WIC authorized store disputes the determination of overpayment.

(d) *Dispute of overpayments.* A WIC authorized store that disputes a determination of overpayment shall submit the basis for its dispute in writing to the Department, postmarked within 15-calendar days of the date on the Department's notice. Reimbursement the Department determines to be owing shall be due within 15-calendar days of the mailing date of the Department's notification of its resolution of the dispute. The Department's resolution of a dispute regarding overpayments is not an adverse action that may be appealed.

(e) *Sanctions.* The Department will impose a sanction against a WIC authorized store under § 1107.1a(d)(12) (relating to disqualifications) if the store fails to reimburse the Department for an overpayment within the time required under subsections (c) and (d).

§ 1105.3. Terms and conditions of participation.

(a) *General terms and conditions.* A WIC authorized store shall adhere to this subsection. Failure to do so shall result in the imposition of sanctions under § 1107.1 (relating to imposition of sanctions). A WIC authorized store shall:

(1) Adhere to all applicable statutes and State and Federal regulations regulating the WIC Program, including the nondiscrimination provisions of 7 CFR Parts 15, 15a, 15b and 246, and this part.

(2) Inform the public of its participation in the WIC Program by displaying at least one WIC decal supplied by the Department in a place conspicuously visible to the general public.

(3) Be accountable for the actions of owners, officers, managers, agents and employees in the handling of WIC checks, the selling of allowable foods, and the performance of other conduct related to the WIC Program.

(4) Comply with the selection criteria in § 1103.4 (relating to selection criteria for authorization and reauthorization) throughout the authorization period.

(5) Provide orientation and training to employees regarding applicable regulations governing the WIC Program.

(6) Maintain a copy of the current WIC food list at each check-out aisle.

(7) Send at least one representative who is responsible for training store personnel on the WIC Program to WIC Program training annually, or more often if required by the Department under § 1105.1(c) (relating to training).

(8) Immediately notify the Department when store ownership changes, when store operations cease on a permanent or temporary basis, or when any other circumstance impacting service to participants occurs.

(9) Allow Federal, State, Department and local agency representatives who are involved in monitoring the store's compliance with statutes and regulations governing the WIC Program, to visit the store to observe its procedures for accepting and handling WIC checks and to conduct announced or unannounced onsite reviews to determine compliance with applicable Federal and State regulations.

(10) Provide Federal, State, Department and local agency representatives who are involved in monitoring the store's compliance with statutes and regulations governing the WIC Program, access to all WIC checks accepted by the store and on its premises at the time of an onsite review.

(11) Provide Federal, State, Department and local agency representatives who are involved in monitoring the store's compliance with statutes and regulations governing the WIC Program, access, which includes providing copies if requested by the Department, to purchase records used for Federal tax reporting purposes and other records as requested to determine compliance with WIC Program requirements.

(12) Agree that authorization does not constitute a license or a property interest, that the store must reapply for authorization in accordance with § 1103.1(c) (relating to authorization and reauthorization process and requirements), and that neither the Department nor the WIC authorized store has an obligation to renew the store's authorization to participate in the WIC Program.

(13) Agree that the store's authorization to participate in the WIC Program shall become void when ownership of the store changes.

(14) Display the current shelf price of each allowable food either on the allowable food, on the shelf immediately above or below the allowable food, or prominently on an allowable food price list easily located by participants and clearly visible to them.

(15) Not transfer or assign its WIC authorization or reauthorization to another person or entity.

(16) Maintain purchase records and records used for Federal tax reporting purposes for allowable foods for a minimum of 2 years.

(b) *Terms and conditions of participation with regard to participants.* A WIC authorized store shall serve participants and authorized representatives as set forth in this subsection. The Department will impose sanctions against a WIC authorized store that fails to do so, as set forth in § 1107.1. A WIC authorized store shall:

(1) Provide allowable foods to a participant or authorized representative only as authorized on the WIC food list and as specified on the WIC check.

(2) Not encourage or discourage a participant or authorized representative from purchasing an allowable food specified on the WIC check.

(3) Provide an allowable food to a participant or authorized representative at or below the current price the store charges other customers, and at or below the maximum allowable price.

(4) Not seek restitution or payment from a participant or authorized representative for a WIC check not reimbursed by the Department, or contact a participant or authorized representative concerning a WIC transaction that occurs in the store.

(5) Not seek restitution or payment from a participant or authorized representative for an allowable food authorized for purchase on the WIC check tendered by the participant or authorized representative.

(6) Not request the personal address, telephone number or other personal identification of a participant or authorized representative.

(7) Offer each participant or authorized representative the same courtesies offered other customers, and not distinguish or identify a participant or authorized representative from other customers, if no other terms and conditions of participation are violated in doing so.

(8) Provide services to each participant or authorized representative without regard to race, color, age, sex, religion, national origin or disability.

(9) Provide the same promotional incentive for a purchase made with a WIC check as given for a cash purchase.

(10) Accept cents-off coupons, a store discount card or other discounts from a participant or authorized representative for an allowable food, and deduct the savings in calculating the total purchase price entered into the "Pay Exactly" amount on WIC checks.

(11) Accept "buy one get one free" coupons and manufacturers' promotional free product offers from a participant or authorized representative.

(12) Provide a promotional incentive for use of a WIC check only if the same incentive is offered for a cash purchase.

(c) *Terms and conditions of participation with regard to WIC check processing and redemption.* A WIC authorized store shall adhere to the requirements of this subsection with regard to WIC check processing and redemption. The Department will impose sanctions against a WIC authorized store that fails to do so, as set forth in § 1107.1. A WIC authorized store shall:

(1) Treat the acceptance of a WIC check as a financial transaction between the WIC authorized store and the Department, not the participant.

(2) Accept a WIC check only if the WIC check is made payable to that specific WIC authorized store, unless the Department has provided written authorization otherwise to the store.

(3) Accept a WIC check only if the participant or authorized representative presents the WIC check on or between the "First Day to Use" and the "Last Day to Use" designations on the WIC check.

(4) Accept a WIC check only if a valid WIC identification card is presented at the time of the WIC transaction.

(5) Accept a WIC check only if the signature of the participant or authorized representative is obtained on the WIC check at the time of the WIC transaction and the family identification number on the WIC check matches the family identification number on the identification card.

(6) Accept a WIC check only if there is no visible alteration on the WIC check.

(7) Charge the WIC Program only for the types and quantities of allowable foods specified on the WIC check and selected for purchase by the participant or authorized representative.

(8) Record in ink, on each WIC check immediately after completion of the WIC transaction and prior to the participant or authorized representative signing the WIC check, the actual purchase amount of the transaction net of any cents-off coupons or other discounts.

(9) Properly correct an error made in recording the "Pay Exactly" amount of a WIC check by drawing a single line through the incorrect amount and writing the correct amount above or below the error and having the participant or authorized representative initial next to the corrected amount. No other corrections are permissible.

(10) Not alter any information on the WIC check as presented by the participant or authorized representative.

(11) Not provide a substitute item, raincheck or cash reimbursement for an allowable food that is unavailable.

(12) Not provide cash or credit for a WIC check.

(13) Not provide change for a coupon tendered during the WIC transaction.

(14) Not provide an exchange to replace an allowable food returned by a participant or authorized representative unless the exchange is to replace an identical product that was found to be damaged or otherwise unusable.

(15) Not refund money for an allowable food purchased in a WIC transaction that is returned by a participant or authorized representative.

(16) Not accept a WIC check as payment for an item other than an allowable food specified on the WIC check.

(17) Not charge the WIC Program for an allowable food not received by the participant or authorized representative or for an allowable food in excess of the quantity prescribed on the WIC check.

(18) Not charge the WIC Program for the sale of an amount of an allowable food which exceeds the store's documented inventory of that food item covering the period of time under review and in which the sale was made.

(19) Deposit a WIC check accepted by it directly to its bank account no later than 45 days after the "First Day to Use" date on the WIC check.

(20) Not receive, transact, redeem or otherwise dispose of a WIC check in violation of check redemption procedures set forth in this section.

(21) Not use a WIC check for the purchase of any item other than an allowable food or for the payment of any debt.

(22) Not collect Sales Tax in connection with a WIC transaction.

(d) When the Department determines, prior to payment of a check submitted for redemption, that the store has committed a violation of this section that affects the payment to the store, the Department will deny payment. If payment already has been made, the Department will establish a claim for reimbursement by sending the store a written notice of the overcharge or other improper charge. The store may dispute the Department's claim and shall submit the basis for its dispute in writing within 15 calendar days of the date of the Department's written notice. The Department will notify the store of the resolution of the claim dispute. The Department's resolution of a claim dispute is not an adverse action that may be appealed.

§ 1105.4. Change of ownership of a WIC authorized store.

(a) A store's status as a WIC authorized store is void when a change of ownership of the store occurs.

(b) To allow uninterrupted service to participants subsequent to a change of ownership of a WIC authorized store, the Department may accept an application for authorization from the prospective new owner of the store prior to a change of ownership.

(c) The Department will not accept a store's application for authorization if the Department determines that the store submitting the application, either under prior ownership or in a previous location, was disqualified and the purpose of the relocation or sale of the store was to avoid a disqualification.

§ 1105.5. Changes in availability or location of WIC authorized stores.

(a) *Notification of store closing.* A WIC authorized store shall notify the Department at least 15 days prior to a temporary or permanent closing of the store, and provide the reason for closing and the expected duration of a temporary closing, if it has at least 15 days prior knowledge. Otherwise, it shall provide this information to the Department immediately after it acquires the information.

(b) *Temporary store closing.* The Department may permit a WIC authorized store to temporarily close for reasons such as a natural disaster, death in immediate family or personal illness, without imposing a sanction against the store. In making a determination to permit a temporary closure, as well as the length of time of the closure, the Department will consider circumstances such as the nature of the disaster, number of WIC authorized stores affected by the disaster, nature and expected duration of illness, length of closing anticipated by the WIC authorized store, number of and distance to other WIC authorized stores, number of participants served by the store, or any other information that the Department may determine to be relevant.

(c) *Store closing for remodeling.*

(1) A WIC authorized store that closes for less than 15 days for remodeling shall continue as a WIC authorized store if it notifies the Department at least 15-calendar days prior to the day the store closes for remodeling.

(2) A WIC authorized store that closes in excess of 15 store operation days for remodeling, shall automatically

lose its status as a WIC authorized store and shall apply for and secure authorization before it may again serve as a WIC authorized store.

(d) *Store relocations.*

(1) A WIC authorized store that relocates 1 mile or less from its current location or within the same geographical area assigned to the local agency, and reopens within 15-calendar days at its new location, shall provide the Department with written notification of its new address. The store will continue as a WIC authorized store if it notifies the Department at least 15-calendar days prior to the day the store closes for relocating.

(2) A WIC authorized store that relocates in excess of 1 mile of its current location and to a geographical area assigned to another local agency shall automatically lose its status as a WIC authorized store and shall apply for authorization at its new location to again serve as a WIC authorized store.

(3) A WIC authorized store that closes in excess of 3 store operation days for relocating shall notify the Department before doing so, or shall automatically lose its status as a WIC authorized store and shall apply for authorization to again serve as a WIC authorized store.

(e) *Temporary authorization to accept WIC checks redeemable at other stores.* The Department will temporarily authorize alternate WIC authorized stores to accept WIC checks designated on the face of the check to be used at another WIC authorized store, to provide participants with access to allowable foods when a WIC authorized store has permanently or temporarily closed, the store's authorization has been terminated, or the store has been disqualified as a WIC authorized store.

§ 1105.6. Monitoring of WIC authorized stores.

(a) *Purpose and types of monitoring of WIC authorized stores.* Federal, State or local representatives will conduct announced and unannounced onsite reviews of WIC authorized stores to determine compliance with applicable Federal and State regulations, and to investigate complaints regarding a store. The types of onsite reviews that may be conducted for monitoring purposes are compliance investigations, inventory audits, routine reviews and WIC transaction reviews. The monitoring process, to determine compliance with applicable Federal and State regulations, operates independently of the authorization process and may overlap more than one authorization period.

(b) *Compliance investigations.* The following standards apply:

(1) The Department will conduct at least two compliance buys during a compliance investigation.

(2) The Department will not notify the WIC authorized store that a compliance buy is scheduled.

(3) The Department will provide written notification to the WIC authorized store of the results of each compliance buy, including the store's violation of a statute or regulation governing its participation in the WIC Program, unless paragraph (8) applies.

(4) The Department will provide to the personnel of the WIC authorized store mandatory corrective training after two compliance buys detect violations of a statute or regulation governing the store's participation in the WIC Program, unless paragraph (8) applies.

(5) If paragraph (8) does not apply, the Department will continue a compliance investigation of the WIC authorized store after store personnel have attended mandatory corrective training.

(6) The Department will impose a sanction in accordance with § 1107.1 (relating to imposition of sanctions) if three compliance buys detect violations of a statute or regulation governing the store's participation in the WIC Program. If multiple violations are found during the compliance investigation, the Department will impose the sanction against the store for the term corresponding to the most serious violation.

(7) The Department will close the compliance investigation on a WIC authorized store if the Department discovers no violation of a statute or regulation governing the store's participation in the WIC Program after two consecutive compliance buys.

(8) The Department may withhold notification of compliance buy results, and may withhold providing training or conducting further compliance investigations, when fraudulent activity by the WIC authorized store is indicated during a compliance investigation or by local agency or participant complaint.

(c) *Inventory audits.* The Department will disqualify a WIC authorized store when an inventory audit establishes that the store has redeemed or attempted to redeem WIC checks for the purported sale of an allowable food in excess of documented inventory. No warning letter will be issued.

(d) *Routine reviews.* The Department will use routine reviews as follows to determine whether a WIC authorized store is in compliance with the terms and conditions of participation in § 1105.3 (relating to terms and conditions of participation):

(1) The Department will not notify the WIC authorized store that a routine review is scheduled.

(2) The Department will provide written notification to the WIC authorized store of the results of each routine review, including violation of a statute or regulation governing the store's participation in the WIC Program.

(3) The Department will conduct a second routine review of the WIC authorized store if the first routine review detects violations of a statute or regulation governing the store's participation in the WIC Program.

(4) The Department will provide to the personnel of the WIC authorized store mandatory corrective training after two routine reviews detect violations of a statute or regulation governing the store's participation in the WIC Program.

(5) The Department will conduct a third routine review of a WIC authorized store after store personnel have attended mandatory corrective training.

(6) The Department will impose a sanction in accordance with § 1107.1 against a store if a third routine review detects violations of a statute or regulation governing the store's participation in the WIC Program. If multiple violations are found during the routine reviews, the Department will impose against the store the most severe sanction the Department may impose for any one of the violations committed by the store.

(e) *WIC transaction reviews.* The Department will use WIC transaction reviews to monitor WIC transaction procedures and compliance with statutes and regulations governing the store's participation in the WIC Program. The following standards apply:

(1) The Department will not notify the WIC authorized store that a WIC transaction review is scheduled.

(2) The Department will provide written notification to the WIC authorized store of the results of each WIC

transaction review, including violations of a statute or regulation governing the store's participation in the WIC Program.

(3) The Department will conduct a second WIC transaction review at the WIC authorized store if the first WIC transaction review detects a violation of a statute or regulation governing the store's participation in the WIC Program.

(4) The Department will provide the personnel of the WIC authorized store mandatory corrective training after two WIC transaction reviews detect violations of a statute or regulation governing the store's participation in the WIC Program.

(5) The Department will conduct a third WIC transaction review at the WIC authorized store after store personnel have attended the mandatory corrective training.

(6) The Department will impose a sanction in accordance with § 1107.1 if a third WIC transaction review detects a violation of a statute or regulation governing the store's participation in the WIC Program. If multiple violations are found during the WIC transaction reviews, the Department will impose against the store the most severe sanction the Department may impose for any one of the violations committed by the store.

(f) *Use of law enforcement agency.* The Department may utilize a law enforcement agency in the investigation of a WIC authorized store or other store suspected of trafficking WIC checks or other fraud or abuse of the WIC Program.

(g) *Reimbursement.* The Department will seek reimbursement from a WIC authorized store that received funds improperly due to a violation of regulations governing the store's participation in the WIC Program discovered during monitoring reviews. The Department will send notice to the store of the amount of money to be reimbursed to the WIC Program. The store shall make payment within 20 days from the date on the notice.

CHAPTER 1107. SANCTIONS

§ 1107.1. Imposition of sanctions.

(a) The Department may disqualify a WIC authorized store or impose a civil money penalty in lieu of disqualification for reasons of WIC Program abuse. In the case of fraud, trafficking, sale of alcohol or alcoholic beverages or tobacco products the Department will not provide the store with a prior warning that violations were occurring before imposing the sanctions. For other serious program violations or offenses, the Department may choose to not provide the store with prior warning that violations were occurring before imposing the sanctions. The store may appeal a Department decision pertaining to disqualification, denial of authorization or reauthorization, or other adverse action that affects the store's status as a WIC authorized store in accordance with § 1113.1 (relating to right to administrative appeal). Expiration of authorization, disqualification of a store as a result of disqualification from the Food Stamp Program, and the Department's determination regarding inadequate participant access are not subject to review.

(b) The Department will disqualify a store which has been disqualified from the Food Stamp Program unless the Department determines that the disqualification of the store would result in inadequate participant access under § 1103.7 (relating to inadequate participant access). If the Department determines that disqualification of the store would result in inadequate participant access

under § 1103.7, the Department will give the store the option of paying a civil money penalty in lieu of disqualification.

(c) The Department will disqualify a store that has been assessed a civil money penalty in lieu of disqualification under the Food Stamp Program unless disqualification of the store from the WIC Program would result in inadequate participant access or would otherwise adversely affect the interest of participants. If the Department disqualifies a store under this subsection, the length of the disqualification will correspond to the period for which the store would otherwise have been disqualified from participating in the Food Stamp Program.

(d) The Department will disqualify a store for WIC Program violations in § 1107.1a (relating to disqualifications) unless the Department determines that disqualification of the store under § 1107.1a(b)—(d) would result in inadequate participant access. In that case, the Department will give the store the option of paying a civil money penalty in lieu of disqualification. The Department will not give the store the option of paying a civil money penalty in lieu of disqualification for third or subsequent violations. A violation committed during a prior authorization period will support a disqualification.

(e) Disqualification from the WIC Program may result in disqualification as a retailer in the Food Stamp Program under regulations governing the Food Stamp Program. Applicable Federal regulations may prohibit administrative or judicial review of a disqualification from the Food Stamp Program based upon a disqualification from the WIC Program.

(f) In addition to imposing a sanction against a WIC authorized store that commits fraud or abuse of the WIC Program, the Department may prosecute or make a referral of the WIC authorized store to a criminal prosecution agency for prosecution under applicable Federal, State, or local laws.

(g) A WIC authorized store that has a sanction imposed against it by the Department for accepting a WIC check for an item other than those specified on the WIC check shall also reimburse the Department for moneys it receives through the WIC check redemption process after accepting a WIC check for the purchase of the item.

(h) The Department may impose a sanction against a WIC authorized store for failing to remit any amount demanded due to violations of statutes or regulations governing its participation in the WIC Program within the time frame imposed by regulation or in the notice given to the store by the Department of the store's obligation to reimburse the Department.

§ 1107.1a. Disqualifications.

(a) *Permanent disqualification.* The Department will permanently disqualify a WIC authorized store convicted of trafficking in WIC checks or selling firearms, ammunition, explosives or controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C.A. § 802)) in exchange for WIC checks. The Department will not compensate the store for revenues lost as a result of the violation.

(b) *Six-year disqualification.* The Department will disqualify a WIC authorized store for 6 years for either of the following:

(1) One incidence of buying or selling WIC checks for cash (trafficking).

(2) One incidence of selling firearms, ammunition, explosives, or controlled substances as defined in section 102 of the Controlled Substances Act, in exchange for WIC checks.

(c) *Three-year disqualification.* The Department will disqualify a WIC authorized store for 3 years for any of the following violations:

(1) One incidence of the sale of alcohol or alcoholic beverages or tobacco products in exchange for WIC checks.

(2) A pattern of claiming reimbursement for the sale of an amount of a specific allowable food, which exceeds the store's documented inventory of that specific allowable food for a specific period of time. A pattern may be established during a single inventory audit encompassing a 2-month period when a WIC authorized store's records indicate that the WIC authorized store's WIC check redemptions for a specific allowable food exceed the WIC authorized store's documented inventory for that allowable food.

(3) Two or more incidences of overcharges.

(4) Two or more incidences of receiving, transacting or redeeming a WIC check that the store is not authorized to receive, transact or redeem.

(5) Two or more incidences of charging for allowable food not received by the participant.

(6) Two or more incidences of providing credit or nonfood items, other than alcohol, alcoholic beverages, tobacco products, cash, firearms, ammunition, explosives, or controlled substances as defined in section 102 of the Controlled Substances Act, in exchange for WIC checks.

(d) *One-year disqualification.* The Department will disqualify a WIC authorized store for 1 year for any of the following violations:

(1) Two or more incidences of providing a food item other than an allowable food in exchange for WIC checks.

(2) Two or more incidences of providing an allowable food in excess of the amount authorized for purchase on the WIC check.

(3) Having a stale-dated allowable food on the sales floor.

(4) Failing to maintain on the premises at all times minimum inventory requirements of an allowable food at or below the current maximum allowable price for that food.

(5) Two or more incidences of failing to request a WIC identification card prior to accepting a WIC check.

(6) Two or more incidences of accepting a WIC check made payable to another store without prior written approval from the Department.

(7) Failing to maintain a clean and sanitary store.

(8) Failing to properly store or refrigerate an allowable food.

(9) Closure of the store by a city, local or county health department.

(10) Charging or demanding that a participant or authorized representative pay for an allowable food with money or with another WIC check for purchases made with a WIC check.

(11) Two or more incidences of securing the signature of the participant or authorized representative prior to completing the "Pay Exactly" box on the WIC check.

(12) Two or more incidences of charging the WIC Program Sales Tax.

(13) Giving monetary change to the person who tenders a WIC check.

(14) Failing to reimburse the Department for overpayments, overcharges or other improper charges within the specified time frame.

(15) Physically altering or changing on the face of a WIC check the store name, food type or quantity, participant information, date or printed dollar amount.

(16) Failing to have at least one representative of the store attend required training.

(17) Providing false information on the application for authorization or reauthorization.

(e) *Second mandatory sanction.* If a WIC authorized store, which previously has been assessed a sanction for any of the violations in subsections (b)—(d), receives another sanction for any of these violations, the Department will double the second sanction. The Department will double civil money penalties up to the limits allowed under § 1107.2(c) (relating to civil money penalties).

(f) *Third or subsequent mandatory sanction.* If a WIC authorized store, which previously has been assessed two or more sanctions for any of the violations listed in subsections (b)—(d), receives another sanction for any of these violations, the Department will double the third sanction and all subsequent sanctions. The Department will not permit the store to pay a civil money penalty in lieu of disqualification for third or subsequent violations listed in subsections (b)—(d).

(g) *Multiple violations during a single investigation.* When during the course of a single investigation the Department determines a WIC authorized store has committed multiple violations, the Department will disqualify the WIC authorized store for the period corresponding to the most serious violation. However, the Department will include all violations in the notice of disqualification.

(h) *Disqualification based on a Food Stamp Program disqualification.* The Department will disqualify a WIC authorized store which has been disqualified from the Food Stamp Program. The disqualification shall be for the same length of time as the Food Stamp Program disqualification, but may begin at a later date than the Food Stamp Program disqualification. Under 7 CFR 246.12(k)(1)(vii) (relating to food delivery systems) and § 1113.1(b)(3) (relating to right to administrative appeal), the WIC Program disqualification is not subject to administrative or judicial review.

(i) *Voluntary withdrawal or nonrenewal of agreement.* The Department will not accept voluntary withdrawal of the WIC authorized store from the WIC Program as an alternative to disqualification for the violations listed in subsections (a)—(d), but will enter the disqualification on the record. The Department will not permit the store to use expiration of authorization as an alternative to disqualification.

(j) *Other violations.* For a violation of a statute or regulation governing the store's participation in the WIC Program which is not specifically classified in subsections (a)—(d), the Department will determine the appropriate type and level of sanction to be imposed upon the store based upon the nature and severity of the violation. A disqualification imposed under this subsection will not exceed 1 year.

(k) *Advance notice.* The Department will provide a WIC authorized store at least 30 days advance notice of the effective date of a disqualification. The notice will include the store's appeal rights, if applicable.

(l) *Authorization following expiration of disqualification period.* A store that has been disqualified from the WIC Program may apply for authorization following expiration of the disqualification period. If the store chooses to apply for authorization after expiration of the disqualification, the Department will not consider the prior disqualification when determining eligibility. The Department will consider the store's application in accordance with § 1103.4 (relating to selection criteria for authorization and reauthorization).

§ 1107.2. Civil money penalties.

(a) *Option available in lieu of a disqualification or denial of reauthorization.* The Department may offer to a WIC authorized store the option of paying a civil money penalty in lieu of a denial of reauthorization or a disqualification required under § 1107.1 (relating to imposition of sanctions), only if the Department finds inadequate participant access as set forth in § 1103.7 (relating to inadequate participant access). The Department will not provide this option for third or subsequent violations under § 1107.1a(b)—(d) (relating to disqualifications).

(b) *Calculation of civil money penalty.*

(1) For a civil money penalty in lieu of a disqualification under § 1107.1a(b), (c) or (d)(1) and (2), the Department will calculate the civil money penalty for each violation identified by multiplying 10% of the average monthly total value of WIC checks redeemed for the most recent 6-month period by the number of months the store would be disqualified under § 1107.1. If 6 months of information relating to the monthly value of WIC checks redeemed is not available, the Department will calculate the monthly average based upon the number of months for which information is available.

(2) For a civil money penalty in lieu of disqualification under § 1107.1a(d)(3)—(16), the Department will calculate the civil money penalty for each violation identified by multiplying 5% of the average monthly total value of WIC checks redeemed for the most recent 6-month period by the number of months the store would be disqualified under § 1107.1. For a store to which the Department may deny reauthorization and for which this option is available, the Department will multiply 5% of the average monthly total value of WIC checks for the most recent 6-month period by 6 months to determine the civil money penalty to be paid. If 6 months of information relating to the monthly value of WIC checks redeemed is not available, the Department will calculate the monthly average based upon the number of months for which information is available.

(c) *Limitation of penalties.* The amount of the civil money penalty will not exceed \$10,000 for each violation. If, during the course of a single investigation, the Department determines a store has committed multiple violations, the Department will impose a civil money penalty for each violation. The total civil money penalty for all violations investigated as part of a single investigation will not exceed \$40,000.

(d) *Written agreement.* If the Department offers and the store agrees to pay a civil money penalty in lieu of disqualification, the Department and store shall set forth the terms of the agreement in writing. The terms may include a probationary period during which the Depart-

ment may conduct monitoring to ensure action has been taken by the store to correct problems. The agreement will be effective when it is signed by the Director of the Division of WIC or the Director's designee.

(e) *Payment of the civil money penalty.* If a WIC authorized store does not pay, only partially pays, or fails to timely pay a civil money penalty assessed in lieu of disqualification, the Department will disqualify the WIC authorized store for the length of the disqualification authorized for the violation for which the civil money penalty was assessed. If a civil money penalty is assessed for more than one violation, the Department will impose the disqualification for the period authorized for the most serious violation. The Department may permit payment of a civil money penalty by installments.

(f) *Outstanding financial liabilities.* Payment of the civil money penalty, unless specifically provided for in a written agreement between the Department and the store, does not relieve the store of any other past or future financial liability incurred by the store by reason of its participation in the WIC Program. This includes, by way of example, reimbursement to the Department of overpayments.

CHAPTER 1109. ADMINISTRATIVE APPEALS

§ 1109.2. Scope and purpose.

Chapters 1111 and 1113 (relating to applicant and participant appeals; and store appeals) apply to hearings held under 42 U.S.C.A. § 1786(f)(9), regarding the WIC Program. Those chapters supplement the Federal regulations, 7 CFR Part 246 (relating to special supplemental nutrition program for women, infants and children) governing hearings afforded under this part to applicants, participants, and stores, and supplement or supersede regulations in 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) when their application would be inappropriate or inadequate.

CHAPTER 1113. STORE APPEALS

§ 1113.1. Right to administrative appeal.

(a) A store has the right to appeal an adverse action of the Division of WIC that affects the store's participation in the WIC Program as a WIC authorized store. Adverse actions include:

- (1) Termination of authorization or reauthorization in accordance with § 1103.1(d) (relating to authorization and reauthorization process and requirements).
- (2) Denial of an application for authorization or reauthorization.
- (3) Refusal to accept an application for authorization or reauthorization.

(b) A store may not appeal the following:

- (1) The expiration of authorization or reauthorization.
- (2) The validity or appropriateness of selection criteria.
- (3) The validity or appropriateness of the Department's participant access criteria and the Division of WIC's participant access determination.

(4) Disqualification from the WIC Program as a result of disqualification from the Food Stamp Program.

(5) The resolution of an overpayment dispute under § 1105.2(d) (relating to price adjustment) or the resolution of an overcharge dispute under § 1105.3(d) (relating to terms and conditions of participation).

(c) A denial of authorization under § 1103.1(b)(6) and a disqualification imposed under § 1107.1a(a) (relating to disqualifications) shall be effective on the date of the store's receipt of notice of the adverse action. All other adverse actions shall be effective on the date set forth in the written notice.

§ 1113.2. Administrative appeal procedures.

(a) *Notification.* The Division of WIC will provide to the store written notice of the adverse action, the procedures to follow to appeal the adverse action and the cause for and the effective date of the action.

(b) *Form of administrative appeal.* The appeal shall be made by the store or its authorized representative, in writing, stating the reasons for the appeal.

(c) *Time for and effect of filing an administrative appeal.* The appeal shall be filed with the Director of the Division of WIC within 30 days from the date the notice of adverse action is mailed. The filing of an appeal shall serve to stay the Department's adverse action pending issuance of an adjudication and order by the hearing examiner under § 1113.3 (relating to adjudication and order). The stay shall be lifted upon receipt of the hearing examiner's adjudication and order affirming the adverse action, or upon receipt of the store's written notice of withdrawal of the appeal.

(d) *Scheduling the hearing.*

(1) The Director of the Division of WIC shall forward the appeal to the office of the hearing examiner.

(2) The hearing examiner shall set a time, date and place for the hearing.

(3) The hearing examiner shall send notice to the store, or its authorized representative, at least 10 days in advance of the date of the hearing.

(4) The hearing examiner shall schedule the hearing to be held within 21 days after the date of receipt by the Division of WIC of the store appeal.

(5) The Division of WIC or the store may request in writing that the hearing be rescheduled for another time or date and the hearing examiner shall consider the request.

(e) *Hearing examiner.* The Secretary will appoint a hearing examiner to preside over the appeal. The person shall be an impartial decision-maker, whose determination is based solely on whether the Division of WIC has correctly applied Federal and State statutes, regulations, policies and procedures governing the WIC Program, according to the evidence presented at the hearing.

(f) *Hearing procedures.*

(1) The store may be assisted or represented by an attorney or other authorized representative.

(2) The store, or its authorized representative, may examine, prior to and during the hearing, the documents and records considered by the Division of WIC in reaching its decision under appeal.

(3) The hearing shall be open to the public.

(4) Each party shall have the opportunity to present and cross-examine witnesses.

(5) Each party may present oral or documentary evidence and arguments to support its position in narrative form.

(6) Each party may object to or attempt to refute any testimony or other evidence presented by the other party.

(g) *Supersession.* Subsection (d) supersedes 1 Pa. Code § 35.105 (relating to notice of nonrulemaking procedures). Subsection (e) supersedes 1 Pa. Code § 35.185 (relating to designation of presiding officers). Subsection (f) supplements 1 Pa. Code § 31.21 (relating to appearance in person) and supersedes 1 Pa. Code §§ 31.22 and 31.23 (relating to appearance by attorney; and other representation prohibited at hearings).

§ 1113.3. Adjudication and order.

(a) The adjudication and order shall include findings of fact and conclusions of law. The findings of fact shall be based only on the oral and documentary evidence in the hearing record.

(b) The hearing examiner shall provide the Director of the Division of WIC and the store, or its authorized representative, with the adjudication and order within 60 days after the date of the receipt by the Division of WIC of the appeal, adjusted for any continuance of the hearing that causes it to be held more than 21 days after the date the appeal was filed.

(c) If the hearing examiner upholds the Department's adverse action, the adverse action shall be effective as of the date of the store's receipt of written notice of the hearing examiner's adjudication and order.

(d) The hearing examiner shall maintain a written record of the hearing. The record shall include a docket number and caption for the appeal, any documentary evidence submitted, the transcript of the testimony presented at the hearing, the adjudication and order of the hearing examiner, and a copy of the document transmitting the adjudication and order to the store, or its authorized representative.

(e) Subsections (a)—(c) supersede 1 Pa. Code §§ 35.131, 35.201, 35.202 and 35.205.

§ 1113.4. Continuing responsibilities.

Appealing an action does not relieve the store from the responsibility of continued compliance with regulations under this part applicable to a WIC authorized store.

§ 1113.5. Judicial review.

If the adjudication and order of the hearing examiner upholds the Department's adverse action, the hearing examiner will inform the store within the adjudication and order, or by notice accompanying the adjudication and order, of the right to pursue judicial review of the adjudication and order.

[Pa.B. Doc. No. 03-1933. Filed for public inspection October 3, 2003, 9:00 a.m.]

PROPOSED RULEMAKING

INSURANCE DEPARTMENT

[31 PA. CODE CH. 146c]

Standards for Safeguarding Customer Information

The Insurance Department (Department) proposes to add Chapter 146c (relating to standards for safeguarding customer information) to read as set forth in Annex A. The proposed rulemaking is made under the general rulemaking authority of sections 205, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412) and under the guidance of section 648 of the Insurance Department Act of 1921 (40 P. S. § 288). Likewise, this proposed rulemaking is made under the Department's rulemaking authority under the Unfair Insurance Practices Act (UIPA) (40 P. S. §§ 1171.1—1171.15) (the authority is further explained in *PALU v. Insurance Department*, 371 A.2d 564 (Pa. Cmwlth. 1977)), because the Insurance Commissioner (Commissioner) has determined that the improper disclosure or marketing, or both, of nonpublic personal financial and health information by members of the insurance industry constitutes an unfair method of competition and an unfair or deceptive act or practice.

Purpose

The purpose of this proposed rulemaking is to add Chapter 146c to implement the remaining privacy requirements for nonpublic financial and health information in Title V of the Gramm-Leach-Bliley Act (GLBA) (15 U.S.C.A. §§ 6801—6827) following the Department's implementation of Chapters 146a and 146b (relating to privacy of consumer financial information; and privacy of consumer health information).

Title V of the GLBA requires various state and Federal regulators of the financial services industries to promulgate regulations for their respective regulated communities. For example, state insurance authorities are required by Title V of the GLBA to establish appropriate consumer privacy standards for various entities in the insurance industry. The failure of a state to adopt privacy regulations will result in the state's inability to override the Federal insurance consumer protection regulations that were issued by the Federal banking agencies in final-form on December 4, 2000, under section 305 of the GLBA (12 U.S.C.A. § 1831x). See 65 FR 233, 75821 (to be codified at 12 CFR Parts 14, 208, 343 and 536). These regulations became effective on April 1, 2001, and they pertain generally to the sale of insurance by financial institutions and specifically to matters such as referral fees, separation of banking and insurance sales areas and disclosures regarding the nature of insurance products that are sold by banks.

The Department has already adopted Chapters 146a and 146b, which were based upon the National Association of Insurance Commissioners Model Privacy of Consumer Financial and Health Information Regulation (NAIC Model). With regard to health information, the NAIC Model generally requires that licensees of the Department obtain an authorization from a consumer prior to disclosing nonpublic personal health information unless the disclosure is specifically excluded from the requirements of the regulation. The NAIC Model requires that licensees provide consumers with notice and an opportunity to "opt out" of disclosures of their nonpublic

personal financial information prior to making disclosures. The purpose of this proposed rulemaking is to implement the remaining requirements of Title V of the GLBA regarding the internal safeguarding of customer information maintained by a licensee. Accordingly, this proposed rulemaking is based upon the NAIC Standards for Safeguarding Customer Information Model Regulation.

Explanation of Regulatory Changes and Preproposed Comments and Responses

On November 9, 2002, the Department published at 32 Pa.B. 5595 (November 9, 2002) an Advanced Notice of Proposed Rulemaking for its Standards for Safeguarding Customer Information Regulation (privacy standards regulation), soliciting comments from the insurance industry. The Department received comments from the following industry members and trade associations: the American Insurance Association (AIA); the Alliance of American Insurers (AAI); Independence Blue Cross (IBC); Capital Blue Cross (CBC); the American Council of Life Insurers (ACLI); the Insurance Federation of Pennsylvania (IFP); and Highmark, Inc. (Highmark). The following is a summary of those comments as well as the Department's reaction.

Section 146c.1 (relating to purpose) explains that the purpose is to establish standards to guide licensees of the Department in the development and implementation of administrative, technical and physical safeguards that protect the security, confidentiality and integrity of customer information and protect against any anticipated threats or hazards to the security or integrity of customer records. The standards also are intended to protect against unauthorized access to or use of records or information that could result in substantial harm or inconvenience to a customer.

Section 146c.1(3) states that one of the purposes of the privacy standards regulation is to protect against any anticipated threats or hazards to the security or integrity of customer records maintained by licensees. Highmark believes that the standard in this section is unattainable because it would be impossible for a licensee to protect against any anticipated threats or hazards to the security or integrity of customer information. Accordingly, Highmark recommends that the word "reasonably" be inserted after the word "any" in paragraph (3) to make the standard more objective and attainable. The Department has adopted Highmark's recommendations in its proposed rulemaking.

Section 146c.2 (relating to definitions) defines the terms that are relevant to this chapter.

AAI and AIA commented that the definition of "customer" in the proposed rulemaking is overly broad because it encompasses both "consumers" and "customers" as defined in the health and financial privacy regulations. AAI asserted that this requirement goes beyond the requirements of the GLBA and, therefore, the Department lacks statutory authority to extend the scope of the proposed rulemaking. See section 501(b) of the GLBA (15 U.S.C.A. § 6801(b)). The Department respectfully disagrees with the comments from AAI and AIA because the Department does not rely on the GLBA for its statutory authority for the promulgation of this proposed rulemaking. Instead, the Department relies upon its implied rulemaking authority granted by the UIPA. See *PALU v. Insurance Department*, 371 A.2d 564 (Pa. Cmwlth. 1977).

Furthermore, the GLBA merely establishes a floor for the regulation of insurance privacy and the law explicitly states that insurance regulators are permitted to be more protective of insurance information privacy. Accordingly, the comments made by AAI and AIA pertaining to the definition of "customer" in the privacy standards regulation are misplaced, and no modifications have been made to the definition in this proposed rulemaking.

Section 146c.3 (relating to information security program) requires licensees to implement a comprehensive written information security program appropriate to the size and complexity of the licensee and the nature and scope of its activities. The information security program must include administrative, technical and physical safeguards for the protection of customer information.

Section 146c.4 (relating to objectives of information security program) explains that a licensee's information security program should be designed to do the following: (1) ensure the security and confidentiality of customer information; (2) protect against any anticipated threats or hazards to the security or integrity of the information; and (3) protect against unauthorized access to or use of the information that could result in substantial harm or inconvenience to any customer.

Section 146c.4 of the privacy standards regulation identifies the objectives of the information security programs required by the regulation, one of which is to ensure the security and confidentiality of customer information. Highmark commented that the use of the word "ensure" in paragraph (1) imposes an unreasonable standard upon licensees because the term means to "promise, guarantee or pledge." Accordingly, Highmark recommends that the word "safeguard" be used instead of the word "ensure." The Department agrees with this comment and has made the appropriate change in the proposed rulemaking.

Another objective of an information security program is identified in § 146c.4(2), which states that an information security program must be designed to protect against any anticipated threats or hazards to the security or integrity of customer information. As in its comment pertaining to § 146c.1, Highmark believes that the standard in this section is unattainable because it would be impossible for a licensee to protect against any anticipated threats or hazards. Therefore, Highmark recommends that the word "reasonably" be inserted after the word "any" in paragraph (2) to make the standard more objective and attainable. The Department is in agreement with the comment provided by Highmark and has modified its proposed rulemaking to incorporate Highmark's suggestion.

Section 146c.5 (relating to examples of methods of development and implementation) explains that the actions and procedures found in §§ 146c.6—146c.9 are examples of the methods of implementation found in §§ 146c.3 and 146c.4 and are not the exclusive methods that licensees can comply within this chapter.

This provision of the privacy standards regulation states that the examples in §§ 146c.6—146c.9 of actions and procedures that comply with the information security program requirements are merely nonexclusive illustrations that licensees may follow when implementing an information security program. In their comments, AIA requested that § 146c.5 (as well as §§ 146c.6—146c.9) be deleted because they believe that the examples create the appearance of a standard that all companies must follow and this perception might result in additional litigation

against licensees. The Department has not adopted the recommendation of AIA because the compliance examples provide invaluable guidance to licensees as they develop and implement information security programs to protect the security and integrity of customer information. Furthermore, the prefatory language in § 146c.5 makes it abundantly clear that the examples in the regulation are nonexclusive and are for illustrative purposes only.

Section 146c.6 (relating to assess risk) provides examples where the licensee identifies reasonably foreseeable internal or external threats that could result in unauthorized disclosure, misuse, alteration or destruction of customer information or customer information systems. This section also provides examples relating to how a licensee may assess the likelihood and potential damage of these threats and assess the sufficiency of policies, procedures, customer information systems and other safeguards in place to control risks.

Section 146c.7 (relating to manage and control risk) provides examples of how a licensee may comply with this chapter by designing its information security program to: (1) control the identified risks, commensurate with the sensitivity of the information, as well as the complexity and scope of the licensee's activities; (2) train staff, as appropriate, to implement the licensee's information security program; and (3) regularly test or otherwise regularly monitor the key controls, systems and procedures of the information security program.

Section 146c.8 (relating to oversee service provider arrangements) provides examples of how a licensee may comply with this chapter by exercising appropriate due diligence in selecting its service providers, requiring its service providers to implement appropriate measures designed to meet the objectives of this proposed rulemaking and by taking appropriate steps to confirm that its service providers have satisfied these obligations.

Several comments focused on the compliance example in § 146c.8, which addresses how a licensee may comply with the regulation by including certain safeguards when a third party service provider receives or maintains customer information on behalf of a licensee. The comments are also directed towards a provision in the Department's health privacy regulation, stating that licensees may be held liable for illegal disclosures of health information by its third party service providers. See § 146b.11(d) (relating to authorization required for disclosure of nonpublic personal health information). Several commentators, including ACLI and IFP, recommended that the proposed rulemaking incorporate the standards found in the final Federal data security regulation issued by the Department of Health and Human Services under the Health Insurance Portability and Accountability Act (Pub. L. No. 104-191, 110 Stat. 1836) (HIPAA). HIPAA was adopted in final-form on February 20, 2003.

Based upon the concerns presented by the industry, the Department has adopted a standard that is similar to that found in HIPAA. However, the additional language has been included in § 146c.10(b) (relating to determined violation). The Department believes that this additional provision satisfies the concerns of the commentators, while remaining consistent with the principles of the UIPA in that it requires a pattern or practice and it utilizes the "knew or reasonably should have known" standard.

Section 146c.9 (relating to adjust the program) provides examples of compliance with this chapter when the licensee monitors, evaluates and adjusts, as appropriate,

the information security program in light of any relevant changes in technology, the sensitivity of its customer information, internal or external threats to information and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements and changes to customer information systems.

Section 146c.10 describes that violations of this chapter are deemed and defined by the Commissioner to be an unfair method of competition and an unfair or deceptive act or practice and shall be subject to any applicable penalties or remedies contained in the UIPA.

Section 146c.10 provides that a violation of the privacy standards regulation is deemed and defined to be an "unfair method of competition" and an "unfair or deceptive act or practice" subject to the penalties and remedies of the UIPA. This language is taken verbatim from the Department's previous financial and health privacy regulations. See §§ 146a.43 and 146b.23 (both relating to violation). Highmark suggested that a licensee should be held liable only when it "knew or should have known" that its actions were in violation of the regulation. AAI is concerned that creating new unfair insurance practices encourages private litigation and the resulting expenses would be burdensome. AIA recommended a clarification that violations of only § 146c.3 or § 146c.4 will result in a violation of the regulation since the remaining sections are definitions and examples for compliance.

The Department has not adopted Highmark's proposed modifications because § 146c.10 is taken verbatim from the financial and health privacy regulations and a substantive modification to the violation provision in this proposed rulemaking might implicate the language in the Department's two prior privacy regulations. Likewise, the Department disagrees with AAI's comment because there is no private cause of action for violations of the UIPA. See *Smith v. Nationwide Mut. Fire Ins. Co.*, 935 F. Supp 616 (W.D. Pa. 1996); *D'Ambrosio v. Penn. Nat. Mut. Cas. Ins. Co.*, 431 A.2d 966 (Pa. 1981).

However, the recommendation of AIA might provide additional clarity to the proposed rulemaking and further reinforce that the examples in §§ 146c.5—146c.9 are only illustrative examples of compliant actions and procedures that licensees may utilize in the development and implementation of an information security program. Accordingly, the Department has amended its proposed rulemaking to adopt the suggestion provided by AIA.

Section 146c.11 (relating to effective date) gives the parameters as to when this chapter will become effective.

Highmark, IBC and CBC suggested that the effective date of the proposed rulemaking should mirror that of HIPAA—April 20, 2005, for large health plans and April 20, 2006, for small health plans. See 45 CFR 164.318(a) (relating to compliance dates for the initial implementation). AAI suggests that insurers need at least 6 months to comply with the proposed rulemaking, so the effective date should be extended in the proposed rulemaking.

The Department has not mirrored the compliance date for HIPAA in this proposed rulemaking because compliance with HIPAA will not be enforced for more than 2 years. However, because implementation of the information security programs by the licensees will likely take some time, the Department has extended the compliance date for this proposed rulemaking to 6 months after the promulgation of the final-form rulemaking.

Compliance with HIPAA

Because HIPAA includes requirements similar to those in the Department's privacy standards regulation, several commentators requested that licensees be able to comply only with HIPAA and be deemed compliant with the Department's regulation. Specifically, Highmark and CBC would like the Department to include a deemer provision similar to that in the health privacy regulation whereby if a licensee is compliant with HIPAA, then it is deemed compliant with the privacy standards regulation.

It is true that HIPAA and the Department's privacy standards regulation have some overlapping requirements and it is further true that the requirements of the Department's regulation are consistent with those in HIPAA. Therefore, if a licensee satisfies the requirements of HIPAA, the licensee would also likely satisfy many of the requirements of the Department's regulation. However, compliance with HIPAA will not satisfy all of the requirements of the Department's regulation because HIPAA only addresses health information and not financial information. Therefore, if a deemer provision is included and a licensee complies with HIPAA, that licensee would be able to avoid the information security requirements for financial information. Accordingly, the requested deemer provision has not been included in the proposed rulemaking.

Fiscal Impact

There is no anticipated fiscal impact as a result of the proposed rulemaking. Insurers need to comply with the GLBA and Chapters 146a and 146b. Therefore, most, if not all, of the methods should be in place. This chapter bridges any gaps in those regulations and the privacy of consumer information.

Paperwork

There is no anticipated additional paperwork expected as a result of this proposed rulemaking.

Affected Parties

The proposed rulemaking will affect all licensed insurers doing the business of insurance in this Commonwealth.

Effectiveness/Sunset Date

The proposed rulemaking will become effective 6 months after final adoption of this proposed rulemaking.

Contact Person

Questions or comments regarding the proposed rulemaking should be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, fax (717) 772-1969, psalvatore@state.pa.us within 30 days following the publication of this notice in the *Pennsylvania Bulletin*.

Under the Regulatory Review Act, the Department is required to write to all commentators requesting whether or not they wish to receive a copy of the final-form rulemaking. To better serve stakeholders, the Department has made a determination that all commentators will receive a copy of the final-form rulemaking when it is made available to the Independent Regulatory Review Commission (IRRC) and the Legislative Standing Committees.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 23, 2003, the Department submitted a copy of this proposed rulemaking and a copy

of a Regulatory Analysis Form to IRRC and to the Chairpersons of the Senate Banking and Insurance Committee and the House Insurance Committee. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

M. DIANE KOKEN,
Insurance Commissioner

Fiscal Note: 11-215. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 31. INSURANCE

PART VIII. MISCELLANEOUS PROVISIONS

CHAPTER 146c. STANDARDS FOR SAFEGUARDING CUSTOMER INFORMATION

Sec.	Purpose.
146c.1.	Purpose.
146c.2.	Definitions.
146c.3.	Information security program.
146c.4.	Objectives of information security program.
146c.5.	Examples of methods of development and implementation.
146c.6.	Assess risk.
146c.7.	Manage and control risk.
146c.8.	Oversee service provider arrangements.
146c.9.	Adjust the program.
146c.10.	Determined violation.
146c.11.	Effective date.

§ 146c.1. Purpose.

This chapter establishes standards:

(1) For developing and implementing administrative, technical and physical safeguards to protect the security, confidentiality and integrity of customer information, under sections 501, 505(b) and 507 of the Gramm-Leach-Bliley Act (15 U.S.C.A. §§ 6801, 6805(b) and 6807).

(2) For ensuring the security and confidentiality of customer records and information.

(3) To protect against any reasonably anticipated threats or hazards to the security or integrity of the records.

(4) To protect against unauthorized access to or use of records or information that could result in substantial harm or inconvenience to a customer.

(5) That apply to nonpublic personal information, including nonpublic personal financial information and nonpublic personal health information.

§ 146c.2. Definitions.

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

Act—The Insurance Department Act of 1921 (40 P. S. §§ 1—321).

Commissioner—The Insurance Commissioner of the Commonwealth.

Customer—Either a “consumer” or “customer” as defined in § 146a.2 (relating to definitions) or a “consumer” as defined in § 146b.2 (relating to definitions).

Customer information—Either “nonpublic personal financial information” as defined in § 146a.2 or “nonpublic personal health information” as defined in § 146b.2 about a customer, whether in paper, electronic or other form that is maintained by or on behalf of the licensee.

Customer information systems—The electronic or physical methods used to access, collect, store, use, transmit, protect or dispose of customer information.

Department—The Insurance Department of the Commonwealth.

Licensee—As defined in either § 146a.2 or § 146b.2. The term does not include a purchasing group or a nonadmitted insurer in regard to the surplus lines business conducted under Article XVI of the Insurance Company Law of 1921 (40 P. S. §§ 991.1601—991.1625).

Service provider—A person that maintains, processes or otherwise is permitted access to customer information through its provision of services directly to the licensee.

§ 146c.3. Information security program.

A licensee shall implement a comprehensive written information security program that includes administrative, technical and physical safeguards for the protection of customer information. The administrative, technical and physical safeguards included in the information security program shall be appropriate to the size and complexity of the licensee and the nature and scope of its activities.

§ 146c.4. Objectives of information security program.

A licensee’s information security program shall be designed to do the following:

(1) Safeguard the security and confidentiality of customer information.

(2) Protect against any reasonably anticipated threats or hazards to the security or integrity of the information.

(3) Protect against unauthorized access to or use of the information that could result in substantial harm or inconvenience to any customer.

§ 146c.5. Examples of methods of development and implementation.

The actions and procedures described in §§ 146c.6—146c.9 are examples of methods of implementation of the requirements of §§ 146c.3 and 146c.4 (relating to information security program; and objectives of information security program). These examples are nonexclusive illustrations of actions and procedures that licensees may follow to implement §§ 146c.3 and 146c.4.

§ 146c.6. Assess risk.

The licensee:

(1) Identifies reasonably foreseeable internal or external threats that could result in unauthorized disclosure, misuse, alteration or destruction of customer information or customer information systems.

(2) Assesses the likelihood and potential damage of these threats, taking into consideration the sensitivity of customer information.

(3) Assesses the sufficiency of policies, procedures, customer information systems and other safeguards in place to control risks.

§ 146c.7. Manage and control risk.

The licensee:

(1) Designs its information security program to control the identified risks, commensurate with the sensitivity of the information, as well as the complexity and scope of the licensee's activities.

(2) Trains staff, as appropriate, to implement the licensee's information security program.

(3) Regularly tests or otherwise regularly monitors the key controls, systems and procedures of the information security program. The frequency and nature of these tests or other monitoring practices are determined by the licensee's risk assessment.

§ 146c.8. Oversee service provider arrangements.

The licensee:

(1) Exercises appropriate due diligence in selecting its service providers.

(2) Requires its service providers to implement appropriate measures designed to meet the objectives of this chapter, and, when indicated by the licensee's risk assessment, takes appropriate steps to confirm that its service providers have satisfied these obligations.

§ 146c.9. Adjust the program.

The licensee monitors, evaluates and adjusts, as appropriate, the information security program in light of any relevant changes in technology, the sensitivity of its customer information, internal or external threats to information, and the licensee's own changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, outsourcing arrangements and changes to customer information systems.

§ 146c.10. Determined violation.

(a) Violations of §§ 146c.3 and 146c.4 (relating to information security program; and objectives of information security program) are deemed and defined by the Commissioner to be an unfair method of competition and an unfair or deceptive act or practice and shall be subject to any applicable penalties or remedies contained in the Unfair Insurance Practices Act (40 P.S. §§ 1171.1—1171.15).

(b) A licensee has violated this chapter when the licensee knew or reasonably should have known of a pattern of activity or a practice of a service provider that constitutes either a violation of Chapter 146a (relating to privacy of consumer financial information), Chapter 146b (relating to privacy of consumer health information) or this chapter or a material breach of the contract or other arrangement between the licensee and the service provider, unless the licensee took reasonable steps to cure the breach or end the violation, as applicable, and, if the steps were unsuccessful, did the following:

(1) Terminated the contract or arrangement with the service provider, if feasible.

(2) If termination is not feasible, reported the violation or breach to the Department.

§ 146c.11. Effective date.

Each licensee shall establish and implement an information security program, including appropriate policies and systems under this chapter by _____ (*Editor's*

Note: The blank refers to a date 6 months after final adoption of this proposed rulemaking.).

[Pa.B. Doc. No. 03-1934. Filed for public inspection October 3, 2003, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 57]

[L-00030161]

Electric Service Reliability

The Pennsylvania Public Utility Commission (Commission), on July 26, 2003, adopted a proposed rulemaking order which amends existing regulations by establishing performance and benchmark standards designed to ensure electric distribution companies (EDCs) performances do not deteriorate since passage of 66 Pa.C.S. Chapter 28 (relating to Electricity Generation Customer Choice and Competition Act) (act).

Executive Summary

The act became effective January 1, 1997. The act amends 66 Pa.C.S. (relating to public utilities) by adding Chapter 28 to establish standards and procedures to create direct access by retail customers to the competitive market for the generation of electricity, while maintaining the safety and reliability of the electric system. Specifically, the Commission was given a legislative mandate to ensure that levels of reliability that were present prior to the restructuring of the electric utility industry would continue in the new competitive markets.

In response to this legislative mandate, the Commission adopted a final-form rulemaking order on April 23, 1998, at Doc. No. L-00970120, setting forth various reporting requirements designed to ensure the continuing safety, adequacy and reliability of the generation, transmission and distribution of electricity in this Commonwealth. See Chapter 57, Subchapter N (relating to electric reliability standards). The final-form rulemaking order also suggested that the Commission could reevaluate its monitoring efforts at a later time as deemed appropriate.

On June 12, 2002, the Legislative Budget and Finance Committee (LB&FC) issued a Report entitled *Assessing the Reliability of Pennsylvania's Electric Transmission and Distribution Systems*. The LB&FC Report made several recommendations regarding the issue of reliability.

Shortly thereafter, on July 18, 2002, at M-00021619, the Commission adopted its Bureau of Conservation Economics and Energy Planning's (CEEP) *Inspection and Maintenance Study of Electric Distribution Systems*, dated July 3, 2002. CEEP, in part, recommended that the annual reliability reporting requirements be revised to include the causes of outages and percentages categorized by type as well as the annual reporting of each company's plans for the upcoming year's inspection and maintenance of transmission systems including: (1) vegetation management; (2) distribution and substation maintenance activity; and (3) capital improvement projects. The Commission agreed with CEEP's recommendations in this regard.

The Commission created a Staff Internal Working Group on Electric Service Reliability (Staff Internal Working Group) to conduct a reevaluation of its electric service

Public Meeting held
June 26, 2003

reliability efforts. The Staff Internal Working Group was comprised of members of Commission bureaus with either direct or indirect responsibility for monitoring electric service reliability. The Staff Internal Working Group prepared a report, entitled *Review of the Commission's Monitoring Process for Electric Distribution Service Reliability*, dated July 18, 2002, which reviewed the Commission's monitoring process for electric distribution service reliability and provided comments on recommendations from the LB&FC Report. The Staff Internal Working Group report also offered recommendations for tightening the standards for reliability performance and establishing additional reporting requirements by EDCs.

On August 29, 2002, the Commission issued an Order at Doc. No. D-02SPS021 that tentatively approved these recommendations and directed the Commission staff to undertake the preparation of orders, policy statements and proposed rulemakings as may be necessary to implement the recommendations contained in the Staff Internal Working Group's report. The Staff Internal Working Group was assigned the responsibility to implement the recommendations. The Staff Internal Working Group, with the legal assistance of the Law Bureau, determined which implementation actions could be accomplished internally (with or without a formal Commission Order), and which actions will require changes to regulations.

The Staff Internal Working Group conducted field visits to EDCs to identify the current capabilities of each EDC for measuring and reporting reliability performance. These field visits began in October 2002 and continued intermittently through March 2003. As a result of the field visits, various forms of reliability reports and reliability data were received from the EDCs and analyzed by the Staff Internal Working Group to determine the most effective and reasonable approach for the Commission to monitor electric distribution service reliability.

This proposed rulemaking order seeks to implement the Staff Internal Working Group's recommendations and sets forth proposed amendments to better govern the reliability of electric service in this Commonwealth and assure that service does not deteriorate after the act. Specifically, we propose to substitute the term "operating area" with "service territory" thus altering the definition of a "major event." Additionally, we want to require the EDCs to file quarterly reports as well as the currently required annual reports. We wish the EDCs to report additional information on their reports, that is, worst circuit information as well as their standards and plans for inspection and maintenance of their distribution systems.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 19, 2003, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Committees on September 19, 2003. A copy of this material is available to the public upon request.

Under section 5(g) of the Regulatory Review Act, IRRC may convey any comments, recommendations or objections to the proposed rulemaking within 30 days of the close of the public comment period. The comments, recommendations or objections shall specify the regulatory review criteria which have not been met. The Regulatory Review Act specifies detailed procedures for review, prior to final publication of the rulemaking, by the Department, the General Assembly and the Governor of comments, recommendations or objections raised.

Commissioners Present: Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Aaron Wilson, Jr.; Glen R. Thomas; Kim Pizzingrilli

Proposed Rulemaking Order

By the Commission

Today, in conjunction with our Tentative Order at M-00991220, we reexamine our regulations and seek to significantly improve the monitoring of reliability performance in the electric distribution industry.

Procedural History

The act added 66 Pa.C.S. Chapter 28 to establish standards and procedures to create direct access by retail customers to the competitive market for the generation of electricity, while maintaining the safety and reliability of the electric system. Specifically, the Commission was given a legislative mandate to ensure that levels of reliability that were present prior to the restructuring of the electric utility industry would continue in the new competitive markets.

In response to this legislative mandate, the Commission adopted a final rulemaking order on April 23, 1998, at Doc. No. L-00970120, setting forth various reporting requirements designed to ensure the continuing safety, adequacy and reliability of the generation, transmission and distribution of electricity in this Commonwealth. See Chapter 57, Subchapter N. The final rulemaking order also suggested that the Commission could reevaluate its monitoring efforts at a later time as deemed appropriate.

On June 12, 2002, the LB&FC issued a Report entitled *Assessing the Reliability of Pennsylvania's Electric Transmission and Distribution Systems*. The LB&FC Report made several recommendations regarding the issue of reliability.

Shortly thereafter, on July 18, 2002, at M-00021619, the Commission adopted its CEEP's *Inspection and Maintenance Study of Electric Distribution Systems* dated July 3, 2002. CEEP, in part, recommended that the annual reliability reporting requirements be revised to include the causes of outages and percentages categorized by type as well as the annual reporting of each company's plans for the upcoming year's inspection and maintenance of transmission systems including: (1) vegetation management; (2) distribution and substation maintenance activity; and (3) capital improvement projects. The Commission agreed with CEEP's recommendations in this regard.

The Commission created a Staff Internal Working Group to conduct a reevaluation of its electric service reliability efforts. The Staff Internal Working Group was comprised of members of Commission bureaus with either direct or indirect responsibility for monitoring electric service reliability.

The Staff Internal Working Group prepared a report, entitled *Review of the Commission's Monitoring Process for Electric Distribution Service Reliability*, dated July 18, 2002, which reviewed the Commission's monitoring process for electric distribution service reliability and provided comments on recommendations from the LB&FC report. The Staff Internal Working Group report also offered recommendations for tightening the standards for reliability performance and establishing additional reporting requirements by EDCs.

On August 29, 2002, the Commission issued an Order at Doc. No. D-02SPS021 that tentatively approved these

recommendations and directed the Commission staff to undertake the preparation of orders, policy statements and proposed rulemakings as may be necessary to implement the recommendations contained in the Staff Internal Working Group's report. The Staff Internal Working Group was assigned the responsibility to implement the recommendations. The Staff Internal Working Group, with the legal assistance of the Law Bureau, determined which implementation actions could be accomplished internally (with or without a formal Commission Order), and which actions will require changes to regulations.

The Staff Internal Working Group conducted field visits to EDCs to identify the current capabilities of each EDC for measuring and reporting reliability performance. These field visits began in October 2002 and continued intermittently through March 2003. As a result of the field visits, various forms of reliability reports and reliability data were received from the EDCs and analyzed by the Staff Internal Working Group to determine the most effective and reasonable approach for the Commission to monitor electric distribution service reliability.

Discussion

Based upon our review of each EDC's capabilities for measuring and monitoring reliability performance, the Commission implements the following actions to address the recommendations cited in the Inspection and Maintenance of Electric Distribution Systems Study and the Review of the Commission's Monitoring Process for Electric Distribution Service Reliability.

Proposed amendments to §§ 57.191—57.197

§ 57.191 Purpose.

No changes.

§ 57.192. Definitions.

"Operating area" definition

This definition has been deleted since the concept of operating areas will no longer be used under the proposed changes. An "operating area" was defined by § 57.192 as being, "A geographical area, as defined by an electric distribution company, of its franchise service territory for its transmission and distribution operations." Prior to issuing its Reliability Report, the Staff Internal Working Group discovered that, in some cases, the companies internally had different operating areas than those that were reported to the Commission for the purposes of reporting reliability statistics.

In Recommendation No. IV-3 of the July 18, 2002 Reliability Report, the Staff Internal Working Group suggested that the Commission require the EDCs to provide reliability indices based on the same operating configurations used to manage their daily operations.

To establish electric reliability benchmarks and standards after passage of the act, each EDC was asked to provide historical service reliability performance indicators (reliability indices) for its operating areas and system as a whole. Each EDC was given the discretion to define its operating areas according to § 57.192, which defines "operating area" as follows:

A geographical area, as defined by an electric distribution company, of its franchise service territory for its transmission and distribution operations.

Some EDCs designated multiple operating areas in their system while others designated their entire system as the sole operating area. On December 16, 1999, the Commission ordered the establishment of permanent electric service reliability performance benchmarks and stan-

dards for each EDC under § 57.194(h)(1) (relating to distribution system reliability). These benchmarks and standards are based on the historical reliability indices for the operating areas designated by each EDC. Likewise, the electric service reliability performance reported by each EDC to the Commission under § 57.195 (relating to reporting requirements) is based on the same operating areas designated by each EDC.

The Staff Internal Working Group found that some EDCs internally report and monitor their electric service reliability performance by areas different than those areas designated for the establishment of electric reliability performance benchmarks and standards, and reporting purposes to the Commission. Another concern is that there is the potential for an EDC to define its operating areas to serve a small number of customers that most service interruptions in an operating area could (by definition under § 57.192) be considered a major event, and any related outage data would be excludable from any reported reliability performance. As noted previously, the Staff Internal Working Group recommended that the Commission require EDCs to provide reliability indices based on the same operating area configurations used to manage the daily operations of their systems.

However, since its July 2002 Reliability Report, and after further discussion with industry representatives, the Staff Internal Working Group now recommends to the Commission that the EDCs do not use the designated operating areas reported to the Commission for monitoring their electric service reliability performance. The exception would be any EDC that has designated its entire service territory as its sole operating area. In fact, the EDCs have informed the Staff Internal Working Group that they often have to perform additional calculations at the end of the year to report their electric service reliability performance based on these previously designated operating areas. The only use of these operating areas is to report annual performance to the Commission. The EDCs have indicated that they manage their daily operations on a system-wide basis, and therefore, measure and monitor their reliability performance on a system-wide basis.

To avoid the potential for masking problems in small pockets of an EDC's service territory, circuit reliability will be analyzed. The EDCs will be required to report by circuit¹ instead of by operating areas. Specifically, the EDCs will be required to report on a quarterly basis their 5% worst performing circuits as calculated based upon the reliability indices and other relevant factors (for example, lockouts).

To effectively compare and trend the EDCs' current reliability performance to historical performance, the benchmarks will be recomputed to reflect the replacing of the term "operating areas" with "service territory" in our regulations. This change in definition causes a change in the criterion used to exclude major outages. Thus, the benchmark must be recomputed. The recomputed benchmarks and standards for each individual EDC are further discussed in our Tentative Order at M-00991220, Amended Reliability Benchmarks and Standards for the Electric Distribution Companies.

It must be made clear that the proposed phrase "the electric distribution company's service territory" means an individual EDC's service territory, regardless of whether the EDC is part of a larger system or has merged with another entity.

¹ Circuit is defined as a number of electrical components connected together in a closed loop.

"Major event" definition

All references to "operating areas" are replaced with the term "service territory" in the "major event" definition for the reasons previously outlined.

Additionally, as noted in our companion Amended Reliability Benchmarks and Standards Tentative Order at M-0099120, we require a formal process to request the exclusion of service interruptions for reporting purposes by proving a service interruption qualifies as a major event as defined by regulations. The Commission is providing provided EDCs with a form for requesting exclusion of data due to a major event.

§ 57.193. Transmission system reliability.

No changes.

§ 57.194. Distribution system reliability.

Through regulations and orders, the Commission has established reporting requirements, benchmarks and standards for EDC reliability performance. Currently, EDCs report their performance on the CAIDI, SAIFI, SAIDI and (as available) MAIFI² indices to the Commission on an annual basis. These indices are generally accepted indices of EDC reliability that measure the frequency and duration of outages at the system or customer level.

The existing regulations in Chapter 57 did not establish the benchmarks or the standards for CAIDI, SAIFI, SAIDI or MAIFI for each company. Instead, the benchmarks and standards were set by Commission Order on December 16, 1999, at Docket No. M-00991220.

Revisions to the language in § 57.194(e) and (h)(2)–(4) are proposed to clarify the Commission's expectations for reliability performance in relation to performance benchmarks and performance standards. The Commission's expectations for EDC reliability are based on language found in sections 2802(12) and 2804(1) of the act (relating to declaration of policy; and standards for restructuring of electric industry). Section 2802(12) of the act notes that the purpose, in part, is:

[T]o create direct access by retail customers to the competitive market for the generation of electricity while maintaining the safety and reliability of the electric system for all parties. Reliable electric service is of the utmost importance to the health, safety and welfare of the citizens of the Commonwealth. Electric industry restructuring should ensure the reliability of the interconnected electric system by maintaining the efficiency of the transmission and distribution system.

Section 2804(1) of the act sets forth standards for restructuring the electric industry. This section states, "The Commission shall ensure continuation of safe and reliable electric service to all customers in the Commonwealth . . ."

Consistent with the act, the Commission's policy is to ensure that EDC reliability performance after the imple-

mentation of the act be equal to the level achieved prior to the introduction of electric competition. In a series of orders at Doc. No. M-00991220, the Commission established reliability benchmarks and standards for each EDC. The benchmarks were based on each EDC's historic performance from 1994–1998. The benchmarks, therefore, represented each EDC's historical reliability performance level prior to the implementation of electric choice in 1999. The Commission also established performance standards which took into account the variability in each EDC's reliability performance during the 1994–1998 period. The performance standards were set two standard deviations higher than the benchmarks (lower metric scores equal better performance) to allow for a degree of variability that inevitably occurs in reliability performance from year to year.

In the Commission's review of the language in § 57.194 pertaining to benchmarks and standards for distribution system reliability, we determined that the language needs clarification to specify the roles that benchmarks and standards have in relationship to the Commission's expectation for EDC reliability performance. We do not want to send the message that long-term reliability performance that just meets the performance standard is acceptable. Long-term performance that only meets the standard could be significantly worse than the benchmark and thus worse than the historical performance level that existed prior to the introduction of electric choice. The performance would clearly not be consistent with the intent or language of the act and the Commission's policy objective for maintaining reliability performance after the introduction of electric choice at least as good as it was prior to electric choice. Therefore, the Commission emphasizes that long-term reliability performance should be at least equal to the benchmark performance.

To clarify language in § 57.194, we have revised the wording in subsection (h) to indicate that EDCs shall take measures to meet the reliability "performance benchmark" in the long term, in addition to meeting the performance standards in the shorter term. In § 57.194(h)(2), we have inserted language clarifying that the benchmark represents the Commission's expectation of future, long-term reliability performance. Section 57.194(h)(4) is modified to state that an EDC shall inspect, maintain and operate its distribution system as well as analyze "reliability results" and take corrective measures as necessary to ultimately achieve "benchmark performance" rather than the performance standard.

While clarifying our language to emphasize long-term performance at the benchmark level, we acknowledge that performance in a given year or so may vary from the benchmark. Therefore, we continue to find the concept of a performance standard to be a useful tool for monitoring performance in the near term. When performance on any measure falls outside the standard, Commission staff will engage in an additional review with the EDC to determine whether reliability performance is deteriorating, which could contribute to an EDC not maintaining benchmark performance in the long term.

We have also made a revision to the language in § 57.194(h)(2) stating that the benchmark will be based on a company's historic "system-wide" performance for that measure versus performance for each EDC operating area. This revision is consistent with changes to the definition of a "major event" that is revised to reflect an interruption which affects at least 10% of the customers in the EDC's "service territory" versus a designated operating area (refer to § 57.192). Together, these

² CAIDI is Customer Average Interruption Duration Index. It is the average interruption duration of sustained interruptions for those customers who experience interruptions during the analysis period. CAIDI represents the average time required to restore service to the average customer per sustained interruption. It is determined by dividing the sum of all sustained customer interruption durations, in minutes, by the total number of interrupted customers. SAIFI is System Average Interruption Frequency Index. SAIFI measures the average frequency of sustained interruptions per customer occurring during the analysis period. SAIDI is System Average Interruption Duration Index. SAIDI measures the average duration of sustained customer interruptions per customer occurring during the analysis period. MAIFI (Momentary Average Interruption Frequency Index) measures the average frequency of momentary interruptions per customer occurring during the analysis period. These indices are accepted national reliability performance indices as adopted by the Institute of Electrical and Electronics Engineers, Inc. (IEEE), and are defined with formulas in § 57.192.

changes will result in all EDCs calculating and reporting reliability performance based on the entire service territory.

§ 57.195. Reporting requirements.

Under subsection (a), we propose that the annual reliability report be submitted by March 31 of each year. Currently, the EDCs annually submit reliability performance reports by May 31 following the year being reported on. If an EDC experiences poor performance in the year being reported on, 5 or more months will pass before the Commission has the ability to determine if the EDC has sufficient corrective measures in place. At the time of receiving the report, it is too late in the year for the EDC to effectively revise its reliability program to address the concerns of the Commission. The EDCs have agreed that an annual report could be submitted by March 31. Under paragraph (1), we are requiring EDCs to submit six instead of five reports, so that all interested parties within the Commission will receive a copy.

Under subsection (b), we propose, at a minimum, that certain elements be included in the annual reliability report for the larger EDCs. To clarify which EDCs qualify as a larger electric distribution company, we propose that those companies with 100,000 or more customers be considered a larger EDC.³ This would include the current set of EDCs that have been considered to be the larger EDCs for reliability monitoring purposes. At a minimum, the following elements are to be reported by the larger EDCs: (The numbering below corresponds with the proposed rulemaking.)

(1) An overall current assessment of the state of system reliability in the EDC's service territory, including a discussion of the EDC's current programs and procedures for providing reliable electric service. This was previously part (i). The additional language is intended to emphasize that a "current" (not dated) assessment of the overall state of system reliability is to be provided and that "current" programs and procedures are to be the focus of discussion.

(2) Revised to clarify that the major events to be reported are those that occurred during the reporting year.

(3) This revision specifically identifies which reliability indices should be reported, and provides that the indices should be reflective of measuring performance based on excluding major event data using the entire service territory criterion. This is consistent with the proposed change in the definition of a "major event." Also, it is being proposed that the EDCs report reliability values for the preceding 3 years instead of the preceding 5 years to be consistent with the Commission's proposal to establish rolling 3-year average standards. This revision also specifically requires that the raw data used to calculate the reliability indices be provided to understand what factors are driving the reported performance.

(4) Monitoring of the causes of service outages will enable the Commission to identify trends, and will form a basis for further discussion with the EDCs as well as analysis of service problems.

(5) Since the Commission proposes to examine electric service reliability on a service territory basis, rather than on an operating area basis, we have determined that a review of worst performing circuits will be an appropriate approach to monitoring the efforts of the EDCs to im-

prove service performance in specific areas of the service territory. It is being proposed in § 57.195(e)(3) for EDCs to report the worst performing 5% of circuits in the system on a quarterly basis. In addition, we are requiring that the EDCs include in their annual reliability report to the Commission a list of the remedial efforts that have been taken or are being planned for the circuits that have been on the list of worst performing circuits for a year or more. This information will enable the Commission to determine if sufficient remedial efforts have been implemented for circuits that continue to be problematic and/or understand the problems being encountered by the EDC in its attempts to remediate poor performing circuits.

(6)—(12) In the Commission's final rulemaking order of April 23, 1998 (Doc. No. L-00970120), setting forth reporting requirements relating to electric service reliability, CEEP was directed to conduct a study of the issue of whether specific inspection and maintenance standards should be developed for electric distribution systems. The staff study recommended that, in lieu of standards, the EDCs be required to submit documentation on inspection and maintenance activities. Further reporting requirements in this area will assist the Commission in assuring that the EDCs are carrying out their own plans for maintaining electric service reliability.

We therefore propose that the EDCs provide in their annual report, a comparison of the previous year's inspection and maintenance goals to the actual results achieved. Most of this information can be easily reported in a one-page format. (See Attachment A for an example.) We also propose the submission of comparisons of the previous year's budgeted versus actual transmission and distribution operation and maintenance expenses, and capital expenditures. Since the EDCs are already monitoring their inspection/maintenance goals and operating/capital budgets, this information should be readily available. In addition to the previous year budgeted/actual comparisons, budgeted goals and expenditures for the current year are being requested. Finally, a discussion of significant changes to the transmission and distribution inspection and maintenance programs would also be required.

Under subsection (c), we propose to require the small EDCs (those with less than 100,000 customers) to annually provide the same information as in subsection (b) except for requirement (5). These smaller EDCs, Citizens' Electric Company, Pike County Light and Power Company and Wellsboro Electric Company, have a small number of circuits in their system configurations. Thus, they are constantly aware of the condition of all of the circuits and there is no need for them to report on the 5% worst performing circuits.

In addition to the annual report, proposed subsections (d)—(f) require the submission of a quarterly reliability report. This report will include a rolling 12-month computation of the reliability indices, a rolling 12-month analysis of circuit reliability and a description of any remedial action taken to correct problems. The purpose of requiring a quarterly report is to provide more frequent information to the Commission about service reliability. This will enable the Commission to identify potential problems in a timely manner and monitor the EDC's response to problems which may arise between annual reports. The quarterly report requires a description of each major event occurring during the preceding quarter that the EDC has excluded from its reported data.

The quarterly report will also require the submittal of rolling 12-month reliability indices values for the entire service territory and for the worst performing 5% of the

³ Large EDCs currently include: Allegheny Power, Duquesne Light, Met-Ed, Penelec, Penn Power, PECO and PPL.

system's circuits. The worst performing 5% of circuits means the worst 5% of the total circuits on the system. While the methodology used to identify these circuits may vary among the EDCs, most EDCs use the reliability indices and other related factors. The EDCs already perform this type of analysis and agree that this information will be able the Commission to detect any adverse performance trends in specific segments of the system and track the progress of any corrective measures the EDC has undertaken. Also, a discussion of specific remedial efforts taken or planned for the worst performing circuits will be required.

As with the annual report, we are proposing to require documentation on inspection and maintenance goals and expenses. However, this information will consist mainly of quarterly and year-to-date budget versus actual comparisons. We also propose to require information on staffing levels for transmission and distribution operation and maintenance as well as information on contractor hours and expenses. Again, we expect to continually monitor these activities, expenses and staffing levels on a timely basis to ensure that sufficient resources are being devoted to the reliability of electric service.

We are also interested in receiving information on monthly call-out acceptance rates for transmission and distribution maintenance workers. There are times when, during a storm which causes numerous customer outages, the acceptance rate of line crews (the percentage of time that the maintenance workers accept a call for repairing equipment and restoring service) is low. The monthly call-out acceptance rates may provide some perspective on reliability performance.

Proposed subsection (f) limits the quarterly reporting requirements for the smaller EDCs to subsection (e)(1), (2) and (5). This is to reduce the reporting burden of these companies, reflecting the size, configuration and operational aspects of their systems.

Language has been revised in subsection (g), which was formerly subsection (d), to make it clear that performance which does not meet the Commission's established performance standards is not necessarily indicative of unacceptable performance. Only after further review of the circumstances can it be determined whether any performance is problematic. A revision has also been made so that the Commission will determine, in each circumstance, whether or not to require the reporting of additional information. Depending on the factual information provided by the EDC, the situation may or may not suggest a further examination of the reasons for not meeting the standards.

Proposed subsection (h) requires an EDC to timely report any problems it is having with its data gathering system. This will alert the Commission of the problem and permit the Commission to monitor the EDC's attempt to resolve the matter.

Proposed subsection (i) states that the Commission will prepare an annual reliability report and make it available

to the public. Electric service reliability is important to the citizens of this Commonwealth and they have a right to know the status of reliability in their area.

§ 57.196. Generation reliability

No changes.

§ 57.197. Reliability investigations and enforcement

No changes.

Accordingly, under the act and the regulations promulgated thereunder at Chapter 57, Subchapter N; sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. §§ 1201 and 1202) and the regulations promulgated thereunder at 1 Pa. Code §§ 7.1, 7.2 and 7.5; section 204(b) of the Commonwealth Attorneys Act (71 P. S. § 732.204(b)); section 5 of the Regulatory Review Act (71 P. S. § 732.204(b)); and section 612 of The Administrative Code of 1929 (71 P. S. § 232) and the regulations promulgated thereunder at 4 Pa. Code §§ 7.231—7.235 (relating to fiscal notes), we are considering adopting the proposed rulemaking to read as set forth in Annex A; *Therefore,*

It Is Ordered That:

1. The proposed rulemaking be opened to consider the rulemaking set forth in Annex A.
2. The Secretary submit this order and Annex A to the Office of Attorney General for review as to form and legality and to the Governor's Budget Office for review of fiscal impact.
3. The Secretary certify this order and Annex A and deposit them with the Legislative Reference Bureau to be published in the *Pennsylvania Bulletin*.
4. An original and 15 copies of any comments referencing the docket number of the proposed rulemaking be submitted within 60 days of publication in the *Pennsylvania Bulletin* to the Pennsylvania Public Utility Commission, Attention: Secretary, P. O. Box 3265, Harrisburg, PA 17105-3265.
5. A copy of any comments be filed electronically to contact person Elizabeth H. Barnes at ebarnes@state.pa.us.
6. The contact persons for this rulemaking are (technical) Thomas Sheets, Director of Bureau of Audits, (717) 783-5000 and (legal) Elizabeth H. Barnes, Law Bureau, (717) 772-5408.
7. A copy of this Order and Annex A be filed at Doc. No. M-00991220.
8. A copy of this order and Annex A be served upon all EDCs operating in this Commonwealth, the Office of Consumer Advocate and the Office of Small Business Advocate.

JAMES J. MCNULTY,
Secretary

Fiscal Note: 57-228. No fiscal impact; (8) recommends adoption.

ATTACHMENT A

2003 Goals - Complete Planned Work for Ensuring Reliability - Pennsylvania Operations Only
Results as of: May 1

Program/Project	Unit of Measurement	Target for 2003	Actual Completed YTD	% Completed	% of Total Goal	% Earned of Total Goal
Forestry Goals						
Transmission Herbicide Application	# Transmission Lines	12	0	0.0%	3.1%	0.0%
Transmission Lines Trimming and Clearing	# Transmission Lines	52	6	11.5%	3.2%	0.4%
Subtransmission Herbicide Application	# of Subtransmission Lines	73	4	5.5%	3.1%	0.2%
Subtransmission Line Trimming and Clearing	# of Subtransmission Lines	98	12	12.2%	3.1%	0.4%
Distribution Line Trimming, Clearing & Herbicide Applic.	# of Distribution Line Miles	7,577	1,198	15.8%	25.0%	4.0%
Subtotal - Forestry Goals				13.0%	37.5%	4.9%
Transmission Lines ERS Goals						
Major Projects (Capital) for Reliability	Budget Dollars	\$ 3,847,000	\$ 2,689,954	69.9%	15.7%	11.0%
Transmission Comprehensive Patrol	# Transmission Lines	1	1	100.0%	0.9%	0.9%
Transmission General Patrol	# Transmission Lines	117	0	0.0%	0.7%	0.0%
Ground & Footer Inspections	# Transmission Lines	1	0	0.0%	0.3%	0.0%
Pole Inspection	# Transmission Lines	0	0	0.0%		0.0%
Pole Reinforcements	# Transmission Line Poles	0	0	0.0%		0.0%
Pole Replacements	# Poles	0	0	0.0%		0.0%
Critical Transmission Repairs	# Critical Items	2	2	100.0%	0.5%	0.5%
Priority Transmission Repairs	# Critical Items	7	2	28.6%	0.5%	0.1%
Non-Critical Transmission Repairs	# Non-Critical Items (identified in 2001 & before)	47	0	0.0%		0.0%
Transmission Tower Painting	# Towers	0	0	0.0%		0.0%
Subtotal - Transmission Lines Goals				59.9%	20.9%	12.5%
Substation Goals						
SS Work (Includes Capital, Planned, & Preventative)	Man-Hours	67,088	18,800	28.0%	11.4%	3.2%
SS Spraying	Budget Dollars	\$ 70,200	\$ 18,800	26.8%	0.2%	0.1%

Controls Work (Includes Cap., Planned, & Preventative)	Man-Hours	13,916	2,374	17.1%	2.5%	0.4%
Subtotal - Substation Goals				26.1%	14.1%	3.7%

OH Distribution Lines Goals						
Subtransmission General Patrol	# Subtransmission Lines	333	0	0.0%	0.2%	0.0%
Individual Budget Projects for Reliability	Man-Hours	12,109	2,137	17.6%	3.0%	0.5%
Small Planning Projects	Man-Hours	27,386	6,025	22.0%	9.2%	2.0%
Steel Wire Replacement	Line Miles	0	0	0.0%		0.0%
Pole Inspection	# of Circuits	84	29	34.5%	3.3%	1.1%
Pole Reinforcement	# of Poles	0	0	0.0%	0.3%	0.0%
Danger Poles	# Danger Poles	0	0	0.0%	0.7%	0.0%
Reject Poles	# Reject Poles	0	0	0.0%	1.4%	0.0%
Annual Inspection & Maintenance Work	Points Completed	2,669	1,079	40.4%	0.3%	0.1%
Reliability Improvement Program	\$ Spent	1,110,000	28,160	2.5%	3.3%	0.1%
UG Equipment Inspections	# Locations	6,673	3,967	59.4%	0.3%	0.2%
Regulator Inspections	# Regulators	134	53	39.6%	0.3%	0.1%
Capacitors Inspections	# Capacitors	1,218.0	899.0	73.8%	0.3%	0.2%
Recloser Replacements	# Reclosers	192	81	42.2%	0.3%	0.1%
Structured Maintenance - Street Lights	# Street Lights	20,635	7,218	35.0%	3.0%	1.0%
Subtotal - Overhead Distribution Lines Goals				21.6%	25.9%	5.6%

UGD Distribution Lines Goals						
Pad Mount Transformer Painting	# Pad Mount Transformers	0	0	0.0%		0.0%
UG Equipment Inspections	# Locations	6,673	3,967	59.4%	0.3%	0.2%
UGD Cable Replacement	Budget Dollars	\$ 130,000	\$ 0	0.0%	0.4%	0.0%
Cable Injection	Budget Dollars	\$ 201,000	\$ 0	0.0%	0.6%	0.0%
Subtotal - Underground Distribution Lines Goals				13.7%	1.3%	0.2%

% Planned Work Completed YTD:						26.8%
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Annex A
TITLE 52. PUBLIC UTILITIES
PART I. PUBLIC UTILITY COMMISSION
Subpart C. FIXED SERVICE UTILITIES
CHAPTER 57. ELECTRIC SERVICE
Subchapter N. ELECTRIC RELIABILITY STANDARDS

§ 57.192. Definitions.

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

* * * * *

EDC—Electric distribution company. An electric distribution company as defined in 66 Pa.C.S. § 2803 (relating to definitions).

* * * * *

FERC—Federal Energy Regulatory Commission.

* * * * *

Major event—

(i) Either of the following:

(A) An interruption of electric service resulting from conditions beyond the control of the [electric distribution company] EDC which affects at least 10% of the customers in [an operating area] the EDC's service territory during the course of the event for a duration of 5 minutes each or greater. The event begins when notification of the first interruption is received and ends when service to all customers affected by the event is restored. [When one operating area experiences a major event, the major event shall be deemed to extend to all other affected operating areas of that electric distribution company.]

* * * * *

[Operating area—A geographical area, as defined by an electric distribution company, of its franchise service territory for its transmission and distribution operations.]

Performance benchmark—The average historical performance.

Performance standard—Minimum performance allowed.

* * * * *

§ 57.194. Distribution system reliability.

* * * * *

(e) An [electric distribution company] EDC shall design and maintain procedures to achieve the reliability performance benchmarks and performance standards established under subsection (h).

* * * * *

(h) An [electric distribution company] EDC shall take measures necessary to meet the reliability performance benchmarks and performance standards adopted under this subsection.

* * * * *

(2) The benchmark will be based on an [electric distribution company's] EDC's historic system-wide

performance [for each operating area] for that measure. In establishing the benchmark, the Commission may consider historic superior or inferior performance [or system-wide performance].

(3) The performance standard shall be the short term, minimal level of performance for each measure for all [electric distribution companies, regardless of the benchmark established] EDCs. Performance that does not meet the standard for any reliability measure shall be the threshold for triggering additional scrutiny by Commission staff. When performance does not meet the standard, Commission staff will contact the EDC regarding possible remedial review and reporting activities.

(4) An [electric distribution company] EDC shall inspect, maintain and operate its distribution system, analyze [performance] reliability results, and take corrective measures as necessary to achieve [the performance standard] benchmark performance. [An electric distribution company with a benchmark establishing performance superior to the performance standard shall maintain benchmark performance, except as otherwise directed by the Commission.]

§ 57.195. Reporting requirements.

(a) An [electric distribution company] EDC shall submit an annual reliability report to the Commission, on or before [May] March 31 [,1999, and May 31] of each [succeeding] year [, a reliability report which includes, at a minimum, the information prescribed in this section].

(1) An original and [5] six copies of the report shall be filed with the Commission's Secretary and one copy shall also be submitted to the Office of Consumer Advocate and the Office of Small Business Advocate.

(2) The name [and telephone number], title, telephone number and e-mail address of the persons [having] who have knowledge of the matters, and [to whom inquiries should be addressed] can respond to inquiries, shall be included.

(b) The annual reliability report for larger EDCs (those with 100,000 or more customers) shall include [an assessment of electric service reliability in the electric distribution company's service territory, by operating area and system-wide.], at a minimum, the following elements:

(1) [The] An overall current assessment [shall include] of the state of the system reliability in the EDC's service territory including a discussion of the [electric distribution company's] EDC's current programs and procedures for providing reliable electric service.

(2) [The assessment shall include a] A description of each major event that occurred during the year being reported on, including the time and duration of the event, the number of customers affected, the cause of the event and any modified procedures adopted to avoid or minimize the impact of similar events in the future.

[(c) The report shall include a] (3) A table showing the actual values of each of the reliability indices [,

and other performance measures required by this subchapter or Commission order, for each operating area and] (SAIFI, CAIDI, SAIDI, and if available, MAIFI) for the [electric distribution company as a whole] EDC's service territory for each of the preceding [5] 3 calendar years. The report shall include the data used in calculating the indices, namely the average number of customers served, the number of sustained customer minutes interruptions, the number of customers affected and the minutes of interruption. If MAIFI values are provided, the number of customer momentary interruptions shall also be reported.

(4) A breakdown and analysis of outage causes during the year being reported on, including the number and percentage of service outages and customer interruption minutes categorized by outage cause such as equipment failure, animal contact, tree related, and so forth. Proposed solutions to identified service problems shall be reported.

(5) A list of remedial efforts taken to date and planned for circuits that have been on the worst performing 5% of circuits list for a year or more.

(6) A comparison of established transmission and distribution inspection and maintenance goals/objectives versus actual results achieved during the year being reported on. Explanations of any significant variances shall be included.

(7) A comparison of budgeted versus actual transmission and distribution operation and maintenance expenses for the year being reported on. Explanations of any significant variances shall be included.

(8) A comparison of budgeted versus actual transmission and distribution capital expenditures for the year being reported on. Explanations of any significant variances shall be included.

(9) Quantified transmission and distribution inspection and maintenance goals/objectives for the current year detailed by system area (that is, transmission, substation and distribution).

(10) Budgeted transmission and distribution operation and maintenance expenses for the current year in total and detailed by FERC account.

(11) Budgeted transmission and distribution capital expenditures for the current year in total and detailed by FERC account.

(12) Significant changes, if any, to the transmission and distribution inspection and maintenance programs previously submitted to the Commission.

(c) The annual reliability report for smaller EDCs (those with less than 100,000 customers) shall include all items in subsection (b) except for the requirement in paragraph (5).

(d) An EDC shall submit a quarterly reliability report to the Commission, on or before May 1, August 1, November 1 and February 1.

(1) An original and six copies of the report shall be filed with the Commission's Secretary and one copy shall also be submitted to the Office of Consumer Advocate and the Office of Small Business Advocate.

(2) The name, title, telephone number and e-mail address of the persons who have knowledge of the matters, and can respond to inquiries, shall be included.

(e) The quarterly reliability report for larger companies (those with 100,000 or more customers) shall, at a minimum, include the following elements:

(1) A description of each major event that occurred during the preceding quarter, including the time and duration of the event, the number of customers affected, the cause of the event and any modified procedures adopted in order to avoid or minimize the impact of similar events in the future.

(2) Rolling 12-month reliability index values (SAIFI, CAIDI, SAIDI, and if available, MAIFI) for the EDC's service territory for the preceding quarter. The report shall include the data used in calculating the indices, namely the average number of customers served, the number of sustained customer interruptions, the number of customers affected, and the customer minutes of interruption. If MAIFI values are provided, the report shall also include the number of customer momentary interruptions.

(3) Rolling 12-month reliability index values (SAIFI, CAIDI, SAIDI, and if available, MAIFI) and other pertinent information such as customers served, number of interruptions, customer minutes interrupted, number of lockouts, and so forth, for the worst performing 5% of the circuits in the system. An explanation of how the EDC defines its worst performing circuits shall be included.

(4) Specific remedial efforts taken and planned for the worst performing 5% of the circuits as identified in paragraph (3).

(5) A breakdown and analysis of outage causes during the preceding quarter, including the number and percentage of service outages and customer interruption minutes categorized by outage cause such as equipment failure, animal contact, tree related, and so forth. Proposed solutions to identified service problems shall be reported.

(6) Quarterly and year-to-date information on progress toward meeting transmission and distribution inspection and maintenance goals/objectives.

(7) Quarterly and year-to-date information on budgeted versus actual transmission and distribution operation and maintenance expenditures. (For first, second and third quarter reports only)

(8) Quarterly and year-to-date information on budgeted versus actual transmission and distribution capital expenditures. (For first, second and third quarter reports only)

(9) Dedicated staffing levels for transmission and distribution operation and maintenance at the end of the quarter, in total and by specific category (for example, linemen, technician and electrician).

(10) Quarterly and year-to-date information on contractor hours and dollars for transmission and distribution operation and maintenance.

(11) Monthly call-out acceptance rate for transmission and distribution maintenance workers.

(f) The quarterly reliability report for smaller companies (those with less than 100,000 customers)

shall, at a minimum, include paragraphs (1), (2) and (5) identified in subsection (e).

[(d) (g) When an [electric distribution company's] EDC's reliability performance [within an operating area] is found to [be unacceptable] not meet the Commission's established performance standards, as defined in § 57.194(h) (relating to distribution system reliability), the Commission may require a report [shall] to include the following:

(1) [An analysis of the service interruption patterns and trends.] The underlying reasons for not meeting the established standards.

(2) [An analysis of the operational and maintenance history of the affected operating area.

(3) A description of the causes of the unacceptable performance.

(4)] A description of the corrective measures the [electric distribution company] EDC is taking and target dates for completion.

(h) An EDC shall, within 30 calendar days, report to the Commission any problems it is having with its data gathering system used to report reliability performance.

(i) The Commission will prepare an annual reliability report and make it available to the public.

* * * * *

[Pa.B. Doc. No. 03-1935. Filed for public inspection October 3, 2003, 9:00 a.m.]

STATE CIVIL SERVICE COMMISSION

Advanced Notice of Final-Omitted Rulemaking

The State Civil Service Commission (Commission) intends to adopt a final-form rulemaking. The Commission is publishing the draft final amendments under the authority of section 208 of the Civil Service Act (act) (71 P. S. § 741.208). Notice of proposed rulemaking will be omitted under section 204 of the act of July 31, 1968 (P. L. 769, No. 240), known as the Commonwealth Documents Law, because the amendments relate to agency practice and procedure, or incorporate changes required to conform with the act of November 27, 2002 (P. L. 1129, No. 140) (Act 140) amending the act, or both

A. Effective Date

The draft final amendments, if approved on final-form rulemaking, will go into effect upon publication of an order adopting the amendments in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on the draft final amendments, contact Randall C. Breon, Deputy for Operations, State Civil Service Commission, (717) 787-5343, (717) 772-2685 (TT), fax (717) 783-8736.

The draft final amendments are available electronically though the Commission's website (<http://www.scsc.state.pa.us>).

C. Statutory Authority

The statutory authority for the draft final amendments is section 203(1) of the act (71 P. S. § 741.203(1)).

D. Purpose and Background

The act was amended by Act 140. The draft final amendments will bring them into conformity with the amendments to the act.

E. Summary of Amendments

The draft final amendments are designed to bring the regulations into conformity with the act. They are also designed to bring the regulations governing civil service hearing procedures into conformity with current hearing practices. They are further designed to clarify existing regulations.

F. Paperwork

The draft final amendments will not add to existing paperwork requirements. Many of the proposed amendments will reduce current paperwork requirements.

G. Fiscal Impact

The draft final amendments will have no adverse fiscal impact on the Commonwealth or its appointing authorities.

H. Public Comments

The Commission invites comments from interested persons, agencies and organizations at its public hearings on the draft amendments to be held as follows:

Public Hearing Room, Commission's Main Office
Strawberry Square Complex, 4th Floor
Bowman Worth Building
320 Market Street
Harrisburg, PA 17108-0569
October 14, 2003, 8:30 a.m.

Western Regional Office
1503 State Office Building
300 Liberty Avenue
Pittsburgh, PA 15222-1210
October 20, 2003, 12 p.m.

Eastern Regional Office
10 South 11th Street, 2nd Floor
Philadelphia, PA 19107-3618
November 3, 2003, 12 p.m.

Persons who wish to present views on the draft final amendments or receive a copy shall notify Randall C. Breon, Deputy for Operations, State Civil Service Commission, whose contact information appears in Part B of this preamble. Notification of intent to speak shall be made by 4:30 p.m. at least 2 working days prior to the scheduled hearing date. Speakers will be required to identify themselves and the organization they represent, if any. Persons with a disability who wish to attend a public hearing and require an auxiliary aid or other service to participate should contact Randall C. Breon at the previous numbers to discuss possible accommodation of needs.

RONALD K. ROWE,
Executive Director

[Pa.B. Doc. No. 03-1936. Filed for public inspection October 3, 2003, 9:00 a.m.]

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 September 16, 2003.

BANKING INSTITUTIONS

Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
9-8-03	Pebblespring Holding Company (now named Eagle National Bancorp, Inc.), Berwyn, to acquire 100% of the voting shares of Eagle National Bank, Upper Darby	Berwyn	Effective

Absorptions, Mergers and Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-5-03	The Legacy Bank Harrisburg Dauphin County Purchase of assets/assumption of liabilities of four branch offices of Leesport Bank, Wyomissing Located at: 101 North Main Street Shenandoah Schuylkill County Route 309 Drums Luzerne County	Harrisburg 140 Can-Do Expressway Hazleton Luzerne County 1 West Broad Street Hazleton Luzerne County (Drive-Up Facility)	Effective

Note: Effective 9-8-03, the drive-up facility at 1 West Broad Street, Hazleton, was consolidated into The Legacy Bank's existing branch located at One South Church Street, Hazleton.

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-5-03	Leesport Bank Wyomissing Berks County	101 N. Main St. Shenandoah Schuylkill	Effective
9-5-03	Leesport Bank Wyomissing Berks County	Route 309 Drums Luzerne County	Effective
9-5-03	Leesport Bank Wyomissing Berks County	140 Can-Do Expressway Hazleton Luzerne County	Effective
9-5-03	Leesport Bank Wyomissing Berks County	1 West Broad Street Hazleton Luzerne County (Drive-Up Facility)	Effective

Articles of Amendment

<i>Date</i>	<i>Name of Bank</i>	<i>Purpose</i>	<i>Action</i>
9-12-03	Berkshire Bank (In Organization) Wyomissing Berks County	Article Ninth amended and restated in its entirety to provide for an increase in the number of First Directors.	Approved and Effective

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS**Articles of Amendment**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Purpose</i>	<i>Action</i>
9-12-03	NBA Credit Union Bristol Bucks County	Amendment to Article 8 provides for a change in the field of membership.	Approved and Effective

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 03-1937. Filed for public inspection October 3, 2003, 9:00 a.m.]

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 September 23, 2003.

BANKING INSTITUTIONS**Holding Company Acquisitions**

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
9-18-03	First Commonwealth Financial Corporation, Indiana, to acquire 100% of the voting shares of Pittsburgh Financial Corp., Pittsburgh	Indiana	Filed
9-23-03	Community Bank System, Inc., DeWitt, NY, to acquire Grange National Banc Corp., Tunkhannock, PA, and thereby indirectly acquire Grange National Bank, Laceyville, PA	DeWitt, NY	Filed

Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-22-03	NPB Interim Bank Boyertown Berks County	Boyertown	Filed
9-23-03	Berkshire Bank Wyomissing Berks County	1101 Woodland Road Wyomissing Berks County	Commenced Operations

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-18-03	First Commonwealth Bank, Indiana, and Pittsburgh Savings Bank, Pittsburgh Surviving Institution— First Commonwealth Bank, Indiana	Indiana	Filed

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-23-03	Fulton Bank Lancaster Lancaster County	950 Willow Valley Lakes Drive West Lampeter Township Lancaster County	Filed

Branch Relocations/Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-22-03	Fulton Bank Lancaster Lancaster County	<i>Into:</i> 185 Memory Lane Springettsbury Township York County <i>From:</i> 2415 East Market Street Springettsbury Township York County	Filed
9-22-03	Fulton Bank Lancaster Lancaster County	<i>Into:</i> 1500 Kenneth Road West Manchester Township York County <i>From:</i> 1750 Loucks Road West Manchester Township York County	Filed
9-23-03	Peoples State Bank of Wyalusing, Pa. Wyalusing Bradford County	<i>To:</i> Route 6 East Wyalusing Township Bradford County <i>From:</i> 201 Church Street Wyalusing Bradford County (Customer Services Only)	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-12-03	Lebanon Valley Farmers Bank Lebanon Lebanon County	Lebanon Plaza Mall 1205 Quentin Rd. Lebanon Lebanon County	Effective
9-17-03	First Columbia Bank & Trust Co. Bloomsburg Columbia County	1010 S. Market St. Bloomsburg Columbia County	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

A. WILLIAM SCHENCK, III,
Secretary

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of October 2003

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of October 2003 is 7 3/4%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which

the individual occupies or has occupied as a principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 5.33 to which was added 2.50 percentage points for a total of 7.83 that by law is rounded off to the nearest quarter at 7 3/4%.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 03-1939. Filed for public inspection October 3, 2003, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a General Permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications 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 applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. 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 proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the contact office noted before the application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit 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 the respective comment periods will be considered in the final determinations regarding the applications. 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 will also accept requests for a public hearing on applications. A public hearing may be held 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 within the relevant geographical area. The Department will postpone its final determination until after any public hearings are held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

I. NPDES Renewal Applications

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

<i>NPDES Permit 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>
PA0056251	Timothy J. Longmore 2518 Rickert Road Perkasie, PA 18944	Bucks County Hilltown Township	UNT to Morris Run	Y
PA0024651	Atglen Borough Wastewater Treatment Plant 120 West Main Street Atglen, PA 19310	Chester County Atglen Borough	Valley Creek	Y

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

<i>NPDES Permit 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>
PA0041076 Minor Renewal	Department of Conservation and Natural Resources P. O. Box 8451 400 Market Street Harrisburg, PA 17105-8451	Pocono Township Monroe County	Unnamed tributary to Scot Run 01E	Y

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

<i>NPDES Permit 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>
PA0210196 Amendment No. 1	Seneca Landfill, Inc. P. O. Box 1080 Mars, PA 16046	Jackson Township Butler County	Connoquenessing Creek 20-C	Y
PA0044016	Fish and Boat Commission Benner Spring Fish Research Station 1225 Shiloh Road State College, PA 16801-8495	Pine Township Crawford County	Pymatuning Reservoir 20-A	Y
PA0222682	Leasa A. Maley 6118 Maley Drive Limestone, NY 14753	Corydon Township McKean County	Unnamed tributary to Willow Creek	Y
PA0102784	Waste Treatment Corporation 1 Harmar Street P. O. Box 1561 Warren, PA 16365	City of Warren Warren County	Allegheny River 16-B	Y

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Non-Waived Permit Applications

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

PA0026450, Amendment No. 1, Sewage, Bristol Township Authority, 2501 Bath Road, Bristol, PA 19007. This application is for amendment of an NPDES permit to discharge treated sewage from sewage treatment plant in Bristol Township, **Bucks County**. This is an existing discharge to Delaware River (Zone-2).

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

The proposed effluent limits for Outfall 001, based on an average flow of 2.25, are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	21	32	42
Suspended Solids	30	45	60
Ammonia (as N)	35.0		70.0
CBOD ₂₀	590 (lbs/day)		
Dieldrin	Monitor and Report	Monitor and Report	Monitor and Report
Total Residual Chlorine	0.5		1.3
Fecal Coliform	200 colonies/100 ml as a geometric average		
pH	within limits of 6.0—9.0 standard units at all times		

The proposed effluent limits for stormwater monitoring point MP 101 are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅			Monitor and Report
COD			Monitor and Report
Oil and Grease			Monitor and Report
pH			Monitor and Report
Total Suspended Solids			Monitor and Report
Total Kjeldahl Nitrogen			Monitor and Report
Total Phosphorus			Monitor and Report
Iron (Dissolved)			Monitor and Report

85% reduction of total suspended solids per Disciplinary Board of the Supreme Court (DRBC) requirements. 88.5% reduction of BOD₅ per DRBC requirements.

The EPA waiver is not in effect.

PA0051331, Sewage, SIC 22,221, **Girls Scouts of Southeastern Pennsylvania**, P. O. Box 27540, Philadelphia, PA 19118. This proposed facility is in Upper Frederick Township, **Montgomery County**.

Description of Proposed Activity: Discharge of treated sewage at annual rate of 45,000 gpd to Swamp Creek.

The receiving stream, Swamp Creek, is in the State Water Plan watershed 3E and is classified for TSF. The nearest downstream public water supply intake for the Philadelphia Suburban Water Company is on the Perkiomen Creek, 17.2 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 45,000 gpd.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum mg/l</i>
CBOD ₅	9		25		50
Suspended Solids	11		30		60
Ammonia Nitrogen	7.5		20		40
Phosphorus as P (4-1 to 10-31)	0.8		2		4
pH (STD)			6 min		9
Fecal Coliform # Col/100 ml			200		
Dissolved Oxygen			3 min		
Total Residual Chlorine			0.5		1.2

In addition to the effluent limits, the permit contains the following major special conditions: abandon STP when municipal sewers available; remedial measures if unsatisfactory effluent; minimization of chlorine; and sludge disposal.

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

PA0031135, Sewage, **Borough of Kutztown**, 45 Railroad Street, Kutztown, PA 19536-1112. This facility is in Maxatawny Township, **Berks County**.

Description of activity: Renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Sacony Creek, is in Watershed 3-B and classified for TSF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for the Reading Area Water Authority is on Lake Ontelaunee. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 1.5 MGD are:

NOTICES

<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)	15	22.5	30
(11-1 to 4-30)	25	40	50
Total Suspended Solids	30	45	60
NH ₃ -N (5-1 to 10-31)	5		10
(11-1 to 4-30)	15		30
Total Residual Chlorine (Interim)	Monitor and Report		
(Final)	0.29		0.95
Dissolved Oxygen	minimum of 5.0 at all times		
pH	from 6.0 to 9.0 inclusive		
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average		
(10-1 to 4-30)	3,270/100 ml as a geometric average		

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is not in effect.

PA0247308, Sewage, **Bright Hope Fellowship BIC Church**, Deodate Road, Middletown, PA 17057. This facility is in Londonderry Township, **Dauphin County**.

Description of activity: Issuance of an NPDES permit for a new discharge of treated sewage.

The receiving stream, unnamed tributary of Lynch Run, is in Watershed 7-G and classified for TSF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for the Columbia Water Company is on the Susquehanna River, approximately 24 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0018 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25		50
Total Suspended Solids	30		60
NH ₃ -N (5-1 to 10-31)	23		46
(11-1 to 4-30)	Monitor and Report		Monitor and Report
Total Residual Chlorine	0.5		1.63
Dissolved Oxygen	minimum of 5.0 at all times		
pH	from 6.0 to 9.0 inclusive		
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average		
(10-1 to 4-30)	14,000/100 ml as a geometric average		

In addition to the effluent limits, the permit contains the following major special condition: chlorine minimization.

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

PA0026034, Sewage, **City of Johnstown Bureau of Sewage**, 414 Washington Street, Johnstown, PA 15901. This application is for renewal of an NPDES permit to discharge treated sewage from Johnstown STP (Dornick Point STP) in West Taylor Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Conemaugh River, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Saltsburg Municipal Water Works.

Outfall 020: existing discharge, design flow of 12 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen				

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
(5-1 to 10-31)	17	26		34
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	30,000/100 ml as a geometric mean			
Total Residual Chlorine	0.5			1.6
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

PA0038211, Sewage, **The Hempfield Township Municipal Authority**, R. D. 6, Box 501, Greensburg, PA 15601. This application is for renewal of an NPDES permit to discharge treated sewage from the West Hempfield Plaza Sewage Treatment Plant in Hempfield Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Little Sewickley 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 McKeesport Municipal Water Authority.

Outfall 001: existing discharge, design flow of 0.064 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen (5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	3.5			7.0
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	0.1			0.2
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0095087, Sewage, **Chippewa Township Sanitary Authority**, Municipal Building, 2568 Darlington Road, Beaver Falls, PA 15010-1742. This application is for renewal of an NPDES permit to discharge treated sewage from the Chippewa Township Sanitary Authority STP in Chippewa Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Bradys Run (mouth), 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 ARCO Chemical Company BV Plant.

Outfall 001: existing discharge, design flow of 2.13 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.5			1.6
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is not in effect.

PA0252506, Sewage, **Indiana County Municipal Services Authority**, 827 Water Street, Indiana, PA 15701. This application is for issuance of an NPDES permit to discharge treated sewage from Margaret Sewage Treatment Plant in Cowanshannock Township, **Armstrong County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary to Huskins 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 Kittanning Suburban Joint Water Authority on the Allegheny River.

Outfall 001: new discharge, design flow of 0.0061 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)	4.5			9.0
(11-1 to 4-30)	13.5			27.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	3,800/100 ml as a geometric mean			
Total Residual Chlorine*	0.6			1.5
pH	not less than 6.0 nor greater than 9.0			

* This parameter shall be effective if chlorination is used for disinfection.

The EPA waiver is in effect.

PA0252522, Sewage, **Somerset Township Municipal Authority**, P. O. Box 247, 2209 North Center Avenue, Somerset, PA 15501-0247. This application is for issuance of an NPDES permit to discharge treated sewage from Lavansville Sewage Treatment Plant in Somerset Township, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as West Branch Coxes Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Ohiopyle Municipal Water Works.

Outfall 001: new discharge, design flow of 0.15 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	25	38		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	5.0	7.5		10.0
(11-1 to 4-30)	15.0	22.5		30.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 mls a geometric mean			
Total Residual Chlorine	0.3			1.0
Dissolved Oxygen	not less than 3.0 mg/l			
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.

PA0239283, Industrial Waste, **Castle Cheese, Inc.**, Route 19 Box 378, Portersville, PA 16051. This proposed facility is in Scott Township, **Lawrence County**.

Description of Proposed Activity: Discharge of treated industrial waste.

The receiving water, an unnamed tributary to Slippery Rock Creek, is in State Water Plan 20-C and is classified for CWF, aquatic life, water supply and recreation. The nearest downstream potable water supply is the Salvation Army Camp Allegheny intake on the Slippery Rock Creek and, approximately 11.81 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.01 MGD.

Parameters	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
CBOD ₅	2.7	5.3	XX	XX	80
Total Suspended Solids	2.8	4.6	XX	XX	85
Oil and Grease	1.3	2.5	XX		30
Total Residual Chlorine			1.4		3.3
Fecal Coliform					
(5-1 to 9-30)	200/100 ml as a geometric average				
(10-1 to 4-30)	2,000/100 ml as a geometric average				
pH	6.0 to 9.0 standard units at all times				

The EPA waiver is in effect.

III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

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

WQM Permit No. 1503204, Industrial Waste, **Hanover Land Corporation**, 614 E. Barnard Street, West Chester, PA 19382. This proposed facility is in North Coventry, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a groundwater cleanup treatment facility.

WQM Permit No. 09034150, Sewerage, **Upper Makefield Township**, 1076 Eagle Road, Newtown, PA 18940. This proposed facility is in Upper Makefield Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation of a 80-lot age restricted development.

WQM Permit No. 2303406, Sewerage, **Lower Frederick Township**, P. O. Box 253, Zieglerville, PA 19492. This proposed facility is in Lower Frederick Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction and operation of a replacement pump station and force main.

WQM Permit No. 4603413, Sewerage, **Whitemarsh Township Authority**, 616 Germantown Pike, Lafayette Hill, PA 19444-1821. This proposed facility is in Whitemarsh Township, **Montgomery County**.

Description of Proposed Action/Activity: Relocation of sewage pump station no. 13.

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

WQM Permit No. 5403404, **Schuylkill Valley Sewer Authority**, P. O. Box 314, Mary-D, PA 17952. This proposed facility is in Blythe and Schuylkill Townships and New Philadelphia and Middleport Boroughs, **Schuylkill County**.

Description of Proposed Action/Activity: Installation of a new sanitary sewage collection and conveyance system and sewage treatment plant for Blythe Township, Middleport Borough, New Philadelphia Borough and Schuylkill Township. There will be four pump stations within the collection system. The design flow for the treatment plant is 550,000 GPD.

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

WQM Permit No. 0703404, Sewerage, **Hollidaysburg Sewer Authority**, 401 Blair Street, Hollidaysburg, PA 16648. This proposed facility is in Hollidaysburg Borough and Allegheny Township, **Blair County**.

Description of Proposed Action/Activity: Realignment, replacement, capacity augmentation of Legion Park Interceptor, including Fort Fetter, North Juniata Street and Bel Air Drive Sanitary Sewer Extensions, Northfield Sewer Separation and Juniata Street Extension.

WQM Permit No. 0603408, Sewerage, **Cheri and Doug Wright**, 131 Camp Strauss Road, Bethel, PA 19597. This proposed facility is in Bethel Township, **Berks County**.

Description of Proposed Action/Activity: Construction/operation of a small flow sewage treatment plant to correct a malfunctioning on-lot sewage system at their residence.

WQM Permit No. 2101402, Sewerage, **FIDI CMBS I, LLC**, 135 S. Lasalle—Department 5668, Chicago, IL 60674-5668. This proposed facility is in Dickinson Township, **Cumberland County**.

Description of Proposed Action/Activity: Amendment/transfer of permit.

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

WQM Permit No. 6599415, Sewerage, **Max Environmental Technologies Inc.**, 1815 Washington Road, Pittsburgh, PA 15241. This proposed facility is in South Huntingdon Township, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the modification and operation of the Max Environmental Technologies—Yukon Plant sewerage treatment facility.

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

WQM Permit No. 4303414, Sewerage, **Eva Tataseo**, 47 Hermitage Hills Blvd., Hermitage, PA 16148. This proposed facility is in South Pymatuning Township, **Mercer County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

WQM Permit No. 2003426, Sewerage, **David M. Ball**, 10897 State Highway 285, Conneaut Lake, PA 14316. This proposed facility is in Sadsbury Township, **Crawford County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

WQM Permit No. 4203405, Sewerage, **Richard H. and Gail A. Cannon**, 2482 West Washington Street, Bradford, PA 16701. This proposed facility is in Corydon Township, **McKean County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

IV. NPDES Applications for Stormwater Discharges from MS4

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAG133696	Penn Township 100 Municipal Building Rd. Duncannon, PA 17020	Perry	Penn Township	Susquehanna River WWF	Y
PAG133697	Lebanon County 400 S. Eighth St., Room 207 Lebanon, PA 17042	Lebanon	Lebanon City	Quittapahilla Creek TSF	Y

V. Applications for NPDES Waiver Stormwater Discharges from MS4

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAG133696	Penn Township 100 Municipal Building Rd. Duncannon, PA 17020	Perry	Penn Township	Susquehanna River WWF	Y

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Department Protocol (Y/N)</i>
PAG136265	Hanover Township 901 Steubenville Pike Burgettstown, PA 15021	Washington	Hanover Township	Y

VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

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</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011503087	Wilmer Hostetter Hearthstone at Oxford 481 Limestone Road Oxford, PA 19363	Chester	Lower Oxford	Muddy Run TSF-MF West Branch Big Elk Creek HQ-TSF

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

Northampton County Conservation District: Greystone Building, Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024803028	Dolores Grunstra P. O. Box 82 Hellertown, PA 18055	Northampton	Lower Saucon Township	Cooks Creek EV
PAI024803029	Henry Lubsen, President Newpro Iv, Inc. 824 Eighth Ave. Bethlehem, PA 18018	Northampton	Stockertown Borough	Bushkill Creek HQ-CWF

Pike County Conservation District: HC6, Box 6770, Hawley, PA 18428, (570) 226-8220.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025203012	Richard Kayton P. O. Box 1447 Milford, PA 18337	Pike	Milford Township	Sawkill Creek EV

Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360, (570) 629-3060.

NPDES Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use
PAS10S046-1-R	S. I. D. E. Corporation P. O. Box 1050 Blakeslee, PA 18610	Monroe	Tobyhanna Township	Goose Run Creek HQ-CWF Tobyhanna Creek HQ-CWF

Lehigh County Conservation District: Lehigh Ag. Ctr., Ste. 102, 4184 Dorney Park Rd., Allentown, PA 18104, (610) 391-9583.

NPDES Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use
PAI023903039	Roberto and Eileen Fischmann 3003 West Turner Allentown, PA 18104	Lehigh	Upper Macungie Township	Little Lehigh Creek HQ-CWF

VII. List of NOIs for NPDES and/or Other General Permit Types

PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

CAFO Notices of Intent Received

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

PAG123578, CAFO, **Jay L. Hess, Bacon Acres**, 2615 Main Street, Conestoga, PA 17516. This proposed facility is in Conestoga Township, **Lancaster County**.

Description of Size and Scope of Proposed Operation/Activity: Bacon Acres consists of two swine finishing barns with a total capacity of 3,200 finishing hogs. There is also a small beef cow/calf herd on the farm. Hog Barn No. 1 (upper barn), constructed in 1984, has a shallow pit manure storage with pull plugs that flows into a 1.3-million gallon (140 feet by 116 feet by 12 feet) outside earthen lagoon. Barn No. 2 (lower barn), constructed in 1995, has deep pit manure storages underneath the barn's slatted floors and has a holding capacity of 230,000 gallons (183 feet by 40 feet by 6 feet). In 2002, both barns (Bacon Acres No. 1 and No. 2) were remodeled and additional manure storage pits were added to the ends of each barn. The additional storages were certified at the time of construction by a P. E. certified engineer. Approximately 1,845,932 gallons of manure is generated annually by this operation, most of which is exported off the farm to neighboring farmers. All the beef cow/calf manure is utilized on the farm. There are approximately 78 acres of total cropland (both owned and rented) that are eligible to receive manure associated with this operation. Liquid swine manure is applied on the farm in the spring and fall of the year and exported off the farm in the spring to fall months.

The receiving stream, UNT to Pequea Creek, is in watershed 7K-Pequea Creek and classified for CWF.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and The Clean Streams Law constitutes compliance with the State narrative water quality standards.

PAG123579, CAFO, **James Snavelly, Snavelly Farms CAFO**. This proposed facility is in Mount Joy Township, **Lancaster County**.

Description of Size and Scope of Proposed Operation/Activity: An existing 466-AEU steer and crop operation. This operation is proposed to construct a new 2,200 head feeder to finish swine operation and to construct a new concrete manure storage structure for the steer facility. Manure produced on this operation will be utilized on the 67.5 acres of agricultural crops grown by James Snavelly and the 8.2 acres of grass hay. Additional manure will be exported to neighboring farms to be utilized for agricultural purposes.

The receiving stream, UNT Conoy Creek, is in watershed 7G-Chickies Creek and classified for TSF.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and The Clean Streams Law constitutes compliance with the State narrative water quality standards.

MS4 Notices of Intent Received

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Department Protocol (Y/N)</i>
PAG136263	Bradford Woods Borough 4908 Wexford Run Road Bradford Woods, PA 15015	Allegheny	Bradford Woods Borough	Y
PAG136264	Edgewood Borough 2 Race Street Edgewood, PA 15218	Allegheny	Edgewood Borough	Y
PAG136265	Hanover Township 901 Steubenville Pike Burgettstown, PA 15021	Washington	Hanover Township	Y
PAG136266	Economy Borough 2856 Conway Wallrose Road Baden, PA 15005	Beaver	Economy Borough	Y
PAG136267	North Fayette Township 400 North Branch Road Oakdale, PA 15071	Allegheny	North Fayette Township	Y
PAG136268	Green Tree Borough 10 W. Manilla Avenue Pittsburgh, PA 15220	Allegheny	Green Tree Borough	Y
PAG136269	Etna Borough 437 Butler Street Pittsburgh, PA 15223	Allegheny	Etna Borough	Y
PAG136270	Upper St. Clair Township 1820 McLaughlin Run Road Pittsburgh, PA 15241	Allegheny	Upper St. Clair Township	Y
PAG136271	Brentwood Borough 3624 Brownsville Road Pittsburgh, PA 15227	Allegheny	Brentwood Borough	Y
PAG136272	Center Township 224 Center Grange Road Aliquippa, PA 15001	Beaver	Center Township	Y
PAG136273	Frazer Township 2129 Butler Logan Road Tarentum, PA 15084	Allegheny	Frazer Township	Y
PAG136274	Moon Township 1000 Beaver Grade Road Coraopolis, PA 15108	Allegheny	Moon Township	Y
PAG136275	Mt. Lebanon Township 710 Washington Road Pittsburgh, PA 15228	Allegheny	Mt Lebanon Township	Y

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 a 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 the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments 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 are 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. 6703510 MA, Public Water Supply.

Applicant	Windsor Borough
Municipality	Windsor Borough
County	York
Responsible Official	Brian L. Feree, Chairperson P. O. Box 190 Windsor, PA 17366
Type of Facility	PWS
Consulting Engineer	Gordon L. Brown, Jr., P. E. Gordon L. Brown & Assoc. Inc. 2238 South Queen Street York, PA 17402
Application Received Date	April 24, 2003
Description of Action	Installation of approximately 8,800 LF of 8-inch distribution mains and associated valves and the construction of a booster pump station to augment fire flows.

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

Permit No. 1103503, Public Water Supply.

Applicant	Northern Cambria Municipal Authority 1202 Philadelphia Avenue Northern Cambria, PA 15714
Township or Borough	Northern Cambria Borough and Susquehanna Township
Responsible Official	David E. Suchar, Chairperson Northern Cambria Municipal Authority 1202 Philadelphia Avenue Northern Cambria, PA 15714
Type of Facility	Water treatment plant
Consulting Engineer	Stiffler, McGraw & Associates, Inc. 19 North Juniata Street Hollidaysburg, PA 16648
Application Received Date	September 15, 2003
Description of Action	Complete replacement of the distribution system and upgrade of the existing treatment facility.

Permit No. 3003501, Public Water Supply.

Applicant	Southwestern Pennsylvania Water Authority 1442 Jefferson Road P. O. Box 187 Jefferson, PA 15344
Township or Borough	Center, Gray and Richhill Townships
Responsible Official	Joseph J. Simatic, Manager Southwestern Pennsylvania Water Authority 1442 Jefferson Road P. O. Box 187 Jefferson, PA 15344
Type of Facility	Water treatment plant
Consulting Engineer	Bankson Engineers, Inc. 267 Blue Run Road P. O. Box 200 Indianola, PA 15051
Application Received Date	September 11, 2003
Description of Action	Installation of water lines, a water pump station and a 1.0-million gallon concrete water storage tank.

MINOR AMENDMENT

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. Minor Amendment.

Applicant	Elizabethtown Crystal Pure Water Co.
Township or Borough	Minersville Borough Schuylkill County
Responsible Official	Ray R. Diener, President
Type of Facility	Vended Water System
Application Received Date	September 2, 2003
Description of Action	Vending Machine Installation

WATER ALLOCATIONS

Applications received under the Act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of this Commonwealth

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

WA56-12A, Water Allocations, Resubmittal, **Somerset Borough Municipal Authority**, P. O. Box 71, Somerset, PA 15501, **Somerset County**. The applicant is requesting the right to withdraw 1.75 million gallons per day (average day) from the Laurel Hill Creek Reservoir, **Somerset County**.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of 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 after 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. 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.

Department of Transportation, Pike County Maintenance Facility, Milford Borough, **Pike County**. Eric B. Schmidley, P. G., Apex Environmental, Inc., 269 Great Valley Parkway, Malvern, PA 19355 has submitted a Notice of Intent to Remediate (on behalf of Department of Transportation, 2140 Herr Street, Harrisburg, PA 17103-1900) concerning the remediation of soils found to be contaminated by arsenic. The applicant proposes to meet the residential Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in *The Dispatch* on August 19, 2003. A Final Report was simultaneously submitted.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSES

Applications received or withdrawn under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and the act of July 13, 1988 (P. L. 525, No. 93) (35 P. S. §§ 6019.1—6019.6) and regulations to transport infectious and chemotherapeutic waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Renewal Applications Received

Altoona Hospital, 620 Howard Avenue, Altoona, PA 16601, License No. PA-HC 0124. Received on September 2, 2003.

Bestrans, Inc., 931 Red Toad Road, North East, MD 21901, License No. PA-HC 0209. Received on September 2, 2003.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

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 regulations to operate solid waste processing or disposal area or site.

Southeast Region: Regional Solid Waste Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.

Permit Application No. 101069. Southeastern Chester County Refuse Authority, P. O. Box 221, Kennett Square, PA 19348, London Grove Township, **Chester County**. Phase I component of a waste application submitted for a permit area (65 acres) and disposal capacity (37 acres) increase. An LMIP meeting was held on August 28, 2003, and an alternative project timeline of 240 days for the Phase I component was negotiated. The Phase II timeline was estimated at 240 days, subject to renegotiation prior to the submittal of the Phase II component of the application. The Phase I component of the waste application considered received under 25 Pa. Code § 271.202(b) by the Southeast Regional Office on September 16, 2003.

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 the 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 a 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. 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 before the application. 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 (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.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.

65-00016F: Latrobe Steel Co. (2626 Ligonier Street, P. O. Box 31, Latrobe, PA 15650) for installation of Ladle Furnace at the Latrobe Plant in Latrobe Borough, **Westmoreland County**.

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

37-322A: Joseph A. Tomon, Jr. Funeral Home (123 5th Street, Ellwood City, PA 16117) for construction of a human cremation retort in Ellwood City, **Lawrence County**.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act 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.

09-0087C: Air Products and Chemicals, Inc. (351 W. Philadelphia Avenue, Morrisville, PA 19067) for modification of an existing source at their Morrisville Plant (previously known as Solkatronic Chemicals), Falls Township, **Bucks County**. This is a minor facility. The modifications include an increase in production of the existing anhydrous ammonia purification and filling operations. The amount of ammonia processed at this facility shall be limited to 2,291,800 pounds per year. The existing scrubber would continue to be the control device for routine operations. The scrubber shall use a neutralizing solution of acid (phosphoric, sulfuric, hydrochloric or nitric) and water. Emissions of ammonia will be limited to 0.02 lb/hr and 0.02 ton per year (as a 12-month rolling sum). The Plan Approval will require stack tests to be performed. Appropriate monitoring and recordkeeping requirements will be included.

23-0038B: Delaware County Regional Water Quality Control Authority (DELCORA) (3201 W. Front St., Chester, PA 19016) for the installation of a replacement scrubbing system on each of their sewage sludge incinerators in the City of Chester, **Delaware County** under 25 Pa. Code §§ 127.44(b) and 127.424(b). The Department intends to issue Plan Approval PA-23-0038B to DELCORA. DELCORA operates a wastewater treatment plant and two sewage sludge incinerators. The wastewater treatment facility currently has Title V Permit No. 23-00038. The Plan Approval will subsequently be incorporated into the Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. PA-23-0038B is for the installation of a replacement scrubbing system on each of the sewage sludge incinerators. Each scrubbing system will consist of a quench chamber, a two-tray impingement scrubber and a variable throat Venturi scrubber. Based on the information provided by the applicant and the Department's own analysis, each sewage sludge incinerator will emit 1.3 pounds of particulate matter per ton of dry sewage input.

Copies of the application, the Department's analysis and other documents used in the evaluation are available for public inspection between 8 a.m. and 4 p.m. weekdays at the following address. To make an appointment, contact Records Management at (610) 832-6268.

Persons wishing to provide the Department with additional information they believe should be considered may submit the information to the following address. Comments must be received by the Department within 30 days of the last day of publication. Written comments should include the name, address and telephone number of the person submitting comments, identification of proposed Plan Approval No. PA-23-0038B and a concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted on the comments received during the public comment period. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to Francine Carlini, Regional Air Quality Manager, Department of Environmental Protection, Southeast Regional Office, 555 North Lane, Lee Park, Suite 6010, Conshohocken, PA 19428, (610) 832-6242.

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

06-05014C: Garden State Tanning Co. (16 South Franklin Street, Fleetwood, PA 19522) for modification of the no. 1 whole hide coating line by constructing a roll coater prior to the existing spray coater and oven in the Borough of Fleetwood, **Berks County**. The modification will not result in any changes in the potential to emit from the coating line. The coating line is subject to 40 CFR Part 63, Subpart TTTT—National Emission Standards for Hazardous Air Pollutants from Leather Coating. The plan approval will include monitoring, work practices, recordkeeping and reporting requirements designed to keep the source operating within all applicable air quality requirements. The facility is presently covered by the Title V Operating Permit No. 06-05014. The plan approval will be incorporated into this permit in accordance with 25 Pa. Code § 127.450.

67-03069A: H and H Castings, Inc. (4300 Lincoln Highway, York, PA 17406) for construction of a no-bake molding line and a sand storage bin controlled by two fabric collectors and a bin vent filter, respectively, at their aluminum foundry in Hellam Township, **York County**. Annual emissions from this process are expected to be 17 tons VOC, 5 tons PM10 and 1 ton NOx.

67-05024E: Lehigh Cement Co. (200 Hokes Mill Road, York, PA 17404) for reactivation of a limestone/clay handling system controlled by an existing fabric filter in West Manchester Township, **York County**. Particulate matter emissions from the reactivation are conservatively estimated at less than 25 tons annually. The equipment is subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants. The plan approval will contain emission limits, monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality requirements. These requirements will be incorporated into the company's Title V Operating Permit No. 67-05024.

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

18-00016A: Pine Creek Veterinary Associates (P. O. Box 82, McElhattan, PA 17748) for construction of an animal crematory incinerator in Pine Creek Township, **Clinton County**.

The crematory incinerator will have a rated capacity of 75 pounds per hour. The air contaminant emissions from the incinerator will be controlled by an integral secondary combustion chamber. The resultant particulate matter emissions are expected to be less than .2 pound per hour.

The Department's review of the information contained in the application indicates that the proposed incinerator will comply with all applicable requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirements in 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department intends to issue plan approval for the construction of the proposed animal crematory incinerator.

The following is a summary of the conditions the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements:

1. Only animal remains shall be incinerated.
2. The particulate matter emissions shall not exceed .08 grain per dry standard cubic foot, corrected to 7% oxygen and the opacity shall not equal or exceed 10% for more than 3 minutes in any 1 hour or 30% at any time.
3. A secondary combustion chamber temperature of at least 1,800°F shall be maintained at any time incineration is occurring.
4. The incinerator shall be equipped with instrumentation to continuously monitor and record the secondary combustion chamber temperature. All temperature records shall be retained for at least 5 years and shall be made available to the Department upon request.

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

30-00072D: CONSOL Energy, Inc. (1800 Washington Road, Pittsburgh, PA 15241) to upgrade the refuse conveyor system and to expand the wash plant at their Bailey Mine complex in Richhill Township, **Greene County** under 25 Pa. Code § 127.44(a)(4). The Department intends to issue a Plan Approval as described in their application to the Department received on April 4, 2003.

Copies of the application, the Department's analysis and other documents used in evaluation of the application are available for public inspection during normal business hours at the Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222.

For the Department to assure compliance with all applicable standards, the Department proposes to place the following conditions on the Plan Approval:

Special Conditions for Plan Approval PA-30-00072D

1. This Plan Approval is for the construction of a fifth circuit at the washing plant, construction of additional refuse conveyors, crushers and screens and other changes at the Consol Pennsylvania Coal Company's (Consol) Bailey Mine complex in Richhill Township, Greene County (25 Pa. Code § 127.12b).

2. The facility-wide maximum allowable emission rate for VOC is not increased and remains at 879 tons in any consecutive 12-month period (25 Pa. Code § 127.12b).

3. The wash plant maximum allowable emission rate for VOC is not increased and remains at 280 tons in any consecutive 12-month period (25 Pa. Code § 127.12b).

4. The facility-wide maximum allowable emission rate for PM is 433 tons in any consecutive 12-month period (25 Pa. Code § 127.12b).

5. The facility-wide maximum allowable emission rate for PM10 is 342.4 tons in any consecutive 12-month period (25 Pa. Code § 127.12b).

6. The owner/operator shall keep monthly records of frother usage, diesel usage, antifreeze usage, flocculant usage and the related VOC emission calculations for the entire wash plant. These records shall be kept and maintained onsite for 5 years and be made available to the Department for review upon request (25 Pa. Code § 127.12b).

7. Raw coal throughput is not increased and remains limited to 41.3 million tons in any consecutive 12-month period (25 Pa. Code § 127.12b).

8. The throughput of the coal cleaning plant shall be limited to 6,300 tons per hour (25 Pa. Code § 127.12b).

9. The owner/operator shall keep monthly records of raw coal throughput at the facility and the related PM/PM10 emission calculations for the entire facility. These records shall be kept and maintained onsite for 5 years and be made available to the Department for review upon request (25 Pa. Code § 127.12b).

10. The crushing and screening operations at screens 2 and 3 and crusher 3 shall be conducted in an enclosed building (25 Pa. Code § 127.12b).

11. The sources at this facility are subject to the fugitive emission requirements of 25 Pa. Code §§ 123.1 and 123.2.

14. The Bailey Coal Preparation Plant (including thermal dryer nos. 1 and 2) is subject to the new source performance standards for coal preparation plants, 40 CFR Par 60, Subpart Y. In accordance with 40 CFR 60.4, copies of all request, reports, applications, submittals and other communications shall be forwarded to both the EPA and the Department at the following addresses unless otherwise noted (40 CFR 60, Subpart Y): Director, Air Toxics and Radiation, U. S. EPA, Region III, 841 Chestnut Street, Philadelphia, PA 19107; and Department of Environmental Protection, Office of Air Quality Control, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

15. This Plan Approval authorizes temporary operation of the sources covered by this Plan Approval provided the following conditions are met (25 Pa. Code § 127.12b).

(a) The Department must receive written notice from the owner/operator of the completion of construction and the operator's intent to commence operation at least 5 working days prior to the completion of construction. The notice should state when construction will be completed and when operator expects to commence operation.

(b) Operation is authorized only to facilitate the start-up and shake-down of sources and air cleaning devices, to permit operations pending the issuance of an Operating Permit or to permit the evaluation of the sources for compliance with all applicable regulations and requirements.

(c) This condition authorizes temporary operation of the sources for a period of 180 days from the date of

commencement of operation, provided the Department receives notice from the owner/operator under subpart (a).

(d) The owner/operator may request an extension if compliance with all applicable regulations and Plan Approval requirements has not been established. The extension request shall be submitted in writing at least 15 days prior to the end of this period of temporary operation and shall provide a description of the compliance status of the source, a detailed schedule for establishing compliance and the reasons compliance has not been established.

(e) The notice submitted by the owner/operator under subpart (a), prior to the expiration of this Plan Approval, shall modify the plan approval expiration date. The new plan approval expiration date shall be 180 days from the date of the written notice.

Persons wishing to provide the Department with additional information which they believe should be considered prior to the issuance of the Plan Approval may submit the information to the Department at the following address. A 30-day comment period, from the date of this publication, will exist for the submission of comments. Written comments must contain the name, address and telephone number of the person submitting the comments, identification of the proposed Plan Approval (specify the Plan Approval number) and concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in this newspaper or by the *Pennsylvania Bulletin* or by telephone, where the Department determines notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to the Regional Air Quality Program Manager, Department of Environmental Protection, Southwest Region—Field Operation, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

For additional information, contact Thomas J. Joseph, P. E., Air Pollution Control Engineer III, Air Quality, Department of Environmental Protection, Southwest Region, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

04-00059: Koppel Steel Corp. (P. O. Box 750, Beaver Falls, PA 15010) for issuance of an Air Quality Plan Approval for their plant in the Borough of Koppel, **Beaver County** in accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b). The facility currently has Title V Operating Permit No. 04-00059. The provisions of this plan approval will subsequently be incorporated into the Title V Operating Permit through an amendment in accordance with 25 Pa. Code § 127.450.

The proposed replacement is subject to the applicable requirements of 25 Pa. Code Chapter 127. The Department believes that the facility will meet these requirements by complying with the following Plan Approval conditions:

1. The facility is to be constructed in accordance with the plans submitted with the application (as approved herein).

2. Upon completion of the construction of the facility, an operating permit must be obtained. Notify the Department when the installation is completed so that the facility can be inspected for issuance of an operating permit.

3. This plan approval is to allow the operation of and increase in production from previously modified sources at Koppel Steel Corporation's Koppel Plant in the Borough of Koppel, Beaver County (25 Pa. Code § 127.12b).

4. Modifications covered under this plan approval include (25 Pa. Code § 127.12b): eccentric bottom tap conversion; replacement multilance manipulator; hot arms project; and sidewall burner upgrade (three Phoenix Model No. HD Burners, each rated at 27 mmBtu/hr).

Modification to the valve train and natural gas supply piping are not authorized by this Plan Approval.

5. This modification is subject to the prevention of significant deterioration provisions of 40 CFR 52.21 for CO and SO₂.

6. Meltshop effluent shall be captured by the Direct Evacuation System (DEC) and ducted to nos. 3 and 4 electric arc furnace (EAF) baghouse (25 Pa. Code § 127.12b).

7. The owner/operator shall not permit the emission to the outdoor atmosphere of any odorous air contaminants from any source determined to be objectionable by the Department in a manner so that the odorous air contaminants are detectable outside the property on which the source is being operated (25 Pa. Code § 127.12b).

8. Fugitive air contaminants from the Koppel Steel Corporation meltshop shall comply with 25 Pa. Code §§ 123.1 and 123.2 and 40 CFR 60, Subpart AAA.

9. The EAF baghouse shall not exhaust TSP/PM10 in excess of 0.004 gr/dscf (25 Pa. Code § 127.12b).

10. Steel production at the facility shall not exceed 598,000 tons in any consecutive 12-month period (prime cast tons) (25 Pa. Code § 127.12b).

11. Steel throughput through the rotary hearth furnace (RHF) shall be limited to 420,000 tons in any consecutive 12-month period (25 Pa. Code § 127.12b).

12. Operation of the EAF shall not exceed 8,320 hours in any consecutive 12-month period (25 Pa. Code § 127.12b).

13. Emissions of the following contaminants from the nos. 3 and 4 EAF baghouses shall not exceed the following, based on 598,000 prime cast tons per year (25 Pa. Code § 127.12b):

Pollutant	lb/hr	tons/yr
CO	500.0	1,345.5
NOx (as NO ₂)	60.0	164.5
SOx (as SO ₂)	50.0	149.5
VOC (as propane)	35.0	104.7

Pollutant	Long-Term Emission Factor (lb/ton)	Short-Term Emission Factor* (lb/ton)
CO	4.50	5.0
NOx (as NO ₂)	0.55	0.60
SOx (as SO ₂)	0.50	0.50
VOC (as propane)	0.35	0.35

* Short term factors were derived based on 90 tons per heat and a tap-to-tap time of 54 minutes.

14. Per 25 Pa. Code § 127.211, the facility-wide maximum allowable emissions rate for NOx and VOC are as follows:

Steel Production (tpy)	Potential NOx (tpy)	Potential VOC (tpy)
420,000	234.1	79.9
598,000	273.9	111.1

By increasing production from 420,000 tpy to 598,000 tpy, the facility has consumed 39.8 tons for NOx and 31.2 tons for VOC of the 40-ton major modification increment. The facility has also consumed a creditable decrease of 9.2 tons for NOx resulting from the shutdown of two meltshop boilers (sources 031 and 032).

15. The owner/operator shall keep a record of all charge materials, charge weights, tap weights and tap-to-tap times for each heat of steel (25 Pa. Code § 127.12b).

16. The owner/operator shall install natural gas meters and record the amount of natural gas burned in the EAF sidewall burners for each heat of steel (25 Pa. Code § 127.12b).

17. The combined heat input to the three sidewall burners shall be limited to 30 mmBtu/hr (25 Pa. Code § 127.12b).

18. The owner/operator shall monitor and record the amount of electrical energy consumed for each heat of steel produced (25 Pa. Code § 127.12b).

19. The owner/operator shall perform monthly maintenance inspections of the DEC. At a minimum, records of these inspections shall include fan current readings, observations of the physical appearance and function of the equipment, any deficiencies noted, corrective action taken and be maintained in a log (25 Pa. Code § 127.12b).

20. The owner/operator shall conduct visible emission observations of the meltshop baghouse at least once per day when the furnace is operating during the melting and refining period. These observations shall be taken in accordance with EPA Method 9 by a certified visible emission observer for at least three 6-minute periods and the readings recorded and maintained in a log (25 Pa. Code § 127.12b).

21. The owner/operator shall perform daily observations of visible emissions from the meltshop and monthly operational status inspections of the equipment that is important to the performance of the total capture system (that is, dampers, duct expansion joints, damper switches, and the like). These inspections shall include observations of the physical appearance and function of the equipment (for example, presence of holes in the ductwork or hoods, flow constriction, fan imbalance, and the like). Any deficiencies shall be noted and corrected. A preventative maintenance program shall be instituted and the owner/operator shall keep a log of any malfunctions of the air cleaning device (25 Pa. Code § 127.12b).

22. At a minimum, the owner/operator shall read and record the pressure differential readings of the meltshop baghouse once per shift. These readings shall be recorded in a log and include the name of the individual recording the reading (25 Pa. Code § 127.12b).

23. The owner/operator shall keep a 12-month rolling total for the following (25 Pa. Code § 127.12b):

- a. Tons of steel production at the facility.
- b. Operating hours of the EAF.
- c. Tons of steel throughput for the RHF.

24. All logs and required records shall be maintained onsite for a minimum of 5 years and shall be made available to the Department upon request (25 Pa. Code § 127.12b).

25. The owner/operator shall stack test the effluent from the nos. 3 and 4 EAF baghouses for the following pollutants: CO, NOx (as NO₂), SOx (as SO₂) and VOC (as propane) in accordance with 25 Pa. Code Chapter 139 and the Department's Source Testing Manual within 180 days of issuance of this Plan Approval. When stack testing is required due to source modifications it shall be stated in future stack test protocols that one of the objectives of the test is to quantify the effect of the modifications on short term (lbs/hr) and long term (tons/yr) emissions identified in Condition 13 (25 Pa. Code § 127.12b):

a. Two copies of the stack test protocol shall be submitted to the Department at least 60 days in advance of the stack test date. Stack testing shall not take place until the owner/operator has received written approval of the stack test protocol.

b. The owner/operator shall notify the Department of the stack test date at least 2 weeks prior to the test so the an observer may be present.

c. Two copies of the stack test results shall be submitted to the Department within 60 days of completion of the test.

d. The owner/operator shall record all pertinent operating data during the stack test and include this data with the stack test results. This data shall include, but not be limited to, a record of all charge materials, charge weights, tap weights and tap-to-tap times for each heat of steel.

e. The Department reserves the right to revise the emission limits established herein based on the results of the stack tests.

26. The owner/operator shall stack test the exhaust from the EAF baghouse for the following pollutants: TSP/PM10, NOx (as NO₂), CO, SOx (as SO₂) and VOC (as propane) in accordance with 25 Pa. Code Chapter 139 and the Department's Source Testing Manual and prior to each renewal of the Title V Operating Permit. The owner/operator shall stack test the exhaust from the EAF baghouse for the following pollutants: NOx (as NO₂) and CO in accordance with 25 Pa. Code Chapter 139 and the Department's Source Testing Manual Title V Operating Permit every year during the term of the Title V Operating Permit (25 Pa. Code § 127.12b):

a. Two copies of the stack test protocol shall be submitted to the Department at least 60 days in advance of the stack test date. Stack testing shall not take place until the owner/operator has received written approval of the stack test protocol.

b. The owner/operator shall notify the Department of the stack test date at least 2 weeks prior to the test so the an observer may be present.

c. Two copies of the stack test results shall be submitted to the Department within 60 days of completion of the test.

d. The owner/operator shall record all pertinent operating data during the stack test and include this data with the stack test results. This data shall include, but not be limited to, a record of all charge materials, charge weights, tap weights and tap-to-tap times for each heat of steel.

e. The Department reserves the right to revise the emission limits established herein based on the results of the stack tests.

27. Compliance with the hourly emission limits shall be determined based on the average of up to three runs in a representative protocol test. Compliance with the annual emission limit shall be determined based on the average of all representative protocol tests performed in any 12-month period, considering the actual steel production for the same 12-month period. Production records must be included for each run in the stack test report (25 Pa. Code § 127.12b).

28. This Plan Approval authorizes the temporary operation of the sources covered by this Plan Approval provided the following conditions are met (25 Pa. Code § 127.12b):

(a) The Department must receive written notice from the owner/operator of the completion of construction and the operator's intent to commence operation at least 5 days prior to the completion of construction. The notice should state when construction will be completed and when the operator expects to commence operation.

(b) Operation is authorized only to facilitate the start-up and shakedown of sources and air cleaning devices, to permit operations pending the issuance of an Operating Permit or to permit the evaluation of the source for compliance with all applicable regulations and requirements.

(c) This condition authorizes temporary operation of the sources for a period of 180 days from the commencement of operation, provided the Department receives notice from the owner/operator under subpart (a).

(d) The owner/operator may request an extension if compliance with all applicable regulations and Plan Approval requirements has not been established. The extension request shall be submitted in writing at least 15 days prior to the end of the period of temporary operation and shall provide a description of the compliance status of the source, a detailed schedule for establishing compliance and the reasons compliance has not been established.

(e) The notice submitted by the owner/operator under subpart (a) prior to the expiration of this Plan Approval shall modify the Plan Approval expiration date. The new Plan Approval date shall be 180 days from the date of the notice.

The change in potential emissions for CO, NOx and SO₂ are estimated by the applicant are as follows:

	<i>Steel Production (tpy)</i>	<i>Potential CO Emission Rate (tpy)</i>	<i>Potential NOx Emission Rate (tpy)</i>	<i>Potential SO₂ Emission Rate (tpy)</i>
Baseline	420,000	945.0	115.5	105.0
Future Capacity	598,000	1345.5	164.5	149.5
Creditable Decreases			9.2	
Increase	178,000	400.5	39.8	44.5

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at 400 Waterfront Drive, Pittsburgh, PA 15222.

Interested persons may submit written comments, suggestions or objections concerning the proposed Plan Approval to the regional office within 30 days of publication of this notice. Written comments submitted to the Department during the 30-day public comment period shall include the name, address and telephone number of the commentator, identification of proposed Permit No. TV-04-00059 and a concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the comments received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper or the *Pennsylvania Bulletin* or by telephone, where the Department determines notification by telephone is sufficient. Written comments or requests for a public hearing should be directed to Mark R. Gorog, New Source Review, 400 Waterfront Drive, Pittsburgh, PA 15222, (412) 442-4333.

OPERATING PERMITS

Intent to Issue Title V Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

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

09-00015: Rohm and Haas Co.—Bristol Facility (200 Route 413, Bristol, PA 19007) for an administrative amendment to the Title V Operating Permit at their Bristol facility in Bristol Township, **Bucks County**. The facility is a diverse chemical manufacturing plant producing emulsions, plastics, coatings and resins.

The permit is being amended to incorporate changes approved under Plan Approval PA-09-0015C for the operation of a regenerative thermal oxidizer, Plan Approval PA-09-0015D for the operation of a catalytic oxidizer on the CRU and CRUX Processes and to install a closed loop vent system on Methyl Methacrylate (MMA) tank no. 35 and Plan Approval PA-09-0015E for modification of the hours of operation and hourly emissions for a 1.7 mW diesel emergency generator.

The amended Title V operating permit will contain additional monitoring, recordkeeping, control device efficiency, testing, reporting and work practice standards to keep the facility operating within all applicable air quality requirements. Those conditions from the plan approvals that have been addressed in the amended Title V Permit are as follows:

From Plan Approval 09-0015C

- Sections A and D, Sources 516 and 735A—Revised permit maps.
- Section D, Source 516—Revised emissions restriction condition to restrict NOx emissions from the regenerative thermal oxidizer.
- Section D, Sources 516 and 735A—Incorporated emission restrictions associated with regenerative thermal oxidizer for this source.

From Plan Approval 09-0015D

- Sections A and D, Sources 401 and 441—Revised permit maps.
- Section D, Source 401—Revised testing requirement to remove reference to scrubber and replace it with the phrase "Catalytic Oxidizer (C09)."
- Section D, Source 401—Incorporated emission restrictions conditions associated with catalytic oxidizer for this source.
- Section D, Source 441—Revised to remove reference to scrubber and replace it with the phrase "Catalytic Oxidizer (C09)."
- Section D, Source 441—Incorporated emission restrictions and additional requirement conditions associated with catalytic oxidizer for this source.
- Section D, Source 744—Incorporated condition requiring that source be equipped and operated with a closed loop vapor recovery system.

From Plan Approval 09-0015E

- Sections A and D, Sources 103—Revised permit maps to remove the 2.0 mW diesel generator and replace it with a 1.7 mW diesel emergency generator.
- Section D, Source 103—Incorporated new emission restrictions, fuel restrictions and operation hours restrictions.
- Section G. Miscellaneous—Removed items "(k)-Six Diesel Generators" and "(p) 2-1000 HP Diesel Generators."

Other Sources that have minor conditions changes are Source 032, 033, 137, 201, 300, 516 and 517.

Administrative Amendment of Title V Operating Permit issued under the Air Pollution Control Act and 25 Pa. Code § 127.450.

15-00002: Quebecor World Atglen, Inc. (4581 Lower Valley Road, West Sadsbury, PA 19310) for an administrative amendment to the Title V Operating Permit at their Atglen facility in West Sadsbury Township, **Chester County**. The facility is a printing company that employs two printing processes—publication rotogravure and in a very limited circumstances, flexography—to provide printing to the publishing industry.

The permit is being amended to incorporate changes approved under the following plan approval: BAQ-GPA/GP-1 for operation of an 11.7 mmBtu/hr, 350-Hp boiler; PA-15-0002A for the operation of a publication rotogravure press controlled by a carbon adsorption system; and PA-15-0002B for the operation of two heatset web offset lithographic presses. The amended Title V operating permit will contain additional monitoring, recordkeeping, reporting, testing and work practice standards to keep the facility operating within all applicable air quality requirements. Those conditions from the plan approvals that have been addressed in the amended Title V Permit are as follows:

Source ID: 032 (350-Hp boiler)—Incorporated restrictions for PM, NOx and CO emissions and fuel type.

Source ID: 107 (four-color rotogravure press 7)—Incorporated conditions restricting emission of VOCs.

Source IDs: 221 and 222 (four-color heatset offset litho web presses nos. 21 and 22)—Incorporated conditions restricting emissions of VOCs and (NOx).

Section C, Site Level Requirements for CFC sources (HVAC)—Incorporate applicable recordkeeping, reporting and work practice standard condition per 40 CFR 82, Subpart F (Recycling and Emission Reduction) for sources containing chlorofluorocarbons solutions.

Administrative Amendment of Title V Operating Permit issued under the Air Pollution Control Act and 25 Pa. Code § 127.450.

15-00029: Dopaco, Inc. (241 Woodbine Road, Downingtown, PA 19335) in Downingtown Borough, **Delaware County**. The facility's major emission points include a boiler, three rotogravure presses, four Flexographic presses, ink mixing room, parts washers and die room which have the potential to emit major levels of VOCs.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: Muhammad Zaman, Program Manager; (570) 327-0512.

49-00003: ACF Industries (P. O. Box 109, Milton, PA 17847) for renewal of the Title V operating permit for their AMCAR Division Plant in Milton Borough, **Northumberland County**. The facility's sources include 51 combustion units, 4 furnaces, 5 paint booths, 1 paint curing oven, 3 grit blasting operations, propane cutting torches, solvent stencil and paint cleaning operations, 1 metal cutter, 1 air wash separator and 3 storage tanks. The facility has the potential to emit major quantities of VOCs, HAPs and PM10. The facility has the potential to emit NOx, CO and SOx below the major emission thresholds. The proposed Title V operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

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

42-00009: Pittsburgh Corning Corp. (701 North Main Street, Port Allegany, PA 16743-0039) for reissuance of a Title V Permit to operate a pressed and blown glass manufacturing facility in Port Allegany Borough, **McKean County**. The facility's major emission sources include melting furnace, cellululating furnace, glass block edge coaters, distributors, foreheaters, presses/sealers, crushing, grinding and dispense system, batch mixer, mold release application. The facility is a major facility due to its potential to emit of NOx and VOCs.

25-00924: Erie Forge and Steel, Inc. (1341 West 16th Street, Erie, PA 16512-1522) for reissuance of a Title V Permit to operate an iron and steel forging manufacturing facility in City of Erie, **Erie County**. The facility's major emission sources include natural gas steam boiler, electric arc furnaces, refining furnaces, heat treat furnaces, forge furnaces, preheaters, grinder units, hood furnace, vacuum degassing, torch cutting operation, furnace baghouse and scrubber. The furnace baghouse is subject to the compliance assurance monitoring rule. The facility is a major facility due to its potential to emit of NOx and CO.

Intent to Issue Operating Permits under the Air Pollution Control Act 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.

09-00154: Bucks County Water and Sewer Authority (Pine Run Road and Old Dublin Pike, Doylestown, PA 18976) for the operation of a sewage pumping station wet well and associated wet scrubber and emergency generator, from which the main pollutants emitted are PM and NOx in Doylestown Township, **Bucks County**. The permit is for a non-Title V Facility, State-only, Natural Minor Operating Permit. The permit will include monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

15-00059: Paulsonbilt, Ltd. (1000 West 11th Avenue, Chester, PA 19320) for operation of their facility in Coatesville, **Chester County**. The permit is for a non-Title V (State-only) facility. The facility's main sources include a large spray booth used to surface coat metal containers. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

15-00054: Highway Materials, Inc. (680 Morehall Rd., Malvern, PA 19355) in East Whiteland Township, **Chester County**. The permit is for a non-Title V (State-only) facility. The facility's source includes a hot mix batch asphalt plant. The permittee has elected to take emission restrictions, hours of operation and throughput restrictions to be compliant with synthetic minor requirements. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

46-00171: John Evans' Sons, Inc. (One Spring Avenue, Lansdale, PA 19446), for a non-Title V, State-only, Natural Minor Operating Permit in Lansdale Borough, **Montgomery County**. The facility manufactures springs. Per customer specifications, the edges of the springs require grinding to smooth out rough edges. There are six grinders at the facility to accomplish this. All of the grit and metal fines that are generated by grinding are sent to a dust collector outside the building. There are particulate matter limits of 0.3 pound per hour, 2.4 pounds per day and 0.3 ton per 12-month rolling period for the grinding process. Other sources of emissions include a 5.2 mmBtu/hr boiler and a parts washer.

23-00091: Union Packaging (6250 Baltimore Pike, Yeadon, PA 19050) for a non-Title V Facility, State-only, Natural Minor Permit in Pottstown Borough, **Montgomery County**. Union Packaging is a printing facility for the food industry. The sources of emissions include rotogravure press and space heaters. Monitoring, recordkeeping and reporting requirements have been added to the permit to address applicable limitations.

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

06-03089: Reading Materials, Inc. (P. O. Box 196, Skippack, PA 19474) for operation of a nonmetallic mineral crushing plant at their Pottstown Traprock Quarry in Douglass Township, **Berks County**. The plant is not subject to Title V (State-only operating permit). The plant has the potential to emit 95 tons per year of particulate. The plant is subject to 40 CFR Part 60, Subpart 000—Standards of Performance for New Stationary Sources. The State-only operating permit will include monitoring, work practices, recordkeeping and reporting requirements designed to keep the foundry operating air quality requirements.

06-03093: Reading Materials, Inc. (P. O. Box 79, Skippack, PA 19474) for operation of a railcar unloading station in Cumru Township, **Berks County**. The plant is subject to 40 CFR Part 60, Subpart 000—Standards of Performance for New Stationary Sources. The facility is not subject to Title V. The plant has the potential to emit 87 tons per year of particulate. The State-only operating permit will include monitoring, work practices, recordkeeping and reporting requirements designed to keep the plant operating within all applicable air quality requirements.

36-03063: Kearney A. Snyder Funeral Home, Inc. (141 East Orange Street, Lancaster, PA 17602) for operation of a cremation chamber in the City of Lancaster, **Lancaster County**. The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

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

24-00001: Buehler Lumber Co., Inc. (260 West Main Street, Ridgway, PA 15853) for a Natural Minor Operating Permit to operate a sawmill and a wood-fired boiler in Ridgway Borough, **Elk County**.

42-00181: Elkhorn Field Services—Lewis Run (8801 South Yale, Suite 420, Tulsa, OK 74137) for Natural Minor operating permit for emissions from a nonfractionating, 4-million CFD natural gas processing plant in Bradford Township, **McKean County**.

COAL AND NONCOAL 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 Envi-

ronmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated before an 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, 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.

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 identified in this notice for the respective coal and noncoal applications. In addition to the previous, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who 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 the person 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 wishes to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

Effluent Limits—The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas, active areas disturbed by coal refuse disposal activities and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

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

33950108 and NPDES Permit No. PA0227111. T. L. H. Coal Company (4401 Pollock Road, Marion Center, PA 15759). Revision to an existing bituminous surface strip and auger operation in Perry Township, **Jefferson County** affecting 67.0 acres. Receiving streams: McCracken Run (CWF). There are no potable surface water supply intakes within 10 miles downstream. Revision to include a land use change from wildlife habitat to pastureland on lands of Raymond E. and Cora Belle Smith. Application received September 15, 2003.

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

32980105 and NPDES Permit No. PA0234761. Amerikohl Mining, Inc., 202 Sunset Drive, Butler, PA 16001, permit renewal for reclamation only and for continued restoration of a bituminous surface and auger mine in Center Township, **Indiana County**, affecting 81.5 acres. Receiving streams: UNT to Tearing Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received September 12, 2003.

32030110 and NPDES Permit No. PA0249491. Fossil Fuel, Inc., 690 Weaver Road, Marion Center, PA 15759, commencement, operation and restoration of a bituminous surface and auger mine in East Mahoning

and Grant Townships, **Indiana County**, affecting 43.0 acres. Receiving streams: unnamed tributaries to Crooked Run to Little Mahoning Creek (HQ-CWF). There are no potable water supply intakes within 10 miles downstream. Application received September 10, 2003.

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

26980601 and NPDES Permit No. 0202193. Better Materials Corp. (2200 Springfield Pike, Connellsville, PA 15425). NPDES renewal for an existing industrial mineral mining operation for continued mining, in Bullsken Township, **Fayette County**, affecting 559.1 acres. Receiving streams: unnamed tributary to Breckneck Run to Whites Run to Mounts Creek (WWF). There is no potable water supply intake within 10 miles from the point of discharge. Renewal application received September 12, 2003.

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

17823101 and NPDES Permit No. PA0609412. Hepburnia Coal Company, P. O. Box I, Grampian, PA 16838. Renewal of an existing bituminous surface mine permit in Union Township, **Clearfield County** affecting 128 acres. Receiving streams: two unnamed tributaries of Laborde Branch, to Laborde Branch, to Sandy Lick Creek, to Little Mill Creek, to Redbank Creek to Anderson Creek and Anderson Creek to West Branch Susquehanna River to Susquehanna River. Application received September 15, 2003.

Noncoal Applications Received

Effluent Limits—The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	

* The parameter is applicable at all times.

A settleable solids instantaneous maximum of 0.5 ml/l applied to surface runoff resulting from a precipitation event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

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

7273SM8C5 and NPDES Permit No. PA0613185. Lehigh Asphalt Paving & Construction Co. (P. O. Box 549, Tamaqua, PA 18252), renewal of NPDES Permit for discharge of treated mine drainage in West Penn Township, **Schuylkill County**, receiving stream: unnamed tributary to Lizard Creek (TSF). Application received September 12, 2003.

5777SM4C5 and NPDES Permit No. PA0034690. Barletta Materials & Construction, Inc. (P. O. Box

550, Tamaqua, PA 18252), renewal of NPDES Permit for discharge of treated mine drainage in Nescopeck Township, **Luzerne County**, receiving stream: unnamed tributary to Susquehanna River (CWF) and Susquehanna River (WWF). Application received September 12, 2003.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 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) 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. Persons objecting to ap-

proval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as 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. Individuals 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 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 a 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 FWPCA (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E09-865. Richland Township, 1328 California Road, Suite A, Quakertown, PA 18951, Richland Township, Bucks County, ACOE Philadelphia District.

To perform the following activities in wetlands adjacent to Beaver Run (TSF), a tributary within the Tohickon Creek watershed:

1. To construct and maintain a pedestrian trail consisting of course materials and macadam. Eight 8-inch PVC pipes will be placed at the appropriate intervals under the base course of the proposed trail to provide a connection to natural up-gradient wetland hydrology to down-gradient wetland hydrology.

The project proposes to directly affect 0.07 acre of emergent wetlands and the application proposes to make a monetary contribution to the wetland replacement fund as mitigation. The site is 3,000 feet south of the intersection of Mill Road and Trumbauersville Road (Quakertown, PA Quadrangle N: 10.0 inches; W: 14.9 inches).

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

E48-338. Hornstein Enterprises, Inc., 1150 Cedarcrest Boulevard, Allentown, PA 18103 in Forks Township, Northampton County, U. S. Army Corps of Engineers, Philadelphia District.

To construct and maintain three stormwater outfall structures in Bushkill Creek (HQ-TSF) which are associated with the proposed Penn's Ridge planned residential development. The project is approximately 0.4 mile north of the intersection of SR 2019 (Bushkill Drive) and SR 2036 (Zucksville Road) (Easton, PA-NJ Quadrangle N: 17.9 inches; W: 16.9 inches).

E64-243. Wayne Memorial Hospital, West and Park Streets, Honesdale, PA 18431 in Honesdale Borough, Wayne County, U. S. Army Corps of Engineers, Philadelphia District.

To construct and maintain a single-span prefabricated steel truss pedestrian bridge, having a span of 140 feet and an underclearance of approximately 17 feet, across West Branch Lackawaxen River (HQ-CWF). The bridge will provide access to a parking area on the south side of the river. The project is south of the intersection of SR 0006 (Park Street) and West Street (Honesdale, PA Quadrangle N: 13.7 inches; W: 1.3 inches).

E48-337. Lower Saucon Township, 3700 Old Philadelphia Pike, Bethlehem, PA 18015 in Lower Saucon Township, Northampton County, U. S. Army Corps of Engineers, Philadelphia District.

To repair and maintain an existing two span cast iron pony truss pedestrian bridge across Saucon Creek (CWF). The proposed work consists of structural upgrades to the superstructure and rehabilitation of the concrete and stone center pier. The project is northeast of the intersection of Old Mill Road and Reading Road (Hellertown, PA Quadrangle N: 11.1 inches; W: 13.7 inches).

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

E34-109: Dobson Run Farm, R. R. 2 Box 197, Millerstown, PA 17062 in Susquehanna Township, Juniata County, ACOE Baltimore District.

To replace and maintain two pipe crossings across Dobson Run, within Susquehanna Township, Juniata County (Reward, PA Quadrangle N: 19.3 inches; W: 7.8 inches).

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

E14-453. Department of Transportation, Engineering District 2-0, 1924-30 Daisy Street, Clearfield, PA 16830. SR 0026 Section 134 Slab Cabin Run culvert replacement in Ferguson Township, Centre County, ACOE Susquehanna River Basin District (Pine Grove Mills, PA Quadrangle N: 20.8 inches; W: 0.6 inch).

To remove two existing structurally deficient culvert pipes and construct and maintain a total of 288 feet (two pipes) of 36-inch reinforced concrete pipe in Slab Cabin Run 0.5 mile northwest of the intersection of SR 0550 and SR 3006 along SR 3006 in Ferguson Township, Centre County. This project proposes to have a minimal impact on Slab Cabin Run (HQ-CWF). This project does not propose to impact any jurisdictional wetlands.

E17-385. City of DuBois, P. O. Box 408, DuBois, PA 15801. Interstate 80 Spill Containment Facility—Anderson Creek in Union Township, Clearfield County, ACOE Baltimore District (Elliot Park, PA Quadrangle N: 22.0 inches; W: 16.0 inches).

To construct, operate and maintain a spill collection and containment facility requiring encroachment and

obstruction of Anderson Creek (HQ-CWF) to protect the public water supply for the City of DuBois. The spill containment facility and its appurtenances in, along and across Anderson Creek shall be limited to six spill-boom structures, four containment ponds and a permanent single span access bridge that are as follows:

Structure	Latitude	Longitude
Spill Boom No. 1	41° 06' 45.1"	78° 37' 52.2"
Spill Boom No. 3	41° 06' 48.7"	78° 37' 29.8"
Spill Boom No. 4	41° 07' 10.9"	78° 37' 01.58"
Spill Boom No. 5	41° 07' 29.0"	78° 36' 49.2"
Spill Boom No. 6	41° 07' 28.9"	78° 36' 48.9"
Southeast Pond No. 1	41° 07' 17.3"	78° 36' 59.3"
Southeast Pond No. 2	41° 07' 17.1"	78° 36' 58.4"
Northwest Pond No. 1	41° 07' 19.6"	78° 37' 05.5"
Northeast Pond No. 1	41° 07' 20.9"	78° 36' 58.3"
Single Span Bridge	41° 07' 22.5"	78° 36' 57.0"

The bridge shall be constructed, operated and maintained with a minimum span of 50 feet, width of 10 feet and underclearance of 3 feet. All bridge and spill boom construction and its repair shall be conducted at stream low flow. Since Anderson Creek is a wild trout fishery, no project construction or future repair work shall be completed in or along the stream channel between October 1 and April 1 without prior written authorization from the Fish and Boat Commission. This permit does not authorize any temporary or permanent impact to wetlands and the permittee shall ensure all precautionary measures are taken to avoid any wetland impact during construction, operation and maintenance of the spill containment facilities, appurtenances and its access roads. The single span bridge across Anderson Creek permanently impacts 15 feet of waterway. The project is along the right-of-way of the eastbound and westbound lanes of SR 0080 at the overpass that carries SR 0080 over Anderson Creek Road. This permit also authorizes the construction, operation, maintenance and removal of temporary construction crossing of Blanchard Run, which shall be constructed with clean rock free of silt and fines. Upon completion of southeast containment ponds, the temporary crossing of Blanchard Run shall be removed, the stream bank restored to original contours and elevations and all final stabilization applied.

E55-193. Moyer's Marine Sales, R. R. 2, Box 263-M, Selinsgrove, PA 17870. Water Obstruction and Encroachment Permit in Shamokin Dam Borough, **Snyder County**, ACOE Susquehanna River Basin District (Sunbury, PA Quadrangle N: 19.4 inches; W: 8.7 inches).

To construct and maintain 85 feet of 12-foot diameter corrugated steel pipe in a tributary to the Susquehanna River (WWF). The project is along SR 0015 north 0.2 mile north of the intersection of SR 0015 and SR 0011 in Shamokin Dam Borough, Snyder County. The project does not propose to impact any jurisdictional wetlands.

E59-447. Grace Engle, Rachael and Joseph Kolb, Susan Shellman and Faith Matelski, One Charles St.,

Wellsboro, PA 16901. Kolb property crossing in Middlebury Township, **Tioga County**, ACOE Baltimore District (Crooked Creek, PA Quadrangle N: 14.7 inches; W: 12.6 inches).

The permittees propose to replace the existing twin cell 24-inch culvert pipe crossing with a twin cell 3-foot by 4-foot corrugated metal pipe arches measuring 30 inches long. One additional 3-foot by 4-foot corrugated pipe arch will be added to accommodate a braided channel off of the main stem of an unnamed tributary to Hills Creek (WWF). Riprap stabilization is proposed on the outlet of the new culvert pipes. This project proposes to impact 50 linear feet of two separate channels for a total of 100 linear feet of channel.

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

E03-416. Allegheny Energy Supply Company, LLC, 4350 Northern Pike, Monroeville, PA 15146-2841. Armstrong Power Station CCB landfill facility culvert and wetland fill in Washington Township, **Armstrong County**, Pittsburgh ACOE District (Latitude: 40° 55' 22"—Longitude: 79° 28' 27") (Templeton, PA Quadrangle N: 8.5 inches; W: 13.2 inches). The applicant proposes to remove the existing culvert, to construct and maintain a 90.0-foot long, 1.0-foot depressed two-cell concrete box culvert with each a span of 6.0 feet and an underclearance of 4.0 feet in an unnamed tributary to the Allegheny River (WWF) and to place and maintain fill in 0.097 acre of wetland as part of the proposed new CBB landfill project. The project is off of SR 4006 southwest of the Armstrong Power Station.

E63-549. Charleroi Borough, 4th and Fallowfield Avenue, Charleroi, PA 15022. Calvary Road bridge in Charleroi Borough, **Washington County**, Pittsburgh ACOE District (Latitude: 40° 7' 47"—Longitude: 79° 54' 6") (Monongahela, PA Quadrangle N: .9 inch; W: 3.6 inches). The applicant proposes to remove the existing structures and to construct and maintain a conspan arch bridge having a span of 28 feet and underclearance of 8 feet over Maple Creek (WWF). The bridge is on Calvary Road, approximately 200 feet south of its intersection with Lincoln Avenue. The total stream impact is approximately 24 feet.

E63-551. Department of Transportation, Engineering District 12-0, P. O. Box 459, Uniontown, PA 15401. SR 3008, Section 01R Bridge in South Franklin Township, **Washington County**, Pittsburgh ACOE District (Latitude: 40° 7' 18"—Longitude: 80° 17' 24") (Prosperity, PA Quadrangle N: 22.1 inches; W: 5.6 inches). The applicant proposes to remove the existing bridge and appurtenant structures and: (1) to construct and maintain a pre-stressed concrete spread box beam bridge having a normal span of 28.12 feet and an underclearance of 6.99 feet over Chartiers Creek (WWF); (2) to construct and maintain a temporary crossing consisting of three 58-inch by 91-inch elliptical pipes in Chartiers Creek; and (3) to construct and maintain a 65 feet long, R-4 rock-lined outfall along Chartiers Creek. The project will directly affect through bridge construction and scour protection, 60 linear feet of stream channel. No vegetated wetlands will be impacted.

ACTIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT
FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE
ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY
MANAGEMENT (WQM) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent for coverage under General Permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted Notices of Intent (NOI) for coverage under General NPDES Permits. The approval for coverage under these General NPDES Permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit 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 permits 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 before the action.

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. NPDES Renewal Permit Actions

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

<i>NPDES Permit 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>
PA0057223	William and Donna Hodson 999 Longmill Road Telford, PA 18969	Montgomery County Franconia Township	East Branch of the Perkiomen Creek	Y
PA0052566	Owen J. Mooney 2015 Valley Road Newtown Square, PA 19073	Delaware County Edgmont Township	UNT to Ridley Creek 3G Watershed	Y

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

<i>NPDES Permit 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>
PAG042202	Dean and Marybeth Ritter Single Family Residence	Lehigh County Heidelberg Township	Jordan Creek 2C	Y

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

<i>NPDES Permit 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>
PA0080331	Ephrata Area Joint Authority 124 South State Street Ephrata, PA 17522	Lancaster County Ephrata Borough	UNT Cocalico Creek 7K	Y
PA0088714 Transfer	Hostetter Management Company Middle Creek Swine Farm 120 Lake Street Ephrata, PA 17522	Lancaster County West Cocalico Township	Watershed 7J	Y
PA0088706	Hostetter Management Company Hilbred Pig Company 120 Lake Street Ephrata, PA 17522	Lancaster County West Cocalico Township	Watershed 7J	Y

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

<i>NPDES Permit 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>
PA0030449	Long's Mobile Home Park 406 Lutz School Road Indiana, PA 15701-9255	Indiana County White Township	UNT of McKee Run	Y
PA0093149	Creekside Mushrooms, LTD One Moonlight Drive Worthington, PA 16262-9730	Armstrong County West Franklin Township	Buffalo Creek (Outfall 001) and UNT of Buffalo Creek (Outfalls 002—006)	Y

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

<i>NPDES Permit 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>
PA0222607	David Q. Steele 3462 Glen Hazel Road Wilcox, PA 15870	Jones Township Elk County	East Branch Clarion River	Y
PA0104141	Jay Township Authority Box 186 Weedville, PA 15868	Jay Township Elk County	Bennett Branch Sinnemahoning Creek	Y
PA0222577	Schmader Lumber Co., Inc. 1997 Corvette Drive P. O. Box 24 Lucinda, PA 16235	Knox Township Clarion County	Unnamed tributary to Step Creek	Y

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Non-Waived Permit Actions

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

NPDES Permit No. PA0012815, Industrial Waste, **Sonoco Products Company**, 300 South Brandywine Avenue, Downingtown, PA 19335. This proposed facility is in Downingtown Borough, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge 1,028 MGD of treated industrial wastewater from Outfall 001 and 0.657 MGD noncontact

cooling water from Outfall 002 from Sonoco Products Inc. into East Branch of Brandywine Creek.

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

NPDES Permit No. PA0247197, Industrial Waste, **City of Lancaster, Conestoga Water Treatment Plant**, 120 North Duke Street, Lancaster, PA 17608. This proposed facility is in Lancaster City, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to Conestoga River in Watershed 7-J.

NPDES Permit No. PA0043257, Amendment No. 1, Sewage, **New Freedom Borough Authority**, 49 East Main Street, New Freedom, PA 17349.

On September 22, 2003, the Southcentral Regional Office, Water Management Program revoked NPDES Permit No. PA0043257 Amendment No. 1, issued on June 26, 2003, due to inaccuracies in the notice published at 33 Pa.B. 2390 (May 17, 2003) for the draft permit amendment. The Department will reissue Amendment No. 1 and republish notice of a draft permit amendment in a future edition of the *Pennsylvania Bulletin*.

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

NPDES Permit No. PA00219380, Industrial Waste, **Myppodiamond, Inc.**, Fayette Business Park, 1101 Mt. View Drive, Smithfield, PA 15478. This proposed facility is in Georges Township, **Fayette County**.

Description of Proposed Action/Activity: Discharge from an industrial waste facility to a UNT to Georges Creek.

NPDES Permit No. PA0026417-A1, Sewage, **Penn Hills Municipality**, 12245 Frankstown Road, Pittsburgh, PA 15235. This proposed facility is in Penn Hills Township, **Allegheny County**.

Description of Proposed Action/Activity: Discharge of stormwater from areas in and around the Plum Creek STP.

NPDES Permit No. PA0026522-A1, Sewage, **West Mifflin Sanitary Sewer Municipal Authority**, 1302 Lower Bull Run Road, West Mifflin, PA 15122-2902. This proposed facility is in West Mifflin Borough, **Allegheny County**.

Description of Proposed Action/Activity: Discharge of stormwater from areas in and around the New England Sewage Treatment Plant.

NPDES Permit No. PA0026883-A1, Sewage, **City of Beaver Falls**, 715 15th Street, Beaver Falls, PA 15010. This proposed facility is in the City of Beaver Falls, **Beaver County**.

Description of Proposed Action/Activity: Discharge of stormwater from areas in and around the STP in the City of Beaver Falls.

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

NPDES Permit No. PA0025569, Sewage Amendment No. 1, **Slippery Rock Municipal Authority**, P. O. Box 157, Slippery Rock, PA 16057. This proposed facility is in Slippery Rock Township, **Butler County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Slippery Rock Creek.

NPDES Permit No. PA0025569, Sewage Amendment No. 1, **Breakneck Creek**, P. O. Box 1180, Mars, PA 16046. This proposed facility is in Adams Township, **Butler County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Breakneck Creek.

NPDES Permit No. PA0027227, Sewage Amendment No. 2, **City of Farrell**, 500 Roemer Boulevard, Farrell, PA 16121. This proposed facility is in City of Farrell, **Mercer County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to the Shenango River.

NPDES Permit No. PA0020257, Sewage Amendment No. 1, **Borough of Grove City**, P. O. Box 110, Grove City, PA 16127-0100. This proposed facility is in Borough of Grove City, **Mercer County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Wolf Creek.

NPDES Permit No. PA0024571, Sewage Amendment No. 3, **Cranberry Township**, 2525 Rochester Road, Suite 400, Cranberry Township, PA 16066-6499. This proposed facility is in Cranberry Township, **Butler County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Brush Creek.

III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

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

WQM Permit No. 1503413, Sewerage, **Valley Forge Sewer Authority**, 333 Pawling Road, Phoenixville, PA 19460. This proposed facility is in Charlestown Township, **Chester County**.

Description of Proposed Action/Activity: Construction of a wastewater pumping station for a single family home development.

WQM Permit No. 0903413, Sewerage, **Kilcar House, Inc.**, 199 Union Road, Quakertown, PA 18951. This proposed facility is in Richland Township, **Bucks County**.

Description of Proposed Action/Activity: Construction and operation of a 1,400 gpd sewage treatment plant.

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

WQM Permit No. 6403401, Sewerage, **DVS, Inc. d/b/a J & J Lounge**, P. O. Box 87, Hamlin, PA 18427. This proposed facility is in Salem Township, **Wayne County**.

Description of Proposed Action/Activity: Issuance of a Water Quality Management Permit.

WQM Permit No. 6403402, Sewerage, **Waymart Area Authority, Rear Railroad Lane**, P. O. Box 3300, Waymart, PA 18472-0224. This proposed facility is in Canaan Township, **Wayne County**.

Description of Proposed Action: Issuance of a Water Quality Management Permit.

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

WQM Permit No. 5002404, Sewerage, **Catherine Campbell**, 1961 New Valley Road, Marysville, PA 17058. This proposed facility is in Rye Township, **Perry County**.

Description of Proposed Action/Activity: Installation of a SFTF treatment system consisting of a dual compartment, septic tank, dosing tank, 600 square foot subsurface sand filter, tablet chlorinator and a 200-gallon chlorine contact tank with a discharge to a UNT of Fishing Creek.

WQM Permit No. 6703404, Sewerage, **David Raver, Manchester Township**, 3200 Farmtrail Road, York, PA 17402. This proposed facility is in Manchester Township, **York County**.

Description of Proposed Action/Activity: This permit authorizes the installation of a 10-inch gravity sewer between Church Road and Lewisberry Road, bypassing an 8-inch sewer main. The new sewer will enter existing

manhole 29 Lewisberry Road. The 8-inch sewer from this manhole will be upgraded in accordance with the schedule contained in the ACT 537 Plan or no later than December 31, 2009. This permit also authorizes the replacement of a 12-inch sewer main with 16-inch and 18-inch ductile iron sewers that will connect to Springettsbury Township's main interceptor near Mundis Race Road, with two stream crossings.

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

WQM Permit No. 2503519, Sewerage, **Raymond P. Stempka**, 230 Zwilling Road West, Erie, PA 16509. This proposed facility is in Summit Township, **Erie County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

WQM Permit No. 2503418, Sewerage, **Municipal Authority of the Borough of Waterford**, 224 East Third Street, P.O. Box 49, Waterford, PA 16441. This proposed facility is in Borough of Waterford, **Erie County**.

Description of Proposed Action/Activity: This project is for the replacement of chlorine disinfection with UV disinfection equipment as well as a conversion from anaerobic digestion to an aerobic process.

WQM Permit No. 2002410, Sewerage, 2002410, **City of Titusville**, 107 North Franklin Street, Titusville, PA 16354. This proposed facility is in City of Titusville, **Crawford County**.

Description of Proposed Action/Activity: This project is for upgrades to the wastewater treatment facility, sewer system improvements and a parallel interceptor from Brown Street to the wastewater treatment facility.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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

NPDES Permit

<i>No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI010903006	Mill Street Industrial Associates, Inc. Mill Street Flex Building 2880 Bergey Road Hatfield, PA 19440-1764	Bucks	Quakertown Borough	Tohickon Creek TSF
PAI011503072	Cardile Mushrooms, Inc. Cardile Mushroom Site 540 Church Road Avondale, PA 19311	Chester	New Garden Township	East Branch Whiteclay Creek EV
PAI014603001	JB and EB, LLC Dodge Tract 404 Main Street Pennsburg, PA 18073	Montgomery	Pennsburg Borough	Macoby Creek TSF
PAI011503041	Department of Transportation SR 100, Section S35 7000 Geedes Boulevard King of Prussia, PA 19406	Chester	Upper Uwchlan Township	Unnamed tributary Pickering Creek HQ-TSF

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

NPDES Permit

<i>No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023903009	City of Allentown Bureau of Parks 2700 Parkway Blvd. Allentown, PA 18104-5399	Lehigh	City of Allentown	Little Cedar Creek HQ-CWF
PAI023903023	Sharp Corporation 23 Carland Road Conshohocken, PA 19428	Lehigh	Upper Macungie Township	Little Lehigh Creek HQ-CWF
PAI025203011	Dominic Bradlee 113 7th St. No. 122 Milford, PA 18337	Pike	Dingman Township	Sawkill Creek EV
PAI025203010	David E. Ruby and Mary Ann Bonarti 601 West Harford St. Milford, PA 18337	Pike	Milford Township	Tributary to Delaware River HQ-CWF

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

NPDES Permit

<i>No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS101922-1	Amy Gottesfeld Kettle Creek Watershed Assoc. Trout Unlimited 32 Long Bow Lane Mill, PA 17751	Clinton	Leidy and Noyes Townships	Shintown Run Two Mile Run EV

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

NPDES Permit

<i>No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI064203001	Bradford Regional Airport Authority 212 Airport Rd., Suite E Lewis Run, PA 16738	McKean	Lafayette Township	East Branch Tununguant Creek HQ-CWF Tributary to Kinzua Creek (Three Mile Run) CWF

VII. Approvals to Use NPDES and/or Other General Permits

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).

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 Residential Septage 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	CAFOs
PAG-13	Stormwater Discharges from MS4

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>
Franconia Township Montgomery County	PAG2004602001	Indian Valley Greenes, LP 66 South County Line Road Souderton, PA 18964	Indian Creek WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Whitpain Township Montgomery County	PAG2004603140	Parec Phipps Station Associates Phipps Station 731 Skippack Pk. P. O. Box 1205 Blue Bell, PA 19422	Willow Run WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000

NOTICES

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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>
Hatfield Township Montgomery County	PAG2004603133	Logan Land Development 1514/1540 Maple Avenue Site 55 Lynn Avenue Oreland, PA 19075	West Branch Neshaminy Creek WWF/MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Upper Merion Township Montgomery County	PAG2004603126	Acorn Development Corporation 1000 Continental Square Site 400 Oaks Corporate Center Suite 105 Oaks, PA 19456	Trout Creek WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Horsham Township Montgomery County	PAG2004603162	Naval Air Station Joint Reserve Base Nexcom Navy Lodge Building 78, Code 89 Willow Grove, PA 19090	Unnamed tributary Pennypack Creek TSF-MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Franconia Township Montgomery County	PAG2004603163	WB Homes, Inc. Vistas at Highland Ridge 404 Sumneytown Pike Suite 200 North Wales, PA 19454	Indian Creek WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Lackawanna County Dickson City Borough	PAG2003503012	Thomas Logan 540 Main St. Dickson City, PA 18519	Lackawanna River CWF	Lackawanna County Conservation District (570) 281-9495
Luzerne County Jenkins Township	PAG2004003034	United Realty 635 Main St. Pittston, PA 18640	Susquehanna River CWF	Luzerne County Conservation District (570) 674-7991
Lehigh County Whitehall Township	PAG2003903016	Larken Associates 249 Homestead Rd., Bldg. 5 No. 11 Hillsborough, NJ 08844	Coplay Creek CWF	Lehigh County Conservation District (610) 391-9583
Lehigh County Upper Saucon Township	PAG2003903022	Mary Faith Rhoads 3921 Liberty Rd. Center Valley, PA 18934	Saucon Creek CWF	Lehigh County Conservation District (610) 391-9583
Graystone Manor along Brough Road approximately 1,000 feet north of Short Cut Road Hamilton Township Adams County	PAG2000103019 Formerly PAR100063	John Lingg Lebing Development Company, Inc. 301 Broadway Hanover, PA 17331	UNT to Beaver Creek Conewago Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325-3404 (717) 334-0636
Oak Hills Subdivision with offsite utilities (gas and water) Conewago Township Adams County	PAG2000103020 Formerly PAR100069	Laverne Leese LABRE, LLC 982 Bollinger Road Littlestown, PA 17340	South Branch of the Conewago Creek WWF	Adams County Conservation District 670 Old Harrisburg Road Suite 201 Gettysburg, PA 17325-3404 (717) 334-0636
Morgantown Rd. Industrial Area City of Reading Berks County	PAG2000603056	Adam Mukerji Reading Redevelopment Authority 815 Washington Street Reading, PA 19601-3690	Angelica Creek CWF	Berks County Conservation District 1238 County Welfare Rd. P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201
Mt. Penn Dam closure modifications Lower Alsace Township Berks County	PAG2000603080	Mt. Penn Borough Municipal Authority 200 N. 25th Street Reading, PA 19606	UNT to Antietam Creek CWF	Berks County Conservation District 1238 County Welfare Rd. P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201

<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>
Cumru Township Maintenance and Recreational Facilities Cumru Township Berks County	PAG2000603068	Cumru Township 1775 Welsh Road Mohnton, PA 19540	Angelica Creek CWF	Berks County Conservation District 1238 County Welfare Rd. P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201
Carlisle Borough Cumberland County	PAR10H269	S & A Custom Built Homes, Inc. The Highlands, Phase 3 Section 2 5709 Linglestown Rd. Harrisburg, PA 17112	UNT to Conodoguinet Creek WWF	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812
Upper Allen Township Cumberland County	PAG2002103033	Arnold/Knaub Partners Meadowview Estates, Section II 1929 Fisher Road Mechanicsburg, PA 17055	UNT to Yellow Breeches Creek CWF	Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812
Lower Paxton Township Dauphin County	PAG2002203029	HC Partners 2256 S. Queen St. York, PA 17402-4631	Beaver Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17018 (717) 921-8100
Huntingdon Hospitality, 4th St., North of US 22, Huntingdon, PA 16652 Huntingdon Borough and County	PAG2003103009	Arthur Bushyeager Huntingdon Hospitality, Inc. P. O. Box 265 Clarion, PA 16214	Crooked Creek WWF Juniata River WWF	Huntingdon County Conservation District R. D. 1, Box 7C, Rt. 26 S. Huntingdon, PA 16652 (814) 627-1627
Huntingdon Storage and Distribution, L. P. Fairgrounds Road Huntingdon, PA 16652 Smithfield Township Huntingdon County	PAG2003103006	John L. Radionoff Huntingdon Storage and Distribution, L. P. 5506 Sixth Ave. Rear Altoona, PA 16601	Crooked Creek WWF	Huntingdon County Conservation District R. D. 1, Box 7C, Rt. 26 S. Huntingdon, PA 16652 (814) 627-1627
East Lampeter Township Lancaster County	PAG2003603062	Curt Stumpf 1974 Lincoln Hwy. East Lancaster, PA 17602	UNT Mill Creek WWF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601-3149 (717) 299-5361
East Lampeter Township Lancaster County	PAG2003603075	David S. Esh 2316 Norman Rd. Lancaster, PA 17601	Mill Creek CWF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601-3149 (717) 299-5361
Penn Township Lancaster County	PAG2003603079	Nelson Wenger 1805 Swamp Bridge Rd. Stevens, PA 17678	UNT Chiques Creek WWF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601-3149 (717) 299-5361
Mount Joy Township Lancaster County	PAG2003603084	Jon Brandt 1444 Cloverleaf Rd. Mount Joy, PA 17552	UNT Little Chickies Creek WWF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601-3149 (717) 299-5361

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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>
East Lampeter Township Lancaster County	PAG2003603100	Pankaj M. Patel 2069 N. Reading Rd. Denver, PA 17535	UNT Mill Creek WWF	Lancaster County Conservation District 1383 Arcadia Rd., Rm. 6 Lancaster, PA 17601-3149 (717) 299-5361
Rye Township Perry County	005003010	Sherwood Acres II Michael Vishnesky P. O. Box 129 Marysville, PA 17053	UNT Fishing Creek	Perry County Conservation District P. O. Box 36 New Bloomfield, PA 17068
Centre County Ferguson Township	PAG2001403020	Russian Church of Christ 3645 W. College Ave. State College, PA 16801	Slab Cabin Run CWF	Centre County Conservation 414 Holmes Ave., Suite 4 Bellefonte, PA 16823 (814) 355-6817
Clearfield County Bradford Township	PAG2001703011	Department of Transportation Engineering Dist. 2-0 1924-30 Daisy St. Clearfield, PA 16830	Roaring Run CWF	Clearfield County Conservation District 650 Leonard St. Clearfield, PA 16830 (814) 765-2629
Clearfield County Lawrence Township	PAG2001703015	Hyde Wesleyan Church Box 264 Hyde, PA 16843	West Branch Susquehanna River WWF	Clearfield County Conservation District 650 Leonard St. Clearfield, PA 16830 (814) 765-2629
Clinton County Wayne Township	PAG2001803005	First Quality Products P. O. Box 270 McElhattan, PA 17748	UNT West Branch Susquehanna River CWF	Clinton County Conservation District 45 Cooperation Lane Mill Hall, PA 17751 (570) 726-3798x5
Montour County Liberty Township	PAG200470309	Starrett and Marlene Raup 636 Smith Rd. Danville, PA 17821	Chillisquaque Creek WWF	Montour County Conservation District 112 Woodbine Lane Suite 2 Danville, PA 17821 (570) 271-1140
Allegheny County Harmar Township	PAR10A371	The Woodmont Corp. 2100 West Seventh St. Fort Worth, TX 76107-2306	Deer Creek WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County South Park Township	PAG2000203037	County of Allegheny 501 County Office Bldg. 542 Forbes Avenue Pittsburgh, PA 15219	Piney Fork Creek TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County South Park Township	PAG2000203041	Charles W. Cline 604 Hidden Oak Drive Clairton, PA 15025	Lick Run TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County Robinson Township	PAG2000203042	Pleasant View Condominiums, Inc. 100 Wingate Drive Pittsburgh, PA 15205	Little Chartiers Creek WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Elizabeth Township	PAG2000203050	TICO Electric Liquidating Trust 1005 August Way Pittsburgh, PA 15236 True Line Corporation 470 Frankstown Road Monroeville, PA 15146	Youghioghney River WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Richland Township	PAG2000203057	Cleveland-Richland Partners, LP 3637 Green Road Beechwood, OH 44122	Deer Creek CWF	Allegheny County Conservation District (412) 241-7645

<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>
Allegheny County Collier Township	PAG2000203063	Greicon Construction & Development Co., LLC 8 Alice Street Pittsburgh, PA 15205	UNT to Robinson Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Pine Township	PAG2000203070	Oakview Development Wexford Prof. Bldg. No. 1 11676 Perry Highway Wexford, PA 15090	Brush Creek WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Municipality of Monroeville	PAG2000203080	Beasley Land Management Co., Inc. 140 Misty Meadows Lane Murrysville, PA 15668	Turtle Creek TSF	Allegheny County Conservation District (412) 241-7645
Indiana County White Township	PAG003203008	Joe Patterson Indian Springs Mulch 1150 Indian Springs Road Indiana, PA 15701	Tributary to McCarthy Run which flows into Stoney Run CWF	Indiana County Conservation District (724) 463-8547
Butler County Butler Township	PAG2001003024	Wal-Mart Store, Inc. 2001 South East 10th St. Bentonville AR 72716-0550	Tributary to Connoquenessing Creek CWF	Butler County Conservation District (724) 284-5270
Butler County Cranberry Township	PAG2001003026	Cranberry Township 2525 Rochester Township Cranberry Township, PA 16066	Tributary to Wolfe Run WWF	Butler County Conservation District (724) 284-5270
Crawford County Vernon Township	PAG2002003011	James P. Mcbrier 3939 W. Ridge Rd. Erie, PA 16506	French Creek WWF	Crawford County Conservation District (814) 724-1793
Elk County Ridgway Borough	PAG20024003007	CDR Pigments & Dispersions Flint Ink NA Corp. 4600 Arrowhead Drive Ann Arbor, MI 48105-2773	Elk Creek CWF	Elk County Conservation District (814) 776-5373
Lawrence County Wayne Township	PAG2093703007	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	UNT to Duck Run to Connoquenessing Creek WWF	Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 (814) 472-1800
Jefferson County Gaskill Township	PAI093303002	Bureau of Abandoned Mine Reclamation Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119	Clover Run HQ-CWF	Cambria Office 286 Industrial Park Road Ebensburg, PA 15931-4119 (814) 472-1800

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>
Archbald Borough Lackawanna County	PAR112215	Lockheed Martin JFK Drive Archbald, PA 18403	Swale to Lackawanna River	NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511
Wright Township Luzerne County	PAR232218	New Dana Perfumes Corp. 470 Oakhill Road Crestwood Industrial Park Mountaintop, PA 18707	Unnamed tributary to Big Wapwallopen Creek	NERO Water Management Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511

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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>
North Union Township Fayette County	PAR806103	United Defense 300 University Drive Lemont Furnace, PA 15456	UNT of Gist Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
City of Meadville Crawford County	PAR608305	Lincoln Metal Processing Company, Inc. P. O. Box 8127 Erie, PA 16505	French Creek	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
City of Hermitage Mercer County	PAR808302	G. D. Leasing of Indiana, Inc. P. O. Box 6105 Youngstown, OH 44501	Shenango River	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-4

<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>
Sewickley Township Westmoreland County	PAG046103	Bruce W. Huber Jr. 19 Greenhills Road Hermine, PA 15637	Tributary to Little Sewickley Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
New Sewickley Township Beaver County	PAG046160	Daniel B. Musgrave 136 Brewer Road Freedom, PA 15042	Tributary to Snake Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Adams Township Butler County	PAG048922	Ronald J. Shemela 139 Hammond Road Mars, PA 16046	Unnamed tributary to Glade Run	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
West Salem Township Mercer County	PAG048559	James Carlson 340 Vernon Road Greenville, PA 16125	Tributary to Big Run	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-5

<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>
East Norriton Township Montgomery County	PAG050042	Exxon Mobil Corporation 1121 North Bethlehem Pike Suite 60, No. 312 Spring House, PA 19477	Stony Creek TSF	Southeast Region Lee Park, Suite 6010 Conshohocken, PA 19428 (610) 832-6130

General Permit Type—PAG-8

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
North Cornwall and West Cornwall Townships Lebanon County	PAG080004 PAG080007	Mobile Dredging and Pumping Co. 3100 Bethel Rd. Chester, PA 19013	Patrick Arnold Farm North Cornwall and West Cornwall Townships Lebanon County	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>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
Antrim Township Franklin County	PAG080003 PAG080006 PAG080008 PAG080009 PAG082201 PAG082203 PAG083501 PAG083502 PAG083506 PAG083515 PAG083517 PAG083518 PAG083522 PAG083540 PAG083542 PAG083547 PAG083551 PAG083825 PAG089903 PAG089904 PAG089905	Synagro Mid Atlantic 1605 Dooley Road P. O. Box B Whiteford MD 21160	Joe Shearer Farm Antrim Township Franklin County	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Lower Frankford Township Cumberland County	PAG083570	Borough of Carlisle 53 West South Street Carlisle, PA 17013	Ronald Hoover Farm No. 1 Lower Frankford Township Cumberland County	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Upper Frankford Township Cumberland County	PAG083570	Borough of Carlisle 53 West South Street Carlisle, PA 17013	Ronald Hoover Farm No. 2 Lower Frankford Township Cumberland County	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

PUBLIC WATER SUPPLY (PWS) 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.

SAFE DRINKING WATER

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

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

Operations Permit 6830-MA3 issued to **Brookville Municipal Authority**, Three Jefferson Court, Brookville, PA 15825, Brookville Borough, **Clarion County** on September 17, 2003.

Operations Permit 6188501-MA2 issued to **Barkeyville Municipal Authority**, 1610 Barkeyville Road, Grove City, PA 16127-7904, Barkeyville Borough, **Venango County** on September 19, 2003.

Operations Permit 1002505 issued to **Marc A. Fort, Stoneworth LLC**, 887 New Castle Road, Slippery Rock, PA 16057, Worth Township, **Butler County** on September 19, 2003.

Operations Permit 4389501-MA2 issued to **Imperial Development Co./Glen Lake Estates MHP**, Pine Township, **Mercer County** on September 19, 2003.

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

Permit No. 0603509 MA, Minor Amendment, Public Water Supply.

Applicant **Birdsboro Municipal Authority**
Municipality Birdsboro Borough
County **Berks**
Type of Facility Upgrade of pump station by replacing two 7.5 HP centrifugal water pumps with two new 25 HP centrifugal water pumps. This will increase capacity of existing pumping station from 155 gpm to 320 gpm.
Consulting Engineer Russell M. Smith, P. E.
Spotts Stevens and McCoy Inc.
345 North Wyomissing Boulevard
Reading, PA 19610-0307
Permit to Construct September 22, 2003
Issued

Operations Permit issued to **United Water Pennsylvania**, 7220015, Susquehanna Township, **Dauphin County** on September 22, 2003, for the operation of facilities approved under Construction Permit No. 2202508 MA.

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

Permit No. 4496031—Amendment 13—Operation. Public Water Supply.

Applicant **Tulpehocken Spring Water Co., Inc.**
Joseph V. Malloy, President
R. R. 1, Box 114T
Northumberland, PA 17857
Township Point
County **Northumberland**
Type of Facility PWS—This permit is for 13 new bottled water labels.
Permit to Operate September 18, 2003
Issued

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

Permit No. 0203501, Public Water Supply.

Applicant **Municipal Authority of the Borough of Oakmont**
P. O. Box 73
721 Allegheny Avenue
Oakmont, PA 15139-1901
Borough or Township Oakmont Borough
County **Allegheny**
Type of Facility Modifications to the Hulton Water Treatment Plant
Consulting Engineer NIRA Consulting Engineers
Permit to Construct September 11, 2003
Issued

Operations Permit issued to **NOVA Chemicals, Inc.**, 400 Frankfort Road, Monaca, PA 15061-2298, PWS ID 5040300, Potter Township, **Beaver County** on September 15, 2003, for the designation of water quality performance parameters.

Operations Permit issued to **Wilksburg-Penn Joint Water Authority**, 2200 Robinson Boulevard, Pittsburgh, PA 15221, PWS ID 5040056, Wilksburg Borough, **Allegheny County** on September 15, 2003, for the designation of water quality performance parameters.

WATER ALLOCATIONS

Actions taken on applications received under the Act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth.

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

WA2-778A, Water Allocations, Fawn-Frazer Joint Water Authority, 326 Donnellville Road, Natrona Heights, PA 15065, Natrona Heights, **Allegheny County**. The right to purchase 500,000 gpd as a daily average from Harrison Township Water Authority, Allegheny County and a combined total of 877,000 gpd as a daily average from the Harrison Township Water Authority, Springdale Borough and Brackenridge Borough, Allegheny County.

WA2-778B, Water Allocations, Fawn-Frazer Joint Water Authority, 326 Donnellville Road, Natrona Heights, PA 15065, Natrona Heights, **Allegheny County**. The right to purchase, during an emergency, 360,000 GPD, as a peak day, from Springdale Borough in Allegheny County and a combined total of 877,000 gpd as a daily average from the Harrison Township Water Authority, Springdale Borough and Brackenridge Borough, Allegheny County.

WA2-778C, Water Allocations, Fawn-Frazer Joint Water Authority, 326 Donnellville Road, Natrona Heights, PA 15065, Natrona Heights, **Allegheny County**. The right to purchase 483,000 gpd as a peak month from Brackenridge Borough, Allegheny County and a combined total of 877,000 gpd as a daily average from the Harrison Township Water Authority, Springdale Borough and Brackenridge Borough, Allegheny County.

SEWAGE FACILITIES ACT PLAN APPROVAL

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

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Clifford Township	R. R. 1, Box 71S Uniondale, PA 18470	Susquehanna

Plan Description: The approved plan provides for construction of a centralized sewage collection system/low pressure sewer system to serve the Crystal Lake and Dundaff areas and on-lot sewage disposal system management program to serve the Villages of Clifford, Royal and West Clifford and Lake Idlewild, Elkview Lake and Coterell Lake. The proposed sewer system will be owned by Clifford Township and will be operated and maintained by the Greenfield Township Sewer Authority (GTSA). The proposed sewer system will connect with GTSA's system at the Clifford/Greenfield Township line. Wastewater from the proposed sewer system will be treated at GTSA's existing wastewater treatment plant in Greenfield Township, Lackawanna County. The Department's review of

the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

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>
Lower Windsor Township	111 Walnut Valley Court Wrightsville, PA 17368	York
Wrightsville Borough	129 Second Street P. O. Box 187 Wrightsville, PA 17368	
Hellam Township	44 Walnut Springs Road York, PA 17406	

Plan Description: The Hill at Lauxmont and The Wrightsville Borough Sewer Extension—A3-67937-189-3, A3-67968-021-3 and A3-68929-189-3. The approved plan consists of a 59-lot single-family residential subdivision on 79 acres with total proposed sewage flows of 23,600 gpd tributary to the Wrightsville Borough Wastewater Treatment Plant. Conveyance of the sewage flows to the Borough's wastewater treatment plant will be made possible through the use of a pump station and sanitary sewer lines that will extend through Hellam Township along Long Level Road to a point of connection in Wrightsville Borough. This project will also include seven sewer connections to existing developed lots within the Borough of Wrightsville with ultimate sewage disposal at the Borough's wastewater treatment plant. The Hill at Lauxmont is on the east side of Hiltz Road, the west side of Long Level Road and the north side of Knights View Road in Lower Windsor Township, York County. The proposed Wrightsville Borough sanitary sewer extension is on the east side of South Front Street, just south of its intersection with Kreutz Creek. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Mahoning Township Supervisors	R. D. 1, Box 110A New Bethlehem, PA 16240	Armstrong

Plan Description: The approved plan provides for the construction of a .09 MGD treatment plant and a collection and conveyance system to serve the Village of Distant. The discharge shall be to an unnamed tributary to Redbank Creek. The location of the new sewage treatment plant discharge is approximately at the coordinates of 40° 58' 10" Latitude and 79° 21' 45" Longitude. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Fairfield Township	R. D. 1, Box 231-A Bolivar, PA 15923	Westmoreland

Plan Description: The approved plan provides for the temporary use of a holding tank until the permits for a small flow sewage treatment facility are obtained. Then the applicant will construct a 500-gallon per day single residence sewage treatment plant to serve an existing structure owned by Father Simeon Marro. The property is along Bailey Road (T847), approximately 2,400 feet west of the intersection of Canfield Road (T448) and Bailey Road in Fairfield Township, Westmoreland County. The proposed discharge point is to Hypocrite Creek (TSF). 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 as appropriate.

**BIOSOLIDS INDIVIDUAL PERMITS
(PABIG, SSN AND PABIS)**

The Department of Environmental Protection has taken the following actions on the previously received individual permit applications for the land application of treated sewage sludge (biosolids).

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.

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

PABIS 3501. Municipal Authority of the Borough of Bedford, 244 West Penn Street, Bedford, PA 15522, Colerain Township, Bedford County. Approved to beneficially use their biosolids on the Michael Stoltzfus Farm in Colerain Township, Bedford County.

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 a final report, contact the environmental cleanup program manager in the Department regional office after 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. 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.

Former Penn Fuel Gas Manufactured Gas Plant—Slatington Site, Borough of Slatington, **Lehigh County**. RETEC Group, Inc., 3040 William Pitt Way, Pittsburgh, PA 15238 has submitted a Risk Assessment Report (on behalf of PFG Gas, Inc., a subsidiary of PPL Gas Utilities Corporation, Two North Ninth Street, Allentown, PA 18101) concerning the risk assessment of the subject site for residual contaminants in soil, groundwater and adjacent surface water found or suspected to have been contaminated with metals, polycyclic aromatic hydrocarbons, phenolics, cyanides and BTEX compounds related to historic manufactured gas plant operations. The report was submitted in partial fulfillment of a combination of both the Statewide Health and Site-Specific Standards.

Former Dalton Shell Station, City of Bethlehem, **Northampton County**. Matthew C. Blanchard, Project Manager, Earth Tech, Inc., 2 Market Plaza Way, Mechanicsburg, PA 17055 has submitted a Final Report (on behalf of CRL Holdings, L. P., c/o Apple Hill Business Advisors, Inc., 33 North 2nd Street, Harrisburg, PA 17101) concerning the remediation of soils found or suspected to have been contaminated with naphthalene and other no. 2 fuel oil constituents. The report was submitted to demonstrate attainment of the Residential Statewide Health Standard.

Department of Transportation, Pike County Maintenance Facility, Milford Borough, **Pike County**. Eric

B. Schmidley, P. G., Apex Environmental, Inc., 269 Great Valley Parkway, Malvern, PA 19355 has submitted a Final Report (on behalf of Department of Transportation, 2140 Herr Street, Harrisburg, PA 17103-1900) concerning the remediation of soils found to be contaminated by arsenic. The report was submitted to demonstrate attainment of the residential Statewide Health Standard. A Notice of Intent to Remediate was simultaneously submitted.

Cherry Valley—Domotor Location (Pocono Wildlife Rehab Center, 361 Cherry Drive), Hamilton Township, **Monroe County**. David A. Everitt, III, Senior Environmental Scientist, MEA, Inc., 1365 Ackermanville Road, Bangor, PA 18013 has submitted a Final Report (on behalf of The Nature Conservancy, Hauser Nature Center, P. O. Box 55, Long Pond Road, Long Pond, PA 18334) concerning the remediation of soils found or suspected to have been contaminated with no. 2 fuel oil. The report was submitted to demonstrate attainment of the Statewide Health Standard. A Notice of Intent to Remediate was simultaneously submitted.

PPL—Providence Substation (Theodore Street and North Lincoln Avenue), City of Scranton, **Lackawanna County**. PPL Electric Utilities, 2 North Ninth Street, Allentown, PA 18101 has submitted a Final Report concerning the remediation of site soils found or suspected to be contaminated with polychlorinated biphenyls (PCBs). The report was submitted to demonstrate attainment of the Statewide Health Standard.

PPL—Peckville Substation (N. Main Street), Archbald Borough, **Lackawanna County**. PPL Electric Utilities, 2 North Ninth Street, Allentown, PA 18101 has submitted a Final Report concerning the remediation of site soils found or suspected to be contaminated with PCBs. The report was submitted to demonstrate attainment of the Statewide Health Standard.

Meade Residence, Middle Smithfield Township, **Monroe County**. Ronald S. Carvalho, Principal, FT Associates, LLC, 12 Marshall Street, Unit 8B, Irvington, NJ 07111 has submitted a Final Report (on behalf of William Meade, Mountain Top Road, East Stroudsburg, PA 18301) concerning the remediation of soils found or suspected to have been contaminated with no. 2 fuel oil. The report was submitted to demonstrate attainment of the Statewide Health Standard. A Notice of Intent to Remediate was simultaneously submitted.

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 and the administration 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 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 environ-

mental 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 after 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. 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.

Former Foster Wheeler Energy Corporation Facility, Wright Township, Luzerne County. American Geosciences, Inc., 3925 Reed Boulevard, Suite 400, Murrysville, PA 15668-1848 submitted a Baseline Environmental Report (on behalf of Wabtec, 1001 Air Brake Avenue, Wilmerding, PA 15148) concerning the characterization of site soil and groundwater that was found or suspected to have been contaminated with solvents. The report was submitted in partial fulfillment of the Special Industrial Area Standard and was approved on September 8, 2003.

Fox Auto Body Property, Waymart Borough, Wayne County. Rich Sarmonis, Project Manager, Leeward Construction, R. R. 6, Box 6825, Honesdale, PA 18431 submitted a Final Report concerning the remediation of soils that were accidentally contaminated by an overflow delivery of diesel fuel. The report was submitted within 90

days of the release. The report demonstrated attainment of the Statewide Health Standard and was approved on September 11, 2003.

HAZARDOUS WASTE TRANSPORTER LICENSE

Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Hazardous Waste Transporter License Renewed

Clean Streams, Inc., P. O. Box 3059, Munster, IN 46321. License No. PA-AH 0441. Effective August 29, 2003.

Environmental Products and Services, Inc., P. O. Box 315, Syracuse, NY 13209. License No. PA-AH 0327. Effective September 12, 2003.

Fred Pugliese d/b/a Lainfield Motor Service, 724 West Route 126, Plainfield, IL 60544. License No. PA-AH 0573. Effective September 17, 2003.

Heritage Transport, LLC, 7901 West Morris Street, Indianapolis, IN 46231. License No. PA-AH 0200. Effective August 21, 2003.

Miller Environmental Group, Inc., 528 Edwards Avenue, Calverton, NY 11933. License No. PA-AH 0501. Effective August 20, 2003.

Onyx Environmental Services, LLC, 1 Eden Lane, Flanders, NJ 07836. License No. PA-AH 0500. Effective September 9, 2003.

Philip Transportation and Remediation, Inc., P. O. Box 150, San Martin, CA 95046. License No. PA-AH 0395. Effective September 3, 2003.

Robbie D. Wood, Inc., P. O. Box 125, Dolomite, AL 35061. License No. PA-AH 0504. Effective August 21, 2003.

RSO, Inc., P. O. Box 1450, Laurel, MD 20725-1450. License No. PA-AH 0578. Effective September 19, 2003.

Ryan Environmental, Inc., Route 4, Box 260, Bridgeport, WV 26330. License No. PA-AH 0646. Effective September 9, 2003.

Safety-Kleen Systems, Inc., 5400 Legacy Drive, Cluster II Building 3, Plano, TX 75024. License No. PA-AH 0172. Effective August 25, 2003.

Set Environmental, Inc., 450 Sumac Road, Wheeling, IL 60090. License NO. PA-AH S226. Effective August 27, 2003.

SMP, Inc., 402 Route 519, Phillipsburg, NJ 08865. License No. PA-AH S221. Effective September 19, 2003.

Vexor Technology, Inc., 955 West Smith Road, Medina, OH 44256. License No. PA-AH 0685. Effective August 28, 2003.

Hazardous Waste Transporter License Voluntarily Terminated

Eaglebrook Transport of Ohio, Inc., 1431 Chardon Road, Euclid, OH 44117. License No. PA-AH 0369. Effective September 4, 2003.

INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE

Actions on applications for Infectious and Chemotherapeutic Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and the act of July 13, 1988 (P. L. 525, No. 93) (35 P. S. §§ 6019.1—6019.6) and regulations to transport infectious and chemotherapeutic waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.

Infectious and Chemotherapeutic Waste Transporter License Renewed

Altoona Hospital, 620 Howard Avenue, Altoona, PA 16601, License No. PA-HC 0124. Effective September 3, 2003.

Bestrans, Inc., 931 Red Toad Road, North East, MD 21901, License No. PA-HC 0209. Effective September 3, 2003.

Infectious and Chemotherapeutic Waste Transporter License Expired

Medwaste Management, Inc. of New England, P. O. Box 1281, Cromwell, CT 06416, License No. PA-HC 0198. Effective August 31, 2003.

RESIDUAL WASTE GENERAL PERMITS

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 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 No. WMGR089. LWB Refractories Co., 320 North Baker Road, York, PA 17405-1189. The general permit authorizes the 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 general permit was issued by Central Office on September 19, 2003.

Persons interested in reviewing the general permit may contact 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.

REGISTRATION FOR GENERAL PERMIT—RESIDUAL WASTE

Registration Approved under the Solid Waste Management Act, the Residual Waste Planning, Recycling and Waste Reduction Act and residual waste regulations for a general permit to operate residual waste processing facilities and/or 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 No. WMGR090R019. Swatara Township Board of Commissioners, 599 Eisenhower Boulevard, Harrisburg, PA 17111. General Permit No. WMGR090 authorizes the processing and beneficial use of reclaimed asphalt pavement (RAP) materials as a roadway construction material. The Central Office approved this registration for coverage under the general permit on September 19, 2003.

General Permit No. WMGR090R020. Keystone Lime Co., Inc., P. O. Box 278, Springs, PA 15562. General Permit No. WMGR090 authorizes the processing and beneficial use of RAP materials as a roadway construction material. The Central Office approved this registration for coverage under the general permit on September 19, 2003.

Persons interested in obtaining more information or obtaining a copy of one of the previous general permits may contact 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. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

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.

Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. 101649. Phoenix Resources Inc., 38, 248 Main St., Blossburg, PA 16912-1100 in Duncan Township, **Tioga County** for Phoenix Resources C/D Landfill. A permit modification for the expansion of the landfill was issued by the Williamsport Regional Office on September 11, 2003.

Permit No. 101217. Casella Waste Mgmt. Inc., 16 State Street, Montpelier, VT 05602, in Delmar Township, **Tioga County**. The permit modification, for the implementation of a Radiation Protection Action Plan, was issued by the Williamsport Regional Office on September 15, 2003.

Permit No. 101125. County of Lycoming. Lycoming County Courthouse, 48 West Third Street, Williamsport, PA 17701-6536, located in Williamsport City, **Lycoming County**. A permit modification for the implementation of a Radiation Protection Action Plan was issued by the Williamsport Regional Office on September 5, 2003.

Persons interested in reviewing one of the previous permits may contact John C. Hamilton, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

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

Permit No. 101187. County Landfill. 344 Wally Run Drive, P. O. Box 237, Leeper, PA 16233-4128, Farmington Township, **Clarion County**. Application to implement Radiation Protection Plan. This was separated from an earlier application, which was issued on April 29, 2003. The Radiation Protection Plan permit was issued by the Northwest Regional Office on September 17, 2003.

Permit withdrawn under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act and regulations to operate solid waste processing or disposal area or site.

Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. 101252. Waste Management of Central PA. 4300 Industrial Park Road, Camp Hill, PA 17011-5749, for the Picture Rocks Transfer Station in Picture Rocks Borough, **Lycoming County**. The application for the Radiation Protection and Action Plan was withdrawn as of July 21, 2003.

Persons interested in reviewing the permit may contact John C. Hamilton, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

Permit renewal issued under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act and regulations to operate solid waste processing or disposal area or site.

Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.

Permit No. 101217. Casella Waste Management Inc., 16 State Street, Montpelier, VT 05602, Delmar Township, **Tioga County**. A permit renewal was issued by the Williamsport Regional Office on September 16, 2003.

Persons interested in reviewing the permit may contact John C. Hamilton, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

MUNICIPAL AND RESIDUAL WASTE TRANSPORTER AUTHORIZATION

Issued applications for Municipal and Residual Waste Transporter Interim Authorization received under the Waste Transportation Safety Act (27 Pa.C.S. §§ 6201—6209) and regulations to transport municipal or residual waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472.

Dura Seal Asphalt Paving & Construction, P. O. Box 2603, Weirton, WV 26062. Authorization No. WH5285. Effective September 15, 2003.

Azzie Trucking, 52 Hilltop Road, Newfoundland, NJ 07435. Authorization No. WH5286. Effective September 15, 2003.

Stephen Dyne Excavating, 3913 Route 6 West, P. O. Box 733, Kane, PA 16735. Authorization No. WH5221. Effective September 16, 2003.

Tri State Express Transportation d/b/a APO Trucking, 210 Elizabeth St., Bordertown, NJ 08505. Authorization No. WH5287. Effective September 16, 2003.

Poborsky Excavating, 123 Wood St., Windber, PA 15963-8282. Authorization No. WH5302. Effective September 16, 2003.

J & E Trucking Enterprises, 10 Oak Lane, Kulpmont, PA 17834. Authorization No. WH5284. Effective September 16, 2003.

Meridian Precision Inc., 80 Roberts Road, P. O. Box 206, Pine Grove, PA 17963-0206. Authorization No. WH5289. Effective September 16, 2003.

Knibiehly Trucking, P. O. Box 412, Blakeslee, PA 18610. Authorization No. WH5290. Effective September 16, 2003.

Uver Soto, Apt. 28B, 1227 E. Front St., Plainfield, NJ 07062. Authorization No. WH5291. Effective September 16, 2003.

Environmental Services Inc., 90 Brookfield St., South Windsor, CT 06074. Authorization No. WH5292. Effective September 16, 2003.

John O. McGill, R. R. 3 Box 414, Alverton, PA 15612. Authorization No. WH2540. Effective September 18, 2003.

John D. McNally, R. R. 3 Box 383A, Alverton, PA 15612. Authorization No. WH4746. Effective September 18, 2003.

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.

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

GP1-28-03006: Cumberland Valley Cooperative Association (908 Mount Rock Road, Shippensburg, PA 17257) on September 17, 2003, authorized to operate a small gas and no. 2 oil fired combustion unit under GP1 in Southampton Township, **Franklin County**.

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

62-172: Glenn O. Hawbaker, Inc.—Brokenstraw Gravel (Route 6, Pittsfield, PA 16340) on September 11, 2003, to operate their mineral processing plant in Pittsfield Township, **Warren County**.

10-284: Seneca Landfill (421 Hartman Road, Evans City, PA 16033) on September 15, 2003, to operate a rock crusher in Jackson Township, **Butler County**.

Plan Approvals Issued under the Air Pollution Control Act 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.

09-0110C: Riverside Construction Materials, Inc. (7900 North Radcliff Street, Bristol, PA 19007) on September 22, 2003, to operate a pneumatic ship unloader in Bristol Township, **Bucks County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act 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.

23-0068: Cremation Specialists (43 East Baltimore Avenue, Media, PA 19063) on September 17, 2003, to operate a cremator in Media Borough, **Delaware County**.

46-0003A: Stroehmann Bakeries, Inc. (1810 East Ridge Pike, Norristown, PA 19404) on September 23, 2003, to operate a catalytic oxidizer in Plymouth Township, **Montgomery County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.

63-307-027: American Iron Oxide Production Co. (Foster Plaza, No. 7, 661 Andersen Drive, Pittsburgh, PA 15220) on September 12, 2003, to install an iron oxide production plant in Allenport Borough, **Washington County**. This plan approval was extended.

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

16-035A: Commodore Corp. (Route 66 North, Shippenville, PA 16254) on July 31, 2003, to operate a manufactured housing facility in Clarion, **Clarion County**.

Operating Permits for non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

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

01-03012: Inland Container Corp. (P. O. Box 808, Biglerville, PA 17307) on September 16, 2003, to operate a corrugated box manufacturing facility in the Borough of Biglerville, **Adams County**.

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

25-00994: Advanced Mold Technologies, Inc. (2004 West 16th Street, Erie, PA 16505) on September 16, 2003, for a Natural Minor Operating Permit to operate chromium electroplating and other electroplating operations in Erie City, **Erie County**.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

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

36-05101: Highway Materials, Inc. (1750 Walton Road, Blue Bell, PA 19422) on September 16, 2003, to operate their Lititz Plant in Warwick Township, **Lancaster County**. The State-only Operating Permit was administratively amended to incorporate Plan Approval 36-05101A into the operating permit. This is Revision No. 1 of the operating permit.

67-05080: York Building Products Co., Inc. (P. O. Box 1708, York, PA 17405) on September 17, 2003, to operate their Thomasville Quarry in Jackson Township, **York County**. The State-only Operating Permit was administratively amended to correct conditions in the operating permit. This is Revision No. 1 of the operating permit.

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

56-00181: Southern Alleghenies Landfill, Inc. (843 Miller Picking Road, Davidsville, PA 15928) to revise the operating permit for their landfill in Conemaugh Township, **Somerset County**. The Department has revised the Title V Operating Permit to incorporate the following changes:

1. On Page 35: The equation was missing from Condition No. 011. This was added manually as the system language is in error.
2. On Page 80: The language was edited to state that there is no alternate operating scenario for the leachate evaporator system.
3. On Page 86: The quantities and description of equipment were changed and soil screening was added to the list of insignificant activities.

4. The new responsible official for the facility is Darrell G. Klink. The new permit contact person is Brian Stewart.

56-00181: Southern Alleghenies Landfill Inc. (843 Miller Picking Road, Davidsville, PA 15928) to modify the operating permit for their landfill in Conemaugh Township, **Somerset County**. The Department has approved Southern Alleghenies' request to modify their Title V Operating Permit to include an alternate operating scenario for their Soil Processing Plant to permit operation of crushing equipment on an as needed basis. Applicable requirements have been added to the permit and include the provisions of 40 CFR Part 60, Subpart OOO, Standards for Performance for Non-metallic Mineral Processing Plants and work practice standards for the water spray control device.

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

V95-078: Kraft-Nabisco Biscuit Division—Philadelphia Bakery (12000 East Roosevelt Boulevard, Philadelphia, PA 19116) on September 22, 2003, administratively amended to change contact information. The Title V operating permit was originally issued on March 3, 2000.

Operating Permits Denied, Terminated, Suspended or Revoked under the Air Pollution Control Act and 25 Pa. Code §§ 127.431 and 127.461.

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

23-00003: ConocoPhillips, Co. (4101 Post Road, Trainer, PA 19061) on September 16, 2003, revoked Facility Title V Operating Permit in Trainer Borough, **Delaware 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); 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 Permit Actions

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

54830105R4. Joe Kuperavage Coal Company (916 Park Avenue, Port Carbon, PA 17965), renewal of an anthracite surface mine operation in Schuylkill Township,

Schuylkill County affecting 412.66 acres, receiving stream: none. Application received May 5, 2003. Renewal issued September 15, 2003.

California District Mining Office: 25 Technology Drive, California Technology Park, Coal Center, PA 15423, (724) 769-1100.

30743711. NPDES Permit No. PA0033511, RAG Cumberland Resources, LP (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to revise the permit for the Cumberland Coal Refuse Disposal Facility No. 1 in Whiteley Township, **Greene County**, to increase the height of the slurry pond embankment and final reclamation plan, no additional discharges. Permit issued September 16, 2003.

30841316. NPDES Permit No. PA0213535, Consol Pennsylvania Coal Company (P. O. Box 355, 172 Route 519, Eighty Four, PA 15330), to revise the permit for the Bailey Mine in Richhill Township, **Greene County**, to extend the 20A Longwall Panel, no additional discharges. Permit issued September 16, 2003.

65840701. NPDES Permit No. PA0214809, Crows Nest Synfuels, LP (113 Elm Street, Suite 300, Cohasset, MA 02025), to revise the permit for the Crows Nest Wash Plant in Hempfield Township, **Westmoreland County**, for post mining land use, no additional discharges. Permit issued September 17, 2003.

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

32020104 and NPDES Permit No. PA0249033. Thomas J. Smith, Inc., R. D. 1, Box 260D, Shelocta, PA 15774, commencement, operation and restoration of a bituminous surface mine and for discharge of treated mine drainage in South Mahoning Township, **Indiana County**, affecting 78.5 acres. Receiving streams: unnamed tributary to Little Mahoning Creek (HQ-CWF). There are no potable water supply intakes within 10 miles downstream. Application received May 22, 2002. Permit issued September 16, 2003.

56803020 and NPDES Permit No. PA0121177. Action Mining, Inc., 1117 Shaw Mines Road, Meyersdale, PA 15552, permit renewal for continued operation of a bituminous surface and coal refuse disposal mine in Summit Township, **Somerset County**, affecting 79.5 acres. Receiving streams: Blue Lick Creek, an unnamed tributary to Blue Lick Creek and an unnamed tributary to the Casselman River (CWF). There are no potable water supply intakes within 10 miles downstream. Application received July 18, 2003. Permit issued September 16, 2003.

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

02020201 and NPDES Permit No. PA0250121. Robindale Energy Services, Inc. (1001 Broad Street, Suite 130, Johnstown, PA 15906). Transfer of permit formerly issued to Coal Valley Sales Corp. for continued operation and reclamation of a bituminous coal surface mine/refuse reprocessing facility in Plum Borough, **Allegheny County**, affecting 157.8 acres. Receiving streams: Little Plum Creek. Application received March 24, 2003. Transfer permit issued September 16, 2003.

Noncoal Permit Actions

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

58030820. Garrett Hannigan (18-B Cosmello Road, New Milford, PA 18834), commencement, operation and restoration of a small bluestone quarry operation in Lenox Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: Martins Creek. Application received June 26, 2003. Permit issued September 15, 2003.

8073SM2A1C5 and NPDES Permit No. PA0595519. Glasgow, Inc. (P. O. Box 1089, Glenside, PA 19038), renewal of NPDES Permit for discharge of treated mine drainage in Upper Merion Township, **Montgomery County**, receiving stream: unnamed tributary to Schuylkill River. Application received July 31, 2003. Renewal issued September 15, 2003.

7974SM2A2C6 and NPDES Permit No. PA0611999. Better Materials Corporation, P. O. Box 196, Penns Park, PA 18943), renewal of NPDES Permit for discharge of treated mine drainage in Nockamixon Township, **Bucks County**, receiving stream: Rapp Creek. Application received July 23, 2003. Renewal issued September 17, 2003.

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

56030801. Durst Stone, 323 Broadway Street, Meyersdale, PA 15552, commencement, operation and restoration of a small noncoal flagstone/fieldstone mine in Greenville Township, **Somerset County**, affecting 2.5 acres. Receiving streams: unnamed tributary to Miller Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received June 17, 2003. Permit issued September 16, 2003.

ACTIONS ON BLASTING ACTIVITY APPLICATIONS

Actions on applications under the Explosives Acts of 1937 and 1957 (73 P.S. §§ 151—161) and 25 Pa. Code § 211.124. 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.

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

09034025. Brubacher Excavating, Inc. (P. O. Box 528, 825 Reading Road, Bowmansville, PA 17507), construction blasting at Regency Manor in Richland Township, **Bucks County** with an expiration date of October 12, 2004. Permit issued September 15, 2003.

67034061. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Daisey Data in Newberry Township, **York County** with an expiration date of April 4, 2004. Permit issued September 15, 2003.

52034024. RT Thompson Construction (R. R. 9 Box 9257, Moscow, PA 18444) and **Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting at Tamiment in Lehman Township, **Pike County** with an expiration date of February 28, 2004. Permit issued September 15, 2003.

45034040. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting at Wyndham Hills Development in Paradise Township, **Monroe County** with an expiration date of September 2, 2004. Permit issues: September 15, 2003.

39034013. Schlouch Inc. (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting at Windsor Woods Housing in Lower Macungie Township,

Lehigh County with an expiration date of October 26, 2005. Permit issued September 15, 2003.

35034017. Latona Trucking (620 South Main Street, Pittston, PA 18640) and **Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting at the Vito property in North Abington Township, **Lackawanna County** with an expiration date of March 3, 2004. Permit issued September 15, 2003.

40034028. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting at Humboldt Industrial Park in Hazle and East Union Townships, **Luzerne and Schuylkill Counties** with an expiration date of August 18, 2004. Permit issued September 16, 2003.

40034029. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting at the Greek Orthodox Monastery in White Haven Borough, **Luzerne County** with an expiration date of August 22, 2004. Permit issued September 16, 2003.

40034030. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting at Yannuzzi, Inc. in Hazle Township, **Luzerne County** with an expiration date of September 1, 2004. Permit issued September 16, 2003.

44034002. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Back Mountain Road in Armagh Township, **Mifflin County** with an expiration date of September 30, 2004. Permit issued September 16, 2003.

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

14034017. Triangle Construction, 1076 E. Bishop Street, Bellefonte, PA 16823, for construction blasting, in Benner Township, **Centre County**, with an expected duration of 120 days. Permit issued September 16, 2003.

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).

Except as otherwise noted, the Department has granted 401 Water Quality Certification certifying that the construction and operation 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 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E39-405A. City of Allentown, Bureau of Parks, 2700 Parkway Boulevard, Allentown, PA 18104-5399, Army Corps of Engineers Philadelphia District.

To construct and maintain a stream restoration project in a 4,135-foot reach of Little Cedar Creek (HQ-CWF). The project is known as the Allentown Municipal Golf Course Little Cedar Creek Rehabilitation Project.

Phase III of the multiphase project includes: (1) restoration of 640 linear feet of Little Cedar Creek with work

consisting of reshaping portions of the channel and stabilizing the banks with a combination of soil reinforcement matting, a cellular soil confinement system, rock armor and vegetation; (2) removing the existing structure known as Bridge No. 11 and constructing and maintaining a golf cart bridge having a span of 30 feet and underclearance of 5.7 feet; (3) removing the existing structure known as Bridge No. 12 and constructing and maintaining a golf cart bridge having a span of 30 feet and underclearance of 4.8 feet; and (4) constructing and maintaining a concrete encased electrical utility line crossing buried 3 feet below streambed elevation.

Phase III begins approximately 1,150 feet upstream of Little Cedar Creek's intersection with SR 1002 (Tilghman Street) (Allentown West, PA Quadrangle N: 17.6 inches; W: 5.3 inches) and extends downstream to SR 1002 (Allentown West, PA Quadrangle N: 17.3 inches; W: 5.0 inches) in the City of Allentown, Lehigh County (Sub-basin: 2C).

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

E12-142. Leonard Bosworth, 784 Sizerville Road, Emporium, PA 15834. Shed installation in Shippen, **Cameron County,** ACOE Baltimore District (Emporium, PA Quadrangle N: 3.3 inches; W: 12.25 inches).

The applicant proposes to install a 12-foot by 24-foot by 9-foot shed on a bed of shale. The proposed project is in the floodway Sinnemahoning Portage Creek (CWF). This permit does not authorize any additional work in the floodway. This permit was issued under section 105.13(e) "Small Projects."

E18-362. Department of Transportation, Engineering District 2-0, 1924-30 Daisy Street, P. O. Box 342, Clearfield, PA 16830. Bridge replacement in Lamar Township, **Clinton County,** ACOE Baltimore District (Mill Hall, PA Quadrangle N: 15.5 inches; W: 10.0 inches).

To remove the existing open grated steel deck bridge and to construct and maintain a 15-foot wide by 6-foot precast concrete box culvert depressed 1 foot below streambed with a clear span along the center line of approximately 28 feet, a clear span normal to the channel of 15 feet and a minimum underclearance of 5 feet on a skew of 32 degrees left with concrete wingwalls and approximately 35 linear feet by 6 feet wide of R-6 rip-rap placed in the inlet and outlet ends of the culvert for scour protection and to construct a temporary coffer dam with 42-inch diameter by approximately 80-foot long stream diversion pipe over an unnamed tributary to Long Run (HQ-CWF). The project is on SR 0477 approximately one mile east of the intersection of SR 477 with SR 0220. The project will not impact wetlands while impacting approximately 200 feet of waterway. Approximately 0.2 acre of earth will be disturbed by the project.

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

E02-1416. Mills Corporation—Pittsburgh Mills LP, 1300 Wilson Boulevard, Suite 400, Arlington, VA 22209. Route 28 Interchange in Frazer and Springdale Townships, Allegheny County, Pittsburgh ACOE District (Latitude: 40° 34' 8"—Longitude: 79° 45' 51") (New Kensington West, PA Quadrangle N: 12.5 inches; W: 6.6 inches). To remove existing structures, to operate and maintain an existing 6-foot by 6-foot concrete box culvert for a distance of 251 feet to reconstruct and maintain approximately 94 feet of existing 6-foot by 6-foot concrete box culvert, to construct and maintain 6-foot by 6-foot concrete box culvert extension for 208 feet to the up-

stream end of the existing 6-foot by 6-foot concrete box culvert, to construct and maintain a 6-foot by 6-foot concrete box culvert for a distance of 624 feet, to construct and maintain a 7.5-foot by 7.5-foot concrete box culvert for a distance of 840 feet, to construct and maintain an energy dissipater for a distance of approximately 86 feet, to construct and maintain various outfall structures in and to Tawney Run (WWF), to relocate and maintain approximately 370 feet of a tributary to Tawney Run in a new 720-foot long channel (WWF), to construct and maintain a 60-inch diameter CMP culvert extension for approximately 40 feet to an existing 60-inch diameter culvert in a tributary to Tawney Run (WWF) and to place and maintain fill in 1.09 acres of wetlands (PSS/PEM). This permit is for a proposed interchange to provide access to the proposed Pittsburgh Mills Development and Tawney Run Road on Rt. 28, 1.5 miles north of the Springdale/Cheswick Interchange, Exit 12. The permittee is required to provide 2.89 acres of replacement wetlands in Emmerling Park, along the right bank side of Deer Creek in Indiana Township, 1.09 acres for the proposed interchange and 1.78 acres for the proposed mall and to provide for stream mitigation they will construct and maintain 11,000 feet of stream habitat improvements within the delayed harvest area of Deer Creek in West Deer Township. Both of these have been permittee under E02-843A-1. This project will also impact approximately 435 feet of tributaries to Tawney Run, which qualifies for authorization under the Department's waiver 105.12(a)(2).

E26-310. Fayette County Commissioners, Court House, 61 East Main Street, Uniontown, PA 15401. County Bridge No. 40 in South Union Township, **Fayette County**, Pittsburgh ACOE District (Latitude: 39° 53' 31"—Longitude: 79° 43' 14") (Uniontown, PA Quadrangle N: 3.1 inches; W: 13.4 inches). To remove County Bridge No. 40 and to construct and maintain a bridge having a normal clear span of 30 feet and an under clearance of 6.9 feet across Redstone Creek (WWF). The bridge is on T-477 (Grant Street) at its intersection with Cinder Road.

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

E20-519, City of Titusville, 107 North Franklin Street, Titusville, PA 16345. Phase II Upgrades Project in City of Titusville, **Crawford County**, ACOE Pittsburgh District (Titusville South, PA Quadrangle N: 22.4 inches; W: 4.3 inches).

The applicant proposes to construct and maintain the following structures associated with the upgrade of the City of Titusville wastewater treatment system in the City of Titusville, Crawford County to increase system efficiency and to reduce combined sewer overflows:

1. To construct and maintain new headworks facilities at the location of the wastewater treatment plant and within the 100-year floodplain of Oil Creek (Titusville South, PA Quadrangle N: 22.4 inches; W: 4.3 inches).
2. To construct and maintain the upgrade of the Bank and Roberts Pump Station within the 100-year floodplain of Oil Creek (Titusville South, PA Quadrangle N: 22.4 inches; W: 6.6 inches).
3. To construct and maintain the upgrade of the Bank and Allen Pump Station within the 100-year floodplain of Oil Creek (Titusville South, PA Quadrangle N: 22.5 inches; W: 5.1 inches).

4. To construct and maintain Stormwater Outfall 020 to Trout Run having a 1.25-foot diameter HDPE plastic pipe (Titusville South, PA Quadrangle N: 22.0 inches; W: 6.7 inches).

5. To remove the existing sewer line and to construct and maintain a 0.67-foot diameter PVC plastic pipe sewer line across Trout Run (Titusville South, PA Quadrangle N: 22.1 inches; W: 6.8 inches).

6. To construct and maintain a 2,400-foot long parallel interceptor sewer from South Brown Street to the wastewater treatment plant and within the 100-year floodplain of Oil Creek (Titusville South, PA Quadrangle N: 22.6 inches; W: 4.6 inches). Project includes the crossing of an unnamed tributary to Oil Creek.

Oil Creek (CWF) and Trout Run (CWF) are perennial streams.

E33-216, Department of Transportation, District 10-0, Route 286 South, P. O. Box 429, Indiana, PA 15701. Beechton Intersection Project in Snyder, **Jefferson County**, ACOE Pittsburgh District (Falls Creek, PA Quadrangle N: 22.7 inches; W: 12.2 inches).

The applicant proposes to realign approximately 2,000 feet of SR 0028, Section 570 near the intersection of SR 0028 and SR 1011 (Falls Creek, PA Quadrangle N: 22.7 inches; W: 12.2 inches) in Snyder Township, Jefferson County to improve the alignment and site distances involving: (1) permanently filling 0.08 acre of PEM wetland and 0.02 acre of PSS wetland; (2) temporarily affecting 0.02 acre of PEM wetland; and (3) constructing and maintaining a stormwater outfall structure at the top of the right bank of Mill Creek (CWF), a perennial stream. The project proposes to directly affect 0.1 acre of wetlands. Payment to the Wetland Replacement Project fund shall compensate for wetland impacts.

SPECIAL NOTICES

Public Hearing

The Department of Environmental Protection (Department) has scheduled a public hearing to receive testimony and comments on the application for IESI Blue Ridge Landfill to increase the average and maximum daily tonnage to be received at the facility. The hearing will be held on Wednesday, November 5, 2003, at 7 p.m. at the Scotland Community Center, 3832 Main Street, Scotland, Franklin County.

Persons intending to testify at the hearing should register, by Wednesday, October 22, 2003, by calling Cynthia Wolfe, (717) 705-4703. If no persons register to present oral comments by October 22, 2003, the hearing will not be held. Persons interested in finding out if anyone has registered, and if the hearing will be held, should contact Cynthia Wolfe.

Testimony should be to the point. Individuals will have up to 10 minutes for a presentation. To ensure that all speakers have a fair and equal opportunity to present their testimony, relinquishing of time will be prohibited. Further details relating to the procedures to be followed at the hearing will be outlined at the beginning of the proceedings.

An appointment may be scheduled to review the permit application at the Southcentral Regional Office in Harrisburg by contacting the file room at (717) 705-4732 between 8 a.m. and 4 p.m., Monday through Friday.

Persons with a disability who wish to attend the hearing who require an auxiliary aid, service or other accommodations to participate in the proceedings should contact the Department for assistance. TDD users may use the AT&T Relay Services at (800) 654-5984.

BUREAU OF DEEP MINE SAFETY

Approval of Request for Variance

The Department of Environmental Protection (Department), Bureau of Deep Mine Safety (Bureau) has approved Dana Mining Company of PA, Inc.'s request for a variance from the requirements of section 224(b) of the Pennsylvania Bituminous Coal Mine Act (act) at the Titus Mine. This notification contains a summary of this request and the basis for the Department's approval. A complete copy of the variance request may be obtained from Allison Gaida, (724) 439-7469 or from the Bureau website (<http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm>).

Summary of the Request: Dana Mining Company of PA, Inc. requested a variance from section 224(b) of the act to utilize horizontal longhole drilling to meet the requirements of act at the Titus Mine. The proposal accords protections to persons and property substantially equal to or greater than the requirements of section 224(b) of the act.

The basis for the Bureau's approval is summarized as follows:

1. The long horizontal borehole method proposed instead of the requirements in section 224 of the act is a proven technology that has been used successfully at other underground mines in this Commonwealth.

2. The long horizontal borehole method proposed is much less labor intensive and provides much less exposure to lifting and strain-type injuries by not having to handle and use hand-held drills and steels. By mining normal depth cuts, the work force will be subjected to fewer equipment place changes rather than mining the entries 8 feet at a time.

3. The long horizontal borehole proposed in lieu of the requirements set forth in section 224(b) of the act will provide a greater barrier than required by section 224(b) of the act. Titus Mine's proposed long horizontal borehole method provides a larger barrier for the protection of the miners and mine from contacting abandoned mines over the requirements of section 224(b) of the act.

4. The accuracy of longhole drilling technology currently in use by contractors such as Target Drilling and REI Drilling is one degree from surveyed position. This corresponds to a variance of up to 17 feet per 1,000 feet drilled. The maximum vertical declination is 0.1 degree from surveyed position. Previous drilling has also proved the vertical declination. The accuracy of the longhole drill proposed at Titus Mine is 1/2 degree from surveyed position. This equals a variance of 4.4 feet at 500 feet borehole depth.

This approval is limited to the alternate method to drill test holes as required in section 224(b) of the act. Continued authorization for operation under the approval is contingent upon compliance with the measures described in Titus Mine's plan and the following stipulations.

1. Change the projected azimuth of the proposed drillhole no. 3 to tighten the distance between drillhole nos. 3 and 4.

2. The actual surveyed locations must be plotted on the Titus Mine map and submitted to the Bureau for its review and approval that sufficient barriers will be left. Mining shall not occur within 200 feet of the boreholes without the Bureau's approval that the proposed mining will leave sufficient barriers.

[Pa.B. Doc. No. 03-1940. Filed for public inspection October 3, 2003, 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 "Current 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.

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 questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

Draft Technical Guidance—Substantive Revision

DEP ID: 274-4000-004. Title: Compliance Assurance Policy for CEMS on Fluid Catalytic Cracking Units. Description: This policy establishes uniform criteria for assessing monetary penalties for exceedances of emission standards and data availability requirements through agreements rather than criminal citations or civil penalty actions. The Department has found agreements to be effective in resolving violations without resorting to litigation. The benefit of this policy to the source owner is certainty in determining liabilities should violations occur. Anticipated Effective Date: April 1, 2004. Comment Period Ends: November 3, 2003. Contact: Doug Haulik, (717) 772-3976, dhaulik@state.pa.us.

Final Technical Guidance

DEP ID: 383-0400-104. Title: Health Effects and Risk Management Guidelines. Description: This document was developed as part of the Department's continuing effort to provide basic information and guidance to staff personnel on responding to contamination incidents. This guidance will apply to all public water systems. Effective Date:

October 4, 2003. Contact: Joanne Gordon, (717) 772-4467, joagordon@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 03-1941. Filed for public inspection October 3, 2003, 9:00 a.m.]

Proposed Chapter 105 General Permit BWM-GP-11 and 401 Water Quality Certification for the Maintenance, Testing, Repair, Rehabilitation or Replacement of Existing Water Obstructions and Encroachments

The Department of Environmental Protection (Department), under the authority of section 7 of the Dam Safety and Encroachments Act (act) (32 P.S. § 693.7) and 25 Pa. Code Chapter 105, Subchapter L (relating to general permits), proposes to authorize by General Permit BWM-GP-11 the maintenance, testing, repair, rehabilitation or replacement of any existing water obstructions or encroachments. Minor deviations in the structure's configuration or filled area, including those due to changes in materials, construction techniques, current construction codes or safety standards which are necessary to repair, to modify or to replace, are permitted, provided the environmental impacts resulting from the repair, rehabilitation, modification or replacement are minimal and there is no impact on public health and safety. This general permit also authorizes work being funded by the Natural Resources Conservation Service which qualifies as an "exigency situation" (requiring immediate attention) under its Emergency Watershed Protection Program. This permit may not be used for maintenance, repair, rehabilitation, removal or replacement of dams.

The Department is authorized by the act and regulations to issue general permits where it determines a category of projects are similar in nature and can be adequately regulated using standard specifications, performance criteria and conditions. The Department has found the maintenance, testing, repair, rehabilitation or replacement of water obstructions or encroachments to be a category of activity which meets the general permit requirements.

Authorization provided by this general permit will eliminate the need for filing an application for an individual permit by an owner who intends to test, repair, rehabilitate or replace an existing water obstruction or encroachment. The owner will be required to register the project by submitting written notice to the Department indicating the intent to do maintenance in accordance with the conditions and terms of the general permit. Applicants will be able to begin work after receiving a written response from the Department.

Since there is no individual permit application, there will be significant savings of both time and money for those using the general permit. In addition to the monetary savings, the general permit enables applicants to proceed on projects with reduced time and effort while still complying with the act. Traditionally, review times for individual permits reach 120 days. A general permit can be acknowledged in approximately 30 days. A review of the permit data from 1995 to the present indicates that approximately 22% of individual permit applicants will qualify for this proposed general permit.

401 Water Quality Certification

The projects covered by the proposed general permit BWM-GP-11 may also require a Federal license or permit. Section 401(a) of the Federal Clean Water Act (33 U.S.C.A. § 1341(a)) requires that an applicant for a Federal license or permit to conduct any activity which may result in any discharge into waters of the United States provide the Federal licensing or permitting agency with certification from the state in which the discharge will originate that the discharge will comply with applicable provisions of the Clean Water Act, as well as applicable state law related to water quality protection.

The Department, by this notice, proposes to certify that the testing, maintenance, repair, rehabilitation or replacement of an existing encroachment or water obstruction as proposed in general permit BWM-GP-11 complies with the applicable provisions of sections 301—303, 306 and 307 of the Clean Water Act (33 U.S.C.A. §§ 1311—1313, 1316 and 1317). The Department further proposes to certify that the testing, maintenance, repair, rehabilitation or replacement of these projects comply with applicable State laws related to water quality protection and standards, provided that the testing, maintenance, repair, rehabilitation or replacement complies with the criteria and conditions of the permit.

Comments concerning the proposed general permit and 401 Water Quality Certification should be directed to Kenneth R. Reisinger, Chief, Division of Waterways, Wetlands and Erosion Control, Bureau of Watershed Management, P. O. Box 8775, Harrisburg, PA 17105-8775, (717) 787-6827 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD). Comments must be submitted in writing and contain the name, address and telephone number of the person commenting and a concise statement of comments, objections or suggestions on this proposal. Comments submitted by facsimile will not be accepted. The Department will consider all relevant and timely comments received. Comments must be submitted by December 3, 2003.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 03-1942. Filed for public inspection October 3, 2003, 9:00 a.m.]

Request for Information Concerning a Multimedia Trading Registry

Department Objective

The Department of Environmental Protection (Department) is seeking the input of all interested parties in its intended development of a Request for Proposal (RFP) for a multimedia trading registry. Multimedia trading involves the exchange of pollution reduction or environmental improvement credits across multiple media formats using watersheds as a basis of trade. By building a program that recognizes the values of multiple environmental benefits created by environmental improvement activities, the Department hopes to help harness the power of markets in meeting and exceeding environmental goals.

The Department, through the use of this Request for Information (RFI), would like to make several important determinations prior to the release of the RFP. The first factor is to ascertain the level of interest and necessary qualifications of third parties in developing and operating

a multicredit registry. The second is to gain a better understanding of the elements needed to build a registry and the resulting resources that would be needed to operate and sustain a registry. The third is to gain a better inventory of the policy issues related to the development and operation of a registry. Lastly, the Department is interested in options or methods that the public and proposers suggest it can pursue. Commentators are encouraged to submit their ideas and suggestions on any other issue related to this RFI.

Current Activities

The Department is currently involved with several single-medium trading programs or initiatives, such as the Ozone Transport Commission trading program for ozone precursors. The Department is also working with stakeholders in the Conestoga Watershed on a water trading program for nutrients and is working with stakeholders on programs to help address the challenges associated with acid mine drainage. A registry would help to take the next step of building a multimedia effort.

Information of Interest

The Department will review all submitted information. Examples of information of interest include:

- Examples of existing registries that support trading programs and could either be integrated or expanded to support a multimedia effort.
- Information on resources needed to build and operate multimedia trading registries.
- Concepts of web-based applications and other software approaches to portions or the entirety of a registry.
- Protocols that would assist in the evaluation and quantification of credits.
- Approaches for addressing policy issues.

Information and Recommendations

Information and recommendations submitted by the deadline will be considered by the Department in its intended development of the RFP. The final date for commentators to submit ideas for consideration by the Department is January 2, 2004. Written responses to this RFI should be submitted to Andrew Zemba, Department of Environmental Protection, Office of Water Management, 400 Market Street, Harrisburg, PA 17105, fax (717) 705-4087, azemba@state.pa.us. Questions concerning the RFI should be directed to Andrew Zemba, (717) 787-4686, azemba@state.pa.us.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 03-1943. Filed for public inspection October 3, 2003, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Edgewood Place for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Edgewood Place has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in the *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the

following standard contained in this publication: 7.2.B19 (relating to showers and tubs).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax: (717) 772-2163, ra-paexcept@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 previously listed.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care, (717) 783-8980, for speech and/or hearing impaired persons, V/TT: (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 03-1944. Filed for public inspection October 3, 2003, 9:00 a.m.]

Approval of Drugs which may be Used by Certain Optometrists

Under the Optometric Practice and Licensure Act (act) (63 P. S. §§ 244.1—244.12), and specifically as the act was amended by the act of December 16, 2002 (P. L. 1950, No. 225) (Act 225), the Secretary of Health (Secretary) has the authority to approve drugs for use in the practice of optometry as the "practice of optometry" is defined in the act. The State Board of Optometry, through the Secretary of State, provided the Secretary with a list of drugs on July 11, 2003, and requested that the Secretary approve the use of those drugs. Act 225 requires that the Secretary, within 90 days of the receipt of the list of drugs, and in consultation with the Physician General, approve or disapprove for good cause each drug. The Secretary has found good cause to approve the use of the following drugs in the practice of optometry:

Topical solutions:

moxifloxacin
gatifloxacin
cyclosporine ophthalmic emulsion

Topical solutions and products only, not oral or injectable formulations.

The approval of the use of these drugs is effective upon publication of this notice in the *Pennsylvania Bulletin*.

Questions regarding this notice should be directed to John C. Hair, Director, Bureau of Community Program Licensure and Certification, 132 Kline Plaza, Suite A, Harrisburg, PA 17104, (717) 783-8665.

Persons with a disability who require an alternative format of this notice (that is, large print, audiotape or Braille) should contact John C. Hair at the number or address listed previously or for speech and/or hearing

impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 03-1945. Filed for public inspection October 3, 2003, 9:00 a.m.]

Governor’s Council on Physical Fitness and Sports Meeting

The Governor’s Council on Physical Fitness and Sports will hold a meeting on Tuesday, October 21, 2003, from 10 a.m. to 12 p.m. at the Department of Health, Room 907, Health and Welfare Building, 7th and Forster Streets, Harrisburg, PA.

For additional information, or persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Matthew Brady, Manager, Physical Activity Program, Room 1011, Health and Welfare Building, Harrisburg, PA, (717) 787-2957, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

This meeting is subject to cancellation without notice.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 03-1946. Filed for public inspection October 3, 2003, 9:00 a.m.]

Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program)

I. 2003-2004 Minimum Inventory Requirements

Under 28 Pa. Code § 1103.5(a)(3) (relating to minimum inventory), the WIC Program publishes notice of the minimum inventory requirements. Effective October 4, 2003, a store shall have available on the premises, at the time of an onsite review and at all times thereafter while participating as a WIC authorized store, the following foods at shelf prices equal to or less than the maximum allowable prices:

Formula

Thirty-one 13-ounce cans of Similac Advance liquid concentrate.

Twenty-five 32-ounce cans of Similac Advance ready-to-feed.

Nine 12.9-ounce cans of Similac Advance powdered.

Thirty-one 13-ounce cans of Isomil Advance liquid concentrate.

Twenty-five 32-ounce cans of Isomil Advance ready-to-feed.

Nine 12.9-ounce cans of Isomil Advance powdered.

Other standard formulas specified on the WIC check are not minimum inventory requirements. The store must be able to provide these within 72 hours after a participant makes a request for the formula.

Milk

Fluid whole, vitamin D fortified: ten 1/2 gallons.

Fluid skim, low fat or reduced fat: four 1/2 gallons.

Nonfat dry: 4 pounds in 1 or 2-pound containers.

Evaporated: 24 12-ounce cans.

Eggs

Grade “A” eggs: three 1-dozen containers any size raw shell eggs.

Juices

Two WIC allowable single strength varieties with a total of seven 46-ounce containers.

Two WIC allowable varieties frozen concentrated or shelf stable concentrated, with a total of seven 11.5 to 12-ounce containers.

Infant, three Gerber varieties with a total of 15 4-ounce individual containers.

Cereal

Adult—five WIC allowable varieties in 8-ounce or larger packages totaling at least 40 ounces.

Infant—two Gerber varieties in 8-ounce packages, totaling at least 24 ounces.

Peanut Butter

One 15 to 18-ounce WIC allowable container.

Dried Peas and Beans

Two varieties WIC allowable, 1 pound each.

Tuna

Four 6 to 6.5-ounce cans, chunk, light, packed in water.

Carrots

Two pounds of whole, unpeeled fresh carrots in 1 or 2-pound cello pack or two cans of sliced carrots in 14 to 20-ounce cans.

II. Maximum Allowable Prices

Under 28 Pa. Code § 1103.4(5), the WIC Program publishes notice of the maximum allowable prices. Effective October 4, 2003, the maximum allowable prices the Department will pay for a WIC allowable food are as follows:

<i>Description</i>	<i>Maximum Allowable Price</i>
1/2 Gallon of Milk: Whole, Reduced Fat, Low Fat or Skim	\$2.07
12 oz. Evaporated Milk	\$1.03
16 oz. Dry Milk	\$5.22
1/2 gallon Lactose Reduced Milk	\$3.63
1/2 gallon Kosher Milk	\$2.69
1 oz. Kosher Infant Juice	\$0.18
1 oz. Kosher Infant Cereal	\$0.24
1 Dozen Grade A Eggs	\$2.20
1 lb. Fresh Carrots	\$0.98
14 to 16 oz. Canned Carrots	\$0.98
1 lb. Cheese	\$5.06
1 lb. Dry Beans or Peas	\$1.34
1 oz. Adult WIC Cereal	\$0.37
8 oz. Gerber Infant Cereal	\$1.92
15 to 18 oz. Peanut Butter	\$2.66
46 oz. Single Strength Juice or 11.5 or 12 oz. Juice Concentrate	\$2.38

<i>Description</i>	<i>Maximum Allowable Price</i>
6 oz. Cans Juice	\$1.56
6 to 6.5 oz. Chunk Light Tuna Packed in Water	\$0.95
4 oz. Gerber Infant Juice	\$0.69
32 oz. Alimentum Ready-to-Feed	\$8.59
32 oz. Alimentum Advance Ready-to-Feed	\$9.32
16 oz. Alimentum Powdered	\$26.02
13 oz. Isomil Advance Concentrate	\$4.41
32 oz. Isomil Advance Ready-to-Feed	\$5.32
12.9 oz. Isomil Advance Powdered	\$14.42
32 oz. Isomil DF Ready-to-Feed	\$6.07
13 oz. Isomil with Iron Concentrate	\$4.09
12.9 oz. Isomil with Iron Powdered	\$13.29
14 oz. Isomil with Iron Powdered	\$14.42
13 oz. Nutramigen Lipil Concentrate	\$6.81
32 oz. Nutramigen Lipil Ready-to-Feed	\$8.57
13 oz. Nutramigen Concentrate	\$6.81
16 oz. Nutramigen Powdered	\$23.58
32 oz. Nutramigen Ready-to-Feed	\$8.57
8 oz. PediaSure Ready-to-Feed	\$2.24
13 oz. Similac Advance Concentrate	\$4.25
32 oz. Similac Advance Ready-to-Feed	\$5.90
12.9 oz. Similac Advance Powdered	\$13.66
13 oz. Similac Lactose Free Concentrate	\$4.59
12.9 oz. Similac Lactose Free Powdered	\$12.86
14 oz. Similac Lactose Free Powdered	\$13.94
32 oz. Similac Lactose Free Ready-to-Feed	\$5.23
12.9 oz. Similac Neosure Advance Powder	\$15.65
13 oz. Similac with Iron Concentrate	\$3.95
12.9 oz. Similac with Iron Powdered	\$12.95
14.1 oz. Similac with Iron Powdered	\$14.15
32 oz. Similac with Iron Ready-to-Feed	\$5.13

A store must permit purchase of WIC allowable foods that exceed the maximum to WIC participants using a WIC check; however, the amount that exceeds the maximum allowable price of any WIC allowable foods sold to WIC participants will be billed to the store on a quarterly basis in accordance with 28 Pa. Code § 1105.2 (relating to price adjustment).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 03-1947. Filed for public inspection October 3, 2003, 9:00 a.m.]

DEPARTMENT OF LABOR AND INDUSTRY

Pennsylvania Conservation Corps; Grants for Projects

Grants for projects related to conservation, recreation, historical preservation, graffiti removal and the repair of institutional vandalism will be available under the Pennsylvania Conservation Corps (PCC) program.

Agencies eligible to apply for PCC projects are:

- The Departments of Labor and Industry, Conservation and Natural Resources, Public Welfare, Corrections, Military and Veterans Affairs, Aging, Education and Community and Economic Development
- The Game, Fish and Boat and Historical and Museum Commissions
- The Pennsylvania Emergency Management Agency
- Political subdivisions
- Nonprofit agencies in cities of the first class (for projects involving the removal of graffiti and the repair of institutional vandalism only)

The PCC program is designed to provide work experience and educational opportunities to unemployed young adults as they undertake needed projects on Commonwealth public lands. Funds available through the PCC program may be used to purchase approved construction materials and contracted services (political subdivisions must provide a 25% cash match). The wages of PCC members and crew leaders are paid directly by the Department of Labor and Industry (Department).

Applications for PCC projects will be accepted from political subdivisions and eligible nonprofits through Friday, January 2, 2004. State agency applications will be accepted through Monday, February 2, 2004.

For more information or to obtain a grant application packet, contact Pennsylvania Conservation Corps, 1304 Labor and Industry Building, Seventh and Forster Streets, Harrisburg, PA 17120, (717) 783-6385, pcc@state.pa.us. Grant application materials are also available for download from the Department's website: www.state.pa.us (PA Keyword "PCC").

STEPHEN M. SCHMERIN,
Secretary

[Pa.B. Doc. No. 03-1948. Filed for public inspection October 3, 2003, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Application for Lease of Right-of-Way

Under 67 Pa. Code § 495.4(d) (relating to application procedure), an application to lease highway right-of-way has been submitted to the Department of Transportation by NL Parking, Inc., 1 Reed Street, Philadelphia, PA, seeking to lease highway right-of-way at 1001—1023 North Front Street, City of Philadelphia, Philadelphia County, 61,900 square feet/hectares ±, adjacent to SR 67310, Section A01, for purposes of a parking lot.

Interested persons are invited to submit, within 30 days from the publication of this notice in the *Pennsylvania Bulletin*, written comments, suggestions or objections regarding the approval of this application to Andrew L. Warren, District Executive, Engineering District 6-0, 7000 Geerdes Blvd., King of Prussia, PA 19406.

Questions regarding this application or the proposed use should be directed to Matthew Kulpa, Real Estate Specialist, 7000 Geerdes Boulevard, King of Prussia, PA 19406, (610) 205-6514.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 03-1949. Filed for public inspection October 3, 2003, 9:00 a.m.]

**Finding
Clarion County**

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Secretary of Transportation makes the following written finding:

The Department of Transportation plans to replace the existing East Brady Bridge carrying SR 0068 over the Allegheny River in Clarion County. The bridge replacement will impact the habitat of the clubshell and northern riffleshell mussels and require the taking of a limited number of the two species. These two species are both Federally and State listed as endangered species. The effect of this project on the species will be mitigated by the following measures to minimize harm.

1. Mitigation measures will follow those agreed to in the United States Fish and Wildlife Services (USFWS) Biological Opinion. This may include the following: additional USFWS coordination; final design minimization efforts; special construction provisions; mussel salvage, laboratory relocation, replacement and monitoring; and seed stock mussel reintroduction.
2. Seasonal restrictions (April 1st to June 1st) for all in-water activities.
3. Erosion and sediment plan adherence, coordination with Armstrong and Clarion County Conservation Districts and the Department of Environmental Protection and stabilize and revegetate disturbed stream banks.
4. Wells outside of right-of-way will be monitored during construction and replaced if permanently impacted.
5. The existing United States Army Corps of Engineers wire weigh gauge will be reinstalled on the new SR 68 bridge structure.
6. Conduct detailed waste site evaluation during final design phase and establish a waste management plan.
7. Coordinate with utility companies and relocate utilities within the right-of-way when necessary.
8. Compensation for required right-of-way at fair market value and provision of relocation assistance, as well as compliance with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.
9. State Historic Preservation Officer review of plans for the preferred alternative.

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.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 03-1950. Filed for public inspection October 3, 2003, 9:00 a.m.]

**INDEPENDENT
REGULATORY REVIEW
COMMISSION**

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Commission may issue comments within 30 days of the close of the Committee comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted 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 the Public Comment Period</i>	<i>IRRC Comments Issued</i>
7-384	Environmental Quality Board Safe Drinking Water; Long Term 1 Enhanced Surface Water Treatment Rule (33 Pa.B. 3609 (July 26, 2003))	8/25/03	9/24/03

Environmental Quality Board Regulation No. 7-384

**Safe Drinking Water; Long Term 1 Enhanced
Surface Water Treatment Rule**

September 24, 2003

We submit for consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The Environmental Quality Board (EQB) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on August 25, 2003. 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. General.—Consistency with Federal regulations; Clarity.

The Environmental Protection Agency (EPA) Region 3 submitted comments dated August 21, 2003, suggesting five areas where language should be added to the proposed rulemaking. These changes are intended to bring the regulation into greater consistency with the Federal regulations. Comments and concerns raised by EPA Region 3 are included by reference in the Commission's comments.

2. Section 109.301(1). Performance monitoring for filtration and disinfection.—Clarity.

The existing language in subparagraph (iv) applies only to water suppliers serving 10,000 or more people. The proposed rulemaking adds new language that applies to suppliers serving fewer than 10,000 people. We have questions in two areas.

First, at the end of the second sentence in subparagraph (iv)(C), EPA Region 3 suggested adding the phrase: "before a violation is incurred." This is consistent with Federal regulations for public water suppliers serving fewer than 10,000 people. However, suppliers serving fewer than 10,000 people have a maximum of 14 days following failure of monitoring equipment to repair or replace it before a violation is incurred. The first sentence in this subparagraph states that suppliers serving 10,000 or more people have a maximum of 5 working days to repair or replace equipment after a failure. It is unclear whether the phrase "before a violation is incurred" would apply to suppliers serving 10,000 or more people. If it does, the EQB should add this phrase to the end of the first sentence in the final-form rulemaking.

Second, each provision in subparagraph (iv) will now apply to both larger and smaller suppliers under the amendments in this proposed rulemaking. The only exception is found in subparagraph (iv)(C). As previously noted, the existing language applies one standard to larger suppliers and the proposed rulemaking adds new language that applies only to the smaller suppliers. The EQB should consider creating a subparagraph (iv)(D) and placing the separate and distinct requirement for suppliers serving fewer than 10,000 people in subparagraph (iv)(D).

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 03-1951. Filed for public inspection October 3, 2003, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulations on the dates indicated. To obtain the date and time of the meeting at which the Commission will consider these regulations, contact the Commission at (717) 783-5417 or visit its website at www.irrc.state.pa.us. To obtain a copy of the regulation, contact the promulgating agency.

<i>Final-Form Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
57-224	Pennsylvania Public Utility Commission Generic Competitive Safeguards	9/19/03

<i>Final-Form Reg. No.</i>	<i>Agency/Title</i>	<i>Received</i>
57-227	Pennsylvania Public Utility Commission Electric and Gas Utility Record Retention	9/19/03

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 03-1952. Filed for public inspection October 3, 2003, 9:00 a.m.]

INSURANCE DEPARTMENT

Acquisition of a Controlling Interest

Onex Corporation, a Canadian corporation, has filed an application to acquire a controlling interest of Magellan Behavioral Health of Pennsylvania, Inc., a Commonwealth domiciled risk assuming preferred provider organization. The initial filing was received on September 18, 2003, and was made under the Insurance Holding Companies Act (40 P. S. §§ 991.1401—991.1413). Persons wishing to comment on the grounds of public or private interest in this acquisition of control are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of publication of this notice in the *Pennsylvania Bulletin*. Written statements must include the name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Cressinda Bybee, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, cbybee@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 03-1953. Filed for public inspection October 3, 2003, 9:00 a.m.]

Mark Kaplan, M.D., et al.; Prehearing

Appeal of Mark Kaplan, M.D., et al. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM03-09-003

On or before October 8, 2003, the appellant shall file a concise statement setting forth the factual and/or legal basis for the disagreement with MCARE's determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for October 29, 2003, at 10 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before September 23, 2003. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before October 15, 2003, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before October 22, 2003.

Persons with a disability who wish to attend the 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. 03-1954. Filed for public inspection October 3, 2003, 9:00 a.m.]

Spiros Kasapidis; Hearing

Order to Show Cause; Doc. No. SC03-08-008

A prehearing conference is scheduled for October 30, 2003, at 10 a.m. in Room 200, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102.

A hearing shall occur on November 13, 2003, at 10 a.m. in Room 200, Administrative Hearings Office, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102.

On or before October 16, 2003, each party shall file with the Administrative Hearings Office a prehearing statement which shall contain: (1) a comprehensive statement of undisputed facts to be stipulated between the parties; (2) a statement of additional contended facts; (3) names and address of witnesses along with the specialties of experts to be called; (4) a list of documents to be used at the hearing; (5) special evidentiary or other legal issues; and (6) the estimated time for that party's case. Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness designated on the prehearing statement. Any report subsequently received from a party's expert witness prior to hearing shall be supplied to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office. Failure to list a witness or document on the prehearing statement will result in preclusion of that witness or document at hearing.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before October 23, 2003, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before November 6, 2003.

Persons with a disability who wish to attend the 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. 03-1955. Filed for public inspection October 3, 2003, 9:00 a.m.]

Pennsylvania National Mutual Casualty Insurance Company; Pennsylvania Homeowners Program Rate and Rule Revision

On September 17, 2003, the Insurance Department (Department) received from Pennsylvania National Mutual Casualty Insurance Company a filing for a rate level change for homeowners insurance.

The company requests an overall 2.9% increase amounting to \$462,000 annually, to be effective February 1, 2004.

Unless formal administrative action is taken prior to November 16, 2003, the subject filing may be deemed approved by operation of law.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Department's regional offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Michael W. Burkett, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, mburkett@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 03-1956. Filed for public inspection October 3, 2003, 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 Harrisburg and Pittsburgh, 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 Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Tracy Barley; file no. 03-188-08212; Westfield Insurance Company; doc. no. P03-09-006; October 22, 2003, 10:30 a.m.

The following hearing will be held in the Pittsburgh Regional Office, Room 304 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Mary V. Brown; file no. 03-407-90900; Great American Insurance Company; doc. no. E03-09-010; November 6, 2003, 11 a.m.

Parties may appear with or without counsel and offer relevant testimony or 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 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. 03-1957. Filed for public inspection October 3, 2003, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insurers 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 office in Pittsburgh, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Pittsburgh Regional Office, Room 304 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Kemper Independent Insurance Company; file no. 03-303-71621; Patrick M. Logan; doc. no. PI03-09-008; November 6, 2003, 9 a.m.

Appeal of State Farm Mutual Automobile Insurance Company; file no. 03-184-07574; David W. Geary; doc. no. PI03-09-007; November 6, 2003, 10 a.m.

Parties may appear with or without counsel and offer relevant testimony or 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 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. 03-1958. Filed for public inspection October 3, 2003, 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' policy. The administrative hearing will be held in the Insurance Department's regional office in 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 Philadelphia Regional Office, Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Clarence and Shelley R. Smith; file no. 03-280-03869; Everett Cash Mutual Insurance Company; doc. no. PH03-09-009; November 20, 2003, 9 a.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. 03-1959. Filed for public inspection October 3, 2003, 9:00 a.m.]

United Healthcare Insurance Company; Group Policy No. G-36000-4; Requesting Authority to Increase Rates for Group Standardized Medicare Supplement Plans A—J for the AARP Group; Rate Filing

United HealthCare Insurance Company has filed for approval of increased rates for the AARP group standardized Medicare supplement plans A—J. The filing requests an average increase of 7.2%, varying by standardized plan. The rate increase will impact about 82,390 certificateholders and produce additional annual Pennsylvania premium income of approximately \$9.0 million. The requested effective date of the increase is March 1, 2004.

The proposed rate increase percentages by plan for all ages and areas are as follows:

Plan	Percentage
A	0%
B	0%
C	7.8%
D	9.8%
E	9.8%
F	1.4%
G	3.6%
H	10.1%
I	9.6%
J	10.3%

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's regional offices in Harrisburg, Philadelphia, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions or objections to Michael Gurgiolo, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Bureau of Accident and Health Insurance, 1311 Strawberry Square, Harrisburg, PA 17120 within 30 days of the publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 03-1960. Filed for public inspection October 3, 2003, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board lease will expire:

Westmoreland County, Wine & Spirits Shoppe #6512, Salem 22 Plaza, 444 Route 22, Delmont, PA 15626.

Lease Expiration Date: September 30, 2005

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,500 net useable square feet of new or existing retail commercial space within a shopping center environment along Route 22 serving the Delmont area.

Proposals due: October 24, 2003, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: George Danis, (412) 565-5130

Lehigh County, Wine & Spirits Shoppe #3913, Whitehall Square Shopping Center, 2180 MacArthur Road, Whitehall, PA 18052-4535.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 12,000 net useable square feet of new or existing retail commercial space within 1/2 mile of the intersection of Route 145 (MacArthur Road) and Schadt Avenue, Whitehall Township.

Proposals due: October 24, 2003, at 12 p.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. 03-1961. Filed for public inspection October 3, 2003, 9:00 a.m.]

MILK MARKETING BOARD

Hearing and Presubmission Schedule; Milk Marketing Area No. 2

Under the provisions of the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Area No. 2 on November 5, 2003, at 9 a.m. in Room 202, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits concerning cost replacement in Milk Marketing Area No. 2. Evidence will be limited to the following: annualized processing, packaging and delivery costs; updated costs for containers, ingredients and Class II products; updated labor, utility, and insurance costs based on comparisons between costs per point for the second quarters of calendar years 2002 and 2003; consideration of skim and butterfat contents of products regulated by the Board; adjustment for shrinkage, sales of bulk products and cream processing costs; in-store handling costs;

and a reasonable rate of return to milk dealers and stores. Evidence shall be based on the audited costs of a cross-section of milk dealers and stores doing business in Milk Marketing Area No. 2. Cost information for containers and ingredients may be based on data through September 1, 2003; cost information for Class II products shall be based on April 2003 data.

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered his appearance. Other persons that may be affected by the Board order fixing prices in Milk Marketing Area No. 2 may be included on the Board's list of parties by:

1. Having their counsel file with the Board, by 4 p.m. on October 17, 2003, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 (relating to form of notice of appearance), which shall identify by name and address the party on whose behalf the appearance is made. Thereafter, documents and other written communications required to be served upon or furnished to that party shall be sent to the attorney of record.

2. If unrepresented by counsel and wishing to appear on their own behalf under 1 Pa. Code § 31.21 (relating to appearance in person), filing with the Board, by 4 p.m. on October 17, 2003, an address to which documents and other written communications required to be served upon them or furnished to them may be sent.

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the parties shall have available in the hearing room at least 20 copies of each document for the use of nonparties attending the hearing.

1. By 4 p.m. on October 27, 2003, each party shall file with the Board six copies and serve on all other parties one copy of:

- a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

- b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on October 31, 2003, each party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents, or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, § 35.165, § 35.167 or § 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 4 p.m. on October 20, 2003.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

Persons who require this information in an alternate format should call (717) 787-4194 or (800) 654-5984 (Pennsylvania Relay Service for TDD users).

LYNDA J. BOWMAN,
Secretary

[Pa.B. Doc. No. 03-1962. Filed for public inspection October 3, 2003, 9:00 a.m.]

Hearing and Presubmission Schedule; Milk Marketing Area No. 3

Under the provisions of the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Area No. 3 on November 5, 2003, at 11 a.m. in Room 202, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits concerning cost replacement in Milk Marketing Area No. 3. Evidence will be limited to the following: annualized processing, packaging and delivery costs; updated costs for containers, ingredients and Class II products; updated labor, utility and insurance costs based on comparisons between costs per point for the second quarters of calendar years 2002 and 2003; consideration of skim and butterfat contents of products regulated by the Board; adjustment for shrinkage, sales of bulk products and cream processing costs; in-store handling costs; and a reasonable rate of return to milk dealers and stores. Evidence shall be based on the audited costs of a cross-section of milk dealers and stores doing business in Milk Marketing Area No. 3. Cost information for containers and ingredients may be based on data through September 1, 2003; cost information for Class II products shall be based on April 2003 data.

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered his appearance. Other persons that may be affected by the Board order fixing prices in Milk Marketing Area No. 3 may be included on the Board's list of parties by:

1. Having their counsel file with the Board, by 4 p.m. on October 17, 2003, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 (relating to form of notice of appearance), which shall identify by name and address the party on whose behalf the appearance is made. Thereafter, documents and other written communications required to be served upon or furnished to that party shall be sent to the attorney of record.

2. If unrepresented by counsel and wishing to appear on their own behalf under 1 Pa. Code § 31.21 (relating to appearance in person), filing with the Board, by 4 p.m. on October 17, 2003, an address to which documents and other written communications required to be served upon them or furnished to them may be sent.

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the parties shall have available in the hearing room at least 20 copies of each document for the use of nonparties attending the hearing.

1. By 4 p.m. on October 27, 2003, each party shall file with the Board six copies and serve on all other parties one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on October 31, 2003, each party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents, or records in other proceedings before the Board, or who wish the Board to take official notice of facts, shall comply with, respectively, 1 Pa. Code § 35.164, § 35.165, § 35.167 or § 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties; in addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 4 p.m. on October 20, 2003.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

Persons who require this information in an alternate format should call (717) 787-4194 or (800) 654-5984 (Pennsylvania Relay Service for TDD users).

LYNDA J. BOWMAN,
Secretary

[Pa.B. Doc. No. 03-1963. Filed for public inspection October 3, 2003, 9:00 a.m.]

PATIENT SAFETY AUTHORITY

Public Meeting

The Patient Safety Authority (Authority), established by section 303 of the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. § 1303.303), enacted on March 20, 2002, will hold a meeting of the Authority's 11 member board on Tuesday, October 14, 2003, at 9:30 a.m. in Hearing Room 2, Commonwealth Keystone Building, Commonwealth Avenue and North Street, Harrisburg, PA.

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

ALAN B.K. RABINOWITZ,
Administrator

[Pa.B. Doc. No. 03-1964. Filed for public inspection October 3, 2003, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Gas Service

A-122350F2008. T.W. Phillips Gas and Oil Company. Application of T. W. Phillips Gas and Oil Company for approval to discontinue and abandon gas utility service to four customers located in Madison and Boggs Townships, Armstrong County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). 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 October 20, 2003. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: T. W. Phillips Gas and Oil Company

Through and By Counsel: Jay W. Dawson, Esquire, 205 North Main Street, Butler, PA 16001.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 03-1965. Filed for public inspection October 3, 2003, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall 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 by October 27, 2003. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 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 carriers for transportation of persons as described under the application.*

A-00120143. Perryopolis Area Ambulance Service, Inc. (P. O. Box 522, Perryopolis, Fayette County, PA 15473), a corporation of the Commonwealth—persons in paratransit service, between points in the Borough and Township of Perryopolis, Fayette County, and from points in said area, to points in Pennsylvania, and return.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 03-1966. Filed for public inspection October 3, 2003, 9:00 a.m.]

Sewage Service

A-230187F2000. City of Johnstown, Bureau of Sewage. Application of the City of Johnstown, Bureau of Sewage, for approval of the transfer of assets to the Johnstown Redevelopment Authority and for approval of the abandonment or discontinuance of sanitary sewage collection and disposal service to the public in the Boroughs of Brownstown, East Conemaugh, Franklin, Lorain, Dale, Ferndale, Southmont, Westmont, Geistown and Daisytown and the Townships of Stoneycreek, Upper Yoder, Lower Yoder, Richland, Conemaugh and West Taylor, Cambria County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). 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 October 20, 2003. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: City of Johnstown, Bureau of Sewage

Through and By Counsel: Dennis S. Shilobod, Esquire, 206 North Main Street, Greensburg, PA 15601.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 03-1967. Filed for public inspection October 3, 2003, 9:00 a.m.]

Wastewater Service

A-230094F0002. Pennsylvania Suburban Water Company. Application of Pennsylvania Suburban Water Company for approval of the acquisition by Pennsylvania Suburban Water of the wastewater system assets of Woodloch Pines, Inc., which serves the Woodloch Pines resort community in a portion of Lackawaxen Township, Pike County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). 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 October 20, 2003. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicant: Pennsylvania Suburban Water Company

Through and By Counsel: Mark J. Kropilak, Esquire, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 03-1968. Filed for public inspection October 3, 2003, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #03-185.P, Trash Removal, until 2 p.m. on Thursday, October 16, 2003. 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 October 7, 2003. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal employment opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 03-1969. Filed for public inspection October 3, 2003, 9:00 a.m.]

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

Hearings Scheduled

Hearings have been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

December 3, 2003	Grace D'Alo (Purchase of Service)	1 p.m.
	Lillian S. Halpern (Recalculation of Retirement)	2:30 p.m.
December 23, 2003	Ember Hasay (Class T-D)	10 a.m.
	Beverly Tuck (Class T-D)	1 p.m.
	Gloria Bresnitz (Purchase of Service)	2:30 p.m.

Persons with a disability who wish to attend the listed hearings and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Marilyn Fuller-Smith, Assistant to the Executive Director, (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22

Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JEFFREY B. CLAY
Interim Executive Director

[Pa.B. Doc. No. 03-1970. Filed for public inspection October 3, 2003, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD

Hearings Scheduled

Hearings have been scheduled, as authorized by 71 Pa.C.S. Part XXV (relating to State Employees' Retirement Code), in connection with the State Employees' Retirement System's denial of Claimants' requests concerning the indicated accounts. Under 1 Pa. Code § 35.30 (relating to filing of petitions to intervene), October 14, 2003, has been established as the last date to file a petition to intervene in these cases.

The hearings will be held before a hearing examiner at the State Employees' Retirement System, 30 North Third Street, Fifth Floor, Harrisburg, PA 17101:

November 6, 2003	Mary Potts (Electing AA Service Credit)	1 p.m.
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November 13, 2003	Martin Levan III (Pension Forfeiture)	1 p.m.
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Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 4 Pa. Code § 250.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JOHN BROSIUS,
Secretary

[Pa.B. Doc. No. 03-1971. Filed for public inspection October 3, 2003, 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		③ Contract Information
Location:	Harrisburg, Pa.	④	④ Department
Duration:	12/1/93-12/30/93	⑤	⑤ Location
Contact:	Procurement Division 787-0000	⑥	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.

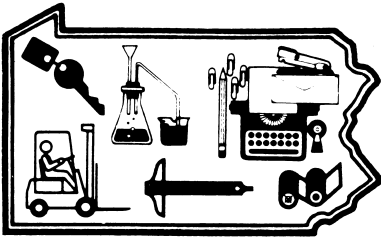
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

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

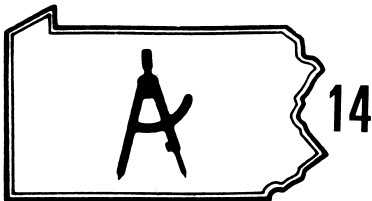


Commodities

42-024208 This contract will provide manpower, equipment, and incidental guide rail material for installation of approximately 18,000 linear feet of strong post guide rail. All guide rail material will be supplied by the Department except for the bolts, nuts, washers, rotating brackets, connection plates, anchor bolts, concrete for the end treatments, and end anchorages. It will be the Contractor's responsibility to pick up and deliver the material to the various worksites. The Department shall be responsible for removal of all existing guide rail and for any grading of shoulder stabilization, prior to the placement of the guide rail by the Contractor. A MANDATORY pre-bid meeting (one day) will be held to include review of guide rail locations, and site(s) where the guiderail will be stored will be determined. All requests for bid packages must be received by FAX at (814) 274-9764 ATTN: Karen C. Espenshade, Purchasing Agent, or by PHONE at (814) 274-9181 Ext. 3008. All bidders must be prequalified to bid on this project. The Pennsylvania Prevailing Wage Act does apply.

Department: Transportation
Location: Various locations throughout Cameron County.
Duration: This is a 1-year contract with one renewal by letter option for 1 year.
Contact: James Close, Acting Manager, (814) 274-9181

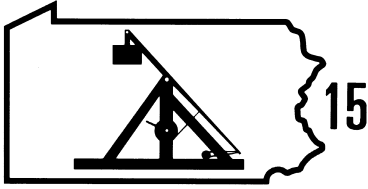
SERVICES



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

BOGM 02-12C Cleaning Out and Plugging Seven (7) Abandoned and Orphan Oil and Gas Wells. (Mr. Bill Chen, Mr. John R. Cairns, Mr. Robert Deklewa and Mr. Timothy J. Bowman Properties). The principal items of work include cleaning out and plugging seven (7) abandoned and orphan oil and gas wells to Department specifications, prepare and restore well sites and mobilize and demobilize plugging equipment. The wells are estimated to be between 2,200—2,800 feet in depth. This project issues on October 3, 2003 and bids will be opened November 4, 2003 at 2 p.m. Payment in the amount of \$10.00 must be received before bid documents will be sent. A pre-bid conference is planned for this project but a date has not been set. Please use the contact information contained in this advertisement to find out more about the pre-bid conference.

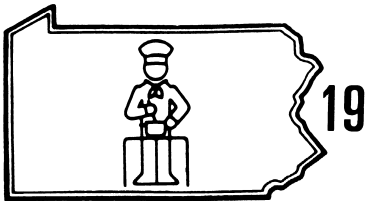
Department: Environmental Protection
Location: South Fayette and Robinson Townships, Allegheny County, PA
Duration: 180 calendar days after the official start date.
Contact: Construction Contracts Section, (717) 783-7994

OSM 40(3213)101.1 Abandoned Mine Reclamation, Cranberry Ridge. The principal items of work and approximate quantities include 2,795,630 cubic yards of grading, 43,180 cubic yards of drainage excavation, 25,255 square yards of rock lining and 185.8 acres of seeding. This project issues on October 3, 2003 and bids will be opened of November 4, 2003 at 2 p.m. Payment in the amount of \$10.00 must be received before bid documents will be sent. Federal funds are available for this project from the \$37.8 million 2001 AML grant.

Department: Environmental Protection
Location: Hazleton City and Hazle Township, Luzerne County, PA
Duration: 1,020 calendar days after the official starting date.
Contact: Construction Contracts Section, (717) 783-7994

BOGM 03-15 Cleaning Out and Plugging One (1) Abandoned Gas Well, (Mr. Thomas A. Beardshall Property). The principal items of work include cleaning out and plugging one (1) abandoned gas well to Department specifications, prepare and restore well site and mobilize and demobilize plugging equipment. The well is estimated to be 2,054 feet in depth while taking approximately 80 hours of plugging time and using approximately 45,000 pounds of plugging material. This project issues on October 3, 2003 and bids will be opened October 23, 2003 at 2 p.m. Payment in the amount of \$10.00 must be received before bid documents will be sent. A pre-bid conference is planned for this project but a date has not been set. Please use the contact information contained in this advertisement to find out more about the pre-bid conference.

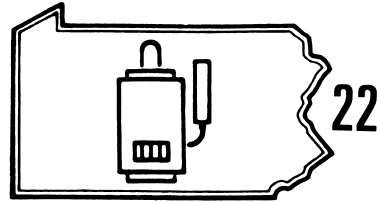
Department: Environmental Protection
Location: Bridgeville Borough, Allegheny County, PA
Duration: 45 calendar days after the official starting date.
Contact: Construction Contracts Section, (717) 783-7994



Food

101 Eggs, Fresh, Consumer Grade A, medium must be candle inspected, Class I, Brown and White, packed 30 dozen/case. 40 pound carton. USDA Certificate required (and all related items). Approximately 1,500 dozen each Monday from July 1, 2003 to June 30, 2004. Bids will be sent out bi-monthly. Frozen Eggs, Pasteurized Whole for scrambling, 6/5 lb. per case. Must be frozen when delivered and show no signs of previous defrosting. Certificate of Compliance must accompany each order.

Department: Corrections
Location: State Correctional Institution at Pittsburgh, 3001 Beaver Avenue, Pittsburgh, PA 15233
Duration: July 01, 2003 to June 30, 2004
Contact: Nancy Keller, (412) 761-1955



HVAC Services

E3538 Vendor will supply and install a complete system of six (6) gas fired tubular radiant heaters and one (1) horizontal gas furnace in the Garage and Maintenance Building at the Southeastern Veterans' Center, Spring City, PA. The system will be complete as per drawings and specifications to be provided for: unit installation, ductwork, gas piping, vent piping, thermostats and wiring, and power wiring. The facility maintenance department will provide existing equipment demolition to allow for new equipment installation. Vendor can obtain RFQ with specifications by calling purchasing agent listed. Vendor must have a SAP vendor number with the Commonwealth of PA. Vendor must complete a site visit as a condition of the bid to ensure familiarity with the facility and project.

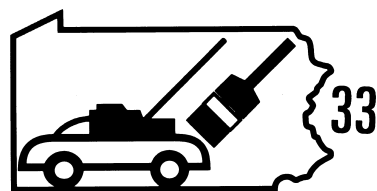
Department: Military Affairs
Location: Southeastern Veterans' Center, Garage and Maintenance Building, One Veterans Drive, Spring City, PA 19475
Duration: Work must be completed prior to onset of inclement weather. Building is currently without heat. November 1, 2003 completion date estimated.
Contact: Joan Gutchen, Purch. Agt., (610) 948-2492



Lodging/Meeting Facilities

CN 00005292 Provide meeting facilities to include lodging, meeting rooms and meals for approximately 125—150 attendees to be held on one of the following dates: March 30, 31, April 1, 2004 or April 13, 14, 15, 2004 or April 20, 21, 22, 2004.

Department: Environmental Protection
Location: Within a 15-mile radius of the City of Washington, Washington County, PA
Duration: Through 6/30/04.
Contact: Sherry Morrow, (717) 772-1216



Property Maintenance

FM 8700 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Lewistown Station. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, (717) 705-5951.

Department: State Police
Location: Troop G, Lewistown Station, Box 34, R. R. 5, Airport Drive, Mifflintown, PA 17059
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951

FM 8704 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Harrisburg CDC. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, (717) 705-5951.

Department: State Police
Location: Harrisburg CDC, 8001 Bretz Drive, Harrisburg, PA 17112
Duration: 11/01/03 to 06/30/04
Contact: Sandy Wolfe, (717) 705-5951

FM 8699 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Pittsburgh Station. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, (717) 705-5951.

Department: State Police
Location: Troop B, Pittsburgh Station, 449 McCormick Road, Moon Township, PA 15108
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951

FM 8703 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Bethlehem Headquarters and Crime Lab. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, (717) 705-5951.

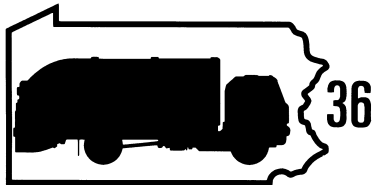
Department: State Police
Location: Troop M, Bethlehem Headquarters and Bethlehem Crime Lab, 2930 and 2932 Airport Road, Bethlehem, PA 18017
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951

FM 8701 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Honesdale Station. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, (717) 705-5951.

Department: State Police
Location: Troop R, Honesdale Station, R. R. 6, Box 6822, Honesdale, PA 18431
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951

FM 8702 Furnish all labor, materials and equipment for snow removal services from sidewalks, driveways and parking areas as required at the PA State Police, Avondale Station. Totals are based on estimated snow removal and salting/cindering/calcium in hours/tons. Detailed Work Schedule and Request for Quote must be obtained from Facility Management Division, (717) 705-5951.

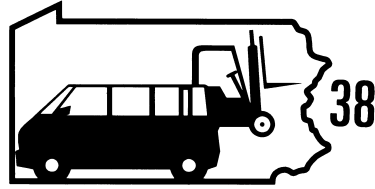
Department: State Police
Location: Troop J, Avondale Station, 2 Moxley Lane, Avondale, PA 19311
Duration: 11/01/03 to 06/30/06
Contact: Sandy Wolfe, (717) 705-5951



Sanitation

SP 30777012 Rental of Sewer Cleaning Equipment and Labor to operate. Please send a fax with your company name, address, telephone and fax numbers, Federal ID number to request a bid package. FAX: 570-587-7108. Bid packages cannot be faxed.

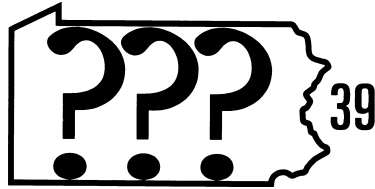
Department: Public Welfare
Location: Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, PA 18411-9505
Duration: November 1, 2003—June 30, 2008
Contact: Stanley Rygelski, PA, (570) 587-7291



Vehicle, Heavy Equipment and Powered Machinery Services

461486 Removal of Liquid and Solids from a Hot Vat Parts Cleaning Tank, Pre-Wash Tank, and a Better Engineering Parts Cleaning Machine Model #V-300.

Department: Transportation
Location: Equipment Division, 17th Street and Arsenal Blvd., Harrisburg, PA 17120
Contact: Sherri Linen, (717) 787-3959



Miscellaneous

42-026232 Boom Arm Mowing Services of roadsides on various routes throughout Potter County. Mowing operation shall include (2) mowing units (tractor/mower) and (1) shadow vehicle, equipped with operators.

Department: Transportation
Location: Potter County, PA
Duration: This is 1-year contract w/4 renewal options of 1 year each.
Contact: Karen C. Espenshade, Purchasing Agent, (814) 274-9181, Ext. 3008
 [Pa.B. Doc. No. 03-1972. Filed for public inspection October 3, 2003, 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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DONALD T. CUNNINGHAM, Jr.
Secretary

