

# PENNSYLVANIA BULLETIN

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Housing Finance Agency  
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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 GENERAL ASSEMBLY

## Recent Actions during the 2003 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2003 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
<b>2003 GENERAL ACTS ENACTED—ACT 026 through 028</b>					
026	Oct 3	HB0089	PN0108	immediately	Probate, Estates and Fiduciaries Code (20 Pa.C.S.)—share of surviving spouse
027	Oct 3	HB0318	PN0364	60 days	Repeals—obsolete law relating to spread of rabies, authorization to quarantine, restrain, confine or muzzle dogs during outbreaks of rabies and powers of State Live Stock Sanitary Board
028	Oct 3	SB0265	PN0587	90 days	Consumers' Continuity of Care Act—enactment

\* denotes an effective date with exceptions

### Effective Dates of Statutes

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

### Advance Copies of Statutes

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

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore-PHMC, Commonwealth Keystone Building, 400 North Street, Harrisburg, PA 17120-0053, accompanied by a check or money order in the sum of \$20, payable to the "Commonwealth of Pennsylvania."

ROBERT W. ZECH, Jr.,  
*Director*  
*Legislative Reference Bureau*

[Pa.B. Doc. No. 03-2017. Filed for public inspection October 17, 2003, 9:00 a.m.]

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

### PART II. GENERAL ADMINISTRATION

[204 PA. CODE CH. 29]

Promulgation of Financial Regulations Pursuant to  
42 Pa.C.S. § 3502(a); No. 258 Judicial Adminis-  
tration; Doc. No. 1

#### Order

*Per Curiam:*

*And Now*, this 30th day of September, 2003, it is Ordered pursuant to Article V, Section 10(c) of the Constitution of Pennsylvania and Section 3502(a) of the Judicial Code, 42 Pa.C.S. § 3502(a), that the Court Administrator of Pennsylvania is authorized to promulgate financial regulations in accordance with all applicable statutory provisions pertaining to the distribution and disbursement of all fines, fees, costs, reparations, restitution, penalties and other remittances imposed and collected by the Criminal Division of the Courts of Common Pleas, Philadelphia Municipal Court, and any other entity on behalf of the Court using the Common Pleas Criminal Court Case Management System (CPCMS).

To the extent that notice of proposed rule-making may be required by Pa.R.J.A. 103, the immediate promulgation of the regulations is hereby found to be in the interest of efficient administration.

This Order is to be processed in accordance with Pa.R.J.A. 103(b) and is effective immediately.

#### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART II. GENERAL ADMINISTRATION

#### CHAPTER 29. MISCELLANEOUS PROVISIONS

#### Subchapter K. COSTS, FINES AND FEES

The Supreme Court of Pennsylvania, pursuant to general authority set forth by art. V, § 10 of the Pennsylvania Constitution, and 42 Pa.C.S. § 1721, has authorized the Court Administrator of Pennsylvania to promulgate regulations in accordance with all applicable statutory provisions pertaining to the distribution and disbursement of all fines, fees, costs, reparations, restitution, penalties and other remittances imposed and collected by the Criminal Division of the Courts of Common Pleas, Philadelphia Municipal Court, and any other entity on behalf of the Court using the Common Pleas Criminal Court Case Management System (CPCMS).

These regulations are effective from September 22, 2003.

### TITLE 42. JUDICIARY AND JUDICIAL PROCEDURE

#### PART IV. FINANCIAL MATTERS

#### CHAPTER 35. BUDGET AND FINANCE

#### Subchapter A. GENERAL PRINCIPLES

I. Schedule for Standard Distribution of Funds Collected by the Criminal Division of the Courts of Common Pleas, Philadelphia Municipal Court, and any other entity on behalf of the Court Using the Common Pleas Criminal Court Case Management System (CPCMS).

A. All fines, fees, costs, reparations, restitution, penalties and other remittances imposed and collected by the Criminal Division of the Courts of Common Pleas, Philadelphia Municipal Court and any other entity on behalf of the Court using the CPCMS shall be distributed in the following prioritized order:

1. The Crime Victim Compensation Fund and Victim Witness Services Fund shall be paid first, but only in cases in which the defendant has been sentenced to incarceration, probation or is admitted into an accelerated rehabilitative disposition program (see 18 P. S. § 11.1101). Otherwise, these costs shall be distributed in accordance with subsection (A)(5) of these regulations.

2. At least 50% of any additional payment shall go to restitution until it is paid in full (see 42 Pa.C.S. § 9728(g.1)). When restitution is ordered to more than one recipient at the same time, the court shall set the priority of payment as follows, in accordance with 18 Pa.C.S. § 1106(c)(1)(ii)(A)—(D):

i. the victim;

ii. the Crime Victim's Compensation Board;

iii. any other governmental agency which has provided reimbursement to the victim as a result of the defendant's criminal conduct;

iv. any insurance company which has provided reimbursement to the victim as a result of the defendant's criminal conduct.

3. Electronic monitoring fees, offender supervision fees (as set forth in 18 P. S. § 11.1102(c)), alcohol highway safety school fees (see 75 Pa.C.S. § 1548(b)), service fees (such as sheriff's fees set forth in 42 P. S. § 21101 et. seq., and constable's fees set forth in 42 Pa.C.S. § 2950), transcript fees (see Pa.R.J.A. No. 5000.7), and witness fees (as provided for in 42 Pa.C.S. § 5903) shall be paid based upon a pro-rated formula, unless the fees are prioritized by court order or the judicial district. Specifically, the amount of the payment allocated to each outstanding item shall be determined by dividing the outstanding balance for the individual item by the combined total of the outstanding balances for all items. The resulting number is then multiplied by the amount of the payment to determine how much of the payment shall be allocated to the outstanding balance of the individual item involved.

For example, a defendant owes \$80.00 in electronic monitoring fees, \$10.00 in offender supervision fees, and \$10.00 in service fees, for a total of \$100.00 in outstanding fees. Defendant makes a payment of \$10.00 in his/her case. To determine the amount to be allocated to electronic monitoring fees, divide the outstanding balance of the electronic monitoring fee (\$80.00) by the combined total outstanding balances of all items (\$80.00 + 10.00 +

10.00 = \$100.00). The result in this example is .8 (80/100). Multiply the resulting figure by the amount of the payment to determine the allocation to electronic monitoring fees, which in this example is \$8.00 (.8 × \$10.00 = \$8.00).

4. Judicial Computer Project/Access To Justice (JCS/ATJ) Fee (see 42 Pa.C.S. § 3733(a.1)).

5. All other fines, fees, costs, reparations, penalties and other remittances shall be distributed based upon a pro-rated formula. Specifically, the amount of the payment allocated to each outstanding item shall be determined by dividing the outstanding balance for the individual item by the combined total of the outstanding balances for all items. The resulting number is then multiplied by the amount of the payment to determine how much of the payment shall be allocated to the outstanding balance of the individual item involved.

For example, a defendant owes \$80.00 in costs, \$10.00 in fines, and \$10.00 in fees, for a total of \$100.00 in outstanding costs, fines and fees. Defendant makes a payment of \$20.00 in his/her case. To determine the amount to be allocated to the fines, divide the outstanding balance of the fines (\$10.00) by the combined total outstanding balances of all items (\$80.00 + 10.00 + 10.00 = \$100.00). The result in this example is .1 (10/100). Multiply the resulting figure by the amount of the payment to determine the allocation to the fines, which in this example is \$2.00 (.1 × \$20.00 = \$2.00).

B. Each payment shall be applied to a single case, unless otherwise ordered by the court.

II. The county probation department or other agent designated to collect all fines, fees, costs, reparations, restitution, penalties and other remittances pursuant to 42 Pa.C.S. § 9728, shall use the Common Pleas Criminal Court Case Management System when performing collection related activities.

[Pa.B. Doc. No. 03-2018. Filed for public inspection October 17, 2003, 9:00 a.m.]

## Title 231—RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### [231 PA. CODE CH. 1000]

#### Proposed Amendment of Rule 1026 Governing the Time for Filing Pleadings; Proposed Recommendation No. 187

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 1026 be amended by adding new subdivision (c) governing pleadings which are not timely filed. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent not later than November 14, 2003 to:

Harold K. Don, Jr.,  
Counsel  
Civil Procedural Rules Committee  
5035 Ritter Road, Suite 700  
Mechanicsburg, Pennsylvania 17055

or E-Mail to  
civilrules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

### Annex A

## TITLE 231. RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### CHAPTER 1000. ACTIONS AT LAW

##### Subchapter A. CIVIL ACTION

#### PLEADINGS

#### Rule 1026. Time for Filing. Notice to Plead.

(a) Except as provided by Rule [ 1042.5 ] 1042.4 or by subdivision (b) of this rule, every pleading subsequent to the complaint shall be filed within twenty days after service of the preceding pleading, but no pleading need be filed unless the preceding pleading contains a notice to defend or is endorsed with a notice to plead.

#### Official Note:

\* \* \* \* \*

Rule [ 1042.5 ] 1042.4 governs actions in which a professional liability claim is asserted.

\* \* \* \* \*

(c) **The court upon motion may strike a pleading which has not been filed within the time limitations set forth in this rule if**

(1) **the moving party has been prejudiced by the delay in filing the pleading, or**

(2) **the delay in filing the pleading constitutes a flagrant disregard of this rule.**

#### Explanatory Comment

Rule of Civil Procedure 1026 governing the time for filing pleadings currently does not include any provision addressing late pleadings. The recommendation proposes to add new subdivision (c) which sets forth two grounds for striking a pleading which has not been timely filed, i.e., prejudice to the objecting party and delay in filing the pleading which constitutes a "flagrant disregard" of Rule 1026.

By the Civil Procedural Rules Committee

R. STANTON WETTICK, Jr.,  
Chair

[Pa.B. Doc. No. 03-2019. Filed for public inspection October 17, 2003, 9:00 a.m.]

**PART I. GENERAL**  
**[231 PA. CODE CH. 1000]**

**Proposed Rule 1042.66 Governing Remittitur in  
Medical Professional Liability Actions; Proposed  
Recommendation No. 189**

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 1042.66 governing remittitur in medical professional liability actions be promulgated as set forth in the recommendation. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent not later than November 14, 2003 to:

Harold K. Don, Jr.,  
Counsel  
Civil Procedural Rules Committee  
5035 Ritter Road, Suite 700  
Mechanicsburg, Pennsylvania 17055

or E-Mail to  
civilrules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

**Annex A**

**TITLE 231. RULES OF CIVIL PROCEDURE**

**PART I. GENERAL**

**CHAPTER 1000. ACTIONS AT LAW**

**Subchapter B. ACTION IN TRESPASS**

**PROFESSIONAL LIABILITY ACTIONS**

**Rule 1042.66. Medical Professional Liability Actions. Remittitur.**

(a) In a medical professional liability action, a defendant health care provider seeking the relief of remittitur on the ground that paying the verdict will impact upon availability of and access to health care in the community shall file within thirty days of a verdict a Motion for Remittitur Pursuant to Section 515 of Act No. 13 of 2002, the Mcare Act.

**Official Note:** Section 515 of the Mcare Act, 40 P. S. § 1303.515, provides for remittitur in medical professional liability actions.

This rule does not relieve a defendant health care provider from filing a timely motion for post-trial relief under Rule 227.1 raising other grounds for relief from the verdict, including excessiveness.

The motion for post-trial relief and the motion for remittitur under this rule should proceed simultaneously.

A motion for remittitur under this rule is not a motion for post-trial relief and the filing of such a motion does not enable other parties to file a subsequent motion for post-trial relief under Rule 227.1(c).

(b) The defendant shall set forth in the motion, with specificity, the basis for the claim that paying the verdict will impact upon availability of and access to health care in the community.

(c)(1) The court may, without the submission of evidence, deny a motion which is procedurally defective, is untimely filed or fails to set forth adequate grounds for relief.

(2) Unless the motion is denied pursuant to subdivision (c)(1), the court shall issue an order setting forth the manner in which the parties shall present evidence upon the claim of impact of paying the verdict upon availability of and access to health care in the community

**Official Note:** The court may determine the motion by means of depositions, evidentiary hearing or a combination thereof.

(d) If the court denies a motion for remittitur filed under this rule, it shall specifically set forth the factors and the evidence which the court considered with respect to the claim that paying the verdict will impact upon availability of and access to health care in the community.

(e)(1) Within one hundred twenty days of the filing of the motion, the court shall enter an order disposing of the motion.

(2) A judgment may not be entered if a timely filed motion is pending under this rule.

**Explanatory Comment**

Proposed new Rule of Civil Procedure 1042.66 implements Section 515 of the Mcare Act, No. 13 of 2002, 40 P. S. § 1303.515 by providing for the filing in a medical professional liability action of a motion for remittitur based upon the limited ground set forth in the statute. The motion is not a substitute for a motion for post-trial relief under Rule 227.1 and any ground for the relief of a remittitur other than that set forth in the statute must be raised by a motion for post-trial relief.

Motions filed under proposed Rule 1042.66 and under Rule 227.1 should proceed contemporaneously. Although the time within which to file each motion differs, both rules provide a one hundred twenty day period from the time of filing for disposition of the motions. Judgment may not be entered in an action while a timely filed motion is pending under the proposed rule.

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
*Chair*

[Pa.B. Doc. No. 03-2020. Filed for public inspection October 17, 2003, 9:00 a.m.]

**PART I. GENERAL**

**[231 PA. CODE CH. 2250]**

**Proposed Amendment of Rule 2253 Governing  
Joinder of an Additional Defendant; Proposed  
Recommendation No. 188**

The Civil Procedural Rules Committee proposes that Rule of Civil Procedure 2253 governing the joinder of an additional defendant be amended by adding new subdivisions (b) and (c) as set forth in the recommendation. The proposed recommendation is being submitted to the bench and bar for comments and suggestions prior to its submission to the Supreme Court of Pennsylvania.

All communications in reference to the proposed recommendation should be sent not later than November 14, 2003 to:

Harold K. Don, Jr.,  
Counsel  
Civil Procedural Rules Committee  
5035 Ritter Road, Suite 700  
Mechanicsburg, Pennsylvania 17055

or E-Mail to  
civilrules@pacourts.us

The Explanatory Comment which appears in connection with the proposed recommendation has been inserted by the Committee for the convenience of the bench and bar. It will not constitute part of the rules of civil procedure or be officially adopted or promulgated by the Court.

#### Annex A

### TITLE 231. RULES OF CIVIL PROCEDURE

#### PART I. GENERAL

### CHAPTER 2250. JOINDER OF ADDITIONAL DEFENDANTS

#### Rule 2253. Time for Filing Praecept or Complaint.

(a) Except as provided by Rule 1041.1(e), neither a praecipe for a writ to join an additional defendant nor a complaint if the joinder is commenced by complaint, shall be filed by the original defendant or an additional defendant later than sixty days after the service upon the original defendant of the initial pleading of the plaintiff or any amendment thereof unless such filing is allowed by the court [upon cause shown] or by the written consent of all existing parties filed with the court.

\* \* \* \* \*

(b) A party on motion may seek leave of court to join an additional defendant after the sixty-day period prescribed by subdivision (a).

(1) If the plaintiff opposes the motion, the court may permit the joinder upon a determination that

- (i) the joinder is based on proper grounds,
- (ii) a reasonable excuse exists for the delay in commencing joinder proceedings, and
- (iii) the original plaintiff will not be prejudiced by the late joinder.

(2) If an existing party to the action other than the plaintiff opposes the motion, the court may permit the joinder upon a determination that

- (i) the joinder is based on proper grounds, and
- (ii) the party objecting to the joinder will not be prejudiced thereby.

(3) If the court grants a motion to join a person not previously a party as an additional defendant, the person so joined may object to the court order permitting the joinder by filing preliminary objections asserting prejudice.

**Official Note:** The preliminary objections should include any other ground applicable under Rule 1028.

(c) The complaint joining the additional defendant shall be filed within twenty days after the filing of a written consent executed by all parties or notice of the order permitting joinder or within such other time as the court shall fix.

#### Explanatory Comment

Rule of Civil Procedure 2253 governs the time for the joinder of additional defendants. The rule permits late

joinder if "allowed by the court upon cause shown" but does not define the requirement. The present recommendation proposes to add a new subdivision clarifying the practice and setting forth the burdens of the parties with respect to establishing cause for late joinder.

The recommendation proposes to designate the present rule as subdivision (a). The rule is revised in two respects. First, the words "upon cause shown" are deleted. The requirements for the allowance of a request for late joinder will be set forth in new subdivision (b). Second, there is added language allowing late joinder "by the written consent of all existing parties filed with the court." The court need not become involved if all parties agree to the late joinder.

New subdivision (b) provides the procedure for the late joinder of an additional defendant by the court. Subparagraphs (1) through (3) govern the procedure when the party objecting to the late joinder is the plaintiff, another existing party to the action, or a person joined who was not previously a party.

New subdivision (b)(1) provides a three-prong test for late joinder when it is the plaintiff who is objecting to the proposed joinder. The second prong of the test, the necessity to establish that "a reasonable excuse exists for the delay in commencing joinder proceedings," is required under subdivision (b)(1)(ii) only when the plaintiff is making the objection.

Subdivision (b)(2) sets forth a two-prong test when another existing party objects to the joinder, i.e., the existence of proper grounds for the joinder and the absence of prejudice to the objecting party. This two-prong test is also applicable under subdivision (b)(3) to an objection by a person joined who was not previously a party. However, subdivision (b)(3) makes reference to only one prong of the test and provides for the person not formerly a party to raise the ground of prejudice through preliminary objections. The second prong of the test, absence of proper grounds for the joinder, is already a basis for preliminary objections under Rule 1028.

New subparagraph (c) requires the prompt filing of the pleading joining an additional defendant.

*By the Civil Procedural Rules Committee*

R. STANTON WETTICK, Jr.,  
*Chair*

[Pa.B. Doc. No. 03-2021. Filed for public inspection October 17, 2003, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### LAWRENCE COUNTY

Local Rules of Civil Procedure; Administrative  
Doc. No. 90046 of 2003, A. D.

#### Order of Court

September 26, 2003

Upon the recommendation of the Lawrence County Civil Procedural Rules Committee, the Court adopts the following Local Rules, which follow and are made a part hereof:

1. L205.1 entitled Filing of Legal Papers;
2. L205.2 entitled Filing Requirements;
3. L211 entitled Motion Court and Oral Argument Practice and Procedure;
4. L212 entitled Conciliation Conferences;
5. L212.1 entitled Notice to Complete Discovery/Placing on Trial List;
6. L212.2 entitled Pretrial Statement;
7. L212.3 entitled Pretrial Conference and Schedule for Trial;
8. L220 entitled Six-Member Jury in Civil Cases;
9. L227.1 entitled Post-Trial Relief;
10. L230.2 entitled Termination of Inactive Cases;
11. L236 entitled Notice by Prothonotary of Entry of Order, Decree or Judgment;
12. L237.4 entitled Form of Notice of Praecept to Enter Judgment of Non Pros;
13. L237.5 entitled Form of Notice of Praecept to Enter Judgment by Default;
14. L300 entitled Statutory Appeals;
15. L310.1 entitled Real Estate Assessment and Tax Exemption Appeals;
16. L310.2 entitled Real Estate Assessment and Tax Exemption Appeals—Pre-hearing Statement and Conference;
17. L320.1 entitled Summary Jury Trials—Preliminary Considerations;
18. L320.2 entitled Summary Jury Trials—Procedure;
19. L320.3 entitled Summary Jury Trials—Jury Selection;
20. L320.4 entitled Post Summary Jury Trial Conference;
21. L1018.1 entitled Notice to Defend Form;
22. L1028 entitled Preliminary Objections;
23. L1034 entitled Motion for Judgment on the Pleadings;
24. L1035.1 entitled Motion for Summary Judgment;
25. L1301 entitled Arbitration—Scope;
26. L1302 entitled List of Arbitrators Appointed; Arbitrators' Compensation;
27. L1303 entitled Arbitration—Scope;
28. L1304 entitled Arbitration—Witnesses;
29. L1306 entitled Arbitration—Award;
30. L1315 entitled Optional Binding Arbitration;
31. L2039 entitled Compromise, Settlement, Discontinuance and Distribution;
32. L3103 entitled Commencement—Issuance;
33. L3251 entitled Praecept for Writ of Execution—Money Judgment;
34. L3252 entitled Writ of Execution—Money Judgment;
35. L4002.1 entitled Filing Discovery Material; and
36. L4008 entitled Oral Depositions, Limitation.

These Rules shall become effective 30 days after the date of publication in the *Pennsylvania Bulletin*.

The Prothonotary shall process this Order in compliance with Pa.R.C.P. 239, and provide the appropriate number of certified copies to the various departments and agencies as provided in the Rule. The Rules shall be kept continuously available for public inspection and copying in the office of the Prothonotary and, upon request and payment of reasonable cost of reproduction and mailing, the Prothonotary shall furnish to any person a copy of the proposed Rule.

*By the Court*

RALPH D. PRATT,  
*President Judge*

### **Rule L205.1 Filing of Legal Papers**

The Prothonotary shall not accept for filing nor time-stamp any pleading or other legal paper unless the entire applicable filing fee, if any, is paid in full at the time the document is delivered or presented to the Prothonotary.

### **Rule L205.2 Filing Requirements**

(a) Identification Sheet.

(1) The first page of any pleading or other filing shall be an identification sheet setting forth the items of information specified below and typed according to the format presented in Appendix A.

(2) It shall be printed on the front side of good quality white paper, 8 1/2 inches x 11 inches in size.

(3) The side margins shall be one inch in width.

(4) The information required includes:

(i) Typed in capital letters from left to right "IN THE COURT OF COMMON PLEAS OF LAWRENCE COUNTY, PENNSYLVANIA."

(ii) Typed in capital letters on the left side of center the complete names of all parties; if the party filing the attached pleading has made a previous filing, an appropriate and obvious shortened caption may be used.

(iii) Typed in appropriate upper and lower case except where otherwise indicated, on the right side of center on separate lines:

(A) The specific type of case, i.e., CIVIL, FAMILY, DOMESTIC RELATIONS, CRIMINAL or ORPHAN'S COURT;

(B) The docket number, if assigned;

(C) The code and case classification. For a list of the codes, see the list in Appendix B.

(D) The name of the pleading;

(E) The completed statement "Filed on behalf of \_\_\_\_\_ (party's name, party's relationship to case)."

(F) The completed statement, "Counsel of Record: \_\_\_\_\_ (attorney's name and Pa. identification number, firm name, firm number, address and telephone number)."

(b) The Pleadings and Other Documents.

(1) Pleadings and other documents filed in any Court shall be prepared on one side of good quality white paper, 8 1/2 inches x 11 inches in size.

(2) The lettering shall be printed in 12 point font and the typewritten lines shall be double-spaced except for quotations, which may be single-spaced.

(3) The side margins shall be one inch in width.

(4) All attachments, supporting documents and exhibits shall be on 8 1/2 inch x 11 inch paper at the time of filing with the Prothonotary.

(i) A smaller document shall be reproduced, if possible, on 8 1/2 inch x 11 paper.

(ii) A larger document shall be reduced and reproduced, if possible on 8 1/2 inch x 11 inch paper.

(c) Other Filing Requirements.

(1) Every document must be attached only at the top left corner of the pages with one staple or, if the document is too thick for a staple, then at the top of the pages with a metal fastener (not a binder clip).

(2) Cloth tape is prohibited and shall not be used to cover the staple or metal fastener.

(3) "Bluebacks," Certification Strips or any other forms of backings are prohibited and shall not be used.

(4) The Prothonotary shall not accept for filing any pleading or other document which does not comply with the above requirements.

#### APPENDIX A

##### IN THE COURT OF COMMON PLEAS OF LAWRENCE COUNTY PENNSYLVANIA

JOHN SMITH, and JANE SMITH, his wife PLAINTIFFS	CIVIL NO. 12345 OF 2003, C.A. Code: 876 Motion for Summary Judgment Filed on behalf of ABC Corporation
VS.	
ABC CORPORATION DEFENDANT	Counsel of record for this party:  Allen Jacobs, Esq. Pa. I.D. # 12345 Jacobs & Johnson, P.C. 400 Court Street New Castle, PA 16101

#### APPENDIX B

##### CIVIL DOCKET CODES

Code 872	Appeal from District Justice
Code 59	Asbestos
Code 50	Assessment Appeal
Code 876	Civil Action
Code 36	Declaratory Judgment
Code 5	Divorce
Code 888	Divorce/Custody
Code 6	Ejectment
Code 908	Emergency Absentee Ballot
Code 927	Equity
Code 35	Lis Pendens
Code 16	Mandamus
Code 56	Mechanics Lien
Code 18	Mental Health Petition
Code 19	Mortgage Foreclosure
Code 866	Replevin
Code 874	Settle Minor's Claim
Code 47	Writ of Certiorari
Code 49	Writ of Possession
Code 27	Writ of Revival
Code 60	Zoning Appeal

#### Rule L211 Motion Court and Oral Argument Practice and Procedure

Motion court shall convene as set forth in the court's published annual calendar, unless the court's schedule does not permit. Counsel are encouraged to check with the Office of the District Court Administrator to ensure

that motion court will convene on the date and time which counsel has selected to present any matter requiring court review and action. As used in this rule, the term "motion" includes any petition, application, objection, exception, or other title assigned to the matter by the moving party following commencement of the action.

(a) *Motions*

(1) *Requirement of Written Motion*

Unless otherwise authorized by the Pennsylvania Rules of Civil Procedure, all motions shall be in writing.

(2) *Uncontested Motions*

Uncontested motions, with a proposed order, shall be presented to the Office of the District Court Administrator during the court's normal business hours. The moving party or counsel shall certify by a certificate attached to the motion that timely written notice to all other parties of the motion, proposed order, and date and time of presentation, have been provided and includes the date and manner of notice, and that the motion is uncontested.

(3) *Contested Motions*

No contested motion shall be considered by the court unless notice to opposing counsel has been provided in conformity with subdivision (a)(7) of this Rule. The total time for argument of any contested motion shall be limited to 10 minutes, with any party not permitted argument in excess of five (5) minutes. If any party requests the court to review written legal authority, such authority must be presented to the court at the time the motion is presented. If counsel believes that the complexity of the issues presented requires argument in excess of the time limits set forth in this Rule, then counsel shall request that argument of the motion be scheduled separately, in which case the motion shall be presented in accordance with Rule L211(a)(2).

*Note:* Contested motions requiring more than 10 minutes for argument shall be presented as an uncontested motion for argument and the certification shall include the estimated length of the time required for argument.

(4) *Discovery Motions*

Any motion relating to discovery must be accompanied by a certificate signed by counsel for the moving party certifying that counsel has conferred telephonically or in person with opposing counsel and any unrepresented party with respect to each matter set forth in the discovery motion and was unable to resolve the differences which exist. The certificate shall set forth the exact time and place of the conference or consultation. Merely attaching a copy of correspondence to opposing counsel requesting compliance to the discovery request or attempting to resolve the matter, or providing opposing counsel with a copy of the discovery motion or informing opposing counsel of the motion to be presented and opposing counsel not objecting to the motion does not comply with this Rule. Where counsel for the moving party cannot furnish the required certificate because opposing counsel has failed to respond or refused to cooperate, counsel shall furnish an alternate certificate stating that opposing counsel has refused to so meet or confer and stating such other facts and circumstances supporting the absence of the required certificate and the moving party's counsel's efforts to obtain compliance by opposing counsel.

(5) *Ex Parte and Emergency Motions*

Ex parte and emergency motions shall not be considered unless the court is satisfied that immediate and



substantial injury will be sustained by the moving party before notice can be effectuated. In such a case, the nature of the matter and a description of the immediate and substantial injury, which will be sustained if the notice required under these Rules would be provided, shall be set forth in the motion.

(6) *Continuances*

Except as otherwise provided in Rule L1304 regarding compulsory arbitration cases, any motion for continuance, whether contested or uncontested, shall be presented to the Office of the District Court Administrator during normal business hours following written notice to all parties.

(7) *Notice and Certification*

No contested motion or discovery motion may be presented unless counsel for the moving party has certified, by a certificate attached to the motion, that a copy of the motion and written notice of the date and time of presentation were provided to all opposing counsel and unrepresented parties at least two (2) business days before presentation of the motion unless consented to by opposing party or counsel in writing. The certificate shall include the date and manner in which notice was provided. As used in this Rule, written notice shall include a facsimile transmission. The court shall not entertain any motion that does not include a certification, as required by this Rule, and a proposed order. The moving party shall be responsible for serving copies of the motion and any proposed order upon all counsel of record and unrepresented parties. All contested motions and discovery motions served upon opposing counsel and/or unrepresented parties shall include, either in the body of the motion or attached to the motion, all written legal authority upon which the moving party relies in support of the motion.

(8) *Form of Certificate of Notice*

i. The form of certificate for an uncontested motion shall be substantially in the form provided in Appendix A to this rule.

ii. The form of certificate for a contested motion shall be substantially in the form provided in Appendix B to this rule.

iii. The form of certificate for a discovery motion shall be substantially in the form provided in Appendix C to this rule.

(9) *Proposed Court Orders*

All motions shall include a proposed order, which shall contain the following language:

“The Prothonotary shall be responsible for properly serving a copy of this order upon all counsel of record and unrepresented parties to this action, in accordance with Pa.R.C.P. No. 236 and Rule L236.”

(10) *Hearing, Argument, and Conference Dates*

Motions requesting dates for a proceeding shall comply with the requirements of this Rule. The moving party shall also include in the motion the estimated time required for the proceeding. The estimated time shall be determined only after consultation with opposing counsel, and the moving party shall specify the date, time and manner of consultation in any motion requesting a date for a proceeding.

(11) *Nonconforming Motions*

The court shall not act upon any motion which does not conform with the provisions of this Rule.

(b) *Oral Argument*

(1) Pretrial and post-trial motions subject to this Rule include preliminary objections, motions for judgment on the pleadings, motions for summary judgment, motions for post-trial relief, and any other motion in which the disposition thereof may result in an appealable order.

(2) The court shall schedule oral argument only upon praecipe filed with the prothonotary, with a copy of the face sheet served on the District Court Administrator in accordance with the following schedule:

i. If the moving party desires oral argument, the moving party shall file a Praecipe for argument concurrently with the filing of the motion, at which time the District Court Administrator shall forward the praecipe to the court, which shall schedule argument;

ii. If the moving party fails to file a praecipe for argument, the non-moving party may file a praecipe for argument within 10 days of being served with the motion, at which time the District Court Administrator shall forward the praecipe to the court, which shall schedule argument;

iii. Upon the court scheduling oral argument in accordance with Rule L211(b)(2)(i) or Rule L211 (b)(2)(ii), the court shall include a briefing schedule in its order.

iv. If neither party timely files a praecipe for argument, the moving party shall file a praecipe for disposition on written briefs alone and notify the court by providing a copy of the praecipe to the District Court Administrator. The praecipe shall be forwarded to the court, which shall then enter an order setting forth a briefing schedule and dispose of the motion solely upon written briefs.

(3) At any time prior to the scheduled argument, the parties, by stipulation, may file with the court a praecipe to submit resolution of the motion upon written briefs alone and provide a copy of the praecipe to the District Court Administrator. The praecipe shall state the date and time of the scheduled argument. The praecipe shall be forwarded to the court, which shall then cancel the scheduled argument and dispose of the motion solely upon written briefs.

(4) When a case is called for argument, if the moving party is not ready to proceed or has not filed a brief, the relief requested by the moving party may be denied as of course. If the non-moving party is not ready to proceed or has not filed a brief, the moving party may proceed with the argument ex parte.

APPENDIX A  
CERTIFICATE OF NOTICE

I, Attorney \_\_\_\_\_, counsel for the \_\_\_\_\_, certify, pursuant to Rule L211(a)(2), that a true and correct copy of the attached \_\_\_\_\_, proposed order and notice of the date and time of presentation were forwarded to counsel for the \_\_\_\_\_ via \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_. I further certify that this motion is uncontested.

The estimated length of time required for this \_\_\_\_\_ is \_\_\_\_\_. (Required only when the Note to Rule L211(a)(3) applies.)

Dated: \_\_\_\_\_

Attorney's Signature \_\_\_\_\_  
Pa. Supreme Court No. \_\_\_\_\_  
Address \_\_\_\_\_

Telephone \_\_\_\_\_

APPENDIX B  
CERTIFICATE OF NOTICE

I, Attorney \_\_\_\_\_, counsel for the \_\_\_\_\_, certify, pursuant to Rule L211(a)(7), that a true and correct copy of the attached \_\_\_\_\_ and proposed Order were forwarded to counsel for the \_\_\_\_\_ via \_\_\_\_\_ on \_\_\_\_\_, 20\_\_\_\_. I further certify, by this certificate, that counsel for the \_\_\_\_\_ has been notified of \_\_\_\_\_ intent to present this \_\_\_\_\_ in Motion Court on \_\_\_\_\_, 20\_\_\_\_, at 9:00 a.m.

Dated: \_\_\_\_\_

Attorney's Signature \_\_\_\_\_  
 Pa. Supreme Court No. \_\_\_\_\_  
 Address \_\_\_\_\_

Telephone \_\_\_\_\_

APPENDIX C  
CERTIFICATE OF NOTICE

I, Attorney \_\_\_\_\_, counsel for the \_\_\_\_\_, certify, pursuant to Rule L211(a)(7), that counsel for the \_\_\_\_\_ was timely and properly provided a copy of the within motion and proposed order and written notice that \_\_\_\_\_ intends to present same in Motion Court on \_\_\_\_\_, 20\_\_\_\_, at 9:00 a.m. Notice was effectuated by forwarding a copy of the motion and proposed order and written notice of presentation to opposing counsel, Attorney \_\_\_\_\_, by mail or fax, on \_\_\_\_\_, 20\_\_\_\_.

In accordance with Rule L211(a)(4), counsel for the moving party has conferred with opposing counsel with respect to the matters set forth in this discovery motion via \_\_\_\_\_, on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ m., but was unable to resolve the differences which exist.

In accordance with Rule L211(a)(4), counsel for the moving party has attempted to confer with opposing counsel with respect to the matters set forth in the discovery motion via \_\_\_\_\_, on \_\_\_\_\_, 20\_\_\_\_, at \_\_\_\_\_ o'clock, \_\_\_\_\_ m., but opposing counsel refuses to respond or cooperate.

Dated: \_\_\_\_\_

Attorney's Signature \_\_\_\_\_  
 Pa. Supreme Court No. \_\_\_\_\_  
 Address \_\_\_\_\_

Telephone \_\_\_\_\_

**Rule L212 Conciliation Conferences**

(a) *Scheduling of Conciliation Conference.* Unless otherwise directed by the court, all civil actions not subject to compulsory arbitration shall be scheduled for a conciliation conference, but not earlier than 30 days after the case is placed at issue and placed on the general civil trial list. The purpose of the conciliation conference is to address the possibility of settlement prior to trial, and it shall be considered as a part of the pretrial conference.

(b) *Attendance at Conciliation Conference.* Unless excused by the court upon good cause shown, trial counsel and all parties must attend and be present at the conciliation conference. In addition, a representative(s) of the Defendant's insurance carrier(s) and, if applicable, the M-Care Fund and/or excess liability carrier, must be

present, in person, and have the complete and final authority to discuss and settle the case. The court expects that, prior to the time of the conciliation conference, all parties or representatives of their insurance carriers will have conferred and attempted to arrive at a settlement. At the conciliation conference, the attending parties and representatives of their insurance carriers shall have realistic settlement authority.

*Note:* This Rule is mandatory and changes prior practice in Lawrence County which permitted, in special circumstances, a party or insurance carrier to appear by telephone. All requests to be excused shall be by formal motion or petition setting forth all reasons for the request.

(c) *Conciliation Conference Statement.* At least ten (10) days prior to the conciliation conference, each party shall file and serve upon opposing counsel, and any unrepresented party, a conciliation conference statement.

The conciliation conference statement shall include the following:

(1) A brief narrative setting forth the factual basis supporting the claim or defense.

(2) An itemized statement of each component of the claim for damages, including medical, hospital, dental and other health care expenses, a calculation of lost earnings and impairment of earning power, together with the basis therefore. The statement shall also include a calculation of the portion of the expenses or damages that are recoverable.

(3) If applicable, whether the plaintiff has selected the limited or full tort liability option for an automobile insurance case. If a limited tort option applies, a statement to support eligibility for recovery of non-economic damages shall be included.

(4) A copy of any experts' written reports (See Pa.R.C.P. 4003.5) shall be attached to the conciliation conference statement. It is contemplated by this Rule that all defense medical examinations shall have been completed and a written report thereof made available to the court and opposing counsel with the defendant's conciliation conference statement.

(5) The plaintiff's settlement demand and the defendant's offer.

(6) Detailed statement describing negotiations that have taken place to date.

(d) *Pretrial Conference.* If no settlement is reached at the conciliation conference, the court shall schedule a pretrial conference. After the conciliation conference, but prior to the pretrial conference, the parties shall schedule and complete all depositions required for use at trial so that all depositions will be timely completed and transcribed as not to delay the trial.

(e) *Sanctions.* This court considers compliance with the provisions of this Rule fundamental to the orderly administration of justice and disposition of actions. Any unjustified failure to fully comply with the Rule shall constitute grounds for the imposition of sanctions as provided by rule of court and general law including, but not limited to, reasonable counsel fees under 42 Pa.C.S.A. § 2503 and civil and criminal contempt proceedings.

**Rule L212.1 Notice to complete Discovery/Placing on Trial List**

(a) *Notice of Jury Trial.* All civil actions which are to be tried by a jury may be tried, at the earliest, during the

term of trials next following the pretrial conference or an order entered by the court placing the case on the trial list.

*Note:* This provision is intended to constitute the notice required by Pa.R.C.P. 212.1(a).

(b) *Notice to Complete Discovery/Placing Case at Issue.*

(1) Civil cases shall be placed on the list for trial by the filing of a Praecepto to Place Case at Issue.

(2) No Praecepto to Place Case at Issue shall be filed unless the moving party also certifies that a Notice to Complete Discovery and Dispositive Motions has been filed and served upon all parties at least 90 days prior to the filing of a Praecepto to Place Case at Issue.

(3) The Praecepto to Place Case at Issue shall be in substantially the same form as set forth in Appendix A.

(4) The Notice to Complete Discovery and Dispositive Motions shall be in substantially the same form as set forth in Appendix B.

(5) The Court may enlarge or reopen the time period within which to complete discovery and/or dispositive motions upon motion of any party for cause shown.

(6) All discovery and dispositive motions must be filed within the 90-day period unless enlarged by the court.

(7) Upon filing of a Praecepto to Place Case at Issue, the moving party shall serve a copy thereof upon the District Court Administrator, at which time the case shall be placed on the general trial list.

APPENDIX A

Form of Praecepto to Place Case at Issue

(Caption)

PRAECEPTO TO PLACE CASE AT ISSUE

To: Prothonotary, Lawrence County

Please place the above captioned case at issue. I hereby certify that I have served a copy of a Notice to Complete Discovery and Dispositive Motions upon all counsel of record and any unrepresented party by First Class, United States Mail on \_\_\_\_\_ (Date) and a copy of this Praecepto upon the District Court Administrator.

Respectfully submitted:

Date: \_\_\_\_\_

Counsel for \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone No. \_\_\_\_\_

APPENDIX B

Form Notice to Complete Discovery and

Dispositive Motions

(Caption)

NOTICE TO COMPLETE DISCOVERY AND

DISPOSITIVE MOTIONS

(Local Rule L212.1(b)(2))

TAKE NOTICE:

The undersigned intends to file a Praecepto to Place Case at Issue after 90 days from the date of this Notice. You are required to complete all outstanding discovery and file all dispositive motions within the 90-day period, or

file a motion with the court for permission to enlarge the time period within which to complete discovery.

Respectfully submitted:

Date: \_\_\_\_\_

Counsel for \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone No. \_\_\_\_\_

**Rule L212.2 Pretrial Statement**

(a) At least 10 days prior to the pretrial conference, every party shall file and serve upon opposing counsel and any unrepresented party a pretrial statement. The pretrial statement shall contain all items described in Pa.R.C.P. 212.2 and the following:

(1) A list of all exhibits which a party intends to use at trial. The party listing an exhibit shall be under no obligation to produce or offer that exhibit at the time of trial. The pretrial statement shall indicate the parties' agreement or disagreement as to the authenticity and admissibility of each exhibit. As far as practicable, copies of the exhibits should be attached to the pretrial statement. Copies of all such exhibits shall be served on opposing counsel or unrepresented parties with the pretrial statement.

(2) A detailed statement of any unusual questions of law or evidentiary issues, motions in limine or motions for sanctions, together with a legal memorandum in support of that party's position. As part of the conference, the court may hear arguments regarding such issues.

(3) A list of all objections appearing in depositions of expert witnesses, if depositions have been taken.

(4) A list of all proposed voir dire questions. A party's proposed voir dire questions may be amended or supplemented provided it does not delay the trial.

(5) All proposed points for charge together with a citation to authority if the proposed points are not the same as those set forth in the PA Suggested Standard Civil Jury Instructions. A party's proposed points for charge may be amended or supplemented provided it does not delay the trial.

(6) Each party remains under a continuing obligation to supplement their pretrial statement up to the time of trial.

**Rule L212.3 Pretrial Conference and Schedule for Trial**

(a) If no settlement is reached at the conciliation conference held pursuant to Local Rule L212, the court shall schedule a pretrial conference not earlier than 90 days following the conciliation conference. After the conciliation conference, but prior to the pretrial conference, the parties shall schedule and complete all depositions required for use at trial so that all depositions will be timely completed and transcribed as not to delay the trial.

(b) Unless excused by the court upon good cause shown, all trial counsel must attend and be present at the pretrial conference.

*Note:* This Rule is mandatory and changes prior practice in Lawrence County which informally permitted, in special circumstances, substitute counsel for trial counsel.

By this Rule, all requests to be excused shall be by formal motion or petition setting forth all reasons for the request.

(c) At the conclusion of the pretrial conference, the court shall schedule the case for trial, unless the parties otherwise resolve the case.

(d) *Sanctions.* The court considers compliance with the provisions of this rule fundamental to the orderly administration of justice and disposition of actions. Any unjustified failure to fully comply with this Rule shall constitute grounds for the imposition of sanctions as provided by rule of court and general law including, but not limited to, reasonable counsel fees under 42 Pa.C.S.A. § 2503 and civil and criminal contempt proceedings.

#### **Rule L220 Six-Member Jury in Civil Cases**

(a) Except as provided in subdivision (b) below, juries in civil cases shall consist of eight members, six regular jurors and two alternate jurors. If during the trial, the number of regular jurors falls below six, the court shall declare a mistrial unless all parties agree on the record to proceed with less than six regular jurors.

(b) In cases to be tried by jury, trial shall be by a 12-member jury, if written demand is filed with the court by any party as part of that party's original pretrial statement filed in accordance with Pa.R.C.P. 212.2 and Rule L212 prior to the scheduled trial.

#### **Rule 227.1 Post-Trial Relief**

(a) Motions for post-trial relief shall be filed with the Prothonotary together with an order for transcript directing that designated portions of the record be transcribed as provided by Pa.R.C.P. 227.3 and identifying the responsible court stenographer(s).

(b) The moving party shall attach to the order for transcript a completed request for transcript form prescribed and provided by the court.

(c) The moving party shall serve a copy of the face sheet of the motion for post-trial relief, order for transcript, and request for transcript form upon the District Court Administrator and responsible court stenographer(s).

(d) Within the 10-day prescribed time period under Pa.R.C.P. 227.3, opposing counsel may present an objection, in accordance with Rule L211(a), requesting that an additional, lesser, or different portion of the record be transcribed. The court shall promptly enter an order disposing of the objection or schedule oral argument of the objection.

(e) Oral argument and a briefing schedule of the motion for post-trial relief shall be in accordance with Rule L211(b).

(f) All transcripts requested shall be subject to Pa.R.J.A. 5000.1 through 5000.13.

(g) The responsible court stenographer(s) shall complete all transcripts requested within 30 days, unless exigent circumstances justify any delay.

#### **Rule L230.2 Termination of Inactive Cases**

(a) *General Policy.* It is the policy of the Court of Common Pleas of Lawrence County to bring each pending civil matter to an expeditious conclusion as promptly as possible consistent with the administration of justice, fairness, the character of the matter and the resources of the system. Consistent with this policy, the court shall proceed under Pa.R.C.P. 230.2.

(b) If terminated, the Prothonotary shall mark the docket indicating that the case has been terminated.

(c) The Prothonotary shall notify the District Court Administrator of all cases where a statement of intent to proceed has been filed or where the court has granted a petition to reinstate under Pa.R.C.P. 230.2.

(d) If a petition to reinstate is filed more than 30 days after the termination of the case, the court shall schedule a hearing of the petition. Opposing counsel is not required to, but may, file a response to such a petition.

(e) Any case not terminated shall be subject to the following schedule:

(1) In cases in which the pleadings are closed, the following schedule shall be observed:

(i) All discovery shall be completed within 60 days from either the date of filing the statement of intent to proceed or the court's order reinstating the case as an active case, unless extended by the court for cause shown.

(ii) All dispositive motions shall be filed within 30 days after the deadline for completion of discovery.

(iii) A praecipe to place the case at issue shall be filed within 30 days after discovery is closed or following the court's disposition of all dispositive motions, if any dispositive motions are timely filed.

(2) In cases in which the pleadings are not closed, the following schedule shall be observed:

(i) If only a writ of summons has been filed, a complaint must be filed within 20 days of either the date of filing the statement of intent to proceed or the court's order reinstating the case as an active case.

(ii) If a complaint has been filed, then preliminary objections or an answer to the complaint must be filed within 20 days of either the date of filing the statement of intent to proceed or the court's order reinstating the case as an active case.

(iii) All discovery shall be completed within 30 days following the close of the pleadings.

(iv) All dispositive motions shall be filed within 30 days of the deadline for completion of discovery.

(v) A praecipe to place the case at issue shall be filed within 30 days after discovery is closed or following the court's disposition of all dispositive motions, if any dispositive motions are timely filed.

*Note:* The notice to complete discovery and dispositive motions normally required under Rule L212.1(b)(2) is not required in cases which are subject to this Rule L230.2.

#### **Rule L236 Notice by Prothonotary of Entry of Order, Decree or Judgment**

(a) The Prothonotary, in accordance with Pa.R.C.P. 236, shall be responsible for serving all orders, decrees, and judgments.

(b) After original service of process, all orders, decrees and judgments served by the Prothonotary shall be served by ordinary first class mail or via facsimile transmission in accordance with Pa.R.C.P. 236(d).

(c) Any copy of an order, decree or judgment served by the Prothonotary shall not be required to be a certified copy of the order, decree or judgment.

#### **Rule L237.4 Form of Notice of Praecipe to Enter Judgment of Non Pros**

The notice of every praecipe to enter judgment of non pros for failure to file a complaint shall include the

following name and address of the office from which the plaintiff can receive information about obtaining the services of a lawyer and getting legal help:

Office of Lawyer Referral  
Third Floor  
Lawrence County Government Center  
430 Court Street  
New Castle, PA 16101  
(724) 656-1921

**Rule L237.5 Form of Notice of Praecepto to Enter Judgment by Default**

The notice of every praecipe to enter judgment by default for failure to plead shall include the following name and address of the office from which the defendant can receive information about obtaining the services of a lawyer and getting legal help:

Office of Lawyer Referral  
Third Floor  
Lawrence County Government Center  
430 Court Street  
New Castle, PA 16101  
(724) 656-1921

**Rule L300 Statutory Appeals**

Unless a contrary procedure is required by statute or general rule of court, this Rule shall apply to all statutory appeals from a municipal hearing board, local agency or equivalent body and where the court has jurisdiction to review such adjudications.

(a) Transmitting the record

(1) When an appeal from a decision of a municipal hearing board, local agency, or equivalent body is filed, the appellant shall serve a copy of the appeal upon the District Court Administrator.

(2) Upon the filing of the appeal, the Prothonotary shall immediately issue a writ of certiorari and properly serve it on the municipal hearing board or local agency equivalent body from which the appeal was taken directing the board, agency or body to transmit a copy of the record required to be established by the board, agency or body in hearing the matter and issuing a decision, within 20 days of notice of the writ.

(3) When the record is transmitted, the municipal hearing board, local agency or equivalent body shall accompany the record with a certificate certifying that the record transmitted is complete, including a full transcript, and in accord with the statutory provision regarding the creation of a record before the board, agency or body. A copy of the certificate shall be served by the board, agency or body upon the District Court Administrator.

(4) Upon receipt of the certificate by the District Court Administrator, the court shall schedule oral argument of the appeal and set a briefing schedule.

(b) Evidentiary Hearing

(1) If the court determines that the transmitted record is incomplete, it shall order the municipal hearing board, local agency or equivalent body to transmit a complete record within 20 days of the order, with the order enforceable by contempt of court, remand the case to the board, agency or body with directions to complete the record or schedule a de novo evidentiary hearing.

(2) In the event that a party desires to present additional evidence, a motion indicating the reasons therefor shall be presented to the court, during motion court in accordance with Rule L211(a), within 10 days after the

court schedules argument and sets a briefing schedule. The motion shall state with particularity the authority upon which movant relies and the particular factors which the moving party believes indicate that the receipt of further evidence is warranted.

(3) In cases in which evidence is received by the court pursuant to subsection (a)(2)(i) of this Rule, after the close of the evidentiary proceedings, all parties shall submit proposed findings of fact to the court along with their respective briefs on the merits of the appeal in accordance with a schedule fixed by the court.

**Rule L310.1 Real Estate Assessment and Tax Exemption Appeals**

(a) All appeals from a real estate assessment or tax exemption by the Board of Assessment Appeals shall be presented or filed in the form of a petition for allowance of appeal.

(b) The petition for allowance of appeal shall be filed with the Prothonotary. The appellant shall serve a copy of the petition for allowance of appeal upon the District Court Administrator.

(c) The petition shall have attached a proposed preliminary order, which shall provide:

(1) That the appeal is allowed;

(2) That the taxing authorities within whose jurisdiction the real estate is situate and the property owner, if the appellant is not the property owner, shall be notified that leave to intervene in the appeal, if desired, must be pursued in accordance with Pa.R.C.P. 2328-2330;

(3) The scheduling of a pre-hearing conference to be held no earlier than 45 days from the date of filing the petition; and

(4) That within five (5) days from the date of the preliminary order, appellant shall serve a copy of the petition and the Prothonotary shall serve a copy of the preliminary order upon the Board of Assessment Appeals, the Board of Commissioners of Lawrence County, the governing bodies of the school district and each municipality in which the real estate is situate, and upon the property owner, if the appellant is not the property owner.

(d) Appellant shall file of record a certificate of service stating to whom service of the petition was made and the method and date of service.

(e) The Prothonotary shall file of record a certificate or affidavit of service of the preliminary order stating to whom service was made and the method and date of service.

**Rule L310.2 Real Estate Assessment and Tax Exemption Appeals—Pre-Hearing Statement and Conference**

(a) All parties of record shall file a pre-hearing statement no later than 10 days prior to the pre-hearing conference.

(b) The pre-hearing statements shall include:

(1) A summary of the evidence which will be offered at the hearing;

(2) A list of exhibits to be offered;

(3) A list of the names and addresses of all witnesses to be called;

(4) In an assessment appeal, copies of any appraisal reports, or if no report is available, a summary of the testimony of any expert who will be called as a witness;

(5) In an assessment appeal, a statement of the current valuation which is the basis for the appeal;

(6) In an assessment appeal, a statement setting forth the appellant's position as to the correct valuation, which shall include appellant's position as to the correct market value, assessment ratio, and assessment;

(7) In a tax exempt appeal, copies of any expert report, or if no report is available, a summary of the testimony of any expert who will be called as a witness;

(8) In a tax exemption appeal, a statement setting forth the appellant's basis for claiming a tax exemption of the property, including, but not all inclusively, citations of precedent or controlling case and statutory law;

(9) A statement that there have been negotiations between the parties and a good faith attempt to settle the case; and

(10) The pre-hearing statements shall be signed by the parties or their counsel.

(c) At the pre-hearing conference each party of record shall be personally present.

(d) At the pre-hearing conference, the parties of record shall consider:

- (1) Possible stipulations as to evidence and facts;
- (2) Simplification of the issues; and
- (3) Settlement.

(e) If the appeal is not settled after a pre-hearing conference, the court shall enter an appropriate order, which may include the scheduling of a hearing.

#### **Rule L320.1 Summary Jury Trials—Preliminary Considerations**

(a) *Preliminary Considerations*—The matters set forth in this Rule shall be considered but shall not be controlling in determining if civil cases are amenable for a summary jury trial.

(b) *Time Necessary for Regular Trial*. The court shall determine if the regular trial time would be three days or more, including time for jury selection and closings and charge. The court shall also consider the amount of damages involved and whether complex legal issues are involved.

(c) *Consent of Attorneys*. The court shall attempt to obtain the consent of counsel and the parties to a summary jury trial, but the court shall have the authority to direct a summary jury trial as an extension of the settlement conference.

(d) *Existing Offer and Demand*. The court shall also attempt to obtain the agreement of counsel and the parties to leave any current settlement offer and demand on the table for 48 hours after the summary jury trial verdict.

(e) *Credibility*. The court shall determine if the major issues must be resolved on the basis of credibility.

#### **Rule L320.2 Summary Jury Trials—Procedure**

(a) *Attendance of Parties*. Individual parties shall attend the summary jury trial. An officer or other responsible lay representative of a corporate party or a claims adjuster for an insurance carrier shall also attend the summary jury trial.

(b) *Non-binding Effect*. Generally, summary jury trials are for settlement purposes only and are non-binding. Nothing done by counsel with reference to the summary jury trial shall be binding on counsel or the parties or

shall constitute a waiver of a full jury trial. However, counsel are free to negotiate whether the summary jury trial shall be binding or non-binding and, if binding, whether a high-low agreement can be reached.

(c) *Special Verdict Questions*. All cases subject to a summary jury trial shall be submitted to the jury by way of special verdict questions. Counsel shall submit a joint statement of proposed special verdict questions for use at the summary jury trial prior to the selection of the jury. Special verdict questions for the summary jury trial need not be the same as those for the full jury trial. The jury shall determine the amount of damages in all cases regardless of whether a defendant is found to be liable or not liable. The court shall determine the format of the verdict slip to be used and rule on disputed questions.

(d) *Jury Selection*. Summary juries shall consist of six jurors. Counsel may be present at jury selection conducted by the court, and submit proposed voir dire questions for the court's use in accordance with Rule L320.3.

(e) *Presentation of the Case by Counsel*. Each side shall be entitled to one hour for presentation of its case, unless counsel presents a compelling reason at the pre-trial conference justifying more time for each side. Presentation of the case by counsel will involve a combination or argument, summarization of the evidence to be presented at the regular trial and a statement of the applicable law, but only to the extent it is needed to be known by the jury in answering the special verdict questions. No live testimony will be presented except in cases where credibility will determine the major issues. If any witness is permitted to be called by any party, the time used to examine the witness shall be assessed against the one-hour time limit of the party calling the witness. The court shall determine the number of witnesses to be presented. Counsel may quote from depositions and may use exhibits and video tapes. Counsel should not refer to evidence which would not be admissible at trial. The plaintiff shall proceed first and shall have a rebuttal of no longer than 15 minutes.

(f) *Applicable Law*. The court shall charge the jury on the applicable law to the extent it is appropriate and required by the jury in answering the special verdict questions. Counsel may submit requested points for charge for consideration by the court prior to the selection of the summary jury. The court shall rule on any disputes of points for charge, as well as any pre-trial motions before the summary jury trial.

(g) *Jury Verdict*. Agreement by at least five of the six jurors shall constitute a verdict.

(h) *Length of Deliberations*. If the jury does not reach a verdict within a reasonable time, the court may consider polling the jurors individually.

(i) *Oral Questions to Summary Jury*. After the verdict, counsel and the court may address questions in open court to the jury. No juror is required to answer. Any juror may address any comment or question to the court and counsel. Participation by the jurors is strictly voluntary.

(j) *Scheduling Regular Trial*. Should the summary jury trial not result in a settlement, a full jury trial shall be immediately scheduled but not for the same calendar week.

#### **Rule L320.3 Summary Jury Trials—Jury Selection**

The court shall select the jury and may use the following voir dire, in addition to any proposed voir dire suggested by counsel or determined by the court:

(a) The jurors' availability for the specific date and time of the summary jury trial. If the case starts in the morning, the court will determine prospective jurors availability all day. If it begins in the afternoon, the court will determine their availability through the dinner hour into the early evening.

(b) Whether any of the prospective jurors, for any health reason, are physically unable to perform their task as jurors, which would require them to sit for a period of as long as one hour without a recess and whether any prospective juror has any hearing difficulties, recent surgeries, nervous conditions, etc.

(c) A brief factual summary of the case shall be provided to determine if any of the jurors have any knowledge of the allegations in the case.

(d) The specific identification of the plaintiff and defendant by name and address to further determine if any of the prospective jurors know any party.

(e) Whether any of the prospective jurors have or had any social or business dealings, past or present, with either counsel or their law firms.

(f) If there are any particular witnesses who are going to be unusually significant to the argument, lay or medical, the court will identify them to the jury and determine the prospective jurors' knowledge or contact with them.

(g) Whether any of the prospective jurors have had a similar injury to that claimed by the plaintiff or if a close friend or family member has had such an injury so it can be determined whether any prospective juror has any bias regarding the injury itself.

(h) When any of the parties is other than an individual, the court will emphasize and explore the prospective juror's ability to give a corporation, for example, the same consideration that any other party is entitled to receive.

(i) Whether any prospective juror has any fixed opinions which would prevent the juror from awarding money damages in cases where fault is determined to exist and an actual injury has resulted from the defendant's conduct.

(j) Whether any prospective juror has any fixed opinions that would prevent the juror from deciding that a defendant is not liable if the evidence shows either that the defendant was not at fault or that the defendant's fault caused no actual injury to the plaintiff.

(k) Whether any prospective juror has been involved either as a plaintiff or a defendant in the particular type of case before the court or whether a family member or close personal friend has been involved in a case such that it would have any bearing on their ability to sit fairly and impartially.

(l) Whether any prospective juror has any other reason, not stated by the court, why they would be unable to sit fairly and impartially in the particular case.

(m) If counsel desire any additional voir dire, it should be submitted to the court at least 10 days prior to jury selection.

#### **Rule L320.4 Post Summary Jury Trial Conference**

If the summary jury trial is not binding, then a post-trial settlement conference shall be conducted. Generally, the settlement conference shall be conducted immediately following the summary jury trial or, if not possible, as close to the summary jury trial date as can be

reasonably scheduled. In no event should it be conducted longer than 30 days from the trial. At the settlement conference, the court shall be an active player in resolving the case. The court may function as a "seventh" juror, supporting the jury's verdict generally where indicated and interposing the court's own view as to likely results before a full jury where the same is appropriate. This may move the case toward resolution. If the settlement conference does not settle the case, then the court shall schedule the case for a full jury trial.

#### **Rule L1018.1 Notice To Defend Form**

The notice to defend of every complaint filed by a plaintiff and every complaint filed by a defendant against an additional defendant shall include the following name and address of the office from which a party can receive information about obtaining the services of a lawyer:

Office of Lawyer Referral  
Third Floor  
Lawrence County Government Center  
430 Court Street  
New Castle, PA 16101  
(724) 656-1921

#### **Rule L1028 Preliminary Objections**

(a) Preliminary objections shall be filed with the Prothonotary, and the moving party shall serve a copy of the face sheet of the preliminary objections on the District Court Administrator.

(b) Unless an amended pleading is filed as of course under Pa.R.C.P. 1028(c)(1), oral argument and a briefing schedule shall be scheduled in accordance with Rule L211(b).

(c) In response to preliminary objections to an amended pleading, a second or subsequent amended pleading shall be subject to Pa.R.C.P. 1033.

(d) All preliminary objections shall be accompanied by a certificate certifying that a true and correct copy of the preliminary objections has been properly served upon all opposing counsel and unrepresented parties. The certificate shall include the date and manner of service.

#### **Rule L1034 Motion for Judgment on the Pleadings**

(a) Motions for judgment on the pleadings shall be filed with the Prothonotary, and the moving party shall serve a copy of the face sheet of the motion on the District Court Administrator.

(b) Oral argument of the motion and a briefing schedule shall be scheduled in accordance with Rule L211(b).

(c) All motions for judgment on the pleadings shall be accompanied by a certificate certifying that a true and correct copy of the motion has been properly served upon all opposing counsel and unrepresented parties. The certificate shall include the date and manner of service.

#### **Rule L1035.1 Motion for Summary Judgment**

(a) Motions for summary judgment shall be filed with the Prothonotary, and the moving party shall serve a copy of the face sheet of the motion on the District Court Administrator.

(b) Oral argument of the motion and a briefing schedule shall be scheduled in accordance with the provisions of Rule L211(b).

(c) Except as provided in Pa.R.C.P. 1035.3(e)(1), a brief or answer to the motion for summary judgment filed by

any party in opposition to a motion for summary judgment shall not be considered a response as required by Pa.R.C.P. 1035.3.

(d) All motions for summary judgment shall be accompanied by a certificate, certifying that a true and correct copy of the motion for summary judgment has been properly served upon all opposing counsel and unrepresented parties. The certificate shall include the date and manner of service.

**Rule L1301 Arbitration—Scope**

All cases where the amount in controversy does not exceed Twenty-five Thousand (\$25,000.00) Dollars, excluding interest and costs, except those involving title to real estate, shall be submitted to compulsory arbitration under this Rule.

**Rule L1302 List of Arbitrators Appointed; Arbitrators' Compensation**

(a) The Prothonotary shall act as Arbitration Administrator, maintain a current roster of the members of the Bar qualified to act as arbitrators, and maintain proper legal forms necessary for the operation of these rules, which forms shall be printed at the expense of Lawrence County.

(b) To be an eligible arbitrator, each attorney shall be a member of the Bar, actively engaged in the practice of law, primarily in Lawrence County and shall file with the Prothonotary information showing whether the attorney is practicing alone, is a member of a firm, or is associated with one or more other attorneys. Upon any change in practice status or association with any other attorney or attorneys, the attorney shall immediately report such change to the Prothonotary, who will not change on the roster of eligible arbitrators in accordance with the information submitted. Any attorney who declines to serve as an arbitrator shall so notify the Prothonotary in writing. Failure by an attorney appointed as an arbitrator to appear for three (3) consecutive arbitration hearings shall result in the attorney's name being stricken from the roster of eligible arbitrators.

(c) When a Praeceptum to Appoint Arbitrators is filed under Local Rule L1303, a Board of Arbitrators, consisting of three (3) members of the Bar of Lawrence County, shall be appointed by the Prothonotary from the attorneys qualified to act. The names of the arbitrators shall be taken from the roster of the eligible members of the Bar, in alphabetical order, except where attorneys are excused due to incapacity or illness or upon express written direction by an attorney. Not more than one (1) member of a firm or association of attorneys shall be appointed to the same Board, and no members of a firm or association of attorneys shall be appointed to a Board to hear a case where another member of the firm or association of attorneys is counsel for any party.

(d) The chair of the Board of Arbitrators shall be paid the sum of One Hundred Thirty Dollars (\$130.00). The other members of the Board of Arbitrators shall each be paid the sum of One Hundred Five Dollars (\$105.00) by Lawrence County in accordance with Rule L1306 for each case heard. Where a hearing is scheduled but not conducted and no award entered but the case is otherwise resolved and the Board of Arbitrators is not otherwise entitled to compensation under this sub section, the chair shall be compensated Twenty-Five Dollars (\$25.00) for the scheduling of the hearing.

**Rule L1303 Arbitration—Notice**

(a) After the pleadings are closed, any party may place the case on the Arbitration List by filing a Praeceptum to

Appoint Arbitrators with the Prothonotary. The Praeceptum shall be in the form as prescribed by this Rule and include a certification that counsel for the moving party has provided reasonable advanced notice to all opposing counsel and unrepresented parties that the case is being scheduled for an arbitration. Discovery may continue as long as it does not delay the hearing.

(b) Within 30 days after appointment, the Chairperson of the Board of Arbitrators shall schedule an arbitration hearing. Failure to so schedule an arbitration hearing shall result in the Prothonotary removing the Chairperson and appointing a new Chairperson.

(c) The Chairperson shall fix the date, time and place of the arbitration hearing. The parties shall be provided not less than 30 days written notice of the hearing.

(d) The notice of the hearing shall include the following statement:

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

(e) When the Board is convened for hearing, if one or more of the parties is not ready to proceed, the hearing shall be conducted, and the arbitrators shall make an award, unless the court:

(1) orders a continuance; or

(2) hears the matter if the notice of hearing contains the statement set forth in subdivision (d) of this Rule and all parties present consent.

**Rule L1304 Arbitration—Witnesses**

(a) In all hearings before a Board of Arbitrators, all witnesses shall be sworn or make an affirmation before offering any testimony. Witness fees shall be taxed as costs as in other actions.

(b) At the hearing before the Board of Arbitrators, each party shall be subject to a time limit of one (1) hour in presenting their case. This time limit may be extended by a majority of the arbitrators for cause shown, such as in cases involving extensive cross-examination of witnesses.

(c) Continuances

(1) The Chair for cause shown without leave of court may grant one (1) continuance. Such a request to the Chair of the Board of Arbitrators must be unopposed and must be made at least two (2) business days before the scheduled arbitration date.

(2) Any motion for continuance which is contested or made within two (2) business days of the scheduled arbitration hearing must be presented to the court for approval.

(3) All motions for continuance not subject to being granted by the Chair or being made within two (2) business days of the scheduled arbitration shall be granted only upon cause shown and only upon payment of the arbitrators' compensation by the moving party.

(d) Any moving party receiving a continuance of an arbitration hearing is responsible for notifying all other parties and arbitrators of the continuance and, further, responsible for rescheduling the arbitration hearing within 30 days of receiving the continuance. The moving party shall notify all parties and the arbitrators of the continuance and the rescheduled arbitration date. Failure



of the moving party to comply with this Rule may result in the imposition of sanctions.

**Rule L1306 Arbitration—Award**

(a) The Board of Arbitrators shall make an award, including costs, interest, and attorney fees if authorized by law and are warranted, promptly upon termination of the hearing. The award shall dispose of all claims for relief and be substantially in the form provided by the Prothonotary. If the Plaintiff is seeking damages for delay under Pa.R.C.P. 238, Plaintiff shall comply with Pa.R.C.P. 238(d)(1). The award shall be signed by at least two (2) of the three (3) arbitrators. A dissenting vote without further comment may be noted on the award. The award shall be filed with the Prothonotary by the Chair of the Board of Arbitrators immediately after it is signed.

(b) If damages for delay are awarded under Pa.R.C.P. 238, the amount shall be separately stated. Prior to the award of delay damages, the parties shall submit to the Board of Arbitrators a sealed envelope setting forth the last settlement offer and its date. This envelope shall not be opened by the arbitrators until they have agreed upon an award, separate from any delay damages.

(c) Upon filing the Board of Arbitrators' award, the Prothonotary shall certify to the County Commissioners and to the County Controller that the award has been filed, together with the names of the members of the Board of Arbitrators serving in the case. Thereupon, the County shall pay the required compensation to each member of the Board of Arbitrators serving in the case.

(1) If a case is settled, withdrawn, or otherwise terminated by or between the parties, the parties must, more than two (2) business days before the scheduled arbitration hearing date, so notify all arbitrators appointed for the case and file a Praecipe to Discontinue the action of record. In such an event, the arbitrators shall not be entitled to receive compensation. If the arbitrators have not been notified and/or if the case has not been discontinued of record more than two (2) business days before the date and time of the scheduled arbitration hearing, then the arbitration hearing shall be conducted as scheduled, and the arbitrators shall, in accordance with law, make an award. In such a case the arbitrators shall be entitled to compensation.

(2) The compensation payable or paid to the members of the Board of Arbitrators under these rules shall not be taxed as costs, except as otherwise provided in this Rule.

**Rule L1315 Optional Binding Arbitration**

(a) In all cases, including those subject to compulsory arbitration pursuant to 42 Pa.C.S.A. § 7361 and Rule L1301, the parties, by consent and agreement, may submit the case to binding arbitration.

(b) Those parties agreeing to binding arbitration and consenting to be bound by this Rule shall file a consent with the court in the form prescribed by subdivision (c).

(c) *Form of Consent*

1) The consent shall be substantially in the following form:

I, (Name of Party), acknowledge that I have been fully informed of the procedures and consequences of binding arbitration and consent to binding arbitration under Rule L1315. I agree that there shall be no appeal from the decision of the arbitrators under binding arbitration absent a clear showing of fraud, misconduct, corruption, or other irregularity, which caused an unjust, inequi-

table, or unconscionable award by the arbitrators, or that I was denied a hearing before the arbitrators.

I further acknowledge that I have voluntarily and without undue influence or coercion executed and filed this consent.

_____	_____	_____
Date	Plaintiff	Defendant
_____	_____	_____
Date	Plaintiff	Defendant
_____	_____	_____
Date	Plaintiff	Defendant

2) The consent shall be signed by the party submitting and filing it and the attorney for the party, who shall witness the party's signature.

**Rule L2039 Compromise, Settlement, Discontinuance and Distribution**

(a) *Contents of Petition.*

A petition presented pursuant to Pa.R.C.P. 2039 seeking to compromise a minor's claim shall be verified by the guardian of the minor, and shall contain a statement describing the nature of the evidence relied upon to establish liability, the elements of damages, the injuries sustained, and a list of expenses incurred or reasonably anticipated. The petition shall also include the following:

(1) A statement by counsel concerning his or her professional opinion regarding the desirability of the settlement and the reasons therefore;

(2) A description of the services rendered;

(3) A description of the amount of reimbursable expenses requested;

(4) The amount of fees requested;

*Note:* The court will approve a contingent fee of 33 1/3%. All fees in excess of 33 1/3% shall be considered on a case by case basis.

(5) A statement by the attending physician concerning the injuries sustained by the minor, the treatment administered and the prognosis; and

(6) In cases involving property damage claims, a statement by the party who made the repairs or who appraised the loss.

(b) *Order of Court Directing Deposit of Funds.*

All petitions presented pursuant to Pa.R.C.P. 2039 where the proceeds of the settlement are to be deposited in a savings account or in a certificate of deposit shall have attached to the petition an order including the following language:

"It is hereby ordered and decreed that the amount of \$ \_\_\_\_\_ shall be deposited in the name of \_\_\_\_\_ (name of minor), a minor, by counsel of record in a savings account or certificate of deposit in a federally insured bank, savings and loan association or credit union. The savings account or certificate of deposit shall contain the following notation: NOT TO BE WITHDRAWN UNTIL THE MINOR REACHES THE AGE OF MAJORITY OR BY FURTHER ORDER OF THIS COURT."

(c) *Proof of Deposit.* Plaintiff's counsel shall be responsible for filing a Proof of Deposit with the Prothonotary or Clerk of the Orphans' Court within 30 days of the entry of an order directing the deposit of funds.

(d) *Annuity Contracts.*

(1) Where the terms of settlement of a minor's claim include an annuity contract, the annuity contract shall provide that the policy will not be transferred or assigned to another company within the prior written approval of this court.

(2) Plaintiff's counsel shall serve a copy of this Rule upon the company issuing the annuity contract, and file proof of such service with the Prothonotary within 30 days following the court's approval of any such annuity contract.

(e) Unless excused for cause shown, any petition to compromise a minor's claim shall be presented in motion court. The guardian and the minor shall appear unless excused by the court for cause shown.

**Rule L3103 Commencement. Issuance**

(a) Attachment of personal earnings to satisfy a judgment for damages awarded to a judgment creditor-landlord for a residential lease permitted under 42 Pa.C.S.A. § 8127 shall be initiated with the Prothonotary by filing a praecipe for writ of execution naming the judgment debtor's employer as garnishee in substantially the form provided in Rule L3251 and Pa.R.C.P. 3251.

(b) To execute on a judgment by means of attachment of personal earnings of a judgment debtor-tenant to recover damages awarded to a landlord for a residential lease, the judgment creditor-landlord shall file with the Prothonotary a writ of execution in substantially the form provided in Rule L3252 and Pa.R.C.P. 3252.

(c) A writ of execution naming a judgment debtor's employer as garnishee filed with the Prothonotary shall be accompanied by a certified copy of the transcript of the judgment entered by the District Justice or a certified copy of the judgment entered by the Court of Common Pleas or equivalent court of another jurisdiction. No praecipe for writ of execution shall be presented to or be accepted by the Prothonotary until the judgment is final by operation of law or otherwise.

(d) Service of a writ of execution naming a judgment debtor's employer as garnishee shall be made by the Sheriff in accordance with Pa.R.C.P. 3108 or any Rules or Rules of Civil Procedure promulgated to replace Pa.R.C.P. 3108.

**Rule L3251 Praecipe for Writ of Execution—Money Judgment**

The praecipe for a writ of execution for the attachment of personal earnings to satisfy a judgment for damages awarded to a judgment creditor-landlord for a residential lease permitted under 42 Pa.C.S.A. § 8127 shall be in substantially the following form:

(Caption)

**PRAECIPE FOR WRIT OF EXECUTION**

To The Prothonotary of Lawrence County:

Issue writ of execution in the above matter directed to the Sheriff of Lawrence County naming the judgment debtor's employer as garnishee to attach the personal earnings of the defendant, \_\_\_\_\_, who resides at \_\_\_\_\_, in the total amount of \$ \_\_\_\_\_. This claimed amount arises out of physical damages and/or rent due for a residential lease between the plaintiff and the defendant for the leasehold premises at \_\_\_\_\_.

I certify that the judgment in this case upon which this praecipe is based is final and has not been appealed. Documentary proof of the final judgment is attached to this praecipe. I further certify that the requested personal

earnings attachment is only to recover damages for physical injuries to a residential leasehold and/or rent due in the residential lease.

Respectfully submitted, \_\_\_\_\_

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Attorney for Plaintiff/Plaintiff)

\_\_\_\_\_  
address

\_\_\_\_\_  
telephone number

**Rule L3252 Writ of Execution—Money Judgment**

The writ of execution for the attachment of personal earnings to satisfy a judgment for damages awarded to a judgment creditor-landlord for a residential lease permitted under 42 Pa.C.S.A. § 8127 shall be in substantially the following form:

(Caption)

**WRIT OF EXECUTION  
NOTICE**

This paper is a writ of execution—naming the judgment debtor's employer as garnishee to attach the personal earnings of the defendant. It has been issued because there is a judgment against you. It may cause your personal earnings, including wages, to be taken to pay the judgment. You may have legal rights to prevent your earnings from being taken. A lawyer can advise you more specifically of these rights. If you wish to exercise your rights, you must act promptly.

The law provides that earnings, including wages, cannot be taken under certain circumstances. There are exemptions which may be applicable to you.

If you believe your earnings should be exempt, you should do the following promptly: (1) Fill out the attached claim form for exemption and demand for a prompt hearing. (2) Deliver the form or mail it to the Sheriff of Lawrence County, Lawrence County Government Center, 430 Court Street, New Castle, Pennsylvania, 16101.

You should come to court ready to explain your exemption. If you do not come to court and prove your exemption, a portion of your earnings will be attached, deducted and paid toward satisfaction of the judgment.

**YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN OBTAIN THE SERVICES OF A LAWYER AND GET LEGAL HELP.**

Office of Lawyer Referral  
Third Floor  
Lawrence County Government Center  
430 Court Street  
New Castle, PA 16101  
(724) 656-1921

**WRIT OF EXECUTION**

COMMONWEALTH OF PENNSYLVANIA :  
: ss:  
COUNTY OF LAWRENCE :  
TO THE SHERIFF OF LAWRENCE COUNTY :

To satisfy the judgment, interest, and costs against \_\_\_\_\_, defendant, you are directed to attach the personal earnings, including wages, of the defendant due or to become due from the defendant's employer,

\_\_\_\_\_(Name of Employer-garnishee) as garnishee, and to notify the employer-garnishee that the employer- garnishee is required to deduct from the defendant's personal earnings, including wages, and pay over to the Prothonotary, a sum which shall be no more than ten (10%) percent of the net personal earnings or wages per pay period of the defendant or a sum not to place the defendant's net income below the poverty income guidelines as provided annually by the Federal Office of Management and Budget, whichever is less, as provided for, and subject to the restrictions contained in 42 Pa.C.S.A. § 8127, a copy of which is attached. Deduction shall continue until the amount of the judgment is satisfied.

AMOUNT DUE \$ \_\_\_\_\_

\_\_\_\_\_  
(Name of Prothonotary or Clerk)

Seal of the Court:

By \_\_\_\_\_

(Prothonotary or Deputy)

(Caption)

CLAIM FOR EXEMPTION

TO THE SHERIFF OF LAWRENCE COUNTY:

I, the above named defendant, claim exemption of personal earnings, including wages, from attachment for the following reasons (specify amount and basis of claim of exemption):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I request a prompt court hearing to determine the exemption. Notice of the hearing should be given to me at:

\_\_\_\_\_

Address

\_\_\_\_\_

Telephone Number

I verify that the statements made in this claim for exemption are true and correct. I understand that false statements herein are made subject to the penalties of 18 Pa.C.S. § 4904, relating to unsworn falsification to authorities.

\_\_\_\_\_  
(Date) (Defendant)

THIS CLAIM IS TO BE FILED WITH THE OFFICE OF THE SHERIFF OF LAWRENCE COUNTY:

Lawrence County Government Center  
430 Court Street  
New Castle, PA 16101  
(724) 656-2190

**Rule L4002.1 Filing Discovery Material**

Any counsel who files of record any discovery material in violation of Pa.R.C.P. 4002.1 (filing of discovery material), is subject to sanctions upon the court's own motion.

*Note:* The filing of unnecessary discovery material by counsel has become a burden of the Prothonotary and the court as the volume of unnecessary documents clutters the record and creates storage problems.

**Rule L4008 Oral Depositions, Limitation**

Any deposition of a non-medical deponent by any party shall be taken in the law offices of the Lawrence County counsel unless all parties agree to another location. If all counsel are from outside Lawrence County and counsel wish to take any deposition in the Lawrence County Government Center, the date, place and time of the deposition shall be coordinated with the District Court Administrator. Any notice issued contrary to this Rule shall be void.

*Note:* This Rule will permit the scheduling and taking of depositions of medical witnesses at the physicians' office. For non-medical witnesses, however, the rule is designed to prevent the abuse of scheduling depositions without regard to the convenience of other parties to the action.

[Pa.B. Doc. No. 03-2022. Filed for public inspection October 17, 2003, 9:00 a.m.]

**DISCIPLINARY BOARD OF THE SUPREME COURT**

**Notice of Suspension**

Notice is hereby given that Peter A. Wood, having been suspended from the practice of law in the State of New Jersey for a period of three months, the Supreme Court of Pennsylvania issued an Order dated October 2, 2003 suspending Peter A. Wood from the practice of law in this Commonwealth for a period of three months, to run concurrent with the Pennsylvania suspension imposed on May 6, 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. 03-2023. Filed for public inspection October 17, 2003, 9:00 a.m.]

# PROPOSED RULEMAKING

## ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CH. 93]

### Triennial Review of Water Quality Standards

The Environmental Quality Board (Board) proposes to amend Chapter 93 (relating to water quality standards) to read as set forth in Annex A.

This proposed rulemaking was adopted by the Board at its meeting of July 15, 2003.

#### A. *Effective Date*

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

#### B. *Contact Persons*

For further information contact Edward R. Brezina, Chief, Division of Water Quality Assessment and Standards, Bureau of Water Supply and Wastewater Management, 11th Floor, Rachel Carson State Office Building, P. O. Box 8467, Harrisburg, PA 17105-8464, (717) 787-9637; or Michelle Moses, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This proposed rulemaking is available electronically through the Department of Environmental Protection's (Department) website (<http://www.dep.state.pa.us>).

#### C. *Statutory Authority*

The proposed rulemaking is made under the authority of sections 5(b)(1) and 402 of The Clean Streams Law (35 P. S. §§ 691.5(b)(1) and 691.402), which authorize the Board to develop and adopt rules and regulations to implement provisions of The Clean Streams Law, and section 1920-A of The Administrative Code of 1929 (71 P. S. § 510-20), which grants to the Board the power and duty to formulate, adopt and promulgate rules and regulations for the proper performance of the work of the Department. In addition, section 303 of the Federal Clean Water Act (33 U.S.C.A. § 1313) sets forth requirements for water quality standards and 40 CFR 131.32 (relating to Pennsylvania) sets forth certain requirements for portions of the Commonwealth's antidegradation program.

#### D. *Background and Purpose of the Proposed Rulemaking*

The Commonwealth's water quality standards, which are codified in portions of Chapter 92 (relating to National Pollutant Discharge Elimination System permitting, monitoring and compliance) and Chapter 93, are designed to implement the requirements of sections 5 and 402 of The Clean Streams Law and section 303 of the Federal Clean Water Act. The water quality standards consist of the designated uses of the surface waters of this Commonwealth, along with the specific numerical and narrative criteria necessary to achieve and maintain those uses and an antidegradation policy. Thus, water quality standards are in-stream water quality goals that are implemented by imposing specific regulatory requirements, such as treatment requirements and effluent limitations, on individual sources of pollution.

Water quality standards are an important element of the Commonwealth's water quality management program. Some type of water quality standard has been in use for approximately 75 years in this Commonwealth. One of the early actions after the Sanitary Water Board (SWB) was created in 1923 was to classify streams by priority for water quality management actions. In 1947, the SWB classified all streams in this Commonwealth by the degree of treatment that had to be provided before discharge could occur. Article 301—Water Quality Control, which specifically contained water uses, general and specific water quality criteria and designated water uses and water quality criteria, was added to the SWB's rules and regulations on June 28, 1967. The SWB was abolished on January 19, 1971, following the formation of the Department of Environmental Resources (DER) in 1968. Responsibilities for developing and maintaining the water quality criteria and standards and other related regulations were transferred to the DER. New or revised specific water quality criteria and standards were developed by the DER for all surface waters in this Commonwealth and formally adopted into Chapter 93 on September 10, 1971.

The DER completed its first major review and complete overhaul of the water quality criteria and standards in 1979. After a series of public hearings and extensive public participation, revisions to the water quality criteria and uses were incorporated into Chapter 93. The United States Environmental Protection Agency (EPA) Region III formally approved the revisions to the Commonwealth's water quality standards on January 26, 1981. Section 303(c)(1) of The Clean Water Act requires that states periodically, but at least once every 3 years, review and revise as necessary their water quality standards. Additional reviews and revisions were made to the Commonwealth's water quality standards during 1985, 1989 and 1994. The Department, which was created in June 1995 after splitting the DER into two agencies by approval of the Conservation and Natural Resources Act (71 P. S. §§ 1340.101—1340.1103), began to conduct the Department's first comprehensive review of water quality standards regulations, policies and implementation procedures which became the basis for the Department's next triennial review.

Additional reviews and revisions were made to the Commonwealth's water quality standards during 1998—2000 and 2002 to address amendments for the Great Lakes Initiative, the antidegradation policies, the Water Quality Standard Regulatory Basics Initiative Triennial and several other corrective amendments.

This proposal constitutes Pennsylvania's current triennial review of its water quality standards.

#### E. *Summary of Issues and Proposed Amendments*

In this triennial review, it is proposed to clarify language in several sections of Chapter 93, update water quality criteria for dissolved oxygen and correct several stream listings.

##### § 93.2. *Scope.*

The Board is proposing to amend subsection (a) by deleting the words "and will be considered by the Department in its regulation of discharges." It has been the Department's longstanding position that § 93.2 is broad and that Chapter 93 is not limited to "discharges" or to "point sources" as defined in § 92.1 (relating to defini-

tions). On December 31, 2002, the Environmental Hearing Board (EHB) issued an opinion in *Consol Pennsylvania Coal Company v. Commonwealth of Pennsylvania, Department of Environmental Protection et al.*, EHB Doc. No. 2002-112, that interpreted the scope section of Chapter 93 as applying only to “discharges.” After accepting petitions for reconsideration on the interpretation of the language in § 93.2, the EHB issued a subsequent opinion in the case withdrawing its portion of the earlier opinion that related to the scope of Chapter 93. The proposed amendment to § 93.2 will avoid future misunderstandings about the scope of Chapter 93. The proposed amendment will reaffirm the Department’s longstanding position that the water quality standards in Chapter 93 are the standards that are used whenever the environmental statutes authorize the Department to make decisions or approvals relating to stream quality protection.

*§ 93.6. General water quality criteria.*

In § 93.6(b), a grammatical correction is proposed to replace the word “which” with the word “that.” Also, a spelling correction is proposed for the word “odors.”

*§ 93.7. Specific water quality criteria.*

The dissolved oxygen (DO) water quality criteria applicable to waters designated Cold Water Fishes (CWF), High Quality (HQ)-Warm Water Fishes (WWF) or HQ-Trout Stocking (TSF) (DO<sub>1</sub>) and HQ-CWF (DO<sub>4</sub>) currently do not recognize the natural phenomenon of thermal stratification that can occur in lakes, ponds and impoundments. The DO<sub>1</sub> criterion currently requires that DO levels meet the criteria at any location throughout the water column in lakes. The DO<sub>4</sub> criterion, on the other hand, does not specifically mention lakes. The current DO<sub>2</sub> and DO<sub>3</sub> criteria, applicable to waters designated WWF and TSF respectively, recognize the fact that DO levels in the bottom waters of lakes are likely to be depressed due to naturally occurring conditions and specify that the criteria are applicable to the epilimnion (upper layer) of lakes. It is important to account for the natural stratification of lakes, which may occur in the summer and early fall. The hypolimnion (lower layer) is typically the coldest layer in the summer (but may be the warmest in the winter) and tends to have naturally depressed DO levels because it is isolated from the effects of wind mixing that physically incorporates oxygen and is typically too dark for photosynthesis to occur to produce or replenish oxygen in this lower layer. Further, DO in the hypolimnion is also gradually consumed through respiration and decomposition faster than it can be replaced. A similar phenomenon of thermal stratification may also occur in the winter, especially under ice cover. As a result, these natural conditions of stratification prevent specific DO criteria from being met throughout this lower layer of the lake. To recognize the effects of natural stratification in CWF, HQ-WWF, HQ-TSF and HQ-CWF lakes, it is proposed that the DO<sub>1</sub> and DO<sub>4</sub> criteria be amended to apply to the epilimnion of stratified lakes, as the other DO<sub>2</sub> and DO<sub>3</sub> criteria apply. For those periods when lakes are not stratified, the DO criterion applies throughout the lake. The natural processes that cause this stratification are time and site-specific and may be very changeable, not only from one waterbody to another but also within the same lake under different weather or prevailing conditions or from year to year. Fish populations, however, are not adversely affected by these conditions because the fish move to areas containing sufficient DO, including the epilimnion, shallow near-shore areas or shallow coves and embay-

ments. The general narrative water quality criteria in § 93.6 protect aquatic life in the hypolimnion of these stratified lakes.

*§ 93.8. Development of site-specific water quality criteria for the protection of aquatic life.*

The heading of this section indicates that it applies only to the protection of aquatic life. To clarify that the section also applies to human health and wildlife criteria, the proposed rulemaking removes the words “for the protection of aquatic life” from the heading.

In § 93.8(b), a language correction is proposed to replace the word “upgraded” with the word “updated” to be consistent with the language used throughout Chapter 93.

*§ 93.9. Designated water uses and water quality criteria.*

The proposed rulemaking reorganizes the abbreviations in § 93.9(a) into alphabetical order.

In § 93.9, the following changes to the drainage lists are proposed to clarify stream names and segment boundaries.

*§ 93.9a. Drainage List A.*

Sand Pond Creek is listed as a tributary to the West Branch Delaware River and Sherman Creek is listed as a tributary to Sand Pond Creek. The Department’s Stream Directory does not list Sand Pond Creek. The topographic maps of the area show that Sherman Creek flows into the West Branch Delaware River and the Stream Directory correctly reflects this drainage pattern. It appears that this error was made in 1979 and has been carried forward since then. The Department’s records indicate that the upper portion of Sherman Creek was a Conservation Area and designated HQ waters. Two tributaries to Sherman Creek, Starboard Creek and Cat Hollow, were excluded from the Conservation Area designation. This error is corrected in this proposed rulemaking. This action will not affect the current stream use designations.

*§ 93.9b. Drainage List B.*

Johnson Creek is a tributary to the West Branch Lackawaxen River, above Prompton Reservoir. It is currently shown as being below the reservoir. It is therefore proposed to delete Johnson Creek from the drainage list because it is a tributary in the upper part of the basin and is therefore included in the designation for the upper basin. This proposed amendment will have no effect on the existing stream designations.

*§ 93.9c. Drainage List C.*

An error was made to the stream listing hierarchy pertaining to Sand Hill Creek and Little Bush Kill during the reformatting of Chapter 93, which was published as a final-form rulemaking at 22 Pa.B. 1037 (March 7, 1992). These streams were listed as tributaries to the unnamed tributaries of Bush Kill. It is proposed to correct the hierarchy to show that Sand Hill Creek and Little Bush Kill are tributaries to Bush Kill. These proposed amendments will not affect the current stream designations.

*§ 93.9d. Drainage List D.*

First Hollow Run is the local name of an unnamed tributary to Nesquehoning Creek. To clarify the name and location, it is proposed to add the stream code, UNT 04106, to the First Hollow Run listing.

An error was made when listing the upper portion of the Mauch Chunk basin. White Bear Creek was mistaken for Mauch Chunk Creek. White Bear Creek is a tributary to the upper Mauch Chunk Creek basin. It is therefore

proposed that the current stream entries for White Bear Creek be deleted because they are included in the designation for the Mauch Chunk Creek basin. This correction will not affect the current stream designations.

*§ 93.9e. Drainage List E.*

Neshaminy Creek is a tributary to the Delaware River. The drainage list uses the PA 614 Dam as a segment boundary. This dam was never built. To clarify the location of this segment boundary it is proposed to use the river mile location of the proposed dam site.

*§ 93.9f. Drainage List F.*

It is proposed to correct an error that was made during a proposed rulemaking published at 26 Pa.B. 3637 (August 3, 1996) concerning Drainage List F. Before the proposed rulemaking there were two entries for unnamed tributaries (UNTs) to the Schuylkill River from the Berks-Chester-Montgomery County border to Valley Creek. One included all UNTs except those in Spring City and Phoenixville. The other referred to only the UNTs in Spring City and Phoenixville. In that proposed rulemaking, the reference to the tributaries in Spring City and Phoenixville was inadvertently omitted and wording from the first entry was included in the second entry. The proposed amendments restore the original entry for the tributaries in Spring City and Phoenixville. There is no change in the use designation of these tributaries as a result of this correction.

Typographical errors were made in the segmentation of portions of Perkiomen Creek during the final Class A Wild Trout Waters rulemaking, which was published as a final-form rulemaking at 32 Pa.B. 4695 (September 28, 2002). The entries were correct in this proposed rulemaking. The upper part of the Perkiomen Creek basin (source to SR 1010 bridge at Hereford) was redesignated HQ-CWF. The next entry should be for the main stem of Perkiomen Creek from that bridge to the Green Lane Reservoir Dam. In the final-form rulemaking, the entry was incorrectly listed as the basin in this reach. In addition, the entry for the UNTs in this reach still refers to the old segment boundary, instead of SR 1010. These errors are proposed for correction.

*§ 93.9i. Drainage List I.*

While conducting assessments in Bradford County, the Department determined that the Little Wysox Creek entry was incorrect. After reviewing the stream maps and the Stream Directory, it was found that the correct name for the stream is Laning Creek, rather than Little Wysox Creek. It is proposed to delete the name Little Wysox Creek and add the correct name, Laning Creek. This correction will not alter the current stream designation, as it is simply a name change.

*§ 93.9l. Drainage List L.*

Rather than redesignating only a portion of Spring Run, Elk County as a Class A Wild Trout Water, the entire basin was inadvertently redesignated as HQ-CWF. Neither the Fish and Boat Commission (Commission) nor the Department noticed this error during the rulemaking process. The Board approved the Class A Wild Trout Waters for final-form rulemaking at its July 16, 2002, meeting and the final-form rulemaking was published at 32 Pa.B. 4695.

The Commission's fisheries management report describes the Class A portion of Spring Run as that portion of the basin from a UNT near the Elk State Forest boundary downstream to Stony Brook and includes a map showing the segment. Department staff conducted an

independent review of the trout biomass data in the fisheries management report for this stream. There is no additional information that meets the criteria for HQ waters in the other portions of the basin. The Board proposes to correct this error, limiting the HQ-CWF designation to the correct segment and relisting the rest of the basin as the CWF use as it was before the error was made. The corrected designations are shown in Annex A.

*§ 93.9m. Drainage List M.*

Muddy Creek, a tributary to Penns Creek in Centre County, was inadvertently omitted from the Class A Wild Trout Waters final-form rulemaking published at 32 Pa.B. 4695. The Muddy Creek basin is included on the Commission list of Class A Wild Trout Waters. The Department reviewed the fisheries management report and concluded that the stream qualifies for HQ designation. Therefore, the Board proposes to change the designation of the Muddy Creek basin from CWF to HQ-CWF.

*§ 93.9o. Drainage List O.*

Laurel Run is a tributary to Sherman Creek in the Susquehanna River basin. In Chapter 93, North Branch Laurel Run is listed as a tributary to Laurel Run. There is no North Branch Laurel Run in the Stream Directory. To make the listing correct, it is proposed that the North Branch entry be deleted and the upper portion of Laurel Run be listed. This change will have no effect on the current stream designation.

Mill Creek is a tributary to the Conestoga River. An outdated road designation is used as the downstream boundary of the listing for the upper main stem. To clarify this segment of the stream, it is proposed that an updated State Route number be substituted for the current road number in the stream listing.

Deer Creek is a tributary to the Susquehanna River and is presently classified as CWF. The Commission's fisheries management report revealed the presence of the American Eel at all sampling stations along this creek. The Department reviewed the fisheries management report and concluded that the stream qualifies for the additional designation of Migratory Fishes, which is proposed in this rulemaking.

*§ 93.9q. Drainage List Q.*

Four tributaries to the South Branch Tionesta Creek are missing from Drainage List Q: Wolf Run, Chaffee Run, Tuttle Run and Martin Run. The entire South Branch Tionesta basin was a Conservation Area and was designated HQ-CWF, with the exception of Crane Run that was designated EV as a Wilderness Trout Stream. This meant that all tributaries, named and unnamed, should have been included in the drainage list. These four named streams were inadvertently omitted in 1978-1979 and the error has been carried forward since then. These four streams are added in Annex A with the HQ-CWF designation. In addition, the county where the stream mouth is located has been corrected for some streams.

*§ 93.9s. Drainage List S.*

North Fork is listed as a tributary of Redbank Creek and South Branch is shown as a tributary of North Fork. North Fork and South Branch are incomplete stream names that have been used since about 1979. It is proposed to correct the names of these two streams in the drainage list. The correct names are North Fork Redbank Creek and South Branch of North Fork Redbank Creek.

### *Fishable/Swimmable Waters*

Part of the triennial review requires that states reexamine water body segments that do not meet the fishable or swimmable uses specified in section 101(a)(2) of the Federal Clean Water Act (33 U.S.C.A. § 1251(a)(2)). The Department evaluated the two Pennsylvania water bodies where the uses are not currently met: (1) the Harbor Basin and entrance channel to Outer Erie Harbor/Presque Isle Bay; and (2) several zones in the Delaware Estuary.

The swimmable use designation was deleted from the Harbor Basin and entrance channel demarcated by United States Coast Guard buoys and channel markers on Outer Erie Harbor/Presque Isle Bay because boat and shipping traffic pose a serious safety hazard in this area. This decision was based on a Use Attainability study in 1985. Because the same conditions exist today, no change to the designated use for Outer Erie Harbor/Presque Isle Bay is proposed.

The Department cooperated with the Delaware River Basin Commission (DRBC), the EPA and other DRBC signatory states on a comprehensive Use Attainability study in the lower Delaware River and Delaware Estuary. This study resulted in appropriate recommendations regarding swimmable use, which the DRBC included in water use classifications and water quality criteria for portions of the tidal Delaware River in May 1991. Criteria for enterococcus and changes in application to the fecal coliform criteria in this area reflect the use. The appropriate DRBC standards were referenced in §§ 93.9e and 93.9g (relating to Drainage List E; and Drainage List G) in 1994. The primary water contact use remains excluded from the designated uses for River Miles 108.4 to 81.8 because of continuing significant impacts from combined sewer overflows.

### *F. Benefits, Costs and Compliance*

1. *Benefits*—Overall, the citizens of this Commonwealth will benefit from this proposed rulemaking because it provides the appropriate level of protection for the uses of surface waters in this Commonwealth.

2. *Compliance Costs*—The proposed rulemaking is not expected to impose any significant additional compliance costs on the regulated community. The proposed rulemaking is not expected to increase total pollution control expenditures over that which would otherwise be required under existing regulations.

Persons conducting or proposing activities or projects must comply with the regulatory requirements regarding designated and existing uses. Persons expanding a discharge or adding a new discharge point to a stream could be adversely affected if they need to provide a higher level of treatment to meet the designated and existing uses of the stream. These increased costs may take the form of higher engineering, construction or operating cost for wastewater treatment facilities. Treatment costs are site-specific and depend upon the size of the discharge in relation to the size of the stream and many other factors. It is therefore not possible to precisely predict the actual change in costs. Economic impacts would primarily involve the potential for higher treatment costs for new or expanded discharges to streams that are upgraded.

3. *Compliance Assistance Plan*—The proposed rulemaking has been developed as part of an established program that has been implemented by the Department since the early 1980s. The proposed rulemaking is consistent with and based on existing Department regulations.

The proposed rulemaking will be implemented in part through the National Pollutant Discharge Elimination System (NPDES) permitting program. No additional compliance materials are anticipated. Staff are available to assist regulated entities in complying with the regulatory requirements if any questions arise.

4. *Paperwork Requirements*—The proposed rulemaking should have no significant paperwork impact on the Commonwealth, its political subdivisions or the private sector.

### *G. Pollution Prevention*

Water quality standards are a major pollution prevention tool because they protect water quality and designated and existing uses. The proposed rulemaking will be implemented through the Department's permit and approval actions. For example, the NPDES bases effluent limitations on the designated use of the stream and assures water quality criteria are achieved and designated and existing uses are protected.

### *H. Sunset Review*

This proposed rulemaking will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulation effectively fulfills the goals for which it was intended.

### *I. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 7, 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 Environmental Resources and Energy Committees for review and comment. 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.

### *J. Public Comments*

*Written Comments*—Interested persons are invited to submit comments, suggestions or objections regarding the proposed rulemaking to the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477 (express mail: Rachel Carson State Office Building, 15th Floor, 400 Market Street, Harrisburg, PA 17101-2301). Comments submitted by facsimile will not be accepted. The Board must receive comments by December 17, 2003. Interested persons may also submit a summary of their comments to the Board. The summary may not exceed one page in length and must also be received by December 17, 2003. The one-page summary will be provided to each member of the Board in the agenda packet distributed prior to the meeting at which the proposed rulemaking will be considered. Two public hearings will be scheduled at appropriate locations to receive additional comments.

*Electronic Comments*—Comments may be submitted electronically to the Board at [RegComments@state.pa.us](mailto:RegComments@state.pa.us). A subject heading of the proposal and return name and

address must be included in each transmission. The Board must also receive comments submitted electronically by December 17, 2003.

*K. Public Meetings and Public Hearings*

The Department will hold two public meetings to explain the proposed rulemaking and to respond to questions from participants. The meetings will be held at 6 p.m. as follows:

- December 2, 2003      Four Points by Sheraton  
Pittsburgh North  
910 Sheraton Drive  
Mars, PA 16046
- December 4, 2003      Courtyard by Marriott  
16 Glenmaura National Blvd.  
Moosic, PA 18507

The Board will hold two public hearings for the purpose of accepting comments on this proposed rulemaking. The hearings will be held at 7 p.m. as follows:

- December 2, 2003      Four Points by Sheraton  
Pittsburgh North  
910 Sheraton Drive  
Mars, PA 16046
- December 4, 2003      Courtyard by Marriott  
16 Glenmaura National Blvd.  
Moosic, PA 18507

Persons wishing to present testimony at a hearing are requested to contact the Environmental Quality Board, P. O. Box 8477, Harrisburg, PA 17105-8477, (717) 787-4526 at least 1 week in advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness. Witnesses are requested to submit three written copies of their oral testimony to the hearing chairperson at the hearing. Organizations are limited to designating one witness to present testimony on their behalf at each hearing.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Board at (717) 787-4526 or through the

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

KATHLEEN A. MCGINTY,  
*Chairperson*

**Fiscal Note:** 7-386. No fiscal impact; (8) recommends adoption.

**Annex A**

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

**Subpart C. PROTECTION OF NATURAL RESOURCES**

**ARTICLE II. WATER RESOURCES**

**CHAPTER 93. WATER QUALITY STANDARDS  
GENERAL PROVISIONS**

**§ 93.2. Scope.**

(a) This chapter sets forth water quality standards for surface waters of this Commonwealth, including wetlands. These standards are based upon water uses which are to be protected [ **and will be considered by the Department in its regulation of discharges** ].

\* \* \* \* \*

**ANTIDegradation Requirements**

**§ 93.6. General water quality criteria.**

\* \* \* \* \*

(b) In addition to other substances listed within or addressed by this chapter, specific substances to be controlled include, but are not limited to, floating materials, oil, grease, scum and substances [ **which** ] that produce color, tastes, [ **orders** ] odors, turbidity or settle to form deposits.

**§ 93.7. Specific water quality criteria.**

\* \* \* \* \*

**TABLE 3**

<i>Parameter</i>	<i>Symbol</i>	<i>Criteria</i>	<i>Critical Use*</i>
		* * * * *	
<b>Dissolved Oxygen</b>		<b>The following specific dissolved oxygen criteria recognize the natural process of stratification in lakes, ponds and impoundments, and allow that the hypolimnion in a stratified lake, pond or impoundment is protected by the narrative water quality criteria in § 93.6 (relating to general water quality criteria). For nonstratified lakes, ponds or impoundments, the dissolved oxygen criteria are the same as for the epilimnion to protect the critical use of the lake, pond or impoundment.</b>	<b>See the following table.</b>
Dissolved Oxygen	DO <sub>1</sub>	Minimum daily average 6.0 mg/l; minimum 5.0 mg/l. For <b>the epilimnion of stratified lakes, ponds and impoundments [ only ]</b> , minimum 5.0 mg/l [ <b>at any point</b> ].	CWF, HQ-WWF, HQ-TSF
		* * * * *	
	DO <sub>4</sub>	Minimum 7.0 mg/l. For <b>stratified lakes, ponds and impoundments, the criterion applies to the epilimnion.</b>	HQ-CWF
		* * * * *	



§ 93.8. Development of site-specific water quality criteria [ for the protection of aquatic life ].

\* \* \* \* \*

(b) Scientific studies shall be performed in accordance with the procedures and guidance in the Water Quality Standards Handbook (EPA 1994), as amended and [ up-graded ] updated, guidance provided by the Department or other scientifically defensible methodologies approved by the Department.

\* \* \* \* \*

§ 93.9. Designated water uses and water quality criteria.

(a) The tables in §§ 93.9a–93.9z display designated water uses and water quality criteria in addition to the water uses and criteria specified in Tables 2 and 3. Designated uses shall be protected in accordance with Chapters 95 and 96 (relating to wastewater treatment requirements; and water quality standards implementation) and any other applicable State and Federal laws and regulations. The tables also indicate specific exceptions to Tables 2 and 3 on a stream-by-stream or segment-by-segment basis by the words “add” or “delete” followed by the appropriate symbols described elsewhere in this chapter. The county column in §§ 93.9a–93.9z indicates the county in which the mouth of the stream is located. Abbreviations used in the **Stream and the “Zone” [ column ] columns** are as follows:

[ T—Township Road

LR—Pennsylvania Legislative Route

SR—Pennsylvania State Route

FAS—Federal Aid Secondary Highway

US—United States Federal Route

I—Interstate Highway

RM—River Mile; river miles are used to indicate the distance from a point on the waterbody to its mouth and are based on the Department’s River Mile Index ]

FAS—Federal Aid Secondary Highway

I—Interstate Highway

LR—Pennsylvania Legislative Route

RM—River Mile; river miles are used to indicate the distance from a point on the waterbody to its mouth and are based on the Department’s River Mile Index

SR—Pennsylvania State Route

T—Township Road

UNT—Unnamed Tributaries.

US—United States Federal Route

\* \* \* \* \*

§ 93.9a. Drainage List A.

Delaware River Basin in Pennsylvania  
Delaware River

Stream	Zone	County	Water Uses Protected	Exceptions To Specific Criteria
[ 3—Sand Pond Creek	<b>Basin (all sections in PA), Source to Sherman Creek</b>	Wayne	CWF	<b>None ]</b>
[ 4 ]3—Sherman Creek	Basin (all sections in PA), <b>Source to Starboard Creek</b>	Wayne	HQ-CWF	None
[ 3—Sand Pond Creek	<b>Basin (all sections in PA), Sherman Creek to PA-NY State Border</b>	Wayne	CWF	<b>None ]</b>
4—Starboard Creek	<b>Basin (all sections in PA)</b>	Wayne	CWF	<b>None</b>
3—Sherman Creek	<b>Basin (all sections in PA), Starboard Creek to PA-NY State Border</b>	Wayne	CWF	<b>None</b>
3—[ Sand Pond ] Sherman Creek (NY)				
4—[ Unnamed Tributaries ] UNTs to [ Sand Pond ] Sherman Creek	Basins (all sections in PA), PA-NY State Border to Mouth	Wayne	CWF	None
2—West Branch Delaware River	Main Stem, PA-NY State Border to Confluence with East Branch	Wayne	CWF, MF	See DRBC regulations—Water Quality Zone 1A
	* * * * *			

§ 93.9b. Drainage List B.

**Delaware River Basin in Pennsylvania  
Lackawaxen River**

Stream	Zone					County	Water Uses Protected	Exceptions To Specific Criteria
	*	*	*	*	*			
3—West Branch Lackawaxen River	Main Stem, Prompton Reservoir to Confluence with Dyberry Creek					Wayne	HQ-TSF, MF	None
[ 4—Johnson Creek	Basin					Wayne	HQ-CWF, MF	None ]
4—Van Auken Creek	Basin					Wayne	HQ-TSF, MF	None
	*	*	*	*	*			

§ 93.9c. Drainage List C.

**Delaware River Basin in Pennsylvania  
Delaware River**

Stream	Zone					County	Water Uses Protected	Exceptions To Specific Criteria
	*	*	*	*	*			
3—Unnamed Tributaries to Bush Kill	Basins, Saw Creek to Mouth					Monroe	HQ-CWF	None
[ 4 ]3—Sand Hill Creek	Basin					Monroe	HQ-CWF	None
[ 4 ]3—Little Bush Kill	Basin, Source to Unnamed Tributary (UNT) 05067					Pike	EV	None
[ 5 ]4—Unnamed Tributary 05067 to Little Bush Kill	Basin					Pike	EV	None
[ 4 ]3—Little Bush Kill	Basin, UNT 05067 to UNT 05059					Pike	HQ-CWF	None
[ 5 ]4—Unnamed Tributary 05059 to Little Bush Kill	Basin					Pike	EV	None
[ 4 ]3—Little Bush Kill	Basin, UNT 05059 to UNT 05057					Pike	EV	None
[ 5 ]4—Unnamed Tributary 05057 to Little Bush Kill	Basin					Pike	HQ-CWF	None
[ 4 ]3—Little Bush Kill	Basin, UNT 05057 to Mouth					Pike	EV	None
1—Delaware River	Main Stem, Tocks Island to Lehigh River					Northampton	WWF, MF	See DRBC regulations—Water Quality Zone 1D
	*	*	*	*	*			

§ 93.9d. Drainage List D.

**Delaware River Basin in Pennsylvania  
Lehigh River**

Stream	Zone					County	Water Uses Protected	Exceptions To Specific Criteria
	*	*	*	*	*			
3—Nesquehoning Creek	Main Stem, Tibbetts Pond Dam to Mouth					Carbon	CWF	None
4—[ First Hollow Run ] UNT 04106 (locally First Hollow Run)	Basin					Carbon	EV	None
4—Jeans Run	Basin					Carbon	HQ-CWF	None

	* * * * *				
3—Mauch Chunk Creek	[ Main Stem ] Basin, Source to SR 902 Bridge	Carbon	[ CWF ]EV	None	
[ 4—Unnamed Tributaries to Mauch Chunk Creek	Basins	Carbon	CWF	None	
4—White Bear Creek	Basin, Source to PA 902 Bridge	Carbon	EV	None	
4—White Bear Creek	Basin, PA 902 Bridge to Mouth	Carbon	CWF	None ]	
3—Mauch Chunk Creek	Basin, SR 902 Bridge to Mouth	Carbon	CWF	None	
3—Beaverdam Run	Basin	Carbon	CWF	None	
	* * * * *				

§ 93.9e. Drainage List E.

**Delaware River Basin in Pennsylvania  
Delaware River**

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
	* * * * *			
2—Neshaminy Creek	Main Stem, Confluence of West and North Branches to [ PA 614 Dam ] RM 26.84	Bucks	TSF, MF	Add Tur <sub>2</sub>
3—Unnamed Tributaries to Neshaminy Creek	Basins, Confluence of West and North Branches [ of PA 614 Dam ] to RM 26.84	Bucks	TSF, MF	Add Tur <sub>2</sub>
3—Cooks Run	Basin	Bucks	WWF, MF	Add Tur <sub>2</sub>
3—Mill Creek	Basin	Bucks	TSF, MF	Add Tur <sub>2</sub>
3—Country Club Creek	Basin	Bucks	WWF, MF	Add Tur <sub>2</sub>
2—Neshaminy Creek	Non-Tidal Portion of Main Stem, [ PA 614 Dam ] RM 26.84 to Mouth	Bucks	WWF, MF	Add Tur <sub>1</sub>
3—Unnamed Tributaries to Neshaminy Creek	Non-Tidal Portions of Basins, [ PA 614 Dam ] RM 26.84 to Mouth	Bucks	WWF, MF	Add Tur <sub>1</sub>
3—Little Neshaminy Creek	Basin	Bucks	WWF, MF	Add Tur <sub>1</sub>
	* * * * *			

§ 93.9f. Drainage List F.

**Delaware River Basin in Pennsylvania  
Schuylkill River**

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
	* * * * *			
3—Monocacy Creek	Basin	Berks	WWF	None
3—[ Unnamed Tributaries ] UNTs to Schuylkill River	Basins, Berks-Chester-Montgomery County Border to Valley Creek (except those in Spring City and Phoenixville)	Chester— Montgomery	HQ-TSF	None
3—[ Unnamed Tributaries ] UNTs to Schuylkill River	Basins, [ Berks-Chester-Montgomery County Border to Valley Creek ] in Spring City and Phoenixville	[ Montgomery ] Chester	WWF	None
3—Manatawny Creek	Main Stem	Berks	CWF	None

PROPOSED RULEMAKING

	* * * * *				
3—Perkiomen Creek	Basin, Source to SR 1010 Bridge at Hereford	Berks	HQ-CWF	None	
3—Perkiomen Creek	[ <b>Basin</b> ] <b>Main Stem</b> , SR 1010 Bridge to Green Lane Reservoir Dam	Montgomery	TSF	None	
4—Unnamed Tributaries to Perkiomen Creek	Basins, [ <b>LR 06119</b> ] <b>SR 1010</b> Bridge to Green Lane Reservoir <b>Dam</b>	Montgomery	TSF	None	
4—Hosensack Creek	Basin	Montgomery	CWF	None	
	* * * * *				

§ 93.9i. Drainage List I.

**Susquehanna River Basin in Pennsylvania  
Susquehanna River**

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
	* * * * *			
2—[ <b>Little Wysox</b> ] Laning Creek	Basin	Bradford	WWF	None
2—Wysox Creek	Basin	Bradford	CWF	None
	* * * * *			

§ 93.9l. Drainage List L.

**Susquehanna River Basin in Pennsylvania  
West Branch Susquehanna River**

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
	* * * * *			
4—Bennett Branch Sinnemahoning Creek	Main Stem, Mill Run to Confluence with Driftwood Branch	Cameron	WWF	None
	* * * * *			
5—Trout Run	Basin, Source to Spring Run	Elk	CWF	None
6—Spring Run	Basin, <b>Source to UNT 24721</b>	Elk	[ <b>HQ-CWF</b> ] <b>CWF</b>	None
7— <b>UNT 24721 to Spring Run</b>	<b>Basin</b>	<b>Elk</b>	<b>CWF</b>	<b>None</b>
6— <b>Spring Run</b>	<b>Basin, UNT 24721 to Stony Brook</b>	<b>Elk</b>	<b>HQ-CWF</b>	<b>None</b>
7— <b>Stony Brook</b>	<b>Basin</b>	<b>Elk</b>	<b>CWF</b>	<b>None</b>
6— <b>Spring Run</b>	<b>Basin, Stony Run to Mouth</b>	<b>Elk</b>	<b>CWF</b>	<b>None</b>
5—Trout Run	Basin, Spring Run to Mouth	Elk	CWF	None
	* * * * *			

§ 93.9m. Drainage List M.

**Susquehanna River Basin in Pennsylvania  
Susquehanna River**

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
	* * * * *			
2—Penns Creek	Basin, Source to [ <b>Pine</b> ] <b>Muddy</b> Creek	Centre	CWF	None
3— <b>Muddy</b> Creek	<b>Basin</b>	<b>Centre</b>	<b>HQ-CWF</b>	<b>None</b>

2—Penns Creek	<b>Basin, Muddy Creek to Pine Creek</b>	Centre	CWF	None
3—Pine Creek	Basin, Source to Downstream Boundary of Hook Natural Area	Centre	EV	None
	* * * * *			

§ 93.9o. Drainage List O.

**Susquehanna River Basin in Pennsylvania  
Susquehanna River**

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
	* * * * *			
3—Laurel Run	<b>Basin, Source to South Branch Laurel Run</b>	Perry	EV	None
[ 4—North Branch Laurel Run	<b>Basin, Source to Confluence with South Branch</b>	Perry	EV	None ]
4—South Branch Laurel Run	Basin[ , <b>Source to Confluence with North Branch ]</b>	Perry	HQ-CWF	None
3—Laurel Run	Basin, [ <b>Confluence of North and ] South [ Branches ] Branch to T 339</b>	Perry	HQ-CWF	None
3—Laurel Run	Basin, T 339 to Mouth	Perry	CWF	None
	* * * * *			
3—Mill Creek	Main Stem, Source to [ <b>PA A-352 ] SR 1011</b>	Lancaster	CWF	None
4—Unnamed Tributary to Mill Creek From New Holland Reservoir	Basin, Source to Tailwaters of New Holland Reservoir	Lancaster	HQ-CWF	None
4—Unnamed Tributary to Mill Creek From New Holland Reservoir	Basin, New Holland Reservoir	Lancaster	CWF	None
4—Unnamed Tributary to Mill Creek From New Holland Reservoir	Basin, New Holland Reservoir Dam to Mouth	Lancaster	CWF	None
3—Mill Creek	Basin, [ <b>PA A-352 ] SR 1011 to Mouth</b>	Lancaster	WWF	None
3—Stehman Run	Basin	Lancaster	WWF	None
	* * * * *			
2—Deer Creek	Basin (all sections in PA)	York	CWF, <b>MF</b>	None
1—Chesapeake Bay				
	* * * * *			

§ 93.9q. Drainage List Q.

**Ohio River Basin in Pennsylvania  
Allegheny River**

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
	* * * * *			
4—South Branch Tionesta Creek	Main Stem, Source to Confluence with West Branch	Warren	HQ-CWF	None
5—[ <b>Unnamed Tributaries ] UNTs to South Branch Tionesta Creek</b>	Basins	Elk-Forest-Warren	HQ-CWF	None
5—Martin Run	Basin	Elk	HQ-CWF	None
<b>5—Wolf Run</b>	<b>Basin</b>	<b>Elk</b>	<b>HQ-CWF</b>	<b>None</b>

5—Coon Run	Basin	Elk	HQ-CWF	None
<b>5—Chaffee Run</b>	<b>Basin</b>	<b>Elk</b>	<b>HQ-CWF</b>	<b>None</b>
5—Crane Run	Basin	Elk	EV	None
5—Iron Run	Basin	Forest	HQ-CWF	None
5—Fork Run	Basin	Forest	HQ-CWF	None
5—Bogus Run	Basin	Forest	HQ-CWF	None
5—Rock Run	Basin	Forest	HQ-CWF	None
<b>5—Tuttle Run</b>	<b>Basin</b>	<b>Forest</b>	<b>HQ-CWF</b>	<b>None</b>
5—Cherry Run	Basin	<b>[ Forest ]</b> <b>Warren</b>	HQ-CWF	None
<b>5—Martin Run</b>	<b>Basin</b>	<b>Warren</b>	<b>HQ-CWF</b>	<b>None</b>
5—East Branch Tionesta Creek	Basin	<b>[ Forest ]</b> <b>Warren</b>	HQ-CWF	None
3—Tionesta Creek	Main Stem, Confluence of West and South Branches to Mouth	Forest	CWF	None
	* * * * *			

§ 93.9s. Drainage List S.

**Ohio River Basin in Pennsylvania**  
***Allegheny River***

<i>Stream</i>	<i>Zone</i>	<i>County</i>	<i>Water Uses Protected</i>	<i>Exceptions To Specific Criteria</i>
	* * * * *			
4—North Fork <b>Redbank Creek</b>	Main Stem, Source to Confluence with Sandy Lick Creek	Jefferson	HQ-CWF	None
5—Unnamed Tributaries to North Fork	Basins, Source to Confluence with Sandy Lick Creek	Jefferson	HQ-CWF	None
	* * * * *			
5—South Branch <b>of North Fork Redbank Creek</b>	Basin	Jefferson	EV	None
5—Acy Run	Basin	Jefferson	HQ-CWF	None
	* * * * *			

[Pa.B. Doc. No. 03-2024. Filed for public inspection October 17, 2003, 9:00 a.m.]

# PENNSYLVANIA PUBLIC UTILITY COMMISSION

[52 PA. CODE CH. 57]

[L-00030161]  
[Correction]

## Electric Service Reliability

Errors occurred in the proposed rulemaking which appeared at 33 Pa.B. 4921, 4929—4931 (October 4, 2003). The correct version of the affected sections is as follows with ellipses referring to the unaffected sections of the proposal.

### 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

#### § 57.194. Distribution system reliability.

\* \* \* \* \*

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

\* \* \* \* \*

#### § 57.195. Reporting requirements.

\* \* \* \* \*

[ (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.

\* \* \* \* \*

(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 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 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 variances shall be included.

(9) Quantified transmission and distribution inspection and maintenance goals/objectives for the current calendar year detailed by system area (that is, transmission, substation and distribution).

\* \* \* \* \*

(h) An EDC shall, within 30 calendar days, report to the Commission any problems it is having with its data gathering system used to track and report reliability performance.

\* \* \* \* \*

[Pa.B. Doc. No. 03-1935. Filed for public inspection October 3, 2003, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF PHARMACY  
[49 PA. CODE CH. 27]

### Return to Stock of Undelivered Medications

The State Board of Pharmacy (Board) adopts this statement of policy regarding the return to stock of undelivered medication to read as set forth in Annex A.

Section 5(a)(9)(xi) of the Pharmacy Act (63 P. S. § 390-5(a)(9)(xi)) prohibits the return to stock of unused medication once it has left the premises of the pharmacy. However, many prescriptions sit in the pharmacy but are never picked up. These prescriptions never leave the control of the pharmacy and may be returned to the stock of the pharmacy. In addition, many prescriptions are sent out for delivery with a pharmacy staff member but never get delivered to the patient. The Board views the premises of the pharmacy as not only the licensed physical structure, but as extending to delivery services that are provided by pharmacy staff. The drugs are still under the control of the pharmacy while they are being delivered to patients by pharmacy staff. Therefore, the pharmacy is able to ensure that the integrity of the drugs is maintained. The Board has determined that it is appropriate for these medications to be returned to the stock of the pharmacy under certain circumstances.

This statement of policy sets forth the guidelines that should be considered when returning undelivered medication to the pharmacy's stock. These guidelines will insure that the integrity of the drugs is maintained and patient safety is not compromised.

The statement of policy set forth in Annex A is effective upon publication in the *Pennsylvania Bulletin* and applies to the return to stock of medication that has not been delivered and has not left the control of the pharmacy.

RICHARD R. SMIGA, R.Ph.,  
*Chairperson*

*(Editor's Note: The regulations of the Board, 49 Pa. Code Chapter 27, are amended by adding a statement of policy in § 27.102 to read as set forth in Annex A.)*

**Fiscal Note:** 16A-5411. No fiscal impact; (8) recommends adoption.

#### Annex A

### TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

#### PART I. DEPARTMENT OF STATE

#### Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

#### CHAPTER 27. STATE BOARD OF PHARMACY STATEMENTS OF POLICY

#### § 27.102. Return to stock of undelivered medication—statement of policy.

(a) *Background and purpose.* Section 5(a)(9)(xi) of the act (63 P. S. § 390-5(a)(9)(xi)) prohibits the return to stock of medication once it has left the premises of the

pharmacy. However, many prescriptions do not get delivered to patients and, therefore never leave the control of the pharmacy. These prescriptions may be returned to the active stock of the pharmacy. This section sets forth the guidelines that should be considered when returning undelivered medication to the pharmacy's active stock. This section will insure that the integrity of the drugs is maintained and patient safety is not compromised.

(b) *Guidelines.* The following guidelines should be considered when returning undelivered medications to stock to assure that the quality of medications is maintained:

(1) Prescriptions that have not been picked up by or delivered to patients should be checked periodically.

(2) Prescriptions not delivered to patients should be assessed by a pharmacist to determine whether they might safely be returned to stock.

(3) Products deemed eligible for redispensing should never be mixed within stock bottles of different lot numbers or with different expiration dates. Manufacturers' stock bottles should never be over-filled. The only safe manner in which drugs can be returned to stock bottles is in those pharmacies in which all medications are tracked by lot numbers and expiration dates.

(4) In those instances in which medication cannot be properly and safely returned to the original stock bottle, the medication may be held in the pharmacy in the container in which it has been repackaged. It is recommended that pharmacies develop an internal manner for so identifying and dating these products.

(5) Medications held for redispensing should be used as soon as possible. Medications held for redispensing, lacking original lot numbers and expiration dates, should only be dispensed to patients up to 6 months from the date the drugs were first prepared for dispensing.

(6) If the manufacturer or the United States Food and Drug Administration orders a recall for a drug product, pharmacists should assume products held in containers without lot numbers are included in the recall and proceed accordingly.

[Pa.B. Doc. No. 03-2025. Filed for public inspection October 17, 2003, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

[25 PA. CODE CH. 16]

### Water Quality Toxics Management Strategy

The Department of Environmental Protection (Department) is proposing to amend Chapter 16 (relating to water quality toxics management strategy—statement of policy). These proposed amendments complement the review and revision of Chapter 93 (relating to water quality standards).

This Commonwealth's water quality standards, which are set forth in part in Chapter 93, implement the provisions of sections 5 and 402 of The Clean Streams



Law (35 P. S. §§ 691.5 and 691.402) and section 303 of the Federal Clean Water Act (33 U.S.C.A. § 1313). Water quality standards consist of the uses of the surface waters of this Commonwealth, the specific numeric and narrative criteria necessary to achieve and maintain those uses and an antidegradation policy. Chapter 16 is a water quality policy for regulating toxic pollutants. It sets forth the guidelines for development of criteria for toxic substances and lists the water quality criteria and analytical methods and detection limits for toxic substances. Chapter 16 is directly referenced as a support policy document in § 93.8a (relating to toxic substances).

Two public meetings and two public hearings have been scheduled as indicated in this proposed statement of policy.

#### *Contact Persons*

For further information contact Edward R. Brezina, Chief, Division of Water Quality Assessment and Standards, Bureau of Water Supply and Wastewater Management, 11th Floor, Rachel Carson State Office Building, P. O. Box 8467, Harrisburg, PA 17105-5984, (717) 787-9637; or Michelle Moses, Assistant Counsel, Bureau of Regulatory Counsel, 9th Floor, Rachel Carson State Office Building, P. O. Box 8464, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

#### *Additional of Proposed Statement of Policy*

Copies of the proposed statement of policy may be obtained from Mary Houghton, Division of Water Assessment and Standards, Bureau of Water Supply and Wastewater, 11th Floor, RCSOB, P. O. Box 8647, Harrisburg, PA 17105-8467, (717) 787-9637, email: mhoughton@state.pa.us. This proposal is available electronically through the Department's website <http://www.state.pa.us>, choose Participant!, Regulations open for Comment.

#### *Summary of Amendments*

##### *§ 16.24. Metals criteria.*

The Department proposes to update the chronic conversion factor for mercury to 0.85. The United States Environmental Protection Agency (EPA) recently stated that this factor, which was previously applied only to the Great Lakes, also applies to National waters. (See National Recommended Water Quality Criteria for Priority Pollutants, April 1999.) The Department also proposes to delete the footnote that applied to the previous mercury conversion factor because it is no longer applicable.

##### *§ 16.61. Special provisions for the Great Lakes System.*

The Department proposes language changes to match recent changes to Chapter 93, pertaining to the Great Lakes Initiative. There are also corrections to the Great Lakes Aquatic Life and Human Health Criteria table as follows: The chemical name cadmium is misspelled. To clarify that the criteria for gamma-BHC (Lindane) is a threshold human health number, not a cancer risk level, the symbol in the list will be changed. To clarify that the criterion applies to total PCBs, the PP NO 18P will be deleted and the CAS number will be removed. In paragraph (6), the spelling of chlorinated will be corrected.

##### *§ 16.101. Introduction.*

To be more accurate, it is proposed that throughout §§ 16.101 and 16.102 (relating to introduction and approved EPA analytical methods and detection limits), "Table 2" be renamed Table 2A (Inorganics) and Table 2B (Organics).

##### *§ 16.102. Approved EPA Analytical Methods and Detection Limits.*

In subsection (a), corrections were made to the list of abbreviated method descriptions. The Department proposes to update and clarify Chapter 16, Appendix A, Tables 1 and 2. This proposal is a result of recent updates to approved methods in 40 CFR Part 136. In Table 1 there are several updates because of new toxicity data. Most of the methods in Tables 2A and 2B have been updated because the EPA recently published updates. In footnote 2, the spelling of benzidine will be corrected. Following is a brief summary of the proposals for each Table:

##### *Appendix A, Table 1—Water Quality Criteria for Toxic Substances*

In accordance with Federal guidelines, the Department purposes to update the aquatic life criterion equations for cadmium. The Department will also correct the chronic aquatic life criterion for 4,4-DDT, which was subject to a typographical error during the previous Triennial Review.

##### *Appendix A, Table 2—Approved Analytical Methods and Detection Limits*

In Table 2A Inorganics, there are several updates. The Table includes EPA new, approved method numbers from the *Standard Methods for the Examination of Water and Wastewater, 20th Edition* and the *ASTM Annual Book of Standards, 1999*. In accordance with 40 CFR Part 136, Appendix C, the following parameters have updated detection limits: antimony, copper, iron, magnesium and zinc. EPA method 1631, *Mercury in Water by Oxidation, Purge and Cold Vapor Atomic Fluorescence Spectrometry*, has been added as an approved method for the detection of mercury. Corrections were also made to the list of footnotes in this section to update changes made to the list.

In Table 2B Organics, the approved test procedures for nonpesticides organic compounds have updated the EPA method numbers for GC/MS isotope detection. Also, in accordance with 40 CFR Part 136, Appendix C, the following parameters have updated detection limits: chloroethane, methyl bromide, methyl chloride, benzo(a)anthracene, benzo(ghi)perylene and isophorone. In footnote 2 of this section the spelling of benzidine will be corrected.

##### *Public Comments*

Written comments, suggestions or objections regarding the proposed amendments may be sent to Mary Houghton, Division of Water Quality Assessment and Standards, Bureau of Water Supply and Wastewater Management, 11th Floor, Rachel Carson State Office Building, P. O. Box 8467, Harrisburg, PA 17105-8467. Comments submitted by facsimile will not be accepted; however, the Department will accept comments submitted by e-mail. Electronic comments may be submitted to mhoughton@state.pa.us. A subject heading of the proposal and return name and address must be included in each e-mail transmission. Comments must be received by December 17, 2003.

##### *Public Meetings and Public Hearings*

The Department will hold two public meetings and public hearings on the proposed amendments to the Chapter 16. These public meetings and hearings will take place on the same date and at the same location where the Environmental Quality Board will conduct public hearings on the proposed amendments to Chapter 93. At the public meetings for the Chapter 16 amendments, the

public meetings will provide the Department with the opportunity to explain the proposed amendments and respond to questions from participants. The Chapter 16 public hearings will be for the purpose of accepting comments from the public. The public meetings will begin at 2 p.m. and the public hearings at 3 p.m. on the following dates:

December 2, 2003	Four Points By Sheraton Pittsburgh North 910 Sheraton Drive Mars, PA 16046
December 4, 2003	Courtyard by Marriott 16 Glenmaura National Blvd. Moosic, PA 18507

Persons wishing to present testimony at a Chapter 16 hearing are requested to contact Mary Houghton, (717) 787-9637, mhoughton@state.pa.us at least 1 week in

advance of the hearing to reserve a time to present testimony. Oral testimony is limited to 10 minutes for each witness and one designated witness for each organization. Witnesses are requested to submit three written copies of their testimony to the hearing chairperson.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service of other accommodation to participate should contact Mary Houghton at the previous telephone number or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how their needs may be accommodated.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 03-2026. Filed for public inspection October 17, 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 October 7, 2003.

#### BANKING INSTITUTIONS

##### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
9-30-03	National Penn Bancshares, Inc., Boyertown, to acquire 100% of voting shares of HomeTowne Heritage Bank, Lancaster	Boyertown	Filed
10-3-03	Citizens Financial Group, Inc., Providence, RI, to acquire 100% of the voting shares of Thistle Group Holdings, Co., Philadelphia, PA	Providence, RI	Filed
10-4-03	Univest Corporation of Pennsylvania, Souderton, to acquire 100% of the voting shares of Suburban Community Bank, Chalfont	Souderton	Effective

Subsequent to the previously described transaction, Suburban Community Bank will merge with and into Univest National Bank and Trust Co., Souderton, and will cease to be regulated by the Department of Banking.

##### New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-1-03	Highview Trust Company Greensburg Westmoreland County	19 North Main Street Greensburg Westmoreland County	Commenced

Highview Trust Company is a wholly owned subsidiary of Commercial National Financial Corporation, Latrobe.

##### Conversions

<i>Date</i>	<i>Name of Institution</i>	<i>Location</i>	<i>Action</i>
10-1-03	North Penn Savings and Loan Association Scranton Lackawanna County	Scranton	Effective

*To:*

North Penn Bank  
Scranton  
Lackawanna County

Represents conversion from State-chartered mutual savings and loan association to a State-chartered mutual savings bank.

*Branches Acquired Via Conversion:*

623 South Main Street Scranton Lackawanna County	651 Northern Boulevard Clarks Summit Lackawanna County
334 North Ninth Street Stroudsburg Monroe County	

**Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-30-03	HomeTowne Heritage Bank, Lancaster, and NPB Interim Bank, Boyertown Surviving Institution— HomeTowne Heritage Bank, Lancaster	Lancaster	Filed
10-3-03	Citizens Bank of Pennsylvania, Philadelphia, and Roxborough- Manayunk Bank, Philadelphia Surviving Institution— Citizens Bank of Pennsylvania, Philadelphia	Philadelphia	Filed
10-3-03	Suburban Community Bank, Chalfont, and UNB Acquisition National Bank, Souderton Surviving Institution— Suburban Community Bank, Chalfont	Chalfont	Effective
10-3-03	Lafayette Ambassador Bank Easton Northampton County  Purchase of assets/assumption of liabilities of two branch offices of Premier Bank, Doylestown, Located at: 2201 Northampton Street Easton Northampton County	Easton  1401 Easton Avenue Bethlehem Northampton County	Approved

**Branch Applications**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-24-03	Bank of Hanover and Trust Company Hanover York County	1438 Liberty Road Eldersburg Carroll County, MD	Opened

**Branch Relocations/Consolidations**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
10-6-03	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<i>Into:</i> 2516 Welsh Road Philadelphia Philadelphia County  <i>From:</i> 2501 Welsh Road Philadelphia Philadelphia County	Filed

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-26-03	First Commonwealth Bank Indiana Indiana County	15 South Main Street Chambersburg Franklin County	Effective
9-26-03	First Commonwealth Bank Indiana Indiana County	1720 Lincoln Way East Chambersburg Franklin County	Effective

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS**

No activity.

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 03-2027. Filed for public inspection October 17, 2003, 9:00 a.m.]

# DEPARTMENT OF ENVIRONMENTAL PROTECTION

[Correction]

## Applications, Actions and Special Notices

An error occurred in the document which appeared at 33 Pa.B. 4935, 4968 (October 4, 2003). The correct version of the notice is as follows, with ellipses referring to the existing text of the document:

\* \* \* \* \*

### 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

\* \* \* \* \*

#### VII. Approvals to Use NPDES and/or Other General Permits

\* \* \* \* \*

*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>
Upper Frankford Township Cumberland County	PAG083570	Borough of Carlisle 53 West South Street Carlisle, PA 17013	Ronald Hoover Farm No. 2 Upper Frankford Township Cumberland County	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

\* \* \* \* \*

[Pa.B. Doc. No. 03-1940. Filed for public inspection October 3, 2003, 9:00 a.m.]

## 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**

*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>
PA0040690 Renewal	Lakeland School District 1569 Lakeland Drive Jermyn, PA 18433	Scott Township Lackawanna County	Unnamed tributary to South Branch Tunkhannock Creek 04F	Y
PA0063240	Lehigh Township Municipal Authority 1069 Municipal Road Walnutport, PA 18088	Lehigh Township Northampton County	Bertsch Creek 2C	Y
PA0063282	Fairland Sewer Co. Inc. 5426 Route 873 Schnecksville, PA 18078	North Whitehall Township Lehigh County	Unnamed tributary to Fells Creek 2C	Y
PA0063819 Industrial Waste Renewal	Lafayette College Plant Operations Building Easton, PA 18042	Easton City Northampton County	Bushkill Creek 01F	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>
PA0082031 IW	Manheim Borough Authority 15 East High Street Manheim, PA 17545	Lancaster County Manheim Borough	Rife Run 7G	Y

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

<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>
PA0111902	Dietrich's Milk Products, LLC P. O. Box 102 Middlebury Center, PA 16935-0102	Tioga County Middlebury Township	Catlin Hollow 4A	Y

<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>
PA0208922	Woodward Township Sewage and Water Authority R. R. 1, Box 285 Houtzdale, PA 16651-9651	Woodward Township Clearfield County	Whiteside Run 8D	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>
PA0001945	Cemex, Inc. Wampum Cement Plant 2001 Portland Park Wampum, PA 16158	Wampum Borough Lawrence County	Beaver River Unnamed tributaries to Beaver River 20-B	Y

**II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications**

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

**PA0058688**, Industrial Waste, **Greene, Tweed and Company, Inc.**, SIC 3053, 2075 Detwiler Road, P. O. Box 305, Kulpsville, PA 19443. This application is for issuance of an NPDES permit to discharge boiler blowdown, air conditioner condensate and stormwater from the facility at 2075 Detwiler Road, Kulpsville, Towamencin Township, **Montgomery County**. This is an existing discharge to an unnamed tributary of Skippack Creek.

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

The proposed effluent limits for Outfall 001, based on an average flow of 510 gpd of boiler blowdown, air conditioner condensate and variable stormwater flow, are as follows:

<i>Parameter</i>	<i>Average Annual</i>	<i>Maximum Daily (mg/l)</i>	<i>Frequency</i>
COD	Monitor and Report		1/Year
Total Suspended Solids	Monitor and Report		1/Year
Oil and Grease	Monitor and Report		1/Year
Sodium Sulfite		50.0	
pH	within limits of 6.0—9.0 standard units at all times		
Total Kjeldahl Nitrogen	Monitor and Report		1/Year
Total Phosphorus	Monitor and Report		1/Year
Iron (Dissolved)	Monitor and Report		1/Year

Outfall 002 is comprised of stormwater only.

Major Permit Conditions: chemical additives shall be managed by the permittee to ensure that toxic effects in the receiving stream are prevented; and stormwater requirements and Preparedness, Prevention and Contingency Plan).

The EPA waiver is in effect.

**PA0050202 Amendment No. 1**, Industrial Waste, **National Railroad Passenger Corporation, 30th Street Station**, 30th and Race Streets, Philadelphia, PA 19104-2898. This amendment reflects changes to an NPDES permit to discharge stormwater and treated storm/waste water from Amtrak Race Street/Penn Coach Yard in the City of Philadelphia, **Philadelphia County**. This is an existing discharge to Schuylkill River. As a result of this amendment, PCB monitoring will be conducted on a quarterly basis under the terms of a separate agreement between the Department and Amtrak. In addition, the monitoring location for Outfall 001 has been moved.

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

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

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

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

<i>Parameter</i>	<i>Monitoring Requirements</i>	<i>Instantaneous Limit</i>
Total Suspended Solids	2/Year	
Oil and Grease	2/Year	
Dissolved Iron	2/Year	
Total Phosphorus	2/Year	
Chemical Oxygen Demand	2/Year	
Total Kjeldahl Nitrogen	2/Year	
CBOD <sub>5</sub>	2/Year	
pH	2/Year	within limits of 6.0—9.0 STD units at all times

The EPA waiver is in effect.

**PA0051586**, Sewage, **Clover D., Inc. t/a Tohickon Family Campground**, 2145 Worthington Avenue, Bethlehem, PA 18017. This proposed facility is at 8308 Covered Bridge Road in Quakertown Borough, **Bucks County**.

This application is for renewal of a NPDES permit to discharge treated sewage from a sewage treatment plant serving the Tohickon Family Campground in Quakertown Borough, Bucks County. This is an existing discharge to Tohickon Creek.

The receiving stream, Tohickon Creek, is in the State Water Plan watershed 2D and is classified for TSF, aquatic life, water supply and recreation. There is no public water intake downstream on Tohickon Creek.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.025 mgd.

<i>Parameters</i>	<i>Average Monthly</i>	<i>Instantaneous Maximum mg/l</i>
CBOD <sub>5</sub>		
(5-1 to 10-31)	15	30
(11-1 to 4-30)	25	50
Suspended Solids	30	60
Ammonia (as N)		
(5-1 to 10-31)	3	6
(11-1 to 4-30)	9	18
Phosphorus (as P)	0.5	1.0
Total Residual Chlorine	0.5	1.2
Fecal Coliform	200 colonies/100 ml as a geometric average	
Dissolved Oxygen	minimum of 3.0 mg/l at all times	
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

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

**PA0064262**, Industrial, **Turnpike Commission**, P. O. Box 67676, Harrisburg, PA 17106-7676. This proposed facility is in Washington Township, **Lehigh County**.

Description of Proposed Activity: Issuance of new NPDES permit.

The receiving stream, unnamed tributary to Trout Creek, is in the State Water Plan watershed no. 2C and is classified for CWF. The nearest downstream public water supply intake for Northampton Borough Water Authority is on the Lehigh River, over 10 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.0026 MGD.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>
Total Suspended Solids			100	
Lead			.09	.14
Oil and Grease			15	30
Fecal Coliform			200/2000	
Total Dissolved Solids			Monitor	
Color			Monitor	
Sodium			Monitor	
Chloride			Monitor	

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

**PA0247278**, Sewage, **Glen I. Martin, Jr.**, 12560 Shimpstown Road, Mercersburg, PA 17236. This facility is in Montgomery Township, **Franklin County**.

Description of Activity: Issuance of an NPDES permit for a new discharge of treated sewage.



The receiving stream, unnamed tributary Licking Creek, is in Watershed 13-C and classified for TSF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for Hagerstown, MD is on the Potomac River. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0012 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25		50
Total Suspended Solids	30		60
NH <sub>3</sub> -N			
(5-1 to 10-31)	16		32
(11-1 to 4-30)	Monitor and Report		Monitor and Report
Total Residual Chlorine	0.5		1.6
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)		17,500/100 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 in effect.

**PA0085243**, Sewage, **Manns Choice-Harrison Township Joint Municipal Authority**, P. O. Box 28, Manns Choice, PA 19550-0028. This facility is in Harrison Township, **Bedford County**.

Description of Activity: Renewal of an NPDES permit for an existing discharge of treated sewage.

The receiving stream, Raystown Branch Juniata River, is in Watershed 11-C and classified for trout stocking, water supply, recreation and fish consumption. The nearest downstream public water supply intake for the Bedford Borough Water Authority is on the Raystown Branch Juniata River, approximately 5 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.070 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD <sub>5</sub>	25	40	50
Total Suspended Solids	30	45	60
Total Residual Chlorine	0.5		1.0
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)		100,000/100 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 in effect.

**PA0247316**, CAFO, **David Rosenberry (Gretna View Farms)**, 3709 North Colebrook Road, Manheim, PA 17545. David Rosenberry has submitted an application for an NPDES permit for an existing CAFO known as Gretna View Farms, 3709 North Colebrook Road, Mount Joy Township, **Lancaster County**.

The CAFO is situated near an unnamed tributary of Chickies Creek in Watershed 7-G (TSF). The CAFO maintains an animal population of approximately 835 AEU's consisting of 450 finishing steer and 130,000 layer chickens. Two steer barns and two poultry buildings exist at the operation. All poultry manure is handled as a dry manure and is kept inside the buildings. One steer barn has an 8-foot deep reception pit beneath slotted floors for collecting manure, with a storage capacity of 314,000 gallons; the other steer barn has a 12-foot deep circular concrete manure storage structure that collects manure and stormwater, with a storage capacity of 232,000 gallons. The expected annual manure production is 2,163 tons of poultry manure, which is collected and transported to fields farmed by Star Rock Farms in York County and approximately 1.4 million gallons of steer manure, 52% of which is applied on Gretna View Farms ground and 48% of which is transported offsite by Star Rock Farms for application in York County.

A release or discharge to waters of the Commonwealth under normal operating conditions is not expected. Normal operating conditions are defined as conditions below a 25-year, 24-hour storm event.

The Department has conducted administrative and technical reviews of the application. Based on the preliminary review and application of lawful standards and regulations, the Department has made a tentative determination to issue an NPDES permit for the operation subject to the terms and conditions and monitoring and reporting requirements specified in the permit.

The permit application and draft permit are on file at the Southcentral Regional Office of the Department. Individuals may make an appointment to review the files by calling the File Review Coordinator at (717) 705-4732.

Persons wishing to comment on the proposed permit are invited to submit written comments to the previous address within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in formulating the Department's final determination regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon which it is based.

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

The EPA permit waiver provision under 40 CFR 123.24(e) does not apply to this NPDES permit.

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

**PA0027430, Amendment No. 1, Sewage, City of Jeannette Municipal Authority**, P. O. Box 294, Penn, PA 15675-0294. This application is for renewal of an NPDES permit to discharge treated sewage from Jeannette Wastewater Treatment Plant in the City of Jeannette, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Brush 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 Pennsylvania American Water Company—Pittsburgh.

*Outfall 006: existing discharge.*

Combined Sewer Overflow No. 006 is added to the permit for discharge from a combined sewer, only when necessitated by stormwater entering the sewer system and exceeding the hydraulic capacity of the sewers and/or the treatment plant. This outfall was in the previous permit but had been mistakenly deleted.

The EPA waiver is not in effect.

**PA0217832, Sewage, John Edward Schmidt**, R. D. 2, Box 164A, Export, PA 15632. This application is for issuance of an NPDES permit to discharge treated sewage from the Schmidt Office Building STP in Washington Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Thorn Run, which are classified as a HQ CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Westmoreland Municipal Authority Sweeney Plant.

*Outfall 001: existing discharge, design flow of 0.001035 mgd.*

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
(5-1 to 10-31)	1.5			3
(11-1 to 4-30)	4.5			9
Phosphorus	2			4
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			4
Dissolved Oxygen	not less than 7 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.*

**PA0239356, Sewage, Robert C. Montgomery**, 1042 Enterprise Road, Grove City, PA 16127. This proposed facility is in Pine Township, **Mercer County**.

Description of Proposed Activity: New discharge of treated sewage.

The receiving water, unnamed tributary to Swamp Run, is in State Water Plan 20-C and classified for CWF, aquatic life, water supply and recreation. The nearest downstream potable water supply, the Salvation Army Camp Allegheny, is on the Slippery Rock Creek, approximately 32.20 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.0004 MGD.

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

XX—Monitor and Report

The EPA waiver is in effect.

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### III. WQM Industrial Waste and Sewerage Applications under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

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

**WQM Permit No. 5403405, 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: This project consists of 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. 2103405, Sewerage, Robert and Cheryl Rhodes**, 48 Mountain View Terrace, Newville, PA 17241. This proposed facility is in Upper Frankford Township, **Cumberland County**.

Description of Proposed Action/Activity: Construction/operation of a small flow sewage treatment system to serve their single family residence on Mohawk Road.

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

**WQM Permit No. 1403203, Industrial Waste, 4244, Fish and Boat Commission**, 450 Robinson Lane, Bellefonte, PA 16823. This proposed facility is in Benner Township, **Centre County**.

Description of Proposed Action/Activity: The Commission proposes to upgrade the industrial wastewater treatment system at the Pleasant Gap Fish Culture Station with the addition of high capacity disc filters (microscreens) and a traveling bridge sand filter. The existing settling lagoon will also be converted into an aerated chemical retention/detoxification basin.

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

**WQM Permit No. 6303405, Sewerage, City of Monongahela**, 449 West Main Street, Monongahela, PA 15063. This proposed facility is in City of Monongahela, **Washington County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sanitary sewerage system and the Nelson Street Pump Station to serve the City of Monongahela.

The Pennsylvania Infrastructure Investment Authority, which administers the Commonwealth's State Revolving Fund, had been identified as a possible funding source. The Department's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

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

**WQM Permit No. 1003414, Sewerage, Davis International, Inc., 3 Rivers Ice Cream Service, Inc.**, 1155 Meadowbrook Avenue, Youngstown, OH 44512. This proposed facility is in Forward Township, **Butler County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a sewage treatment facility to serve an office and a freezer warehouse.

**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>
PAG133698	North Cornwall Township 320 18th Street Lebanon, PA 17042	Lebanon	North Cornwall Township	Bachman Run TSF Beck Creek TSF Quittapahilla Creek TSF Snitz Creek TSF	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>
PAI136123	Salem Township R. D. 4 Box 200 Greensburg, PA 15601	Westmoreland	Salem Township	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>
PAG133698	North Cornwall Township 320 18th Street Lebanon, PA 17042	Lebanon	North Cornwall Township	Bachman Run TSF Beck Creek TSF Quittapahilla Creek TSF Snitz Creek TSF	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>
PAG136283	Monessen City 100 Third Street Monessen, PA 15062	Westmoreland	Monessen City	Y
PAG136286	Ferndale Borough 109 Station Street Johnstown, PA 15905	Cambria	Ferndale Borough	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>
PAI011503088	Susan L. Butler Subdivision 864 Fellowship Road Chester Springs, PA 19425	Chester	West Vincent	Birch Run EV
PAI011503089	ReMed Recovery Care Centers Dev. 625 Ridge Pike, Building C Conshohocken, PA 19428	Chester	Malvern Borough	Crum Creek HQ-CWF

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI010903014	James Yourtee Subdivision 2277 Silver Creek Road Hellertown, PA 18055	Bucks	Springfield Township	Cooks Creek EV

*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>
PAI030603009	First Commonwealth Federal Credit Union P. O. Box 20450 Lehigh Valley, PA 18002	Berks	Maxatawny Township	Moselem Creek HQ

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

*Westmoreland County Conservation District: 211 Donohoe Road, Greensburg, PA 15601-9217, (724) 837-5271.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI056503006	Richard Kepple R. D. 1, Box 32 New Alexandria, PA 15670	Westmoreland	Derry Township	Spruce Run HQ-CWF

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#### **VII. List of NOIs for NPDES and/or Other General Permit Types**

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PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

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#### **MS4 Notices of Intent Received**

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*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>
PAG136281	Hampton Township 3101 McCully Road Allison Park, PA 15101	Allegheny	Hampton Township	Y
PAG136282	South Fayette Township 515 Millers Run Road Morgan, PA 15064	Allegheny	South Fayette Township	Y
PAG136283	Monessen City 100 Third Street Monessen, PA 15062	Westmoreland	Monessen City	Y
PAG136284	Dormont Borough 1444 Hillsdale Avenue, Suite 10 Pittsburgh, PA 15216	Allegheny	Dormont Borough	Y
PAG136285	Jefferson Hills Borough 925 Old Clairton Road Jefferson Hills, PA 15025-3143	Allegheny	Jefferson Hills Borough	Y
PAG136286	Ferndale Borough 109 Station Street Johnstown, PA 15905	Cambria	Ferndale Borough	Y
PAG136287	Clairton City 551 Ravensburg Boulevard Clairton, PA 15025-1297	Allegheny	Clairton City	Y
PAG136288	Lower Yoder Township 128 J Street Johnstown, PA 15906	Cambria	Lower Yoder Township	Y
PAG136289	Patterson Township 1800 Dixon Way Beaver Falls, PA 15010	Beaver	Patterson 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 MINOR AMENDMENT

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

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

#### Application No. Minor Amendment.

Applicant	<b>City of Allentown</b>
Township or Borough	South Whitehall Township <b>Lehigh County</b>
Responsible Official	Joseph McMahon Manager of Operations 435 Hamilton Street Allentown, PA 18101 (610) 437-7643
Type of Facility	Community Water System
Consulting Engineer	David A. Brinjac, P. E. Brinjac Engineering, Inc. 114 North Second Street Harrisburg, PA 17101 (717) 233-4502
Application Received Date	August 25, 2003

Description of Action	The application seeks approval for installation of an onsite sodium hypochlorite generation system at its Huckleberry Ridge Reservoir site to boost the chlorine residual of finished water.
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### 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

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

**WA 39-272C**, Water Allocations, **Northampton Borough Municipal Authority (NBMA)**, 1 Clear Springs Drive, P. O. Box 156, Northampton, PA 18067-0156, Northampton Borough, **Lehigh County**. NBMA is requesting the right to increase their current water allocation withdrawal from 6.0 MGD to 8.0 MGD. This maximum peak day withdrawal will be from existing intakes on the Lehigh River and Spring Creek in Whitehall Township. The combined withdrawal from both sources shall also not exceed 8.0 MGD.

## 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:

*Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**Holland Shopping Center**, Northampton Township, **Bucks County**. Keith T. D'Ambrosio, P. E., Whitestone Associates, Inc., 1120 Welsh Rd., Suite 200, North Wales, PA 19454, on behalf of Wawa, Inc., 260 Baltimore Pike, Wawa, PA 19063, has submitted a Notice of Intent to Remediate soil contaminated with fuel oil no. 2 and groundwater contaminated with fuel oil no. 2 and MTBE. The applicant proposes to remediate the site to meet Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Advance of Bucks County* on August 14, 2003.

**Lincoln Avenue and Penn Street Site**, Newtown Borough, **Bucks County**. Christopher Orzechowski, P. G., RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406, has submitted a Notice of Intent to Remediate soil contaminated with PAH. The applicant proposes to remediate the site to meet Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Bucks County Courier* on September 26, 2003.

**Maple Glen Shopping Center Site**, Upper Dublin Township, **Montgomery County**. Keith T. D'Ambrosio, P. E., Whitestone Associates, Inc., 1120 Welsh Rd., Suite 200, North Wales, PA 19454, on behalf of Safeway, Inc., 5918 Stoneridge Mall Rd., Pleasanton, CA 94588-3229, has submitted a Notice of Intent to Remediate soil and groundwater contaminated with chlorinated solvents. The applicant proposes to remediate the site to meet Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Ambler Gazette* on September 10, 2003.

**Former Abrams Metals Company**, City of Philadelphia, **Philadelphia County**. Paul Martino, P. G., Pennoni Associates, Inc., One Drexel Plaza, 3001 Market St., Suite 200, Philadelphia, PA 19104-2897, has submitted a re-

vised Notice of Intent to Remediate soil contaminated with inorganics, PAH and PCB; and groundwater contaminated with chlorinated solvents and unleaded gasoline. The applicant proposes to remediate the site to meet Statewide Health and Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on September 23, 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 to the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified 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.

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**PLAN APPROVALS**


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**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.**

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

**54-313-073D: Air Products and Chemicals Inc.** (357 Marian Avenue, Tamaqua, PA 18252) for modification of the nitrogen tri-fluoride process at their Hometown Plant facility in Rush Township, **Schuylkill County**.

**40-320-022: Offset Paperback Manufacturers Inc.** (P. O. Box N, 101 Memorial Highway, Dallas, PA 18612) for construction of a nonheat-set/sheet-fed printing press at their facility in Dallas Borough, **Luzerne County**.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.*

**26-00488C: Laurel Aggregates, Inc.** (P. O. Box 1209, Morgantown, WV 26507) for modification to increase the maximum allowable tonnage to be produced from 1 million TPY to 3 million TPY at Lake Lynn Quarry in Springhill Township, **Fayette County**.

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

**37-290B: Industrial Concerns, Inc.** (526 South Jefferson Street, New Castle, PA 16101) for plan approval to construct a dust collection system to capture particulate emissions from scrap metal operations in the City of New Castle, **Lawrence County**.

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**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.**

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

**15-0114: Action Manufacturing Co.** (500 Bailey Crossroads Road, Atglen, PA 19310) for authorization to construct a thermal treatment unit with a cyclone, baghouse and ultra-high particulate absolute filter, as described in the applicant's application of March 3, 2003, in West Fallowfield Township, **Chester County**. Notice is given under 25 Pa. Code §§ 127.44(a) and 127.424(b) and 40 CFR 124.10 and Part 270 that the Department intends to issue a Plan Approval to Action Manufacturing Company, 100 East Erie Avenue, Philadelphia, PA 19134 for the company's plant at 500 Bailey Crossroads Road, West Fallowfield Township, Chester County. Action Manufacturing manufactures military ordinance and timing devices. The Plan Approval will subsequently be incorporated into the company's State-only Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

The Plan Approval only authorizes Action Manufacturing to conduct a test burn and stack tests. The Plan

Approval does not authorize the operation after the completion of the test burn and stack tests. Action Manufacturing is required, as a condition of the Plan Approval, to apply to the Department to amend the Plan Approval to allow the continued operation of the thermal treatment unit once the Department has approved the results of the test burn.

Based on the information provided by the applicant and the Department's own analysis, the thermal treatment unit will emit a total of 0.015 grain of particulate matter per dry standard cubic foot of exhaust, 4.3 grams of lead per hour and 0.17 gram of hexavalent chromium per hour.

The Plan Approval will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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 45 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-15-0114 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.

**46-0005X: Merck and Company, Inc.** (770 Sumneytown Pike, West Point, PA 19486) for installation of a 375-kW natural gas-fired emergency generator at their West Point complex in Upper Gwynedd Township, **Montgomery County**. This facility is a Title V facility. To minimize emissions of NO<sub>x</sub>, CO and VOCs, the emergency generator will be equipped with after-cooler, turbocharger, air/fuel monitor system and a nonselective catalytic reduction system. Emissions of criteria pollutants will be less than 1 ton per year each. The emergency generator will be restricted to an operation of 100 hours per 12-month rolling period. The Plan Approval will contain monitoring, recordkeeping and further operating requirements designed to keep the facility operating within the allowable emissions and all applicable air quality requirements.

**15-0078A: Centocor, Inc.** (200 Great Valley Parkway, Malvern, PA 19355) for installation of a 2 mW electric generator at their Centocor pharmaceutical research and development/manufacturing/biotechnological facility at 90 Great Valley Parkway, East Whiteland Township, **Chester County**. The installation of the electric genera-



tor will result in the emissions of 4.45 tons per year of NO<sub>x</sub>, 0.49 ton per year of CO, 0.2 ton per year of VOCs, 0.76 ton per year of SO<sub>x</sub>, 0.08 ton per year of PM and 0.004 ton per year of HAPs. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

**15-0027F: Johnson Matthey—CSDNA** (456 Devon Park Drive, Wayne, PA 19087) for installation of two dust collectors, at their facility in Tredyffrin Township, **Chester County**. This is a Title V facility. The Plan Approval will subsequently be incorporated into the company's Title V Operating permit through an administrative amendment in accordance with 25 Pa. Code § 127.450. The Plan Approval will include recordkeeping, operating and testing conditions to keep the facility operating within the allowable emission limits and all applicable air quality requirements.

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

**48-00004: Essroc Cement Corp.** (3251 Bath Pike, Nazareth, PA 18064) for minor modification to the Title V Operating Permit issued to cement plants 1 and 2 in Lower Nazareth Township, **Northampton County**.

**48-00007: Essroc Cement Corp.** (3251 Bath Pike, Nazareth, PA 18064) for minor modification to the Title V Operating Permit issued to cement plant 3 in Nazareth Borough, **Northampton County**.

**40-310-054: Northampton Fuel Supply Company, Inc.** (7500 Old Georgetown Road, Suite 13, Bethesda, MD 20814) for construction of a coal refuse wet processing plant at the Huber Bank facility in Hanover Township, **Luzerne County**. The plant will have a rated capacity of 150 tons/hour of material. The plant will not process more than 495,000 tons of material per year. The plant will have spray bars to control fugitive emissions. The facility is subject to NSPS Part 60, Subpart Y. The Plan Approval and Operating permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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

**06-03029B: Yuasa Battery, Inc.** (2901 Montrose Avenue, Reading, PA 19605) for modification of a lead/acid storage battery assembly line controlled by a fabric collector in the Borough of Laureldale, **Berks County**. The source is subject to 40 CFR Part 60, Subpart KK—Standards of Performance for New Stationary Sources. The facility is a non-Title V (State-only) facility. The potential increase in emissions is less than 1 ton per year of particulate. The plan approval will include monitoring, work practices, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**22-03041B: Librandi's Machine Shop, Inc.** (93 Airport Drive HIA, Middletown, PA 17057) for construction of an electroplating line in Middletown Borough, **Dauphin County**. The primary emission from the source is approximately 11 pounds per year of chromium. The decorative chromium electroplating operation is subject to 40 CFR Part 63, Subpart N—National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks. The source is controlled by chemical fume suppress-

sant containing a wetting agent to keep the surface tension of the electroplating bath at less than 45 dynes per centimeter to meet the requirements of Subpart N.

**36-05071A: Valley Proteins, Inc.** (693 Wide Hollow Road, East Earl, PA 17519) to replace their existing scrubbers and add one new scrubber at their facility in East Earl Township, **Lancaster County**. This rendering facility is a Title V facility. This facility's emissions will not increase with the new scrubbers. Reduced odor emission will result from the increased size of the new scrubbers. This plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

**67-03122: Key Plastics, LLC** (3350 Farmtrail Road, York, PA 17402) for installation of two automated paint lines controlled by dry filters in Manchester Township, **York County**. Potential emissions for a single HAP are estimated to increase by around 11.8 tons annually. The plan approval will include emission limitations, monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

**67-05008A: York International Corp.** (P. O. Box 1592, York, PA 17405-1592) to modify a rough casting blasting operation at their facility in Spring Grove Borough, **York County**. This refrigeration and heating equipment manufacturing facility is a Title V facility. The proposed modification will include redirecting the associated process emissions into an already existing building no. 15 shot blast operation dust collector while removing the rough casting blasting operation's original dust collector from service. Potential emissions of PM are not expected to increase as a result of the modification.

#### 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.*

**15-00005: West Chester University of Pennsylvania** (201 Carter Drive, Suite 100, West Chester, PA 19383) for renewal of their Title V Operating Permit in West Chester Borough, **Chester County**. The initial permit was issued on June 2, 1998. The facility is a university campus that operates boilers and emergency generators. As a result of the potential emissions of NO<sub>x</sub> and SO<sub>x</sub>, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments and is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The proposed Title V Operating Renewal does not reflect any change in air emissions from the facility. The facility is not subject to Compliance Assurance Monitoring under 40 CFR Part 64. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting. The changes in this permit are considered minor and will not result in an increase of emissions.

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

**48-00016: Lehigh University** (461 Webster Street, Bethlehem, PA 18015-1755) for six steam heating boilers

in the City of Bethlehem, **Northampton County**. This action is a renewal of the Title V Operating Permit issued in 1999.

**58-00001: Tennessee Gas Pipeline Co., LP** (9 Greenway Plaza, Houston, TX 77046) for a natural gas pipeline compressor station in Clifford Township, **Susquehanna County**. This action is a renewal of the Title V Operating Permit issued in 1998.

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

**67-05020: Exelon Generation Co.** (1848 Lay Road, Delta, PA 17314) for the operation of their electric generating facility at the Peach Bottom Atomic Power Station in Peach Bottom Township, **York County**. This action is a renewal of the Title V Operating Permit issued in 1999. This facility is a Title V facility due to its potential to emit NO<sub>x</sub> and SO<sub>x</sub> from two boilers and four emergency diesel powdered electric generators. The Title V operating permit contains monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**Intent to Issue Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: Muhammad Zaman, Facilities Permitting Chief, (570) 327-0512.*

**19-00022: Berwick Area School District** (500 Line Street, Berwick, PA 16803) for a State-only operating permit for their junior-senior high school facility in Berwick Borough, **Columbia County**. The facility's sources include three natural gas fired boilers. The facility has the potential to emit NO<sub>x</sub>, SO<sub>x</sub>, CO, PM-PM10, VOCs and HAPs below Title V emission thresholds. The proposed State-only operating permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are also included.

**60-00014: Evangelical Community Hospital** (One Hospital Drive, Lewisburg, PA 17837) for their facility in Kelly Township, **Union County**. The facility's main sources include three steam-generated boilers, three emergency generators, one fire pump engine, two chillers, one warehouse furnace and two storage tanks. These sources have the potential to emit PM/PM10, NO<sub>x</sub>, SO<sub>x</sub>, HAPs and CO below the major emission thresholds. The proposed State-only operating permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are also included.

**59-00019: Metalkraft Industries, Inc.** (P. O. Box 606, Wellsboro, PA 16901), for their plant in Charleston Township, **Tioga County**. The facility's main sources include six metal powder sintering furnaces, three endothermic gas generators, one dissociated ammonia generator and one solvent parts washer. The facility has the potential to emit major quantities of PM10. The facility has taken synthetic minor restrictions to limit its production throughput and use of metal powder lubricants to keep its PM10 emissions below the Title V threshold. The facility has the potential to emit NO<sub>x</sub>, CO, SO<sub>x</sub>, VOCs and HAPs below the major emission thresholds. The proposed State-only operating permit contains all appli-

cable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are also included.

**49-00054: Meckley's Limestone Products, Inc.** (R. D. 1 Box 1682, Herndon, PA 17830) for their facility in Lower Mahanoy Township, **Northumberland County**. The facility is a manufacturer of crushed limestone and hot mix asphalt for road and paving construction. The facility's main sources include stone crushing, sizing and conveying equipment; two aggregate dryers; hot mix asphalt plant; and five storage tanks. The facility has taken synthetic minor restrictions to limit SO<sub>x</sub> and CO emissions below the major emission thresholds. The facility has the potential to emit PM/PM10, NO<sub>x</sub>, VOCs and HAPs below the major emission thresholds. The proposed State-only operating permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are also included.

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

**30-00143: Dana Mining Co. of PA, Inc.** (P. O. Box 1209, Morgantown, WV 26507) for operation of a bituminous coal mining plant in Dunkard Township, **Greene 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 Environmental 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;

<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.

*California District Mining Office: 25 Technology Drive, California Technology Park, Coal Center, PA 15423, (724) 769-1100.*

**30841314. NPDES Permit No. PA0215368, Dana Mining Company of PA, Inc.** (P. O. Box 1209, Morgantown, PA 26507), to renew the permit for the Titus Mine in Dunkard Township, **Greene County** and related NPDES permit, no additional discharges. Application received August 18, 2003.

**17921604. NPDES Permit No. PA0214167, Waroquier Coal Company** (P. O. Box 128, R. D. 4, Washington Avenue, Clearfield, PA 16830), to renew the permit for the Trucking Tipple in Lawrence Township, **Clearfield County** and related NPDES permit, no additional discharges. Application received August 21, 2003.

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

**56980109. Mountaineer Mining Corporation**, 1010 Garrett Shortcut Road, Berlin, PA 15530, permit renewal/revision for continued operation of a bituminous surface mine and to add 2.4 acres to the permit boundary to remove coal from beneath T-864. Total SMP acres goes from 33.1 acres to 35.5 acres in Brothersvalley Township, **Somerset County**. Receiving streams: unnamed tributaries to/and Hays Run and unnamed tributaries to/and Buffalo Creek (CWF). There are no potable water supply intakes within 10 miles downstream. Application received September 24, 2003.

**11980102 and NPDES Permit No. PA0234753. E. P. Bender Coal Company, Inc.**, P. O. Box 594, Car-

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:

rolltown, PA 15722, permit renewal for continued operation of a bituminous surface and auger mine in Reade Township, **Cambria County**, affecting 240.0 acres. Receiving streams: UNTs to Fallentimber Run and Fallentimber Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received September 25, 2003.

**56673058 and NPDES Permit No. PA0606227. Windber High Standard Coal Company**, 1210 Graham Avenue, Windber, PA 15963, permit renewal for reclamation only and for continued restoration of a bituminous surface mine in Paint Township, **Somerset County**, affecting 553.0 acres. Receiving streams: unnamed tributaries to Spruce Creek; unnamed tributaries to Paint Creek, unnamed tributary to Weaver Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received September 24, 2003.

**56920111 and NPDES Permit No. PA0212245. AMFIRE Mining Company, LLC**, One Energy Place, Latrobe, PA 15650, commencement, operation and restoration of a bituminous surface mine in permit renewal for reclamation only and for continued restoration of a bituminous surface, auger, coal refuse reprocessing, coal refuse disposal and coal preparation/processing facility mine in Jenner Township, **Somerset County**, affecting 80.0 acres. Receiving streams: unnamed tributary to Quemahoning Creek (CWF). The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Quemahoning Surface Water Withdrawal. Application received September 23, 2003.

**32930104 and NPDES Permit No. PA0212598. P & N Coal Company, Inc.**, P. O. Box 332, Punxsutawney, PA 15767, permit renewal for reclamation only and for continued restoration of a bituminous surface and auger mine in East Mahoning Township, **Indiana County**, affecting 326.0 acres. Receiving streams: unnamed tributaries of Rayne Run, Rayne Run and Dixon

Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received September 24, 2003.

**56980108 and NPDES Permit No. PA0234915. Fieg Brothers**, 3070 Stoystown Road, Stoystown, PA 15563, permit renewal for continued operation of a bituminous surface mine in Milford Township, **Somerset County**, affecting 160.7 acres. Receiving streams: unnamed tributaries to Coxes Creek (WWF). There are no potable water supply intakes within 10 miles downstream. Application received September 26, 2003.

**11990103 and NPDES Permit No. PA0235091. Paul F. Becker Coal Company**, 1593 Old Route 22, Duncansville, PA 16635, permit revision for a road variance to conduct surface mining activities within the 100-foot road barrier of a portion of SR 0036 in Elder Township, **Cambria County**, affecting 21.2 acres. Receiving streams: unnamed tributary to Brubaker Run (CWF).

There are no potable water supply intakes within 10 miles downstream. Application received September 30, 2003.

**56910201 and NPDES Permit No. PA0599271. AMFIRE Mining Company, LLC**, One Energy Place, Latrobe, PA 15650, permit renewal for continued operation of a bituminous surface mine (coal refuse reprocessing) in Paint Township, **Somerset County**, affecting 31.0 acres. Receiving streams: Paint Creek (CWF). There are no potable water supply intakes within 10 miles downstream. Application received October 1, 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.

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

**08030807. Robert E. Harkness**, R. R. 2, Box 233A, Towanda, PA 18848. Commencement, operation and restoration of a small industrial minerals (flagstone) permit in Standing Stone Township, **Bradford County** affecting 3 acres. Receiving streams: unnamed tributary, tributary to King Creek. Application received September 3, 2003.

**08030808. Casselbrick Flagstone**, R. R. 1, Box 101, Sayre, PA 18840. Commencement, operation and restoration of a small industrial minerals (bluestone) permit in Herrick Township, **Bradford County** affecting 3 acres. Receiving streams: unnamed tributary to Camp's Creek. Application received September 3, 2003.

**08030809. Carolyn L. Wheaton**, R. R. 3, Box 3276, Laceyville, PA 18623. Commencement, operation and restoration of a small industrial minerals (bluestone) permit in Tuscarora Township, **Bradford County** affecting 3 acres. Receiving streams: unnamed tributary, tributary to Tuscarora Creek. Application received September 5, 2003.

**18030802. Sam W. Probst Excavation, Inc.**, 124 Probst Lane, Lock Haven, PA 17745. Commencement, operation and restoration of a small industrial minerals (topsoil) permit in Dunnstable Township, **Clinton County** affecting 5 acres. Receiving streams: Susquehanna River, tributary to Chesapeake Bay. Application received September 10, 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 approval 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**

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

**E39-335. Bruce J. and Tammi A. Yocum**, 1101 West Tioga Street, Allentown, PA 18103 in Lowhill Township, **Lehigh County**, U. S. Army Corps of Engineers, Philadelphia District.

To place fill within a de minimis area of PSS wetlands equal to 0.03 acre and to construct and maintain a single-span bridge having a span of 55 feet 4 inches and an underclearance of approximately 2.9 feet across Jordan Creek (CWF). The project is on the north side of SR 4007 approximately 0.3 mile southwest of the intersection with T-593 (Slatedale, PA Quadrangle N: 2.8 inches; W: 2.0 inches).

**E58-248. Jens C. Sorensen**, R. R. 1, Box 1151, Nicholson, PA 18446 in Lenox Township, **Susquehanna County**, U. S. Army Corps of Engineers, Baltimore District.

To excavate within approximately 5.03 acres of PEM/SS Wetlands within a 20.43-acre wetland complex in the drainage basin of Tunkhannock Creek (CWF), for the purpose of creating open water habitat. The project will result in the removal of approximately 72,000 cubic yards of peat. The project is approximately 0.5 mile west of the intersection of SR 2016 and T-463, at a site once known as Mountain View Airport (Lenoxville, PA Quadrangle N: 8.0 inches; W: 10.0 inches).

**E64-244. Frank and Lynda Marks**, R. R. 1, Box 205, Damascus, PA 18415 in Damascus Township, **Wayne County**, U. S. Army Corps of Engineers, Philadelphia District.

To construct and maintain two road crossings of tributaries to Hollister Creek (HQ-CWF) for the purpose of constructing a private residential driveway. The crossings will consist of: (1) a single-span steel I-beam bridge, having a span of approximately 26 feet and an underclearance of approximately 2.5 feet; and (2) a 15-inch culvert with its invert depressed 6 inches below streambed elevation. The project is approximately 300 feet north of T-561 (Boyce Road), approximately 0.9 mile southwest of the intersection of T-561 and SR 1016 (Callicoon, NY-PA Quadrangle N: 0.5 inch; W: 15.4 inches).

**E54-309. Schuylkill Valley Sewer Authority**, P. O. Box 314, Mary-D, PA 17952 in Blythe and Schuylkill Townships and New Philadelphia and Middleport Boroughs, **Schuylkill County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove the existing four-span bridge and to construct and maintain a concrete spread box beam bridge having a single span of 80.0 feet and an average underclearance of 5.5 feet across the Schuylkill River (CWF). The project also includes 31 utility line stream crossings in the Schuylkill River, tributaries thereof and wetlands and a sewer treatment plant and stormwater outfall structure in the Schuylkill River. This work is associated with the Schuylkill Valley Wastewater Treatment Facility and the sewage collection and conveyance system. The project is generally along SR 0209 between Cumbola and Tuscarora (Pottsville, PA Quadrangle N: 15.0 inches; W: 3.0 inches).

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

**E07-375: Department of Transportation, District 9-0**, 1620 North Juniata Street, Hollidaysburg, PA 16648 in Frankstown Township, **Blair County**, ACOE Baltimore District.

To remove the existing structure and then to construct and maintain a new bridge with a single clear span of 36.22 feet on an 80 degree skew with an underclearance of 5.65 feet on SR 1011, Section 002, Segment 0110, Offset 0000 over Canoe Creek (HQ-CWF) about 2.5 miles upstream of the Canoe Creek Dam and to fill in 0.007 acre of de minimis wetland (Bellwood, PA Quadrangle N: 1.9 inches; W: 1.85 inches) in Frankstown Township, Blair County. The wetland impact is considered a de minimis impact; therefore, mitigation is not required.

**ENVIRONMENTAL ASSESSMENTS**

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

**D20-073EA. Conneaut Lake and French Creek Valley Conservancy**, P. O. Box 434, Meadville, PA 16335. Vernon Township, **Crawford County**, ACOE Pittsburgh District.

Project proposes to breach and remove Cussewago Creek Dam across Cussewago Creek (WWF), to eliminate a public safety hazard and restore the stream to a free flowing condition. The dam is approximately 1,000 feet north of the intersection of Dunham Road (SR 2038) and SR 102 (Meadville, PA Quadrangle N: 3.9 inches; W: 5.9 inches).

**DAM SAFETY**

*Central Office: Bureau of Waterways Engineering, 400 Market Street, Floor 3, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**D22-104. King Drive Corporation**, 4503 North Front Street, Harrisburg, PA 17110. To operate and maintain Felicita Dam—Pond No. 4 (Harrisburg East, PA Quadrangle N: 21.70 inches; E: 4.10 inches) in Middle Paxton Township, **Dauphin County**.

**D22-105. King Drive Corporation**, 4503 North Front Street, Harrisburg, PA 17110. To operate and maintain Felicita Dam—Pond No. 6 (Harrisburg East, PA Quadrangle N: 22.20 inches; E: 3.65 inches) in Middle Paxton Township, **Dauphin County**.

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**ACTIONS**


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**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.

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**I. NPDES Renewal Permit Actions**


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*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>
PA0011801-A1	Air Products and Chemicals, Inc. 7201 Hamilton Boulevard Allentown, PA 18195-1501	Northampton County Glendon Borough	Lehigh River 2C	Y
PA0025224 Sewage	St. Clair Sewer Authority 16 South Third Street St. Clair, PA 17970	Schuylkill County East Norwegian Township	Mill Creek 3A	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>
PA0041564	S-2 Properties Pine Valley Estates P. O. Box 24509 Pittsburgh, PA 153234	Lancaster Township Butler County	Unnamed tributary to Doe Run 20-C	Y

**II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions**

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

**NPDES Permit No. PA0057029 Amendment No. 1**, Industrial Waste, **Hewlett Packard Company**, 10000 East Geddes Avenue, Suite 100, Englewood, CO 80112-3664. This proposed facility is in New Garden Township, **Chester County**.

Description of Proposed Action/Activity: Approval to amend existing permit for the removal of monitoring requirements for the groundwater well no. MW-10X

**NPDES Permit No. PA0027031 Amendment No. 1**, Sewage, **Borough of West Chester**, 401 East Gay Street, West Chester, PA 19380. This proposed facility is in West Goshen Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the amendment to include stormwater outfalls at the Goose Creek STP.

**NPDES Permit No. PA0026182 Amendment No. 1**, Sewage, **Borough of Lansdale**, One Vine Street, Lansdale, PA 19446. This proposed facility is in Lansdale Borough, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the amendment to include stormwater outfall at the wastewater treatment plant.

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

**NPDES Permit No. PAS212211**, Industrial Waste, **Glenwood Stone Co., Inc.**, R. R. 1, Box 1130, Nicholson, PA 18846. This proposed facility is in Lenox Township, **Susquehanna County**.

Description of Proposed Action/Activity: Issuance of a new NPDES permit for stormwater to unnamed tributary of East Branch Tunkhannock Creek.

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

**PA0228702**, Industrial Waste SIC 8221, **The Pennsylvania State University, Office of Physical Plant**, Room 101P, University Park, PA 16802-0118. This proposed facility is in State College Borough, **Centre County**.

Description of Proposed Activity: Construction of open storage facility for landscape equipment and a diesel/gasoline fueling station.

The receiving stream, Thompson Run, is in the State Water Plan watershed 9C and is classified for HQ-CWF. The nearest downstream public water supply intake is the Pennsylvania American Water Company in White Deer on the West Branch of the Susquehanna River, approximately 108 miles below the point of discharge.

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

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum mg/l</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
Flow (MGD)					
pH (STD units)					Monitor and Report within the range of 6.0 and 9.0
CBOD <sub>5</sub>					Monitor and Report
Chemical Oxygen Demand					Monitor and Report
Oil and Grease					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
Benzene					Monitor and Report
Toluene					Monitor and Report
Ethyl Benzene					Monitor and Report
Xylenes (Total)					Monitor and Report
Cumene					Monitor and Report
Methyl Tert-Butyl Ether					Monitor and Report
Naphthalene					Monitor and Report
Fluorene					Monitor and Report
Phenanthrene					Monitor and Report

**PAS224803**, Industrial Waste SIC 2452, **Haven Homes, Inc.**, 306 Runville Road, Bellefonte, PA 16823. This existing facility is in Boggs Township, **Centre County**.

Description of Proposed Activity: This proposed action is for the issuance of an NPDES permit for two existing stormwater discharges to Wallace Run from a modular home manufacturing facility.

The receiving stream for Outfalls S01 and S02, Wallace Run, is in the Bald Eagle Creek watershed (SWP 9C) and is classified for CWF. The nearest downstream public water supply intake, Pennsylvania American Water Company Milton District, is on the West Branch of the Susquehanna River, about 90 miles below the point of discharge.

The proposed effluent limits for Outfalls S01 and S02 are based on Best Management Practices.

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

**NPDES Permit No. PA0239178**, Sewage, **David J. Mays**, 13 Church Street, Westline, PA 16751. This proposed facility is in Lafayette Township, **McKean County**.

Description of Proposed Action/Activity: This is a single residence sewage system authorized to discharge to an unnamed tributary to Kinzua Creek.

### III. WQM Industrial Waste and Sewerage Actions under The Clean Streams Law (35 P. S. §§ 691.1—691.1001)

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

**WQM Permit No. 1803202**, Industrial Waste, 4244, **Fish and Boat Commission**, 450 Robinson Lane, Bellefonte, PA 16823. This proposed facility is in Logan Township, **Clinton County**.

Description of Proposed Action/Activity: The Commission proposes to upgrade the industrial wastewater treatment system at the Tylersville Fish Culture Station with the addition of high capacity disc filters, a traveling bridge sand filter and converting the existing settling lagoon into an aerated chemical/detoxification basin.

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

**WQM Permit No. 3202405**, Sewerage, **AMFIRE Mining Company, LLC**, One Energy Place, Suite 2800, Latrobe, PA 15650. This proposed facility is in Brush Valley Township, **Indiana County**.

Description of Proposed Action/Activity: Small flow treatment facility for a bath house servicing a deep mine.

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

**WQM Permit No. 4203401**, Sewerage, **David J. Mays**, 13 Church Street, Westline, PA 16751. This proposed facility is in Lafayette Township, **McKean County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

**WQM Permit No. 1003413**, Sewerage, **Ronald J. Shemela**, 139 Hammond Road, Mars, PA 16046. This proposed facility is in Adams Township, **Butler County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

**WQM Permit No. 2003418**, Sewerage, **Vernon Township Sanitary Authority**, 16678 McMath Avenue, Meadville, PA 16335. This proposed facility is in Vernon Township, **Crawford County**.

Description of Proposed Action/Activity: This project is for a proposed sanitary sewer extension to serve the Harmonsburg Road area.

### 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.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI2011503012	Thompson Homes, Inc. Thompson Tract 981 South Bolmar Street West Chester, PA 19380	Chester	East Fallowfield Township	West Branch Brandywine Creek EV
PAI011503063	Clyde D. Austin Austin Three Lot Subdivision 209 Wilson Mill Road Oxford, PA 19363	Chester	East Nottingham Township	West Branch Big Elk Creek HQ-TSF-MF



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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023903021	Liberty Property Trust 1510 Valley Center Parkway Suite 240 Bethlehem, PA 18017	Lehigh	Upper Macungie Township	Iron Run HQ-CWF
PAI023903027	Dale H. Roth 1173 Troupe Road Harbor Creek, PA 16421	Lehigh	Lowhill Township	Lyon Creek HQ-CWF
PAI023903028	Lehigh County Authority 1053 Spruce Street P. O. Box 3348 Allentown, PA 18106-0348	Lehigh	Lower Macungie and Salisbury Townships	Little Lehigh Creek HQ-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>
Solebury Township Bucks County	PAR10D654	Tom Scannapieco Bridgeway Office Park 328 South Main Street New Hope, PA 18938	Rabbit Run Creek TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Hilltown Township Bucks County	PAR10D677	Mike Fedele Fedele Major Subdivision 4734 Oakland Street Philadelphia, PA 19124	West Branch Neshaminy Creek WWF, MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000

<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>
Middletown Township Bucks County	PAG2000903069	Wawa, Inc. Wawa Food Market No. 70 Expan. 260 West Baltimore Pike Wawa, PA 19063	Neshaminy Creek WWF, MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Doylestown Township Bucks County	PAG2000903086	Delaware Valley College Various Projects 700 East Butler Avenue Doylestown, PA 18901	Neshaminy Creek WWF, MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Doylestown Township Bucks County	PAR10D366-R	700 York Road Associates 700 York Rd. Development 1000 Hagys Ford Road Narbeth, PA 19073	Unnamed tributary Neshaminy Creek TSF, MF Watson Creek CWF, MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Middletown Township Bucks County	PAG2000903129	Littleleaf Enterprise, LP Wawa Proposed Food Market 1262 Wood Lane, Suite 207 Langhorne, PA	Tributary Queen Anne Creek WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Lower Southampton Township Bucks County	PAG2000903065	Lower Southampton Township Lower Southampton Township Library 1500 Desire Avenue Feasterville, PA 19053	Neshaminy Creek WWF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Buckingham Township Bucks County	PAG2000903102	Buckingham Township Snyder Property Park—Phase 2 P. O. Box 413 Buckingham, PA 18912	Pine Run TSF, MF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Phoenixville Borough Chester County	PAG2001503067	Tague Family Limited Partnership Tague Lumber 405 Bridge Street Phoenixville, PA 19460	French Creek Schuylkill River TSF	Southeast Regional Office Suite 6010, Lee Park 555 North Lane Conshohocken, PA 19428 (610) 832-6000
Luzerne County Hazle Township	PAG2004003036	Butler Enterprises, Inc. 15 East Broad St. Hazleton, PA 18201	Headwaters of Black Creek CWF	Luzerne County Conservation District (570) 674-7991
7th Street Bridge City of Altoona Blair County	PAG2000703019	Department of Transportation District 9 1620 North Juniata Street Hollidaysburg, PA 16648		Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5

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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>
Logan Township Blair County	PAG2000703020	John Cowan Kittanning Trails Phase I R. D. 1 Box 479 Altoona, PA 16601		Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Antis Township Blair County	PAG2000703021	John Yau Restaurant 2032 E. Pleasant Valley Blvd. Altoona, PA 16602		Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Allegheny Township Blair County	PAG2000703022	Boyd England England Estates Subdivision 50 East Court Street Doylestown, PA 18901		Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Taylor and North Woodbury Townships Blair County	PAG20007030023	Joe Himes Himes Modular Home Subdivision R. D. 4 Box 20 Boyertown, PA 15912		Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Logan Township	PAG2000703024	Wesley Barnhart Barnhart Used Car Dealership R. R. 6 Box 1375 Altoona, PA 16601		Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
	PAG2000703025	Abundance Life Assembly of God, Inc. 3003 Walnut Avenue Altoona, PA 16602		Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Hollidaysburg Borough Allegheny and Blair Townships Blair County	PAG2000703026	Hollidaysburg Sewer Authority Legion Park Interceptor/Fort Fetter Trunk Line 401 Blair Street Hollidaysburg, PA 16648		Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Antis Township Blair County	PAG2000703027	Brinton Simington Alliance Medical Group Doctors Office 804J Sandy Run Road Altoona, PA 16601		Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5
Centre County Port Matilda Borough Worth Township	PAG2001403035	Drucker Company, LDP 200 Shady Lane Philipsburg, PA 16866	Bald Eagle Creek TSF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817
Beaver County	PAG2000403020	James A. Riggio Beaver Falls Municipal Authority 1425 Eighth Avenue P. O. Box 400 Beaver Falls, PA 15010	Beaver River WWF	Beaver County Conservation District (724) 774-7090

<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>
Fayette County Dunbar Township	PAG2002603015	Fayette Area Coordinated Transportation 22 East Main Street Uniontown, PA 15401	Gist Run TSF	Fayette County Conservation District (724) 438-4497
Indiana County Young Township	PAG2003203009	Jack Lentz 12554 Rt. 286 Highway West Clarksburg, PA 15725	Reeds Run TSF	Indiana County Conservation District (724) 463-8547
Washington County North Franklin Township	PAG2006303034	Allegheny Power 800 Cabin Hill Dr. Greensburg, PA 15601-9442	UNT to Chartiers Creek WWF	Washington County Conservation District (724) 228-6774
Washington County Peters Township	PAG2006303037	Edward J. Waddell 35 Highland Road, Apt. 1404 Bethel Park, PA 15102	Brush Run WWF	Washington County Conservation District (724) 228-6774
Westmoreland County Hempfield Township	PAG2006503047	M & C Construction P. O. Box 577 New Stanton, PA 15672	Belson Run WWF	Westmoreland County Conservation District (724) 837-5271
Butler County Adams Township	PAG2001003020	Donald Rodgers 215 Executive Drive Suite 300 Cranberry Township, PA 16066	Tributary to Breakneck Creek WWF	Butler County Conservation District (724) 284-5270
Erie County Fairview Township	PAG2002503047	Euliano Family Limited Partnership 5739 W. Ridge Rd. Erie, PA 16506	Walnut Creek CWF-MF	Erie County Conservation District (814) 825-6403
Erie County City of Erie	PAG2002503048	Erie Water Works 340 W. Bayfront Parkway Erie, PA 16507	Lake Erie WWF CWF	Erie County Conservation District (814) 825-6403
Erie County Millcreek Township	PAG2002503050	James Thomas 2558 W. 12th St. Erie, PA 16505	Walnut Creek CWF-MF	Erie County Conservation District (814) 825-6403

*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>
Cumberland County Upper Frankford Township	PAG043712	Robert and Cheryl Rhodes 48 Mountain View Terrace Newville, PA 17241	UNT Conodoguinet Creek WWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Berks County Upper Tulpehocken Township	PAG043613	DeVon R. Henne 133 Lakeview Road Bernville, PA 19506	UNT to Birch Creek CWF 3-C	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

*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>
Chester County North Coventry Township	PAG050041	Wagner's Service Station 262 South Hanover Street South Pottstown, PA 19465	Schuylkill River via storm sewer	Southeast Regional Office Lee Park Suite 6010 555 North Lane Conshohocken, PA 19428-2233
Montgomery County Douglass Township	PAG050046	Bartman's Texaco 1152 East Philadelphia Avenue Gilbertsville, PA 19525	Minister Creek 3E Perkiomen Watershed	Southeast Regional Office Lee Park Suite 6010 555 North Lane Conshohocken, PA 19428-2233

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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>
Lebanon County West Cornwall Township	PAG05522	Sunoco, Inc. P. O. Box 1135 Marcus Hook, PA 19061	Beck Creek TSF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

*General Permit Type—PAG-8*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
West Pennsboro Township Cumberland County	PAG083568 PAG083569	Hampden Township 230 S. Sporting Hill Rd. Mechanicsburg, PA 17050-3097	Joseph Dyarman Farm West Pennsboro Township Cumberland County	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

*General Permit Type—PAG-12*

<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>
Lancaster County East Donegal Township	PAG123564	Mike Buckwalter 350 Rock Point Road Marietta, PA 17547	UNT Susquehanna River 7G	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

*General Permit Type—PAG-13*

<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>
PAG136138	Scott Township 301 Lindsay Road, 2nd Fl. Carnegie, PA 15106	Allegheny	Scott Township	Chartiers Creek WWF McLaughlin Run WWF Painters Run WWF Scrubgrass Run WWF	Y

## NOTICES

<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>
PAG136143	Plum Borough 4575 New Texas Road Pittsburgh, PA 15239	Allegheny	Plum Borough	Abers Creek TSF Allegheny River WWF Blacks Run WWF Bodies Run WWF Falling Springs Run WWF Humms Run TSF Little Plum Creek WWF Piersons Run TSF Plum Creek WWF Pucketa Creek WWF Thompson Run TSF UNTs to Abers Creek TSF UNTs to Allegheny River WWF UNTs to Blacks Run WWF UNTs to Bodies Run WWF UNTs to Humms Run TSF UNTs to Little Plum Creek WWF UNTs to Piersons Run TSF UNTs to Plum Creek WWF UNTs to Pucketa Creek TSF UNTs to Thompson Run TSF	Y
PAG136146	Shaler Township 300 Wetzel Road Glenshaw, PA 15116	Allegheny	Shaler Township	Pine Creek TSF Little Pine Creek TSF Girty's Run WWF	Y

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<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>
PAG136152	Pine Township 230 Pearce Mill Road Wexford, PA 15090	Allegheny	Pine Township	North Fork Pine Creek and UNT CWF Montour Run and UNT TSF Brush Creek and UNT WWF Breakneck Creek and UNT WWF	Y
PAG136161	Robinson Township 1000 Church Hill Road Pittsburgh, PA 15205	Allegheny	Robinson Township	Chartiers Creek WWF Robinson Run WWF Campbells Run WWF Moon Run WWF Montour Run TSF Ohio River WWF	Y
PAG136163	Springdale Borough 325 School Street P. O. Box 153 Springdale, PA 15144	Allegheny	Springdale Borough	Allegheny River WWF & N Tawney Run WWF Riddle Run WWF	Y
PAG136165	Sewickley Borough 601 Thorn Street Sewickley, PA 15143	Allegheny	Sewickley Borough	Hoyes Run UNT to the Ohio River WWF Davies Run UNT to the Ohio River WWF Ohio River WWF	Y
PAG136166	West Mifflin Borough 3000 Lebanon Church Road West Mifflin, PA 15122	Allegheny	West Mifflin Borough	Streets Run WWF Thompson Run WWF Monongahela River WWF Homestead Run WWF Curry Hollow WWF	Y

## NOTICES

<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>
PAG136174	Municipality of Penn Hills 12245 Frankstown Road Pittsburgh, PA 15235	Allegheny	Penn Hills Township	Shades Run (in Lower Allegheny Watershed A) WWF Sandy Creek (in Lower Allegheny Watershed A) WWF Quigley Creek (in Lower Allegheny Watershed A) WWF Indian Creek (in Lower Allegheny Watershed A) WWF Plum Creek (in Lower Allegheny Watershed A) WWF	Y
PAG136183	Port Vue Borough 1191 Romine Avenue Port Vue, PA 15133	Allegheny	Port Vue Borough	UNTs to Youghiogheny River WWF Youghiogheny River WWF UNTs to Monongahela River WWF	Y
PAG136197	Wilkinsburg Borough 605 Ross Avenue Pittsburgh, PA 15221	Allegheny	Wilkinsburg Borough	Monongahela River WWF, N Thompson Run WWF	Y
PAG136208	Ohio Township 1719 Roosevelt Road Pittsburgh, PA 15237	Allegheny	Ohio Township	Lowries Run TSF Toms Run WWF Kilbuck Run CWF Bear Run	Y
PAG136217	West Deer Township P. O. Box 2 Russellton, PA 15076	Allegheny	West Deer Township	Deer Creek (Source to Little Deer Creek) CWF Little Deer Creek TSF Deer Creek (Little Deer Creek to Mouth) WWF	Y



<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>
PAG136221	Ross Township 1000 Ross Municipal Drive Pittsburgh, PA 15237	Allegheny	Ross Township	Pine Creek (West Branch Little Pine) TSF Girtys Run WWF Jacks Run WWF Spruce Run WWF Lowries Run TSF	Y

**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** issued to **Wattsburg Borough Municipal Water System**, PWS ID 6250094, Wattsburg Borough, **Erie County** on October 2, 2003, for the operation of facilities approved under Construction Permit No. 2501503.

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

**Operations Permit** issued to **Pennsylvania Suburban Water Co. d/b/a Consumers Pennsylvania Water Co.**, 204 East Sunbury Street, Shamokin, PA 17842-4859, PWS ID 2400066, Conyngham Township, **Luzerne County** on October 2, 2003, for the operation of facilities approved under Construction Permit No. 4002504.

**SEWAGE FACILITIES ACT PLAN APPROVAL**

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

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Letterkenny Township	4924 Orrstown Rd. Orrstown, PA 17244	Franklin

Plan Description: The approved plan provides for the Cumberland Franklin Joint Municipal Authority to extend sewer services to areas of Pleasant Hall and Upper Strasburg, as well as provisions for maintenance of onlot sewage disposal systems. The Department's review of the sewage facilities plan update 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 Cumberland Franklin Joint Municipal Authority.

**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:

*Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**Former Sunoco Station (Duns No. 0004-9056)**, Ridley Township, **Delaware County**. Marco Droese, Mulry & Cresswell Environmental, Inc., 1691 Horseshoe Pike, Suite 3, Glenmoore, PA 19343, on behalf of Ashok Patel, Hockessin Liquor, 719 Ace Memorial Dr., Route 41, Hockessin, DE 19707, has submitted a Remedial Investigation/Final Report concerning remediation of site soil and groundwater contaminated with leaded gasoline, MTBE and unleaded gasoline. The report is intended to document remediation of the site to meet Statewide Health and Site-Specific Standards.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 3

**The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).**

Provisions of 25 Pa. Code § 250.8 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 environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a Site-Specific Standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the

abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the environmental cleanup program manager in the Department regional office 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:

*Southeast Region: Environmental Cleanup Program Manager, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428.*

**Riverbend Site**, Warwick Township, **Bucks County**. Joe Casey, P. G., Mignati Companies, 2310 Terwood Dr., P. O. Box 249, Huntingdon Valley, PA 19006, has submitted a Final Report concerning the remediation of site soil contaminated with lead and PCB. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 2, 2003.

**Andela Site**, Warwick Township, **Bucks County**. Joe Casey, P. G., Mignati Companies, 2310 Terwood Dr., P. O. Box 249, Huntingdon Valley, PA 19006, has submitted a Final Report concerning the remediation of site soil contaminated with lead and PCB. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on October 1, 2003.

**Former Worthington Steel Facility**, East Whiteland Township, **Chester County**. Darryl D. Borrelli, Manko, Gold, Katcher & Fox, LLP, 401 City Ave., Bala Cynwyd, PA 19004, on behalf of Guy Wolfington, Malvern Hill Associates, 700 S. Henderson Rd., King of Prussia, PA 19406, has submitted a combined Remedial Investigation/Risk Assessment/Cleanup Plan Report concerning the remediation of site soil and groundwater contaminated with chlorinated solvents, fuel oil no. 2, inorganics and unleaded gasoline. The combined report was approved by the Department on September 30, 2003.

### RESIDUAL WASTE GENERAL PERMITS

**Permit 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. WMGR091. Lucas Lane Inc.**, 10 Lucas Lane, Bernville, PA 19506. The general permit covers processing of used oil filters. The proposed processing is limited to crushing and thermal treatment. The processing will lead to beneficial use of scrap metal and waste oil generated from the filters. The general permit was issued by Central Office on October 2, 2003.

The notice of receipt of the application for this general permit, published at 32 Pa.B. 6277 (December 21, 2002), identified the application as General Permit Application No. WMGR090. The application should have been identified as General Permit Application No. WMGR091.

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.

**Permit Denied under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act 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.**

*Southcentral Region: Waste Management Program, 909 Elmerton Ave., Harrisburg, PA 17110; Contact: Regional Solid Waste Manager, (717) 705-4706.*

**Total Recycling Services, Inc.**, 2700 Paxton St., Harrisburg, PA 17111, Swatara, **Dauphin County**. On March 21, 2003, the Department received a permit application from Total Recycling Services for the operation of a residual waste transfer facility at 2700 Paxton St., Harrisburg, PA. Following an administrative completeness review of the application, the Department issued a letter on June 11, 2003, to Total Recycling Services indicating several deficiencies in the application. The review letter stated that a response to the deficiencies was required by September 15, 2003. The Department did not receive any response from Total Recycling Services by the due date. Therefore, in accordance with 25 Pa. Code § 287.202(e), the Department denied the permit application on September 29, 2003.

**OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**

**Permit revoked under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.**

*Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit No. 101632. Wyeth Laboratories, Inc.**, 206 North Biddle Street, Marietta, PA 17547, East Donegal Township, **Lancaster County**. The permit revocation is for the municipal waste processing facility. The permit was revoked by the Southcentral Regional Office on October 3, 2003.

Persons interested in reviewing the general permit may contact John Krueger, Program Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110, (717) 705-4706. 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.*

**J. A. Fisher Trucking**, 360 Sandusky St., Conneaut, OH 44030. Authorization No. WH5259. Effective September 30, 2003.

**West General Transit Inc.**, Route 88, 133 Union St., New Eagle, PA 15067. Authorization No. WH5317. Effective September 30, 2003.

**Ivan Nieves**, R. R. 5 5702, East Stroudsburg, PA 18304. Authorization No. WH5318. Effective September 30, 2003.

**Jacob J. Wingard**, P. O. Box 31, Beaverdale, PA 15921. Authorization No. WH5319. Effective September 30, 2003.

**Donald E. Keller**, 15214 Givens Road, Wellsville, OH 43968. Authorization No. WH5320. Effective September 30, 2003.

**Lonnie W. Barr**, 45971 Yeager Dr., East Liverpool, OH 43920. Authorization No. WH5321. Effective September 30, 2003.

**Scot E. Hoffman**, 1843 Sandhill Road, Hershey, PA 17033. Authorization No. WH5322. Effective September 30, 2003.

**James Bednarek**, P. O. Box 434, Kresgeville, PA 18333. Authorization No. WH5323. Effective September 30, 2003.

**Monarch Environmental**, P. O. Box 330, Woodstown, NJ 08098. Authorization No. WH5324. Effective September 30, 2003.

**Royal Flush Inc.**, P. O. Box 122, Spring Church, PA 15686. Authorization No. WH5327. Effective September 30, 2003.

**Hal D. Ammons**, 1174 Oak St., Warren, OH 44485. Authorization No. WH5349. Effective October 1, 2003.

**Eileen V. Olah**, 72 Hawkin Road, New Egypt, NJ 08533. Authorization No. WH5350. Effective October 1, 2003.

**Robert M. Killmer, Jr.**, 27 Aspen Lane, Levittown, PA 19055. Authorization No. WH5351. Effective October 1, 2003.

**Steven Allison**, 2982 Mercer Road, New Castle, PA 16105. Authorization No. WH5352. Effective October 1, 2003.

**Ralph Sowards, Jr.**, 412 Fox Road, Knoxville, TN 37922. Authorization No. WH5353. Effective October 1, 2003.

**John Stuble**, 275 East Washington St., Harrisville, PA 16038. Authorization No. WH5354. Effective October 1, 2003.

**Thomas K. Dillon**, 6820 N. Classen Blvd., Oklahoma City, OK 76116. Authorization No. WH5355. Effective October 1, 2003.

**David Green Excavating**, R. R. 2 Box 316, Brockway, PA 15824-9370. Authorization No. WH5328. Effective October 3, 2003.

**Dailey Leasing Inc.**, P. O. Box 77, Wellsville, OH 43968. Authorization No. WH5329. Effective October 3, 2003.

**Scheuermann Excavating Inc.**, 849 Front St., Whitehall, PA 18052-5927. Authorization No. WH5330. Effective October 3, 2003.

**Stealth Contracting Corp.**, 486 12th Ave., Paterson, NJ 07514. Authorization No. WH5331. Effective October 3, 2003.

**R & D Enterprise Contractors Inc.**, 5436 Sunset Pike, Chambersburg, PA 17201. Authorization No. WH5333. Effective October 3, 2003.

**Alpha Construction**, 1928 Woodbury Road, Bethlehem, PA 18017-3337. Authorization No. WH5335. Effective October 3, 2003.

**Roger Anne Transportation Inc.**, 5 Troast Road, Paramus, NJ 07652. Authorization No. WH5336. Effective October 3, 2003.

**David P. Podrasky**, 568 Miller Picking Road, Hollsopple, PA 15935. Authorization No. WH5337. Effective October 3, 2003.

**Joseph P. Balsler**, 239 Poplar Creek Lane, Effort, PA 18330. Authorization No. WH5338. Effective October 3, 2003.

**Heriberto Chaparro**, 23 Grant St., Dover, NJ 07801. Authorization No. WH5339. Effective October 3, 2003.

**Manuel F. Lema**, 1740 81st St., Brooklyn, NY 11214. Authorization No. WH5340. Effective October 3, 2003.

**Allan D. Murray**, R. R. 12 Box 292, Greensburg, PA 15601. Authorization No. WH5341. Effective October 3, 2003.

**Jose A. Nunez**, P. O. Box 165, Ledgewood, NJ 07852. Authorization No. WH5342. Effective October 3, 2003.

**Abateco Construction Co., Inc.**, Apt. A, 87 Main St., Lincoln Park, NJ 07035. Authorization No. WH5343. Effective October 3, 2003.

**Edward M. Wilkins**, 200 A Clay Ave., Mount Pleasant, PA 15666. Authorization No. WH5345. Effective October 3, 2003.

**Darr Construction Inc.**, 2863 Brotherton Road, Berlin, PA 15530. Authorization No. WH5356. Effective October 3, 2003.

**Larry D. Brooks Builder Contractor**, 68 Lime Kiln Road, Linden, PA 17744. Authorization No. WH5357. Effective October 3, 2003.

**Sudol Paving & Excavation Inc.**, 205 Sudol Road, Danville, PA 17821. Authorization No. WH5313. Effective October 3, 2003.

**Patrick S. Evans**, 2409 Creek Road, Glenmoore, PA 19343-1513. Authorization No. WH5316. Effective October 3, 2003.

**X-Cel Carting Inc.**, P. O. Box 7201, Watchung, NJ 07069-0798. Authorization No. WH5325. Effective October 3, 2003.

**Zoladz Construction**, P. O. Box 157, 13600 Railroad St., Alden, NY 14004-0157. Authorization No. WH5304. Effective October 3, 2003.

**Minuteman Towing Inc.**, P. O. Box 10, Mifflinville, PA 18631. Authorization No. WH5326. Effective October 3, 2003.

**Ben Roland Trucking**, 1019 Five Forks Road, Clearville, PA 15535. Authorization No. WH5344. Effective October 3, 2003.

**Seibert's Trucking Inc.**, Hess Ave, 200, Elizabethtown, PA 17022. Authorization No. WH5348. Effective October 3, 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.*

**GP3-8-07-03014: New Enterprise Stone and Lime Co., Inc.** (P. O. Box 77, New Enterprise, PA 16664) on September 30, 2003, was authorized to operate a portable nonmetallic mineral processing plant under GP3 in Taylor Township, **Blair County**.

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

**16-143: EOG Resources—New Bethlehem North East Compressor Station** (Idle Road, New Bethlehem, PA 16242) on September 30, 2003, to operate a natural gas fired compressor engine in New Bethlehem, **Clarion 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.**

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

**66-315-012B: The Procter and Gamble Paper Products Co.** (P. O. Box 32, Route 87 South, Mehoopany, PA 18629) on September 25, 2003, to modify the 4M paper machine room wet venturi scrubber system at their facility in Washington Township, **Wyoming County**.

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

**06-03096A: Lucas Lane, Inc.** (10 Lucas Lane, Bernville, PA 19506) on October 3, 2003, to construct a thermal unit to recycle used oil filters at their Bernville location in Upper Tulpehocken Township, **Berks County**.

**07-05028A: Cove Shoe Co.** (107 Highland Street, Martinsburg, PA 16662) on September 30, 2003, to construct a new cyclone followed in series with a fabric collector to control particulate emissions from the heel and sole scouring/edge trimming operations at their footwear manufacturing facility in Martinsburg Borough, **Blair County**.

**22-05046B: Haines and Kibblehouse, Inc.** (P. O. Box 196, Skippack, PA 19474) on September 30, 2003, to modify their Handwerk Materials asphalt plant in Lower

Swatara Township, **Dauphin County**. This facility is subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants.

**36-05008C: Tyson Foods, Inc.** (403 South Custer Avenue, New Holland, PA 17557) on October 1, 2003, to construct a vegetable oil poultry fryer controlled by a wet scrubber at their New Holland Plant in Earl Township, **Lancaster County**.

**67-05045A: Glen-Gery Corp.** (1030 East Boundary Avenue, York, PA 17405) on October 3, 2003, to modify the tunnel kiln no. 2 at their facility in Spring Garden Township, **York County**.

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

**42-192C: IA Construction—McKean Plant** (Routes 59 and 219, Lewis Run, PA 16738) on September 30, 2003, for minor modifications of the stack testing conditions for their batch asphalt plant in Lafayette Township, **McKean County**.

**62-035B: IA Construction—Warren Plant** (240 River Road, Warren, PA 16365) on September 30, 2003, for minor modifications of the stack testing conditions for their batch asphalt plant in Conewango Township, **Warren County**.

**37-027B: IA Construction—West Pittsburgh Plant** (River Road, West Pittsburgh, PA 16160) on September 30, 2003, the minor modifications of the stack testing conditions for the batch asphalt plant in Taylor Township, **Lawrence County**.

**10-230B: IA Construction—Zelienople Plant** (158 Lindsay Road, Zelienople, PA 16063) on September 30, 2003, for minor modifications of the stack testing conditions for the batch asphalt plant in Jackson Township, **Butler County**.

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**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.**

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*Southeast Region: Air Quality Program, Lee Park, Suite 6010, 555 North Lane, Conshohocken, PA 19428; Contact: Thomas McGinley, New Source Review Chief, (610) 832-6242.*

**46-0169A: H and N Packaging, Inc.** (92 County Line Road, Colmar, PA 18915) on October 2, 2003, to operate an ink room in Hatfield Township, **Montgomery County**.

**46-0169B: H and N Packaging, Inc.** (92 County Line Road, Colmar, PA 18915) on October 2, 2003, to operate a five-color flexographic printing press in Hatfield Township, **Montgomery County**.

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

**39-313-042: Filmtech Corp.** (2121 31st Street SW, Allentown, PA 18103) to modify five polyethylene extrusion lines and associated air cleaning devices at their facility in Allentown, **Lehigh County**. The Plan Approval is being extended.

**48-302-103: Newstech PA LP** (6 Horwith Drive, Northampton, PA 18067) to reactivate a boiler at their facility in Northampton Borough, **Northampton County**. The Plan Approval is being extended.

**48-328-006: Connectiv Bethlehem LLC** (P. O. Box 6066, Newark, DE 19714) to modify the Plan Approval to facilitate the operation of Unit 6 in shakedown mode at their facility in Lower Saucon Township and Bethlehem, **Northampton County**. The Plan Approval is being extended.

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

**34-03005A: Energex American, Inc.** (R. R. 5 Box 343, Mifflintown, PA 17059) on July 30, 2003, to modify a wood pellet manufacturing plant in Walker Township, **Juniata County**. This plan approval has been extended.

**34-303-002B: Jay Fulkroad and Sons, Inc.** (R. R. 1 Box 3060, McAlisterville, PA 17049) on June 26, 2003, to construct a drum mix asphalt plant controlled by a fabric collector in Fayette Township, **Juniata County**. This plan approval has been extended.

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

**41-303-009: HRI, Inc.** (1750 West College Avenue, State College, PA 16801) on September 26, 2003, to operate a batch asphalt plant and associated air cleaning device (a fabric collector) on a temporary basis, to January 24, 2004, in the City of Williamsport, **Lycoming County**. The plan approval and authorization have been extended.

**41-310-012: Glenn O. Hawbaker, Inc.** (711 East College Avenue, Bellefonte, PA 16823) on September 26, 2003, to operate a sandstone processing facility on a temporary basis, to January 24, 2004, in Armstrong Township, **Lycoming County**. The plan approval and authorization have been extended.

**49-331-001: Merck and Co., Inc.** (P. O. Box 600, Danville, PA 17821) on September 18, 2003, to operate the hazardous waste incinerator and associated ancillary equipment and air cleaning devices (quench, venturi scrubber, tray tower scrubber and wet electrostatic precipitator) identified in the respective plan approval on a temporary basis until January 16, 2004, at the Cherokee Plant in Riverside Borough, **Northumberland County**. The authorization has been extended.

*Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Contact: William Charlton, New Source Review Chief, (412) 442-4174.*

**04-00516D: Vesuvius McDanel Co.** (510 9th Avenue, Beaver Falls, PA 15010) on September 30, 2003, to install a natural gas-fired kiln in Beaver Falls, **Beaver County**. This plan approval was extended.

**65-00280A: Kalumetals, Inc.** (P. O. Box 455, Latrobe, PA 15650) on September 21, 2003, to install a thermal oxidizer/afterburner in Derry Township, **Westmoreland County**. This plan approval was extended.

**65-657A: Tresco Paving Corp.** (P. O. Box 14004, Pittsburgh, PA 15239) on October 3, 2003, to construct a drum mix asphalt plant in Salem Township, **Westmoreland 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.*

**10-021K: Indspec Chemical Corp.** (133 Main Street Petrolia, PA 16050) on September 30, 2003, for minor modification of Plan Approval 10-313-028B to run either

the old or new system at Resorcinol Flaker/Bagging and Packaging in the Borough of Petrolia, **Butler County**.

**10-340A: Eagle Printing Co., Inc.** (514 West Wayne Street, Butler, PA 16001) on September 30, 2003, to construct a printing plant in Butler, **Butler County**.

**25-883A: Township of Millcreek** (3608 West 12th Street, Erie, PA 16505) on September 30, 2003, to modify the drum mix asphalt plant in Millcreek Township, **Erie County**.

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**Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.**

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

**36-05079: Chester Co. Solid Waste Authority** (P. O. Box 476, Honey Brook, PA 19344) on October 2, 2003, to operate a municipal waste landfill in Caernarvon Township, **Lancaster County**. This action is a renewal of the facility's Title V Operating Permit.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Contact: Muhammad Zaman, Facilities Permitting Chief, (570) 327-0512.*

**60-00002: NGC Industries, Inc.** (P. O. Box 338, Milton, PA 17847), on September 17, 2003, to renew a Title V operating permit for their paperboard manufacturing facility in White Deer Township, **Union County**. The facility's main sources include two natural gas/no. 6 fuel oil fired boilers. The renewal Title V operating permit contains all applicable requirements including monitoring, recordkeeping and reporting conditions.

**47-00003: Department of Public Welfare—Danville State Hospital** (P. O. Box 700, Danville, PA 17821-0700), on September 30, 2003, to renew a Title V operating permit for their hospital facility in Mahoning Township, **Montour County**. The renewal Title V operating permit contains all applicable requirements including monitoring, recordkeeping and reporting conditions.

**53-00003: National Fuel Gas Supply Corp.** (P. O. Box 2081, Erie, PA 16512) on September 18, 2003, to renew a Title V operating permit for their Ellisburg Natural Gas Compressor Station in Allegany Township, **Potter County**. The facility's sources include 24 storage tanks, 8 reciprocating engines, 4 water heaters, 4 boilers, 3 pipeline heaters, 3 parts washers, 3 auxiliary generators, 2 space heaters, 2 dehydration still/reboilers and 1 thermal oxidizer and associated pipeline flanges and valves. The renewal Title V operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

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**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

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

**01-05004: Reliant Energy Mid Atlantic Power Holdings, LLC** (P. O. Box 1050, Johnstown, PA 15907-1050) on October 1, 2003, to operate a natural gas or oil-fired gas turbine at their electric generating station at the Hamilton Station in Hamilton Township, **Adams County**.

**28-05001: Martin's Famous Pastry Shoppe, Inc.** (1000 Potato Roll Lane, Chambersburg, PA 17201) on October 2, 2003, to operate a bakery in Guilford Township, **Franklin County**.

**36-03006: Cadmus Professional Communications—Science Press Division** (300 West Chestnut Street, Ephrata, PA 17522) to operate their printing facility in Ephrata Borough, **Lancaster County**.

**36-03010: Fleetwood Homes of PA, Inc.** (P. O. Box 530, Elizabethtown, PA 17022-9425) on October 1, 2003, to operate their manufactured home facility in Elizabethtown Borough, **Lancaster County**.

**36-03021: J. Walter Miller Co.** (411 East Chestnut Street, Lancaster, PA 17602) on October 2, 2003, to operate their foundry in the City of Lancaster, **Lancaster County**.

**36-03057: Reist Popcorn Co.** (P. O. Box 155, Mount Joy, PA 17552) on October 1, 2003, to operate their popcorn processing facility in Mount Joy Borough, **Lancaster County**.

**67-03117: FES Systems, Inc.** (3475 Board Road, York, PA 17405) on October 1, 2003, to operate their two paint spray booths in Manchester Township, **York County**.

**67-05056: ConAgra Foods, Inc.** (2800 Blackbridge Road, York, PA 17402-9704) on October 1, 2003, to operate their flour milling facility in Manchester Township, **York County**.

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

**16-00122: Northwestern Pennsylvania Crematory** (330 Wood Street, Clarion, PA 16214) on September 30, 2003, for a Natural Minor operating permit for emissions from a human crematory in the Borough of Clarion, **Clarion County**.

**25-00053: Urick Foundry Company, Inc.** (1501 Cherry Street, P. O. Box 6027, Erie, PA 16512) on September 30, 2003, for a Synthetic Minor Operating Permit to operate their foundry operation in the City of Erie, **Erie County**. This was formerly a Title V facility but is now taking voluntary emission limits to become a Synthetic Minor Facility.

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**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.**

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

**46-00098: Edon Corporation** (1160 Easton Rd., Horsham, PA 19044) on October 6, 2003, for a minor modification to State-only Operating Permit (Synthetic Minor) 46-00098 in Horsham Township, **Montgomery County**. The facility manufactures fiberglass reinforced plastic products that are used mainly in architectural ornamentation for the building and construction industries.

The following conditions have been addressed in the revised State-only Operating Permit:

(a) Section C, Operation Hours Restrictions, Condition No. 006—restricts the total hours of operation of the facility.

(b) Section D, Source 102, Monitoring Requirement, Condition No. 003—requires additional monitoring.

(c) Section D, Source 102, Recordkeeping Requirement, Condition No. 004—requires additional recordkeeping.

(d) Section D, Source 102, Work Practice Standards, Condition No. 005—requires a determination of the VOC and HAP content of materials used.

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

**55-00005: Wood-Mode, Inc.** (1 Second Street, Route 522, Kreamer, PA 17833) on September 30, 2003, to revise an operating permit, Revision No. 2, for their wood furniture manufacturing facility in Middlecreek Township, **Snyder County**. The revision of this operating permit incorporates into the operating permit the terms and conditions of Plan Approval 55-00005A, authorizing an increase of 5.0 tons in any 12 consecutive month period in the allowable VOC emission rate for the Main Line automated line (Source ID 142). This revision also includes a change of ownership at the facility. This 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.*

**65-00173: Summerill Tube Corp.** (P. O. Box 302, Franklin Street, Scottsdale, PA 15683) on October 3, 2003, issued an administrative amendment to reflect the change of ownership from Dynamic Metal Forming Inc. to Summerill Tube Corporation. This is a Title V Facility.

## 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.*

**54870206R3. White Pine Coal Co., Inc.** (P. O. Box 119, Ashland, PA 17921), renewal of an existing coal refuse reprocessing operation in Gordon Borough, Butler, Barry Edlred, East and West Cameron Townships, **Schuylkill and Northumberland Counties** affecting 870.0 acres, receiving stream: Mahanoy Creek. Application received April 29, 2003. Renewal issued October 3, 2003.

*California District Mining Office: 25 Technology Drive, California Technology Park, Coal Center, PA 15423, (724) 769-1100.*

**56011301. NPDES Permit No. PA0235491, Future Coal Company, Inc.** (227 Franklin Street, Suite 310, Johnstown, PA 15901), to operate the Westview Mine in Shade Township, **Somerset County**, new deep mine application, Surface Acres Proposed 28, Underground Acres Proposed 423, SCP Acres Proposed 423, tributary to Oven Run (CWF). Permit issued October 2, 2003.

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

**17020101 and NPDES Permit No. PA0243205. Forcey Coal, Inc.,** P. O. Box 225, Madera, PA 16661. Commencement, operation and restoration of a bituminous surface mine permit in Decatur Township, **Clearfield County** affecting 61 acres. Receiving streams: unnamed tributaries to Moshannon Creek. Application received February 15, 2002. Permit issued September 18, 2003.

### Noncoal Permit Actions

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

**06910301C2 and NPDES Permit No. PA0595420. Berks Products Corporation** (P. O. Box 421, Reading, PA 19604), renewal of NPDES Permit for discharge of treated mine drainage in Ontelaunee Township, **Berks County**, receiving streams: Maiden Creek and Schuylkill River. Application received August 13, 2003. Renewal issued September 29, 2003.

**66030804. Larry Trauger** (R. R. 1 Box 1326, Factoryville, PA 18419), commencement, operation and restoration of a quarry operation in Falls Township, **Wyoming County** affecting 4.0 acres. Receiving stream: Beaver Creek. Application received July 18, 2003. Permit issued October 1, 2003.

**58010836. Robert A. Stankiewicz** (R. R. 2 Box 147, Kingsley, PA 18826), commencement, operation and restoration of a quarry operation in Bridgewater Township, **Susquehanna County** affecting 4.0 acres, receiving stream: none. Application received July 2, 2001. Permit issued October 2, 2003.

**54032801. Arthur "Pat" Aungst, Inc.** (45 Tremont Road, Pine Grove, PA 17963), commencement, operation and restoration of a quarry operation in Pine Grove Township, **Schuylkill County** affecting 2.0 acres, receiving stream: Little Swatara. Application received July 2, 2003. Permit issued October 2, 2003.

**66030802. Craig M. Tiffany** (R. R. 2 Box 2448, Laceyville, PA 18623), commencement, operation and restoration of a quarry operation in Windham Township, **Wyoming County** affecting 5.0 acres, receiving stream—none. Application received July 10, 2003. Permit issued October 2, 2003.

**66030803. Chilewski Enterprises** (Box 203, Fleetville, PA 18420), commencement, operation and restoration of a quarry operation in Clinton Township, **Wyoming County** affecting 5.0 acres, receiving stream: Tunkhannock Creek. Application received July 18, 2003. Permit issued October 2, 2003.

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

**20032806. Sam H. Barnhart & Son** (R. D. 1, Box 45B, Titusville, PA 16354). Commencement, operation and restoration of a small noncoal sand and gravel operation



in Oil Creek Township, **Crawford County** affecting 3.0 acres. Receiving streams: unnamed tributary to Oil Creek. Application received July 23, 2003. Permit issued September 26, 2003.

**3074SM13. Allegheny Mineral Corporation** (P. O. Box 1022, Kittanning, PA 16201). Renewal of existing NPDES Permit No. PA0107433 in Slippery Rock Township and Slippery Rock Borough, **Butler County**. Receiving streams: five unnamed tributaries to Slippery Rock Creek and two unnamed tributaries to Wolf Creek. Application received May 30, 2003. Permit issued September 24, 2003.

**43020302. White Rock Silica Sand Company, Inc.** (331 Methodist Road, Greenville, PA 16125). Commencement, operation and restoration of a sandstone operation in Hempfield Township, **Mercer County** affecting 45.0 acres. Receiving streams: Mathay Run. Application received April 22, 2003. Permit issued September 24, 2003.

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

**08010815. Woodrow W. Brown**, R. R. 1, Box 44—1A, Sugar Run, PA 18846. Transfer of an existing small industrial minerals (Flagstone) permit from Robin Long. The permit is in Wilmot Township, **Bradford County** and affects 5 acres. Receiving streams: Sugar Run Creek, tributary to Susquehanna River. Application received June 26, 2003. Permit issued September 15, 2003.

**14030801. Donn F. Fetterolf Family Ltd. Partnership**, 126 Red Power Drive, Aaronsburg, PA 16820. Commencement, operation and restoration of a small industrial minerals (Shale) permit in Haines Township, **Centre County** affecting 2 acres. Receiving streams: unnamed intermittent tributary, tributary to Pine Creek. Application received January 22, 2003. Permit issued September 30, 2003.

**59960801. George R. Ackley**, R. R. 3, Box 334E, Westfield, PA 16950. Final bond release for a small noncoal mining operation in Clymer Township, **Tioga County**. Restoration of 1 acre completed. Application for final bond release received October 1, 2003. Final bond release approved October 2, 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.*

**64034015. Northeast Blasting** (R. R. 6 Box 6692, Honesdale, PA 18431), construction blasting in Cherry Ridge Township, **Wayne County** with an expiration date of October 17, 2004. Permit issued September 29, 2003.

**35034018. Quality Construction** (101 Fern Hill Drive, Olyphant, PA 18447) and **Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting at Wilson Road in Roaring Brook Township, **Lackawanna County** with an expiration date of March 8, 2004. Permit issued September 29, 2003.

**21034058. Rogele, Inc.** (1025 South 21st Street, P. O. Box 1757, Harrisburg, PA 17105-1757), construction blasting at Ashton Development in South Middleton Township,

**Cumberland County** with an expiration date of February 19, 2004. Permit issued September 29, 2003.

**40034031. Mike Junnuzi** (1015 Roosevelt Street, Edwardsville, PA 18704) and **Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for a trench at Main Street in Edwardsville Borough, **Luzerne County** with an expiration date of March 10, 2004. Permit issued September 29, 2003.

**21034059. John W. Gleim, Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013), construction blasting for a Gas Station at Giant Food in Carlisle Borough, **Cumberland County** with an expiration date of December 19, 2003. Permit issued September 29, 2003.

**21034060. Snokes Excavating & Paving, Inc.** (P. O. Box 247, Walnut Bottom, PA 17266) and **John W. Gleim, Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013), construction blasting at Walnut Bottom Medical Center in South Middleton Township, **Cumberland County** with an expiration date of April 19, 2004. Permit issued September 29, 2003.

**67034062. J. Roy's, Inc.** (Box 222, Bowmansville, PA 17507), construction blasting at Raintree Phase 4 in Manchester Township, **York County** with an expiration date of December 31, 2004. Permit issued September 29, 2003.

**67034063. J. Roy's, Inc.** (Box 222, Bowmansville, PA 17507), construction blasting at Wheatland Development in Dover Township, **York County** with an expiration date of December 31, 2003. Permit issued September 29, 2003.

**40034032. Valley Construction & Remodeling, Inc.** (1859 Quakake Road, Weatherly, PA 18255) and **Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting at Lot 18, Laurel Estates in Bear Creek Township, **Luzerne County** with an expiration date of September 30, 2003. Permit issued September 29, 2003.

**36034099. ABEL Construction Co., Inc.** (3925 Columbia Avenue, Mountville, PA 17554), construction blasting at Pusey Raffensperger Townhouses at Newport Square in Warwick Township, **Lancaster County** with an expiration date of November 24, 2003. Permit issued September 30, 2003.

**38034023. ABEL Construction Co., Inc.** (3925 Columbia Avenue, Mountville, PA 17554), construction blasting at Arbor Greene Subdivision Phase 1 in North and South Londonderry Townships, **Lebanon County** with an expiration date of May 1, 2004. Permit issued September 30, 2003.

**21034061. John W. Gleim, Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013), construction blasting at Giant Food Gas Station in Silver Spring Township, **Cumberland County** with an expiration date of December 24, 2003. Permit issued September 30, 2003.

**38034025. Follmer Excavation, Inc.** (6 Summer Drive, Dillsburg, PA 17019) and **John W. Gleim, Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013), construction blasting at Thistledown Phase No. 3 Housing Development in South Londonderry and Derry Townships, **Lebanon and Dauphin Counties** with an expiration date of March 24, 2004. Permit issued September 30, 2003.

**28034036. MTM Development, Inc.** (1587 South Main Street, Chambersburg, PA 17201) and **John W. Gleim, Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013), construction blasting at Fieldcrest Phase II Housing Development in South Hampton Township, **Franklin**



County with an expiration date of September 24, 2004. Permit issued September 30, 2003.

**54034007. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting at Manor Road Subdivision in Wayne Township, **Schuylkill County** with an expiration date of December 31, 2004. Permit issued September 30, 2003.

**28034037. David H. Martin Excavating, Inc.** (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting at the Reuben Martin Job in South Hampton Township, **Franklin County** with an expiration date of September 24, 2004. Permit issued September 30, 2003.

**360340101. Gerlach's Drilling & Blasting, Inc.** (172 Bender Mill Road, Lancaster, PA 17603), construction blasting at Clearview Gardens and Clearview Plaza in Clay Township, **Lancaster County** with an expiration date of September 24, 2008. Permit issued September 30, 2003.

**06034049. Schlouch Inc.** (Excelsior Industrial Park, P. O. Box 69, Blandon, PA 19510), construction blasting at Spring Ridge Corporate Campus Building No. 1330 in Spring Township, **Berks County** with an expiration date of September 24, 2005. Permit issued September 30, 2003.

**23034015. Explo-Craft, Inc.** (P. O. Box 1332, West Chester, PA 19380), construction blasting at Waiting Rock Subdivision in Bethel Township, **Delaware County** with an expiration date of September 24, 2004. Permit issued September 30, 2003.

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

**08034001. Great Lakes Geophysical, Inc.,** P. O. Box 127, Williamsburg, MI 49690, for seismic testing, in Litchfield and Windham Townships, **Bradford County**, with an expected duration of 16 days. Permit issued September 18, 2003.

**14034018. Tressler & Fedor Excavating,** 26 Sandrock Court, Port Matilda, PA 16870, for construction blasting, in Huston Township, **Centre County**, with an expected duration of 98 days. Permit issued September 30, 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 P. S. §§ 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.*

**E54-307. Tremont Borough,** 19 North Pine Street, P. O. Box 55, Tremont, PA 17981-1706. Tremont Borough, **Schuylkill County**, Army Corps of Engineers Baltimore District, Subbasin 7D.

To remove approximately 500 CY of a vegetated gravel bar in Good Spring Creek (CWF, perennial) for the purpose of restoring the original stream channel geometry. The project is at the East Line Street Bridge and continues approximately 175 feet downstream (Tremont, PA Quadrangle N: 0.4 inch; W: 1.7 inches).

**E45-434. Brodhead Watershed Association**, P. O. Box 339, Henryville, PA 18332. Stroudsburg Borough, **Monroe County**, Army Corps of Engineers Philadelphia District.

To construct and maintain a streambank stabilization and habitat improvement project consisting of structural and bioengineering stabilization measures, random boulder placement and a J-hook rock vane in and along a 600 LF section of Pocono Creek (HQ-CWF). The project is behind Stroudsburg High School, just south of North Ninth Street (Stroudsburg, PA Quadrangle N: 20.0 inches; W: 10.5 inches) (Subbasin 1E).

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

**E31-191: James and Heather Little**, 1516 26th Avenue, Altoona, PA 16601 in Henderson Township, **Huntingdon County**, ACOE Baltimore District.

To construct and maintain a 16-foot by 32-foot prefabricated storage shed elevated on piers next to the Juniata River (WWF) along Jacob's Crossing Road in Henderson Township, Huntingdon County (Mount Union, PA Quadrangle N: 14.5 inches; W: 13.9 inches).

**E44-122: Mifflin County Conservation District**, 20 Windmill Hill No. 4, Burnham, PA 17009 in Menno Township, **Mifflin County**, ACOE Baltimore District.

To rehabilitate and maintain Little Kishacoquillas Creek (CWF, perennial) for the purposes of stream bank stabilization, improved aquatic habitat and establishment of a riparian buffer while implementing a natural stream channel design approach consisting of the following activities: minor channel relocation, stream and floodway excavation and filling, the placement of vortex rock weirs, log vanes, riffle sills, coir logs, rock toes, an agricultural crossing and a stabilized livestock watering area beginning at the Knepp Road (T-342) culvert and continuing to a point 1,400 feet upstream (Allensville, PA Quadrangle N: 15.45 inches; W: 2.6 inches and N: 15.1 inches; W: 3.22 inches respectively) in Menno Township, Mifflin County. The project proposes to directly affect 1,400 feet of Little Kishacoquillas Creek.

**E22-461: Susquehanna Area Regional Airport Authority**, 508 Airport Drive, Middletown, PA 17057 in Middletown Borough and Lower Swatara Township, **Dauphin County**, ACOE Baltimore District.

To repair and maintain the existing 15,000-foot long flood control dike and levee system, which includes: vegetative removal, flood gate repairs, gully and washdown fills and rip-rap replacement along the Susquehanna River (WWF) surrounding the 950-acre Harrisburg International Airport (Middletown, PA Quad-

rangle N: 13.6 inches; W: 2.15 inches) in Middletown Borough and Lower Swatara Township, Dauphin County.

**E22-455: Wren Dale Golf Club**, 2213 Forest Hills Drive, Suite No. 3, Harrisburg, PA 17112 in South Hanover Township, **Dauphin County**, ACOE Baltimore District.

To construct and maintain an intake structure along the Swatara Creek (WWF) and approximately 570 linear feet of water line, a parking area and a manhole in a wetland adjacent to Swatara Creek (WWF) at a point along SR 2010 (Canal Street) (Hershey, PA Quadrangle N: 9.9 inches; W: 6.4 inches) for the purpose supplying a secondary source of irrigation water to the Wren Dale Golf Club in South Hanover Township, Dauphin County. The amount of wetland impact is considered a de minimis impact of 0.01 acre and wetland mitigation is not required.

**E22-459: Benjamin Novinger**, 4915 Colorado Avenue, Harrisburg, PA 17109 in West Hanover Township, **Dauphin County**, ACOE Baltimore District.

To: (1) place fill in 0.18 acre of wetlands; and (2) construct and maintain a waived culvert crossing of an unnamed tributary to Manada Creek (WWF) for the purpose of accessing and developing a private residential building lot on the east side of SR 0039 approximately 4,000 feet south of its intersection with U. S. Route 22 (Hershey, PA Quadrangle N: 14.05 inches; W: 11.90 inches) in West Hanover Township, Dauphin County. The permittee has met the wetland replacement requirement by participating in the Pennsylvania Wetland Replacement Project.

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

**E14-446. Dale T. Bresler**, 965 Marengo Road, PA Furnace, PA 16865. Bresler bridge in Ferguson Township, **Centre County**, ACOE Baltimore District (Franklinville, PA Quadrangle N: 16.98 inches; W: 2.49 inches).

To maintain two 42-foot by 8-foot metal and wood plank flat bed trailers side-by-side and the existing abutments that have a clear span of 18 feet and an underclearance of 7.5 feet across Halfmoon Creek (HQ-CWF), 100 feet off of Marengo Road and 1.5 miles north of SR 45. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E59-440. Dominion Transmission, Inc.**, 445 West Main Street, Clarksburg, WV 26301. Dominion Transmission, Inc., LN-50 operation and maintenance in Elk, Gaines and Clymer Townships, **Tioga County**, ACOE Baltimore District (Elkland, PA Quadrangle N: 19.6 inches; W: 5.2 inches).

This permit authorizes the operation and maintenance of an existing 30-inch diameter LN-50 pipeline over 23 miles within an existing 75-foot right-of-way for the transmission of natural gas. Replacement or maintenance of the 30-inch diameter pipeline may require 17 stream crossings as follows:

<i>Stream Name</i>	<i>Water Quality Designation</i>	<i>Latitude Coordinates</i>	<i>Longitude Coordinates</i>
Billings Branch	EV	41° 38' 41"	77° 32' 40"
Elk Run	HQ-CWF	41° 41' 1"	77° 32' 37"
Dewey Hollow	HQ-CWF	41° 41' 27"	77° 32' 28"
Lewis Run	HQ-CWF	41° 42' 2"	77° 32' 28"
Lick Run	HQ-CWF	41° 43' 35"	77° 32' 14"
Whitney Hollow	HQ-CWF	41° 44' 23"	77° 32' 12"

<i>Stream Name</i>	<i>Water Quality Designation</i>	<i>Latitude Coordinates</i>	<i>Longitude Coordinates</i>
Pine Creek	EV	41° 44' 40"	77° 32' 12"
Shin Hollow	HQ-CWF	41° 44' 57"	77° 32' 14"
Baker Branch	HQ-CWF	41° 48' 45"	77° 31' 6"
UNT to Baker Branch	HQ-CWF	41° 49' 21"	77° 31' 9"
UNT to Baker Branch	HQ-CWF	41° 55' 4"	77° 17' 2"
East Beech Woods	HQ-CWF	41° 50' 49"	77° 31' 16"
UNT to Mill Creek	TSF	41° 51' 31"	77° 31' 2"
Wetland Crossing	Other	41° 44' 57"	77° 32' 14"
Wetland Crossing	Other	41° 46' 54"	77° 27' 12"
Wetland Crossing	EV	41° 48' 27"	77° 28' 14"
Wetland Crossing	Other	41° 50' 49"	77° 31' 16"

All gas transmission lines shall be replaced beneath streambeds so there will be a minimum of 3 feet of cover between the top of the pipe and the lowest point in the streambed. Trench plugs or clay dikes shall be used at every waterway and wetland crossing to ensure the existing hydrology is not altered. If upon investigation the Department determines the gas transmission line approved by this permit is serving to degrade water quality, stream profile, meander pattern or channel geometries, then the permittee shall be required to implement all measures necessary to mitigate the degradation. This permit also authorizes the crossing of any wetland that may occur along the 29-mile pipeline right-of-way; during replacement and maintenance operations, the permittee shall take all precautions necessary to ensure that wetland impacts along the right-of-way are temporary. Since Billings Branch, Elk Run, Baker Branch, Sewey Hollow, Lewis Run and Lick Run are wild trout fisheries, no pipeline maintenance work shall be conducted in or along these wild trout stream, or tributaries, between October 1 and April 1 without the prior written permission of the Fish and Boat Commission. Since Pine Creek, East Beech Woods and Mill Creek are trout stocked streams, no work shall be conducted in or along these stream channels, or tributaries, between March 1 and June 15 without the prior written permission of the Fish and Boat Commission.

**E59-444. Elkland Borough**, 105 Parkhurst Street, Elkland, PA 16920. North Buffalo Street bridge replacement in Borough of Elkland, **Tioga County**, ACOE Baltimore District (Elkland, PA Quadrangle N: 21.58 inches; W: 8.53 inches).

To remove a two-lane three-barrel culvert structure and the removal of a single span bridge structure, which has a 39.3-foot span and an underclearance of 5.0 feet. Both structure removals shall be so that no appurtenant portion of the structures remains and that all grades are returned to their natural contours. This permit also authorizes the construction, operation and maintenance of a bridge structure with a clear span of 50 feet and an average vertical underclearance of 10.2 feet. This structure is authorized to be placed 75 feet south of the existing structure and have a skew of 60 degrees. Authorization is also granting construction of a 556 linear foot channel relocation of Camp Brook. Operation and maintenance is not authorized for this portion of the permit. The existing bed cross-section and configuration shall be matched to eliminate any potential abrupt changes in horizontal or vertical curvature. The work is authorized on Camp Brook (WWF), 0.5 mile north of North Buffalo Street from the intersection with SR 49.

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

**E11-299. West Carroll Township Supervisors**, P. O. Box 374, Elmora, PA 15737-0374. T-505 Culvert in West Carroll Township, **Cambria County**, Pittsburgh ACOE District (Colver, PA Quadrangle N: 13.29 inches; W: 1.58 inches) (Latitude 40° 34' 23"—Longitude 78° 45' 41"). To remove the existing structure and to construct and maintain a 20-foot long CM arch culvert having a span of 7.3 feet and an underclearance of 5.3 feet with natural channel bottom in North Branch Blacklick Creek (CWF) on T-505 (Gwizdak Road) at a point approximately 0.5 mile south of T-504.

**E63-507. Glencannon Homeowners Associates**, 425 Hunting Creek Road, Canonsburg, PA 15317. Glencannon Pond Improvements in North Strabane Township, **Washington County**, Pittsburgh ACOE District (Canonsburg, PA Quadrangle N: 1.8 inches; W: 2.7 inches) (Latitude 90° 15' 36"—Longitude 80° 08' 40"). To place and maintain fill along the banks of an unnamed tributary to Little Chartiers Creek, to place and maintain riprap bank stabilization along the banks of said stream, to dredge and maintain the channel of said stream and to remove the existing foot bridge and to construct and maintain a 48-inch diameter culvert (depressed 1.0 foot below the streambed) for the purpose of relocating the existing pedestrian walkway and rehabilitating the existing Glencannon Pond. The project is on the west side of Hunting Creek Road, approximately 2,400 feet northeast from the intersection of McClelland Road, Galley Road and Route 19.

**EA1409-001. Department of Environmental Protection, Bureau of Abandoned Mine Reclamation, Cambria Office**, 286 Industrial Park Rd., Ebensburg, PA 15931.

Acid Mine Drainage Abatement Project in Burnside Township, **Centre County**, Baltimore ACOE District (Karthaus Quadrangle N: 13.25 inches; W: 4.75 inches). The applicant proposes to construct passive treatment facilities to treat AMD contaminating Boake Run, a tributary of Sterling Run. The project will include the relocation of: (1) 900 linear feet of perennial stream; and (2) 650 linear feet of intermittent stream, with most of the flow divert through a series of treatment ponds. During high flows, a portion of the water will bypass the treatment system and flow down the relocated stream channel. The project will also fill (3) 0.76 acre of PEM wetland developed along the stream corridor. The project will directly impact 0.76 acre of AMD impacted wetland. Impacts to streams and wetlands will be mitigated by water quality improvements to 2 miles of Boake Run, 5 miles of Sterling Run and a 12-acre wetland immediately downstream of the project.

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## SPECIAL NOTICES

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### Planning Grant Awards under section 901 of the Municipal Waste Planning Recycling and Waste Reduction Act of 1988, Act 101

The Department of Environmental Protection announces the following grants to counties under the Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101, P. L. 556, sections 901 and 208 of the Waste Tire Recycling Act/Small Business and Household Pollution Prevention Act (Act 190).

Planning grants are awarded to counties for 80% of approved costs for preparing municipal waste management plans as required by Act 101, for carrying out related studies, surveys, investigations, inquiries, research and analysis, including those related to siting,

environmental mediation, education programs on pollution prevention and household hazardous waste and providing technical assistance to small businesses for pollution prevention. Grants may be awarded for feasibility studies and project development for municipal waste processing or disposal facilities, except for facilities for the combustion of municipal waste that are not proposed to be operated for the recovery of energy. All grant awards are predicated on the receipt of recycling fees required by sections 701 and 702 of Act 101 and the availability of moneys in the Recycling Fund.

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

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### Act 101, Section 901 Planning Grants

<i>Region</i>	<i>County and Applicant</i>	<i>Project Description</i>	<i>Grant Award</i>
Southeast	Philadelphia County	Household Hazardous Waste Program	\$136,000
Northeast	Luzerne County	Plan Revision	\$41,132
Southcentral	Bedford, Fulton and Huntingdon Counties	Plan Revisions	\$175,713
Northwest	Crawford County	Electronics Recycling Feasibility Study	\$44,460

### Certification to Perform Radon-Related Activities in this Commonwealth

In September 2003, the Department of Environmental Protection, under the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the following persons to perform radon-related activities in this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Scott Alderfer	6336 Meadowview Road Germansville, PA 18053	Mitigation
Dr. Joseph Baicker	403 Skillman Road Skillman, NJ 08558	Laboratory
George Basista	1336 Seaborn Street, Suite 6 Mineral Ridge, OH 44440	Testing
Terrance Best Best Building Inspection Service, Inc.	10 South Main Street Pittston, PA 18640	Testing
Bill Brodhead WPB Enterprises, Inc.	2844 Slifer Valley Road Riegelsville, PA 18077	Mitigation and Laboratory
Bryan Cole	317 McWilliams Road Trafford, PA 15085	Testing
Ralph Dankmyer, Jr.	135 Cannon Hill Road Saxonburg, PA 16056	Mitigation
Kenneth DeFelice	95 Big Ridge Drive East Stroudsburg, PA 18301	Testing
Elmer Hayes Amerispec Home Inspection Services	1061 Easton Road Roslyn, PA 19001	Testing
HouseMaster—Main Line	1513 Woodland Road West Chester, PA 19382	Testing
Michael Israel	165 Red Haven Drive North Wales, PA 19454	Testing
David Kapturowski AccuStar Laboratories	11 Awl Street Medway, MA 02053	Laboratory
Raymond King	1812 Willow Street Pike Lancaster, PA 17602	Mitigation
Fred Klein	702 Manchester Drive Maple Glen, PA 19002	Testing

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
John LoMonaco	26 Mink Lane Greentown, PA 18426	Testing
Brian Luke	3 Judy Lane Harrisburg, PA 17112	Testing
Frank Monack, Jr.	310 Coldren Road Perryopolis, PA 15473	Testing
Thomas Murray	24 South Pearl Street P. O. Box 0221 North East, PA 16428	Testing
Wayne Murray	1021 Gypsy Hill Road Lancaster, PA 17602	Testing
Timothy A. Musser Timothy A. Musser Co., Inc.	213 North 14th Street Allentown, PA 18102	Mitigation
Thomas O'Hara	104 Spring Street Wilkes-Barre, PA 18702	Testing
Roger Olson	17 Sylvania Road Hershey, PA 17033	Testing
Patrick Orr	10 Clifford Road McDonald, PA 15057	Testing
Robert Payne	500 Carothers Avenue Carnegie, PA 15106	Testing
George Prosser Prosser Laboratories, Inc.	P. O. Box 118 Effort, PA 18330	Laboratory
Radon Technology & Environmental	826 North Lewis Road Limerick, PA 19468	Mitigation
Celia Rajkovich	171 Hall Road Aliquippa, PA 15001	Testing
Jerry Reed	456 Avoy Road Lake Ariel, PA 18436	Testing
Brian Reuss Radon Control Services, LLC	9125 Marshall Road, Suite B-12 Cranberry Township, PA 16066	Mitigation
Lance Schweizer	101 Locust Knoll Road Downingtown, PA 19335	Testing
Wayne Wood	854 Boulder Drive Mt. Bethel, PA 18343	Testing

### NPDES Permit Hearing

*Southcentral Regional Office: Regional Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4707.*

**PAI203053001, Breezewood Proving Grounds Inc.,** 4626 Robinsonville Road, Clearville, PA 15535. Breezewood Proving Grounds Inc. has submitted an application for an individual NPDES permit for an outdoor ATV/motorcycle recreational park approximately 2.5 miles south of the Village of Mattie along SR 2011. The park will be situated near the East Branch of Sideling Hill Creek (EV).

The Department of Environmental Protection (Department) has conducted administrative and initial technical reviews of the application. The project has been developed to a point in which a final technical review can be completed in conjunction with comments received from the public.

The Department has scheduled a public hearing to receive testimony and comments on the proposed NPDES permit. The hearing will be held on Tuesday, November 18, 2003, at 7 p.m. at the Mann-Monroe Elementary

School, All Purpose Room, 268 Rockhill Church Road, Clearville, Bedford County, PA 15535-5034.

Persons intending to testify at the hearing should register by Friday, November 14, 2003, by calling Karen Sitler, (717) 705-4904. Persons wishing to submit testimony who cannot attend the hearing may do so in writing by Monday, December 1, 2003. Written comments should be sent to Joel Sipe, Project Manager, Water Management Program, Soils and Waterways Section, Department of Environmental Protection, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110-8200.

All testimony should be to the point. Each individual 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.

The permit application is on file at the Bedford County Conservation District, 702 West Pitt Street, Fairlawn Court, Suite 4, Bedford, PA. An appointment to review the files may be scheduled by calling Jennifer Kovacs at (814) 623-6706, Ext. 4 between 9 a.m. and 4 p.m., Monday through Friday.

All comments received will be considered in formulating the Department's final determination regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the basis of the comment and the relevant facts upon which it is based.

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

**Commonwealth of Pennsylvania, Department of Environmental Protection et al. v. Borough of Kennett Square**

The Commonwealth of Pennsylvania, Department of Environmental Protection (Department) filed a Complaint in Equity in Commonwealth Court against the Borough of Kennett Square (Borough). The Complaint alleges that the Borough has violated various provisions of The Clean Streams Law and its implementing regulations. The Delaware Nature Society and the Pennsylvania Public Interest Research Group (Intervenors) intervened in the action. The Department, the Intervenors and the Borough have agreed to a settlement of the Department's and the Intervenors' claims and the terms of that settlement have been incorporated into a proposed Consent Decree. The Department has requested that the Court lodge the proposed Consent Decree, but take no further action on it until an opportunity has been afforded to the public for comment on the terms of the proposed settlement.

The Consent Decree contains the following terms and conditions:

The Borough owns and operates a sewage treatment plant on West South Street in Kennett Township, Chester County, which discharges treated sewage to the West Branch Red Clay Creek, a water of this Commonwealth. On September 20, 1990, the Department issued NPDES Permit No. PA0024058 to the Borough which authorized the discharge of treated effluent to the West Branch Red Clay Creek and set effluent limits and monitoring requirements for the discharge. This NPDES permit was amended by the Department on September 28, 1992, on September 13, 1993, and was renewed on June 12, 1996. The NPDES permit expired on June 12, 2001.

The Department and the Intervenors alleged that, at various times, the Borough's discharge failed to comply with the limits of the NPDES permit, that the Borough has discharged treated sewage without a permit since the expiration of the permit on June 12, 2001, that the Borough's discharge has caused pollution of the West Branch Red Clay Creek, that the Borough failed to control the acceptance of industrial waste into the treatment plant resulting in an organic overload of the treatment plant and that the Borough had failed to properly operate and maintain the plant.

The Borough has implemented, and continues to implement, a number of measures to bring the performance of the treatment plant into compliance. The Consent Decree describes those measures taken by the Borough and sets forth additional remedial measures which the parties agree are necessary to ensure that the treatment plant achieves and maintains compliance. The Consent Decree also requires the Borough to reduce the influent loading to the treatment plant to an amount equal to or less than the plant's permitted organic design capacity and thereaf-

ter to maintain compliance with that capacity. The Department has developed a new draft NPDES permit which is being published for comment concurrently with the publication of this proposed Consent Decree.

The Consent Decree requires that the Borough pay a civil penalty of \$94,8370 for past violations on a schedule stipulated in the Consent Decree and that the Borough perform a Community Environmental Project valued at \$64,000. Under the terms of the Consent Decree the Borough will reimburse Intervenors' counsel \$20,000 in attorney fees and costs. The Consent Decree also obligates the Borough to pay certain stipulated penalties for violations of any term or condition of the Consent Decree or for violations of the NPDES Permit limits.

Copies of the Consent Decree are in the hands of:

Martha E. Blasberg  
Department of Environmental Protection  
Office of Chief Counsel—Southeast Region  
Lee Park, 555 E. North Lane, Suite 6015  
Conshohocken, PA 19428-2233  
(610) 832-6313  
(Counsel for the Department)

and

Steven T. Miano  
Wolf, Block, Schorr and Solis-Cohen LLP  
1650 Arch Street, 22nd Floor  
Philadelphia, PA 19103-2097  
(215) 977-2228  
(Counsel for the Borough of Kennett Square)

and

Lyman C. Welch  
James R. May  
Mid-Atlantic Environmental Law Center  
c/o Widener University School of Law  
4601 Concord Pike  
P. O. Box 7474  
Wilmington, DE 19803-0474  
(302) 477-2072  
(Counsel for Intervenors)

Copies of the Consent Decree are also at the Department's Southeast Regional Office and may be reviewed by interested parties on request during normal business hours.

The Department is seeking comments from the public concerning the proposed Consent Decree for a period of 30 days. Thereafter, the Department may request the Commonwealth Court to enter the Consent Decree as a final settlement between the Department, the Intervenors and the Borough. Comments should be in writing and directed to William Jolly, III, Southeast Regional Office, Water Management Program, Lee Park, 555 E. North Lane, Suite 6010, Conshohocken, PA 19428-2233.

**BUREAU OF DEEP MINE SAFETY  
APPROVAL OF REQUEST FOR VARIANCE**

The Department of Environmental Protection (Department), Bureau of Deep Mine Safety (Bureau), has approved Maple Creek Mining, Inc.'s request for a variance from the requirements of section 268(b) of the Pennsylvania Bituminous Coal Mine Act (act) at the High Quality 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's website at <http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm>.

*Summary of the Request:* Maple Creek Mining, Inc. requested a variance from section 268(b) of the act to exceed the 80 feet spacing on shelter holes at the High Quality Mine. The proposal accords protection to persons and property substantially equal to or greater than the requirements of section 268(b) of the act.

The basis for the Bureau's approval is summarized as follows:

1. Pedestrians shall have the right-of-way and all vehicle operators must stop until pedestrians are able to reach a shelter hole or walk past the vehicle. All transportation equipment (Jeeps, portal buses, locomotive, and the like) will immediately sound an audible warning and bring the equipment to a complete stop when encountering personnel traveling by foot along the track haulage-way. The equipment operator will allow the personnel to enter the nearest shelter hole before proceeding.

2. Signs shall be posted at the entrance to all extended shelter hole areas stating "Extended Shelter Hole Intervals." The distance between shelter holes will be stated on the sign.

3. A reflective marker of standard color and design, which will be visible from along the track haulage travel-way, shall identify shelter hole locations.

4. All switches will have alignment reflectors.

5. Flashing warning devices (lights) shall be placed not less than 100 feet from each approach to each work site when men are working in the affected area along the track haulage. The warning devices will be in clear view of approaching haulage equipment.

6. All trips traveling through the areas will be provided with a locomotive coupled to the front and back of the trip at all times. Locomotives used to transport supplies or equipment will be of sufficient capacity to stop their loads in a safe distance. Established load limits will be posted on each locomotive.

7. A locomotive in the direction of travel will pull supply cars and equipment. When it is necessary to push nonpropelled track haulage equipment, it shall be done only from the last available track switch. Visual warning (trip reflector or strobe light) will be used on the end that does not have a locomotive coupled.

8. In locations of extended shelter holes, walkie-talkies will be used on all track-operated equipment.

9. Broken rails will be identified and corrected. When observed, they will be reported to a certified mine official who will make arrangements to repair the rail. Signs indicating a broken rail will be hung 50 feet in by and out by the broken rail.

10. All employees, contractors, inspectors, visitors, and the like, will be adequately trained and instructed concerning shelter hole guidelines and safety procedures prior to entering the mine. This training will become a part of the annual retraining, task training and hazard training.

This approval is limited to High Quality Mine's variance from the requirements in section 268(b) of the act. All other terms and requirements of section 268(b) of the act shall remain in effect. Continued authorization for operation under the approval is contingent upon compliance with the measures described in High Quality Mine's plan and the following conditions:

1. All employees, contractors, inspectors, visitors, and the like, shall be adequately trained and instructed concerning shelter hole guidelines and safety procedures prior to entering High Quality Mine. This training shall become a part of the annual retraining, task training and hazard training.

2. Prior to each longwall move, the safety precautions for use of shelter holes will be reviewed with all personnel in short safety/training meetings. A record of these safety contacts will be maintained.

3. The District Mine Inspector shall approval any system employed to control pedestrian or track haulage equipment movement.

4. Maple Creek Mining, Inc.'s submittal meets or exceeds Bureau guidelines and criteria established for extended shelter hole approval. The investigating committee recommends approval based on that finding.

**Public Meeting and Request for Comment for the Proposed Total Maximum Daily Loads (TMDLs) for the Neshaminy Creek Watershed in Bucks and Montgomery Counties**

The Department of Environmental Protection (Department) will hold a public meeting to discuss proposed TMDLs for the Neshaminy Creek Watershed in Bucks and Montgomery Counties. The meeting will be held on November 3, 2003, at 6:30 p.m. in the Library, Jamison Elementary School, 2090 Land Road, Jamison, Bucks County. Persons who wish to attend should contact Department Community Relations Coordinator Lynda Rebarchak, (610) 832-6219.

These TMDLs were established to satisfy requirements of section 303(d) of the Federal Clean Water Act. The Commonwealth's 303(d) List of Impaired Waters includes several stream segments in this watershed caused by excessive nutrients and organic enrichment from point and nonpoint sources.

There are currently no State or Federal instream numerical water quality criteria for nutrients and suspended solids. Therefore, the Department has interpreted its general, narrative criteria to develop the TMDLs. These TMDLs set allowable loadings of sediment and phosphorous in the Neshaminy Creek Watershed. The sediment and phosphorus loadings were allocated among the sources in the watershed. Data used in establishing these TMDLs was generated using a watershed loading model (AVGWLF) and an in-stream water quality model developed by the Pennsylvania State University.

The TMDLs can be accessed through the Department website <http://www.dep.state.pa.us>, DEP Keyword: TMDL. Select Neshaminy Creek TMDL by name.

Persons with a disability who wish to attend a public meeting and require an auxiliary aid, service or other accommodation to participate may contact Lynda Rebarchak at the previous telephone number or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how their needs may be accommodated.

To request a copy of the proposed TMDL and an information sheet, contact the Division of Water Quality Assessment and Standards, Department of Environmental Protection, P. O. Box 8457, Harrisburg, PA 17120-8457, (717) 783-2938, [rnaugle@state.pa.us](mailto:rnaugle@state.pa.us).

Written comments will be accepted at the previous address and must be received by November 17, 2003. A subject heading and return name and address must be included in each e-mail transmission. Comments will not

be accepted by facsimile or voice mail. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval.

[Pa.B. Doc. No. 03-2028. Filed for public inspection October 17, 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](http://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.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2003.

#### *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: 012-0200-001. Title: Policy for Consideration of Local Comprehensive Plans and Zoning Ordinances in DEP Review of Permits for Facilities and Infrastructure. Description: The Department permit review process considers, and under certain conditions relies upon, comprehensive planning and zoning ordinances in the Department's decision-making process for authorizations related to facilities and infrastructure, as required by Acts 67, 68 and 127 of 2000. This policy provides direction and guidance to applicants and to Department staff regarding how the requirements of these acts are incorporated within the Department's decision making process.

The proposed revision to the policy emphasizes the importance of county and municipal notice in the land use review process by adding a requirement for Department permit review staff to contact the municipality by telephone. The proposed revision also allows the Department to suspend further review of an application under certain circumstances where a land use conflict has been identified. The policy revision also clarifies the general consistency determination and exempts permit applications where a land use conflict has been identified from the Department's Money-Back Guarantee Program. Comment Period Ends: November 18, 2003. Anticipated Effective

Date: December 20, 2003. Contact: Louis Guerra, Jr., (717) 783-8727, [lguerra@state.pa.us](mailto:lguerra@state.pa.us).

#### *Interim Technical Guidance*

DEP ID: 012-0501-002. Title: Interim Environmental Justice Policy. Description: The Department is proposing to expand its public participation activities for some permits in specific geographic areas to accommodate environmental justice concerns. In Spring 1999, the Environmental Justice Work Group (EJWG) was established to assist the Department in meeting its environmental justice objectives. In June 2001, the work group issued its report that made recommendations in five broad categories: improving the condition of environmentally burdened communities; the permitting process; monitoring and enforcement; Department organizational change; and ensuring implementation. The purpose of this policy is to implement certain recommendations of the EJWG Report of June 2001. Specifically, it provides direction and guidance to Department staff on how to enhance public participation during the permitting process for some permits in certain areas. It also describes how the Department intends to address the recommendation to improve the conditions of environmentally burdened minority and low-income communities through ongoing watershed-based strategic planning initiatives. Comment Period Ends: December 18, 2003. Effective Date: Effective immediately, with 60-day open comment period. Contact: Alisa Harris, (717) 783-5630, [aharris@state.pa.us](mailto:aharris@state.pa.us).

#### *Final Technical Guidance*

DEP ID: 257-3120-001. Title: Evaluation of Underground Storage Tank Liners. Description: Chapter 245 of 25 Pa. Code (relating to administration of the storage tank and spill prevention program) establishes administrative and technical requirements for storage tank construction, permitting, operations and maintenance and the certification program requirements for installers and inspectors of storage tanks and storage tank facilities. This guidance provides the procedures and guidelines for underground storage tank lining evaluations that will assist tank lining evaluators and tank owners to achieve compliance with regulatory requirements. Effective Date: October 18, 2003. Contact: Ray Powers, (717) 772-5551, [rapowers@state.pa.us](mailto:rapowers@state.pa.us).

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 03-2029. Filed for public inspection October 17, 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**

In accordance with 25 Pa. Code § 105.446 (relating to procedure for issuance), prior to issuance of a Chapter 105 general permit the Department of Environmental Protection (Department) must publish in the *Pennsylvania Bulletin*, for public comment, notice of intent to issue a general permit, including the text of the proposed general permit. The notice published at 33 Pa.B. 4981 (October 4, 2003) announced the Department's intent to issue General Permit BWM-GP-11 to authorize the maintenance, testing, repair, rehabilitation or replacement of existing water obstructions or encroachments. The De-



partment inadvertently omitted the text of the proposed general permit in the notice published at 33 Pa.B. 4981. Therefore, the Department is republishing the notice of intent to issue published at 33 Pa.B. 4981, along with the proposed text of General Permit BWM-GP-11 for public review and comment. This notice hereby extends the comment period on the proposed General Permit BWM-GP-11 published at 33 Pa.B. 4981 to December 17, 2003.

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*

### **Proposed General Permit BWM-GP-11**

#### **Maintenance, Testing, Repair, Rehabilitation, or Replacement of Water Obstructions and Encroachments**

**1. General Description and Fees**—In accordance with the following Registration Requirements, the Special Conditions, and the Standard General Permit Conditions, the Department of Environmental Protection hereby authorizes by General Permit the maintenance, testing, repair, rehabilitation or replacement of existing water obstructions or encroachments, except as noted below. 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, modify or replace the water obstruction or encroachment are permitted, provided the environmental impacts resulting from such repair, modification or replacement are minimal, and there is no adverse impact on public health and safety. There is no registration fee required for a project authorized under this General Permit.

**2.** This general permit may not be used for the maintenance, repair, modification, removal, or replacement of dams.

**3. Denial of Authorization**—The Department shall have the discretion, on a case-by-case basis, to deny,

revoke or suspend the authorization to use this general permit for any project which the Department determines to have a substantial risk to life, property or the environment or otherwise could not be adequately regulated by the provisions of this general permit.

**4. Authority and Continuing Authorization**—Authorization of this General Permit is under Section 7 of the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and the rules and regulations promulgated thereunder at 25 Pa. Code §§ 105.441—105.449 (relating to General Permits). This General Permit shall authorize the maintenance, repair, rehabilitation, or replacement of existing water obstruction or encroachments except dams subject to the terms and conditions set forth herein. This General Permit becomes effective \_\_\_\_\_, 2003 and will remain in effect unless specifically modified, suspended, or revoked by the Department.

**5. Notification of Proposed Use of General Permit**—Prior to the maintenance activity, the owner(s) shall submit the "Registration Form" along with the required attachments to the appropriate DEP Regional Office's Soils and Waterways Section (see attached listing). A copy of the "Registration Form" shall also be sent to the municipality and county in which the work will be performed. The owner may not begin work until he has received the acknowledged "Registration Form" from the Department.

**6. Standard Definitions for General Permits**—The terms as used in this General Permit shall have the following meanings:

*Body of water*—Any natural or artificial lake, pond, reservoir, swamp, marsh or wetland.

*Department*—The Department of Environmental Protection.

*Earth disturbance*—Any construction or other human activity which disturbs the surface of the land including, but not limited to clearing and grubbing, grading, excavations, embankments, land development, subdivision development, mineral extraction and the moving, depositing or storing of soil, rock or earth. This includes any excavation or fill within a stream channel.

*Erosion and sediment control plan*—A plan which is designed to minimize accelerated erosion and sediment developed in accordance with the requirements of 25 Pa. Code Chapter 102.

*Floodway*—The channel of the watercourse and portions of the adjoining floodplains which are reasonably required to carry and discharge the 100-year frequency flood. Unless otherwise specified, the boundary of the floodway is as indicated on maps and flood insurance studies provided by the Federal Emergency Management.

*Agency (FEMA)*—In an area where no FEMA maps or studies have defined the boundary of the 100-year frequency floodway, it is assumed, absent evidence to the contrary, that the floodway extends from the stream to 50 feet from the top of the bank of the stream.

*Owner*—A person who owns, controls, operates, maintains, or manages a reservoir, water obstruction or encroachment.

*Regulated water of this Commonwealth*—Watercourses, streams or bodies of water and their floodways wholly or partly within or forming part of the boundary of this Commonwealth.

*Submerged lands of this Commonwealth*—Waters and permanently or periodically inundated lands owned by

the Commonwealth, including lands in the beds of navigable lakes and rivers and beds of streams declared public highways which are owned and held in trust by the Commonwealth.

*Watercourse*—A channel or conveyance of surface water having defined bed and banks, whether natural or artificial, with perennial or intermittent flow.

*Wetlands*—Areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas.

#### 7. Special Conditions

A. No stream realignment, relocation, enclosure or channelization is authorized by this General Permit.

B. All projects will be designed and constructed to protect existing aquatic features and habitat.

C. Wetlands must be identified in accordance with the 1987 U. S. Army Corps of Engineers Manual for Identifying and Delineating wetland and properly flagged on the site to ensure they are protected. Wetland areas which cannot be avoided and which will be temporarily impacted during the maintenance activity must be identified on the plan and be properly restored at the conclusion of the activity. Wetland areas which cannot be avoided and which will be permanently impacted are limited to 0.05 acres.

D. Where it is necessary for construction equipment to cross the stream, a temporary stream crossing shall be provided for this purpose unless the stream flow is shallow and the streambed is on non-erodible material. This crossing can be a ford or a battery of pipes. Any fill material provided for the crossing shall be clean, granular material. Upon completion of the project, the temporary crossing shall be removed in its entirety and the disturbed areas restored, as close as possible, to its original condition.

E. Wherever possible paving metal bottom pipes, arches and culverts with concrete, grouting or the use of concrete for scour protection should be done in dry conditions.

F. Bridge or culvert maintenance, replacement projects, or upgrades to current standards including bridge superstructure replacements and roadway approach work are subject to the following:

- No significant reduction in existing water openings is permitted.

- \* There will be no significant changes to grades of approach roadways or to overtopping characteristics.

- Increases in outside to outside structure width will be limited to a maximum of 12 feet on each side of the bridge or culvert.

- The removal of debris and accumulated sediment to ensure adequate hydraulic capacity for bridges or culverts is limited to fifty feet upstream and downstream of the bridge or culvert and shall be conducted in accordance with the Department's Guidelines for Channel Cleaning.

*Hydraulic capacity.*

- Bridge and culvert maintenance or replacement projects shall be designed and constructed in accordance with the following criteria:

—The structure shall pass regulatory flood flows without loss of stability.

—The structure may not create or constitute a hazard to life or property, or both.

—The structure may not materially alter the natural regimen of the stream.

—The structure may not so increase velocity or direct flow in a manner which results in accelerated erosion of stream beds and banks.

—The structure may not increase water surface elevations for the 100-year flood elevation of the existing structure.

*Multiple pipes and spans.*

- Multi-culvert groups and multiple span bridges which may tend to collect debris, contribute to the formation of ice jams, and cause excessive and increases in head losses shall be avoided to the maximum extent practicable. Spans of less than 15 feet shall be by single-opening structure, except where conditions make it impractical to design the crossing with a single span.

*Bridge piers.*

- Bridge piers shall be kept to a minimum in number and cross-sectional area and shall be designed to offer the least obstruction to the passage of water and ice, consistent with safety and state of engineering practice.

- Bridge piers in channels subject to unstable or super critical flow shall require special investigation and shall be so designed as to minimize backwater and avoid standing waves downstream of the pier.

*Bridge abutments.*

- Bridge abutments shall be set well into stream banks in such manner as to assure minimal increase in water surface elevations.

- Bridge abutments shall be aligned with the flow of the stream for the design flood, generally the 100-year event. The Department may require, the construction of wing walls at the upstream side of the bridge to assist in directing flood flows through the bridge opening.

*Culverts.*

- Culverts shall be aligned with the stream flow.
- Culverts shall be of sufficient width to minimize narrowing of the stream channel.

- Culverts with a drainage area of 640 acres or less shall be installed with the invert a minimum of 6 inches below natural streambed and such that the gradient of the invert shall not deviate from that of the natural streambed.

- Culverts with a drainage area of greater than 640 acres or less shall be installed with the invert a minimum of 12 inches below natural streambed and such that the gradient of the invert shall not deviate from that of the natural streambed.

- Inlet of culverts shall be protected by wing walls, headwalls, or with other structures to provide a suitable transition for in directing flood flows into and through the culvert opening.

*Professional Engineer Certification*

Plans, specifications and reports for bridges and culverts across a stream which are to be used by the general public such as an access to an industrial, commercial or residential development, etc., shall be prepared by a

registered professional engineer and shall be affixed with their seal and certification which shall read as follows:

“I (name) do hereby certify pursuant to the penalties of 18 Pa.C.S.A. Sec. 4904 to the best of my knowledge, information and belief, that the information contained in the accompanying plans, specifications, and reports has been prepared in accordance with accepted engineering practice, is true and correct, and is in conformance with Chapter 105 of the rules and regulation of the Department of Environmental Protection.”

G. Pipelines and utilities:

- Trenches excavated for the maintenance and replacement of utility lines shall be the minimum width necessary.

- Trenches excavated for the maintenance and replacement of utility lines shall be backfilled with the original excavated material and restored to the original condition, elevation and stabilized.

- Backfill material must be stored out of the floodway to prevent its discharge to the waterway prior to its use as backfill, if it will be stored longer than 24 hours.

H. A copy of this General Permit along with the Erosion and Sedimentation Control Plan must be provided to all contracting and construction entities involved with the project and must be available on site during all phases of the project.

**8. Erosion and Sediment Controls**—Work must be done in compliance with Chapter 102 (relating to Erosion Control). The Erosion and Sedimentation Control Plan shall be available at the site.

**9. Endangered Species Habitat**—No regulated activity is authorized which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, or which is likely to destroy or adversely modify the critical habitat of such species, as identified under the Federal Endangered Species Act of 1973, the Wild Resource Conservation Act, the Fish and Boat Code or the Game and Wildlife Code. Information is available through the Pennsylvania Natural Diversity Inventory Search at DCNR's Bureau of Forestry, Division of Forestry Advisory Services, P. O. Box 8552, Harrisburg, PA 17105-8552, telephone 717-787-3444.

**10. Equipment**—Use of heavy equipment in a watercourse, stream or body of water is limited to the minimum necessary to complete the project. Heavy equipment working in wetlands must be placed on mats or other measures must be taken to minimize disturbance.

**11. Proper Maintenance**—Water obstructions or encroachments which are authorized must be properly maintained to ensure public safety.

**12. Aquatic Life Movements**—No regulated activity may substantially disrupt the movement of those species of aquatic life indigenous to the watercourse, stream or body of water, including those species which normally migrate through the area.

**13. Wild and Stocked Trout Waters**—Maintenance activities in regulated waters of this Commonwealth are prohibited in the following streams for the specified time period unless written approval is obtained from the PA Fish and Boat Commission's Division of Environmental

Services at 459 Robinson Lane, Bellefonte, PA 16823-9616. Stocked and wild trout stream locations are compiled and available through the Commission's Division of Fishery Management.

Stocked trout streams	March 1 through June 15
Wild trout streams	October 1 through December 31
Lake Erie tributaries	March 1 through June 15 and Sept. 1 through Dec. 31

14. **Waterfowl Breeding Areas**—Breeding areas for migratory waterfowl must be avoided to the maximum extent practicable.

15. **Suitable Material**—Fill material must be free of trash, construction debris, tires, similar materials, contaminated materials, and toxic pollutants. Temporary fills for construction purposes (e.g. road embankments, equipment staging, etc.) shall consist of only clean rock material to prevent the introduction of sediment to water resources.

16. **Avoidance and Minimization**—Discharges of dredged or fill material into waters of the Commonwealth must be avoided or minimized to the maximum extent practicable at the project site.

17. **Removal of Temporary Fills**—Temporary fills must be removed in their entirety and the affected areas returned to their pre-existing elevations.

18. **Navigation**—No regulated activity shall hinder commercial or recreational navigation.

19. **Effective Time Period**—This General Permit will remain in effect indefinitely unless specifically modified, suspended or revised by the Department.

20. **Submerged Lands of this Commonwealth**—This General Permit shall not be effective to authorize any project over, across or occupying submerged lands of this Commonwealth until the owner has obtained a license from the Department authorizing the occupation of such submerged lands issued under Section 15 of the Dam Safety and Encroachments Act (32 P. S. § 693.15), Section 514 of the Administrative Code of 1929 (71 P. S. § 194), or other applicable laws. Upon receipt of notification from the owner, the Department will review the project, determine if its location is over, across or occupies submerged lands of the Commonwealth. If applicable, the Department will prepare a Submerged Lands License Agreement and forward same to the owner for execution prior to acknowledgement of registration to use the General Permit. No annual charge is required for facilities constructed, owned or operated by a Political Subdivision of the Commonwealth.

21. **Use of Explosives**—Prior to the use of explosives in a watercourse or body of water, the permittee shall secure a written permit from the Pennsylvania Fish and Boat Commission, under the Fish and Boat Code, Act 1980-175 Title 30 Pennsylvania Consolidated Statutes, Section 2906. Requests should be directed to the Pennsylvania Fish and Boat Commission, Division of Environmental Services (see Exhibit A).

22. **Suspension, Modification or Revocation**—The Department may suspend, modify or revoke this General Permit at any time upon notice in the *Pennsylvania Bulletin*.

23. **Project Interference**—This General Permit does not authorize any interference with any existing or

proposed local, State, Federal or Federally licensed project, and permittee shall not be entitled to compensation for damage or injury to the work authorized herein which may be caused by or a result of existing or future operations undertaken by the United States or the Commonwealth of Pennsylvania or its Political Subdivisions in the public interest.

24. **Inspection**—As a condition of use of this General Permit, and of the owner's authority to conduct the activities authorized by this General Permit, the owner hereby authorizes and consents to allow authorized employees or agents of the Department, including the County Conservation District, without advance notice or a search warrant, at any reasonable time and upon presentation of appropriate credentials, and without delay, to have access to and to inspect all areas where the project is being constructed, operated or maintained. The authorization and consent shall include consent to conduct tests or sampling, to take photographs, to perform measurements, survey and other tests, to inspect the methods of construction, operation or maintenance, to examine and copy books, papers and records pertinent to any matter under investigation, and to take any other action necessary to assure that the project is constructed, operated or maintained in accordance with the terms and criteria of the General Permit. This General Permit condition is referenced in accordance with Section 16 of the Dam Safety and Encroachments Act, 32 P. S. § 693.16, and in no way limits any other powers granted under the Dam Safety and Encroachments Act.

25. **Activities not in Accordance with the Terms or Conditions**—If the Department determines, upon inspection, that the construction, operation or maintenance of a project has violated the terms or criteria of this General Permit or of the Chapter 105 Rules and Regulations, the Department may take such actions, legal or administrative, that it may deem to be appropriate.

26. **Structure Removal**—The owner shall remove all or any portion of this project upon written notification to the owner by the Department in the event the project is causing an adverse impact on public health, safety or the environment, or in any other manner violates the conditions of this General Permit or Chapter 105 Rules and Regulations.

27. **Property Rights**—This General Permit does not authorize trespassing on private property nor convey any property rights, either in real estate or material, or in any exclusive privileges; nor does it authorize any injury to property or invasion of rights or any infringement of Federal, State or local laws or regulations.

28. **Water Quality Certification**—The issuance of this General Permit also constitutes approval of Water Quality Certification under Section 401 of the Federal Clean Water Act (33 U.S.C.A. § 1341).

29. **Other Permits**—Nothing in this General Permit relieves the owner(s) of the obligation of complying with all Interstate Compacts, Federal, and state laws, and regulations.

30. **Signature**—The General Permit Registration Form shall be signed by the person responsible for installation, operation and maintenance of the authorized activity.

[Pa.B. Doc. No. 03-2030. Filed for public inspection October 17, 2003, 9:00 a.m.]

### Proposed Revisions to the State Implementation Plan for the Enhanced Vehicle Emissions Inspection/Maintenance Program; Public Hearings

The Commonwealth currently has in place an enhanced vehicle inspection and maintenance (I/M) tailpipe emissions testing program for on-road light-duty cars and trucks in Bucks, Chester, Delaware, Montgomery, Philadelphia, Allegheny, Beaver, Washington and Westmoreland Counties. This testing is required by the Federal Clean Air Act (CAA). Under the CAA as amended in 1990, states, including the Commonwealth, required to implement I/M programs are further required to incorporate a check of the on-board diagnostic (OBD) system for model year 1996 and newer vehicles as part of the I/M program.

The CAA and the Commonwealth's State Implementation Plan (SIP) also require I/M testing in 16 additional counties (Lehigh, Northampton, Berks, Cumberland, Dauphin, Lancaster, Lebanon, York, Blair, Cambria, Centre, Erie, Lackawanna, Luzerne, Lycoming and Mercer). Although implementation of the enhanced I/M program was required in these counties by 1999, the Commonwealth did not implement the enhanced I/M program. Two citizens groups, the Clean Air Council and Citizens for Pennsylvania's Future, subsequently filed lawsuits in United States District Court against the Secretaries of the Department of Environmental Protection (Department) and the Department of Transportation.

Finding that the CAA was violated, the Federal court directed the Commonwealth and the citizens groups to confer on an appropriate remedy. In response, the parties reached agreement on the I/M program developed for the 16 counties, which is reflected in this proposed SIP revision. The SIP revision incorporates amendments to I/M testing (67 Pa. Code Chapter 177 (relating to enhanced emission inspection program)) and the Commonwealth's Vehicle Safety Inspection Program (67 Pa. Code Chapter 175 (relating to vehicle equipment and inspection)). The proposed SIP revision incorporates a combination of OBD testing from 1996 and newer vehicles, gas cap leak tests and emissions control equipment visual checks in eight counties (Berks, Cumberland, Dauphin, Lancaster, Lebanon, Lehigh, Northampton and York) and a program consisting of visual checks and gas cap leak tests in the remaining eight counties (Blair, Cambria, Centre, Erie, Lackawanna, Luzerne, Lycoming and Mercer). Additionally, the proposal calls for a check of the presence of State and Federally required emissions control equipment on all vehicles as a part of the annual safety inspection in the 42 remaining counties that are not a part of the I/M program.

The proposed SIP revision is available on the Department's website at <http://www.dep.state.pa.us> (DEP Keyword: Clean Air Plans) or through the following contact persons.

The Department will hold three public hearings to receive comments on the SIP revision.

- November 19, 2003, at 1 p.m. at the Department's Southeast Regional Office Hearing Room, Lee Park, 555 North Lane, Suite 6010, Conshohocken, PA.
- November 20, 2003, at 1 p.m. at the Department of Environmental Protection, Rachel Carson State Office Building, 12th Floor Conference Room, 400 Market Street, Harrisburg, PA.
- November 20, 2003, at 1 p.m. at the Department's Southwest Regional Office, Waterfront Rooms A and B, 500 Waterfront Drive, Pittsburgh, PA.

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

Written comments should be sent by close of business on November 21, 2003, to Brian Trowbridge, Division of Air Resource Management, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468.

KATHLEEN A. MCGINTY,  
Secretary

[Pa.B. Doc. No. 03-2031. Filed for public inspection October 17, 2003, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Health Policy Board Hearing

Under 1 Pa. Code § 35.121 (relating to initiation of hearings) and 37 Pa. Code § 197.89 (relating to scheduling and announcement of hearings), a hearing in the matter of *In re: Manor Care Services—Harrisburg*, Doc. No. L03-23, will be held on Wednesday, October 29, 2003, and Thursday, October 30, 2003, at 9 a.m. each day in Room 327, Health and Welfare Building, 7th and Forster Streets, Harrisburg, PA 17120.

For additional information, or persons with a disability who wish to attend the hearings and require an auxiliary aid, service or other accommodation to do so, contact Lois Feger, (717) 783-2500, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984 (TT).

The hearings are subject to change or cancellation without further notice.

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

[Pa.B. Doc. No. 03-2032. Filed for public inspection October 17, 2003, 9:00 a.m.]

### Organ Donation Advisory Committee Meeting

The Organ Donation Advisory Committee, established under 20 Pa.C.S. § 8622 (relating to The Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund), will hold a public meeting on December 10, 2003, from 10 a.m. to 2 p.m. in Room 812, Health and Welfare Building, 7th and Forster Streets, Harrisburg, PA.

For additional information, contact William J. Neil, Manager, Health Education and Information Program, Bureau of Chronic Diseases and Injury Prevention, Room 1000, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-5900.

Persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so should contact William J. Neil, (717) 787-5900, 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. 03-2033. Filed for public inspection October 17, 2003, 9:00 a.m.]

### Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program)

Due to an error in the 2003—2004 Minimum Inventory Requirements published at 33 Pa.B. 4983 (October 4, 2003), the 2003—2004 Minimum Inventory Requirements are being republished to be effective October 18, 2003.

#### I. 2003—2004 Minimum Inventory Requirements

Under Pa. Code § 1103.5(a)(3) (relating to minimum inventory), the WIC Program publishes notice of the minimum inventory requirements. Effective October 18, 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 gallon.

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.

#### *Cheese*

Three WIC allowable varieties prepackaged in 8 or 16-ounce containers, totaling at least 4-pounds of cheese.

#### *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 fifteen 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.

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

[Pa.B. Doc. No. 03-2034. Filed for public inspection October 17, 2003, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Designated Exceptional Durable Medical Equipment; Minimum Acquisition Cost

The Department of Public Welfare (Department) announces the list of types of durable medical equipment (DME) designated by the Department to be "exceptional DME" and the "minimum acquisition cost" of an item of exceptional DME for purposes of 55 Pa. Code § 1187.2 (relating to definitions).

The Department pays for nursing facility services under 55 Pa. Code Chapter 1187 (relating to nursing facility services). Among other things, 55 Pa. Code Chapter 1187 provides that a nursing facility enrolled in the Medical Assistance Program as a provider of nursing facility services may obtain "additional payment" for nursing facility services that are provided to a specific resident and that involve the use of DME that meets the Department's definition of "exceptional DME." 55 Pa. Code § 1187.151 (relating to definitions).

"Exceptional DME" is defined to be "DME that has a minimum acquisition cost that is equal to or greater than an amount specified by the Department by notice in the *Pennsylvania Bulletin* and is either specially adapted DME or other DME that is designated as exceptional DME by the Department by notice in the *Pennsylvania Bulletin*." 55 Pa. Code § 1187.2. The Department intends that the referenced notice will be published in July of each year and will be effective until the next notice is issued. 32 Pa.B. 734 (February 9, 2002).

The first notice the Department issued was published at 32 Pa.B. 3267 (July 6, 2002). As set forth therein, the minimum acquisition cost is \$5,000 and, in addition to DME that qualifies as "specially adapted DME," there are four classes of DME that qualify as exceptional DME: air fluidized beds; powered air flotation beds (low air loss therapy); augmentative communication devices; and ventilators (and related supplies).

The most recent list of exceptional DME was published by the Department at 33 Pa.B. 2133 (April 26, 2003). That notice provides that ventilators and related supplies qualify as exceptional DME if "used by residents who require full ventilator support for a minimum of 8 hours per day to sustain life." This notice supersedes the notices published at 32 Pa.B. 3267 and 33 Pa.B. 2133. This notice amends the provision related to ventilators and related supplies by removing the 8-hour per day minimum time requirement for residents who are 20 years of age and younger. This notice makes no other changes in either the acquisition cost or the list of qualifying DME. Except for establishing the minimum acquisition cost, neither notice affects whether "specially adapted DME" qualifies as "exceptional DME."

As set forth in the notice announcing the expansion of the Department's exceptional payment policy, persons who wish to have a type of DME considered by the Department for inclusion on or removal from the list must submit a written request to the Department. Requests during a calendar year will be considered by the Department for the list to be issued in the following July. Requests received after December 31 of the calendar year are considered during the next annual review cycle.

During 2002, the Department received one request for a change to the list of exceptional DME. The request was to add a bariatric program, which would cover oversize equipment such as bariatric beds and wheelchairs for extremely tall and/or overweight residents as an additional category of the exceptional DME program. The Department considered the request and has determined that a resident requiring oversized equipment of the type that is designated on the list of exceptional DME would be adequately served by the existing exceptional DME program. Therefore, the Department has decided that the request for the addition of a bariatric program as a separate category of exceptional DME is unwarranted at this time.

Beginning with the effective date of this notice, an item of DME must, in addition to being "specially adapted" or within one of the types set forth in the following list, have a minimum acquisition cost of \$5,000 to qualify as "exceptional DME."

Beginning with the effective date of this notice, if an item of DME is not "specially adapted" it cannot qualify as "exceptional DME" unless it falls within one of the following designated types:

(1) *Air fluidized beds.* The Department uses this term to encompass beds that treat or prevent bedsores and treats other conditions such as bone cancer and burns through the use of a high rate of airflow which fluidizes fine particulate matter (such as beads or sand) to produce a support medium that has characteristics similar to liquids.

(2) *Powered air flotation bed (low air loss therapy).* The Department uses this term to encompass electric or semielectric beds which have a fully integrated powered pressure-reducing mattress that is characterized by all of the following:

a. An air pump or blower with a series of interconnected woven fabric air pillows which provide sequential inflation and deflation of the air cells or a low interface pressure throughout the mattress, allowing some air to escape through the support surface to the resident.

b. The inflated cell height of the air cells must be five inches or greater.

c. The height of the air chambers, the proximity of the air chambers to each other, the frequency of air cycling (for alternating pressure mattresses) and the provided air pressure must provide the patient with sufficient lift to reduce pressure and prevent bottoming out.

d. The surface of the mattress must be designed to reduce skin friction and skin shearing.

(3) *Augmentative communication devices.* The Department uses this term to encompass devices used by residents who, because of severe expressive communication disorders, are unable to use natural oral speech as a primary means of communication. Portable devices must supplement, aid or serve as an alternative to natural oral speech. Nonportable devices only qualify as augmentative communication devices if they are required by the resident for visual enhancement or physical access needs that cannot be accommodated by a portable device.

(4) *Ventilators (and related supplies).*

a. Used by residents 21 years of age and older who require full ventilator support for a minimum of 8 hours per day to sustain life.

b. Used by residents 20 years of age and younger who require ventilator support to sustain life (no minimum time requirement).

*Effective Date*

This notice is effective upon publication in the *Pennsylvania Bulletin*.

*Public Comments*

Interested persons are invited to submit written comments regarding this notice to the Department within 30 days of publication of this notice in the *Pennsylvania Bulletin* to Department of Public Welfare, Division of Long Term Care Client Services, Attention: Gail Weidman, P. O. Box 2675, Harrisburg, PA 17105. Persons with disabilities may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-371. No fiscal impact; (8) recommends adoption.

[Pa.B. Doc. No. 03-2035. Filed for public inspection October 17, 2003, 9:00 a.m.]

## Medical Assistance Program Fee Schedule Revision

The Department of Public Welfare (Department) will revise payment rates for select procedure codes effective November 1, 2003.

The Pennsylvania Medicaid State Plan (State Plan) specifies that maximum fees for services covered under the Medical Assistance (MA) Program are to be determined on the basis of the following: fees will not exceed the Medicare upper limit when applicable; fees will be consistent with efficiency, economy and quality of care; and fees will be sufficient to assure the availability of services to clients.

Through the enactment of section 4551(a) of the Balanced Budget Act of 1997 (42 U.S.C.A. § 1395m(a)(14)), Congress reduced payment levels for certain Medicare items. The Department is adjusting the MA Program Fee Schedule payment rates for procedure codes to equal the

Medicare approved amount. Revision of these fees is necessary to comply with the State Plan and to avoid Federal disallowances.

In addition, the Department is making specific technical payment adjustments to an additional 16 procedure codes.

#### *Procedure*

Payment rates for the following procedure codes will be effective November 1, 2003. See the "DME Codes with Fees Exceeding 100% Medicare" and "Technical Revision Codes" that follow.

#### *Fiscal Note*

It is anticipated that this revision will result in a savings of \$0.314 million in total funds (\$0.181 million in Federal funds, \$0.133 million in State funds) for the period July 1, 2003, through June 30, 2004. The estimated savings for the period July 1, 2004, through June

30, 2005, are \$0.627 million (\$0.339 million in Federal funds, \$0.288 million in State funds).

#### *Public Comment*

Interested persons are invited to submit written comments to this notice within 30 days of publication to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Deputy Secretary's Office, Attention: Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received will be considered in subsequent revisions to the fee schedule.

Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-373. No fiscal impact; (8) recommends adoption.

### **DME Codes with Fees Exceeding 100% Medicare**

<i>Code</i>	<i>Description</i>	<i>Fee Revision</i>
L5845	Addition, endoskeletal, knee-shin system, stance flexion feature, adjustable	\$1,411.11
L5644	Addition to lower extremity, above knee, wood socket	\$473.68
L5650	Additions to lower extremity, total contact, above knee or knee disarticulation socket	\$391.51
L6586	Preparatory, elbow disarticulation or above elbow, single wall socket, friction wrist, locking elbow, figure of eight harness, fair lead cable control, USMC or equal pylon, no cover, direct formed	\$1,564.03
L5634	Addition to lower extremity, Symes type, posterior opening (Canadian) socket	\$243.95
L0540	LSO, lumbar flexion (Williams flexion type)	\$370.14
L5970	All lower extremity prostheses, foot, external keel, SACH foot	\$176.06
L2340	Addition to lower extremity, pretibial shell, molded to patient model	\$433.33
E0142	Rigid walker, wheeled, with seat	\$171.98
L6630	Upper extremity addition, stainless steel, any wrist	\$172.84
E0177	Water pressure pad or cushion, nonpositioning	\$106.14
E0176	Air pressure pad or cushion, nonpositioning	\$107.11
E0178	Gel or gel-like pressure pad or cushion, nonpositioning	\$121.34
L6865	Terminal device, hand, passive hand	\$283.83
E0560 <sup>^</sup>	Humidifier, durable for supplemental humidification during IPPB treatment or oxygen delivery	\$20.10
L5680	Addition to lower extremity, below knee, thigh lacer, nonmolded	\$277.76
L0130	Cervical, flexible, thermoplastic collar, molded to patient	\$148.79
E0164	Commode chair, mobile, with fixed arms	\$169.43
L3974	SEWHO, addition to mobile arm support, supinator	\$142.55
L3908	WHFO, wrist extension control cock-up, nonmolded	\$49.56
L5618	Addition to lower extremity, test socket, Symes	\$253.76
L5910	Addition, endoskeletal system, below knee, alignable system	\$292.51
E0946 <sup>^</sup>	Fracture, frame, dual with cross bars, attached to bed, (for example, Balken, four-poster)	\$59.16
L3650	Shoulder orthosis, figure of eight design abduction restrainer	\$50.06
E0941 <sup>^</sup>	Gravity assisted traction device, any type	\$43.41
L1085	Addition to CTLSO or scoliosis orthosis, outrigger, bilateral with vertical extensions	\$134.63
L6637	Upper extremity addition, nudge control elbow lock	\$332.31
E0202 <sup>^</sup>	Phototherapy (bilirubin) light with photometer	\$62.61



## NOTICES

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<i>Code</i>	<i>Description</i>	<i>Fee Revision</i>
L1610	Hip orthosis, abduction control of hip joints, flexible, (Frejka cover only)	\$42.81
E0186^	Air pressure mattress	\$20.30
E0920^	Fracture frame, attached to bed, includes weights	\$46.14
L3972	SEWHO, addition to mobile arm support, offset or lateral rocker arm with elastic balance control	\$168.07
E0145^	Walker, wheeled, with seat and crutch attachments	\$17.64
E0187^	Water pressure mattress	\$23.21
L2425	Addition to knee joint, disc or dial lock for adjustable knee flexion, each joint	\$112.64
E0431^	Portable gaseous oxygen system, rental; includes regulator, flowmeter, humidifier, cannula or mask, and tubing	\$35.97
E0434^	Portable liquid oxygen system, rental; includes portable container, supply reservoir, humidifier, flowmeter, refill adaptor, contents gauge, cannula or mask, and tubing	\$35.97
L2360	Addition to lower extremity, extended steel shank	\$38.95
E0942	Cervical head harness/halter	\$19.85
E0180^	Pressure pad, alternating with pump	\$20.79
E0291^	Hospital bed, fixed height, without side rails, without mattress	\$54.30
E0181^	Pressure pad, alternating with pump, heavy duty	\$23.06
L6641	Upper extremity addition, excursion amplifier, pulley type	\$150.73
L3660	Shoulder orthosis, figure of eight design abduction restrainer, canvas and webbing	\$75.71
L3930	WHFO, finger extension, with wrist support	\$54.09
L0150	Cervical, semi-rigid, adjustable molded chin cup (plastic collar with mandibular/occipital piece)	\$90.27
L5629	Addition to lower extremity, below knee, acrylic socket	\$330.29
E0781^	Ambulatory infusion pump, single or multiple channels, electric or battery operated, with administrative equipment, worn by patient	\$225.14
E0565^	Compressor, air power source for equipment which is not self-contained or cylinder driven	\$61.01
E0910^	Trapeze bars, AKA patient helper, attached to bed, with grab bar	\$20.00
E0930^	Fracture frame, free standing, includes weights	\$45.69
B4083	Stomach tube—levine type	\$2.27
L1815	Knee orthosis, elastic with condylar pad(s)	\$78.51
E0480^	Percussor, electric or pneumatic, home model	\$43.94
L5620	Addition to lower extremity, test socket, below knee	\$222.96
E0261^	Hospital bed, semielectric (head and foot adjustment), with any type side rails, without mattress	\$128.65
E0146^	Folding walker, wheeled, with seat	\$16.18
E0665^	Nonsegmental pneumatic appliance for use with pneumatic compressor, full arm	\$14.07
E0550^	Humidifier, durable for extensive supplemental humidification during IPPB treatments or oxygen delivery	\$50.13
E0666^	Nonsegmental pneumatic appliance for use with pneumatic compressor, half leg	\$14.23
L3936	Wrist hand finger orthosis, palmer	\$65.61
L2375	Addition to lower extremity, torsion control, ankle joint and half solid stirrup	\$106.61
E0290^	Hospital bed, fixed height, without side rails, with mattress	\$74.74
L1830	Knee orthosis, immobilizer, canvas longitudinal	\$69.84
E1372	Immersion external heater for nebulizer	\$163.03
E0182^	Pump for alternating pressure pad	\$26.18
E0110	Crutches, forearm, includes crutches of various materials, adjustable or fixed, pair, complete with tips and handgrips	\$65.95
E0293^	Hospital bed, variable height, hi-lo, without side rails, without mattress	\$71.51

<i>Code</i>	<i>Description</i>	<i>Fee Revision</i>
E0660^	Nonsegmental pneumatic appliance for use with pneumatic compressor, full leg	\$16.63
L8480	Prosthetic sock, single ply, fitting, above knee, each	\$7.38
L2415	Addition to knee joint, cam lock (Swiss, French, bail types), each joint	\$95.43
E0271^	Mattress, innerspring	\$23.06
E0250^	Hospital bed, fixed height, with any type side rails, with mattress	\$97.76
E0165^	Commode chair, stationary, with detachable arms	\$15.79
E0251^	Hospital bed, fixed height, with any type side rails, without mattress	\$74.08
L6616	Upper extremity addition, additional disconnect insert for locking wrist unit, each	\$69.35
E0255^	Hospital bed, variable height, hi-lo, with any type side rails, with mattress	\$114.37
E0297^	Hospital bed, total electric (head, foot and height adjustments), without side rails, without mattress	\$140.67
E0600^	Suction pump, home model, portable	\$45.79
E0143^	Folding walker, wheeled, without seat	\$21.59
E0292^	Hospital bed, variable height, hi-lo, without side rails, with mattress	\$81.07
A4347	Male external catheter with or without adhesive, with or without antireflux device; per dozen	\$20.27
E0860^	Traction equipment, overdoor, cervical	\$6.51
L2810	Addition to lower extremity orthosis, knee control, condylar pad	\$78.39
L3800	Wrist hand finger orthoses, short opponens, no attachments	\$147.29
A4355	Irrigation tubing set for continuous bladder irrigation through a three-way indwelling Foley catheter	\$8.91
L2310	Addition to lower extremity, abduction bar-straight	\$107.60
A4311	Insertion tray without drainage bag with indwelling catheter, Foley type, two-way latex with coating (Teflon, silicone, silicone elastomer or hydrophilic, and the like)	\$12.61
E0935^	Passive motion exercise device	\$22.73
A5063	Ostomy pouch, drainable; for use on barrier with flange (two-piece system)	\$2.20
E0968^	Commode seat, wheelchair	\$17.93
E0256^	Hospital bed, variable height, hi-lo, with any type side rails, without mattress	\$78.09
E0944	Pelvic belt/harness/boot	\$45.88
A4556	Electrodes, for example, apnea monitor (black carbon electrodes)	\$10.32
L1070	Addition to CTLSO or scoliosis orthosis, trapezius sling	\$88.48
E0655^	Nonsegmental pneumatic appliance for use with pneumatic compressor, half arm	\$12.68
E0776^	IV pole	\$18.65
L5688	Addition to lower extremity, below knee, waist belt, webbing	\$48.99
A5053	Pouch, closed; for use on faceplate	\$1.74
A5054	Pouch, closed; for use on barrier with flange (two-piece)	\$1.79
A5121	Skin barrier; solid, 6 × 6 or equivalent, each	\$6.54
A5052	Pouch, closed; without barrier (one-piece)	\$1.67
A4359	Urinary suspensory without leg bag	\$30.63
A4557	Lead wires, for example, apnea monitor	\$17.94
A5062	Pouch, drainable; without barrier attached (one-piece)	\$2.22
A6216	Gauze, nonimpregnated, nonsterile, pad size 16 sq. in. or less, without adhesive border, each dressing	\$0.05

#### Technical Revision Codes

<i>Code</i>	<i>Description</i>	<i>Technical Fee Revision</i>
A7000	Canister, disposable, used with suction pump, each	\$7.32
A7001	Canister, nondisposable, used with suction pump, each	\$26.21
A7002	Tubing, used with suction pump, each	\$3.04

<i>Code</i>	<i>Description</i>	<i>Technical Fee Revision</i>
A7003	Administration set, with small volume nonfiltered pneumatic nebulizer, disposable	\$2.40
A7004	Small volume nonfiltered pneumatic nebulizer, disposable	\$1.34
A7005	Administration set, with small volume nonfiltered pneumatic nebulizer, nondisposable	\$24.43
A7006	Administration set, with small volume filtered pneumatic nebulizer	\$7.15
A7007	Large volume nebulizer, disposable, unfilled, used with aerosol compressor	\$3.49
A7008	Large volume nebulizer, disposable, prefilled, used with aerosol compressor	\$9.66
A7009	Reservoir bottle, nondisposable, used with large volume ultrasonic nebulizer	\$33.32
A7010	Corrugated tubing, disposable, used with large volume nebulizer, 100 feet	\$20.49
A7012	Water collection device, used with large volume nebulizer	\$3.14
A7013	Filter, disposable, used with aerosol compressor	\$0.65
A7014	Filter, nondisposable, used with aerosol compressor or ultrasonic generator	\$3.55
A7015	Aerosol mask, used with DME nebulizer	\$1.45
A7016	Dome and mouthpiece, used with small volume ultrasonic nebulizer	\$5.73

^ Indicates rental

[Pa.B. Doc. No. 03-2036. Filed for public inspection October 17, 2003, 9:00 a.m.]

### 2004 Low-Income Home Energy Assistance Program State Plan

The Department of Public Welfare (Department) is making available to the public the 2004 Low-Income Home Energy Assistance Program State Plan (State Plan). The State Plan describes how the Department plans to use block grant funds provided under the Low-Income Home Energy Assistance Act, Title XXVI of the Omnibus Budget Reconciliation Act of 1981 (Pub. L. No. 97-35) (42 U.S.C.A. §§ 8621—8629) during the 2003-04 program year.

Copies of the State Plan are available for interested individuals and groups at county assistance offices or upon written request to Nancy Poindexter, Director, Division of Federal Programs and Program Management, DPW Complex No. 2, Room 224, Willow Oak Building No. 42, Harrisburg, PA 17105.

Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,  
*Secretary*

[Pa.B. Doc. No. 03-2037. Filed for public inspection October 17, 2003, 9:00 a.m.]

## DEPARTMENT OF TRANSPORTATION

### Agent Services Training

The Department of Transportation (Department), acting through the Bureau of Motor Vehicles, is developing a curriculum for the instruction of contractors of the Department who provide agent services regarding the processing of vehicle titles and registrations. The Department seeks providers who can offer a syllabus consistent

with the curriculum developed and solicits the interest of all educational institutions, industry associations and individuals capable of providing instruction.

Further inquiry should be directed to Melanie Sterling, Project Manager, Agent/Messenger Service Contracts, 1st Floor, Riverfront Office Center, 1101 South Front Street, Harrisburg, PA 17104-2516.

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 03-2038. Filed for public inspection October 17, 2003, 9:00 a.m.]

## HOUSING FINANCE AGENCY

### Request for Proposals for Professional Moving Services

The Housing Finance Agency (Agency) is seeking proposals for professional relocation services to relocate from its current office location in Harrisburg, PA to a new office facility in Harrisburg, PA. The relocation will occur on or around January 2004 and will involve approximately 233 employees and related office furniture, equipment, files and related materials.

The Agency has prepared a Request for Proposals (RFP) for interested applicants. The RFP is available in its entirety on the Agency's website at [www.phfa.org](http://www.phfa.org). The information in this notice provides only a summary of the RFP. Interested applicants must review the RFP in detail for a description of the scope of services, bidding instructions and RFP parameters. The RFP requires submission of complete responses by 2 p.m. on Friday, November 7, 2003.

The schedule for the move and related activity is in the RFP. It is currently expected that the contractor will be required to provide remove materials and services dur-

ing the weeks of December 15 and 29, 2003, services regarding moving certain nonessential parts of the Agency's operations will occur from January 5—7, 2004, primary move and relocation services on January 8—10, 2004, and postmove services during the week of January 12, 2004.

The minimum services to be performed by the selected contractor include, without limitation: premove services, provision of packing and moving material; coordination of all necessary permits and police and municipal approvals; and all items necessary for the relocation of offices from 2101 North Front Street, Harrisburg, PA to 211 North Front Street, Harrisburg, PA and certain postmove services. The selected contractor must meet insurance requirements in the RFP.

Proposals are due on or before Friday, November 7, 2003, at 2 p.m. to Deborah A. Zlogar, Director of Human Resources, Housing Finance Agency, 2101 North Front Street, P. O. Box 8029, Harrisburg, PA 17105-8029.

The RFP may be obtained on the Agency's website. Additionally, copies of the RFP may be requested in writing by contacting Deborah A. Zlogar. The Agency reserves the right to amend this RFP process and to withdraw its RFP invitation at any time. Further, the Agency may reject any and all proposals received as a result of this RFP for any reason, may negotiate separately with competing contractors and may request supplemental information and oral presentation as it deems appropriate to evaluate bid qualifications.

BRIAN A. HUDSON,  
*Executive Director*

[Pa.B. Doc. No. 03-2039. Filed for public inspection October 17, 2003, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Application for a Domestic Certificate of Authority

Pennsylvania Physicians Reciprocal Insurers has applied for a Certificate of Authority to operate as a domestic reciprocal exchange in this Commonwealth. The filing was made under The Insurance Company Law of 1921 (40 P. S. §§ 341—991). Persons wishing to comment on the application are invited to submit a written statement to the Insurance Department (Department) within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Written statements must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax: (717) 787-8557, rbrackbill@state.pa.us.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 03-2040. Filed for public inspection October 17, 2003, 9:00 a.m.]

### James L. Au; Hearing

#### Appeal of James L. Au under 40 P. S. §§ 991.2101—991.2193; Doc. No. HC03-10-005

A telephone prehearing conference initiated by the Administrative Hearings Offices shall be conducted on October 21, 2003, at 1:30 p.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before October 14, 2003. The hearing shall occur on November 12, 2003, at 1:30 p.m. in Room 200, Administrative Hearings Office, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before October 29, 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 shall be filed on or before November 5, 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. 03-2041. Filed for public inspection October 17, 2003, 9:00 a.m.]

### Blue Cross of Northeastern Pennsylvania (BCNEPA) and Highmark Blue Shield; Special Care Hospital, Nongroup Major Medical, Special Care Medical/Surgical, Nongroup Medical/Surgical, Security 65 Medical/Surgical, Nongroup Basic Hospital; Rate Hearing

Blue Cross of Northeastern Pennsylvania and Highmark Blue Shield have requested approval to increase the premium rates for BCNEPA filing nos. 750-BC NG BASE-1/1/04, 751-BC-SP-1/1/04 and 753-MMNG-1/1/04 and Highmark Blue Shield filing nos. 200321, 200322 and 1-SCMS-03-HI. The requested premium rate increases vary by filing. These filings were previously published for public comment in the *Pennsylvania Bulletin*. See 33 Pa.B. 3576 (July 19, 2003), 33 Pa.B. 4257 (August 23, 2003), 33 Pa.B. 4374 and 4375 (August 30, 2003), 33 Pa.B. 4643 and 4644 (September 13, 2003) and 33 Pa.B. 4866 (Sept. 27, 2003).

A public informational hearing on these rate filings has been scheduled for Thursday, November 6, 2003, at 10 a.m. at the Gennetti Convention Center, Imperial Ambassador Ballroom, 77 East Market Street, Wilkes-Barre, PA 18711.

Individuals wishing to testify about these filings may contact the Office of Product Regulation and Market Enforcement at the following address and telephone number to schedule to testify at this hearing. Individuals may also appear at the hearing without advance notice and will be afforded the opportunity to testify after all

individuals scheduled in advance have testified. Testimony will be limited to a 10-minute presentation. The Insurance Department (Department) requests that individuals provide a written copy of their testimony the day of the hearing.

Copies of the filings are available for public inspection, by appointment, during normal business hours at the Department's regional offices in Harrisburg.

Interested parties are invited to submit written comments, suggestions and objections about these filings to NEPA Rate Hearing, Insurance Department, Office of Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, (717) 787-4192, ra-rateform@state.pa.us by November 13, 2003.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 03-2042. Filed for public inspection October 17, 2003, 9:00 a.m.]

**Capital Advantage Insurance Company (CAIC) and Capital Blue Cross; Nongroup Basic Hospital, Nongroup Medical-Surgical and Major Medical, Nongroup Security 65 Medical-Surgical, Special Care Medical-Surgical, Nongroup Comprehensive Major Medical (Non-HIPPA), Nongroup Comprehensive Major Medical (HIPPA/HCTC); Rate Hearing**

Capital Advantage Insurance Company and Capital Blue Cross have requested to increase the premium rates for CAIC filing nos. 03-L, 03-T, 03-O, 03-Q and 03-S and Capital Blue Cross filing no. 03-K. The requested premium rate increases vary by filing. These filings were previously published for public comment in the *Pennsylvania Bulletin*. See 33 Pa.B. 4254—4256 (August 23, 2003).

A public informational hearing on these rate filings has been scheduled for November 3, 2003, at 10 a.m. at the Hilton Harrisburg and Towers, Leland Room, 1 North Second Street, Harrisburg, PA 17120.

Individuals wishing to testify about these filings may contact the Office of Product Regulation and Market Enforcement at the following address and telephone number to schedule to testify at this hearing. Individuals may also appear at the hearing without advance notice and will be afforded the opportunity to testify after all individuals scheduled in advance have testified. Testimony will be limited to a 10-minute presentation. The Insurance Department (Department) requests that individuals provide a written copy of their testimony the day of the hearing.

Copies of the filings are available for public inspection, by appointment, during normal business hours at the Department's regional offices in Harrisburg.

Interested parties are invited to submit written comments, suggestions and objections about these filings to CBC Rate Hearing, Insurance Department, Office of Product Regulation and Market Enforcement, 1311

Strawberry Square, Harrisburg, PA 17120, (717) 787-4192, ra-rateform@state.pa.us by November 10, 2003.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 03-2043. Filed for public inspection October 17, 2003, 9:00 a.m.]

**Thomas Connolly; Hearing**

**Appeal of Thomas Connolly under 40 P. S. §§ 991.2101—991.2193; Doc. No. HC03-10-004**

A hearing shall occur on November 19, 2003, at 3:30 p.m. in the Insurance Department's regional office in Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA. Each party shall provide a telephone number to be used for future needs to the Hearings Administrator on or before October 21, 2003.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before November 5, 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 shall be filed on or before November 12, 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. 03-2044. Filed for public inspection October 17, 2003, 9:00 a.m.]

**Highmark Blue Cross Blue Shield; Nongroup ClassicBlue Medical/Surgical, Nongroup ClassicBlue Hospital, Nongroup ClassicBlue Major Medical, Security 65—Plan E; Rate Hearing**

Highmark Blue Cross Blue Shield has requested approval to increase the premium rates for Highmark Blue Cross Blue Shield filing nos. 1-DPMS-03-HBCBS, 1-CPE-03-HBCBS, 1-PMM-03-HBCBS and 1-S65E-03-HBCBS. The requested premium rate increases vary by filing. These filings were previously published for public comment in the *Pennsylvania Bulletin*. See 33 Pa.B. 3696 and 3697 (July 26, 2003) and 33 Pa. B. 4644 (September 13, 2003).

A public informational hearing on these rate filings has been scheduled for October 28, 2003, at 10 a.m. at the Renaissance Pittsburgh, 107 6th Street, Pittsburgh, PA.

Individuals wishing to testify about these filings may contact the Office of Product Regulation and Market Enforcement at the following address and telephone number to schedule to testify at this hearing. Individuals may also appear at the hearing without advance notice and will be afforded the opportunity to testify after all individuals scheduled in advance have testified. Testimony will be limited to a 10-minute presentation. The

Insurance Department (Department) requests that individuals provide a written copy of their testimony the day of the hearing.

Copies of the filings are available for public inspection, by appointment, during normal business hours at the Department's regional offices in Harrisburg, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions and objections about these filings to Highmark Blue Shield Rate Hearing, Insurance Department, Office of Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, (717) 787-4192, ra-rateform@state.pa.us by November 4, 2003.

M. DIANE KOKEN,  
Insurance Commissioner

[Pa.B. Doc. No. 03-2045. Filed for public inspection October 17, 2003, 9:00 a.m.]

**Highmark Blue Shield; Nongroup Special Care Medical/Surgical, Nongroup ClassicBlue Major Medical, Nongroup ClassicBlue Medical/Surgical, Special Care Hospital, Nongroup Comprehensive Major Medical, Nongroup ClassicBlue Hospital, Medigap Blue Hospital Plans A, B, C and H and Medigap Blue Medical/Surgical Plans A, B, C and H; Rate Hearing**

Highmark Blue Shield has requested approval to increase the premium rates for filing nos. 1-SCMS-03-HI, 200316, 200317, 200314, 200318, 200315, 200319 and 200320. These filings were previously published for public comment in the *Pennsylvania Bulletin*. See 33 Pa.B. 3576 (July 19, 2003), 33 Pa.B. 4042 and 4043 (August 9, 2003) and 33 Pa.B. 4257 (August 23, 2003).

A public informational hearing on these rate filings has been scheduled for Monday, October 27, 2003, at 10 a.m. at the Crowne Plaza, 23 South Second Street, Harrisburg, PA.

Individuals wishing to testify about these filings may contact the Office of Product Regulation and Market Enforcement at the following address and telephone number to schedule to testify at this hearing. Individuals may also appear at the hearing without advance notice and will be afforded the opportunity to testify after all individuals scheduled in advance have testified. Testi-

mony will be limited to a 10-minute presentation. The Insurance Department (Department) requests that individuals provide a written copy of their testimony the day of the hearing.

Copies of the filings are available for public inspection, by appointment, during normal business hours at the Department's regional offices in Harrisburg, Pittsburgh and Erie.

Interested parties are invited to submit written comments, suggestions and objections about these filings to Highmark Blue Shield Rate Hearing, Insurance Department, Office of Product Regulation and Market Enforcement, 1311 Strawberry Square, Harrisburg, PA 17120, (717) 787-4192, ra-rateform@state.pa.us by November 3, 2003.

M. DIANE KOKEN,  
Insurance Commissioner

[Pa.B. Doc. No. 03-2046. Filed for public inspection October 17, 2003, 9:00 a.m.]

**Highmark Inc. d/b/a Highmark Blue Shield (Central Region); Small Group Rating Modification; Rate Filing No. 200336**

On October 2, 2003, Highmark Inc. d/b/a Highmark Blue Shield submitted an application for approval to institute a modification to its small group rating methodology in the Central Region. The filing requests a change in the upper bound of age-gender factors from 1.35 to 1.75. The lower bound of the range remains unchanged at 0.65. Currently, 57,595 contract holders are rated by the Small Group Rating Methodology. The filing will apply to client notification dates on or after December 1, 2003.

Copies of the filing are available for public inspection during normal working hours, by appointment, at the Insurance Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Rashmi Mathur, Actuary, Bureau of Accident and Health Insurance, Insurance Department, 1311 Strawberry Square, Harrisburg, PA 17120 within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
Insurance Commissioner

[Pa.B. Doc. No. 03-2047. Filed for public inspection October 17, 2003, 9:00 a.m.]

**Inter-County Health Plan, Inc.; Rate Increase for Community-Rated 65-Select Plans (Health); Rate Filing No. MG Health 0903**

Inter-County Health Plan, Inc. requests rate increase for its 65-Select (Health) plans:

*Proposed Monthly 65-Select Rates (Health)*

	<i>Plan A</i>	<i>Plan B</i>	<i>Plan C</i>	<i>Plan D</i>	<i>Plan E</i>	<i>Plan H</i>
New Entrants at first eligibility	\$51.15	\$53.25	\$61.80	\$55.25	\$53.25	\$65.35
Disableds at first eligibility						
Other entrants 65—69 years of age	\$51.15	\$53.25	\$61.80	\$55.25	\$53.25	\$65.35
Other entrants 70—79 years of age	\$59.35	\$61.80	\$71.70	\$64.10	\$61.80	\$75.80
Other entrants over 79 years of age and disableds who do not enroll at first eligibility	\$66.50	\$69.25	\$80.35	\$71.85	\$69.25	\$84.95

These proposed new rates represent an overall increase of 12.2% and will increase annual income by approximately \$264,000. The rate adjustments will affect approximately 3,000 subscribers. An effective date of January 1, 2004, is requested.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Insurance Department's regional offices in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Actuary, Life and Health Actuaries, Insurance Department, Strawberry Square, Harrisburg, PA 17120 within 30 days after the publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
Insurance Commissioner

[Pa.B. Doc. No. 03-2048. Filed for public inspection October 17, 2003, 9:00 a.m.]

### Inter-County Hospital Plan, Inc.; Rate Increase for Community-Rated 65-Select Plans (Hospital); Rate Filing No. MG Hospital 0903

Inter-County Hospital Plan, Inc. requests rate increase for its 65-Select (Hospital) plans:

*Proposed Monthly 65-Select Rates (Hospital)*

	<i>Plan A</i>	<i>Plan B</i>	<i>Plan C</i>	<i>Plan D</i>	<i>Plan E</i>	<i>Plan H</i>
New entrants at first eligibility	\$33.35	\$50.30	\$65.00	\$65.70	\$69.35	\$146.20
Disableds at first eligibility						
Other entrants 65—69 years of age	\$33.35	\$50.30	\$65.00	\$65.70	\$69.35	\$146.20
Other entrants 70—79 years of age	\$38.65	\$58.35	\$75.40	\$76.25	\$80.45	\$169.60
Other entrants over 79 years of age and disableds who do not enroll at first eligibility	\$43.35	\$65.40	\$84.50	\$85.45	\$90.15	\$190.10

These proposed new rates represent an overall increase of 14.7% and will increase annual income by approximately \$360,000. The rate adjustments will affect approximately 3,000 subscribers. An effective date of January 1, 2004, is requested.

Copies of the filing will be available for public inspection, by appointment, during normal working hours at the Insurance Department's regional offices in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Actuary, Life and Health Actuaries, Insurance Department, Strawberry Square, Harrisburg, PA 17120 within 30 days after the publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
Insurance Commissioner

[Pa.B. Doc. No. 03-2049. Filed for public inspection October 17, 2003, 9:00 a.m.]

### Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insured has requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68), in connection with the termination of the insured's automobile policy. The hearing 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 hearing 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 hearing will be held in the Pittsburgh Regional Office, Room 304 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Richard J. Yayo; file no. 03-308-72084; Erie Insurance Exchange; doc. no. PI03-10-006; November 5, 2003, 3 p.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. 03-2050. Filed for public inspection October 17, 2003, 9:00 a.m.]

### Roseann Smith; Prehearing

#### Appeal of Roseann Smith under 40 P. S. §§ 991.2101—991.2193; Doc. No. HC03-10-003

A telephone prehearing conference initiated by the Administrative Hearings Office shall be conducted on October 21, 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 October 14, 2003. A date for a hearing 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 29, 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 shall be filed on or before November 5, 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. 03-2051. Filed for public inspection October 17, 2003, 9:00 a.m.]

### State Farm Fire and Casualty Company; Automobile Insurance Revised Rates and Rules

On September 30, 2003, the Insurance Department (Department) received from State Farm Fire and Casualty Company a filing for a rate level change for private passenger automobile insurance.

The company requests an overall 11.9% increase amounting to \$10,628,500 annually, to be effective January 1, 2004.

Unless formal administrative action is taken prior to November 29, 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. 03-2052. Filed for public inspection October 17, 2003, 9:00 a.m.]

### State Farm Mutual Automobile Insurance Company; Automobile Insurance Revised Rates and Rules

On September 30, 2003, the Insurance Department (Department) received from State Farm Mutual Automobile Insurance Company a filing for a rate level change for private passenger automobile insurance.

The company requests an overall 4.5% increase amounting to \$54.404 million annually, to be effective January 1, 2004.

Unless formal administrative action is taken prior to November 29, 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. 03-2053. Filed for public inspection October 17, 2003, 9:00 a.m.]

## LEGISLATIVE REFERENCE BUREAU

### Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of Bulletin). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

*Governor's Office*

Manual M110.1—2004-05 Budget Instructions, Dated August 2003.



Administrative Circular No. 03-23—Designation of Agency Records Coordinators, Dated September 2, 2003.

MARY JANE PHELPS,  
Director  
*Pennsylvania Bulletin*

[Pa.B. Doc. No. 03-2054. Filed for public inspection October 17, 2003, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The Liquor Control Board seeks the following new site:

Bucks County, Wine & Spirits Shoppe #0907, 1641 Big Oak Road, Yardley, PA.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,000 net useable square feet of new or existing retail commercial space within a 1-mile radius of the intersection of Big Oak Road and Oxford Valley Road, Lower Makefield.

*Proposals due:* November 7, 2003, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128-2113  
**Contact:** Robert Jolly, (215) 482-9671

JONATHAN H. NEWMAN,  
*Chairperson*

[Pa.B. Doc. No. 03-2055. Filed for public inspection October 17, 2003, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Amended Reliability Benchmarks and Standards for Electric Distribution Companies; Doc. No. M-00991220

Under the Energy Association of Pennsylvania's request for an opportunity to file reply comments in reference to the Tentative Order regarding Amended Reliability Benchmarks and Standards for Electric Distribution Companies at M-00991220, the Pennsylvania Public Utility Commission will accept reply comments filed on or before October 27, 2003. File comments electronically with Elizabeth H. Barnes, Assistant Counsel, ebarnes@state.pa.us

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 03-2056. Filed for public inspection October 17, 2003, 9:00 a.m.]

### Procedural Order

Public Meeting held  
October 2, 2003

*Commissioners Present:* Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzingrilli; Wendell F. Holland, abstaining

*Investigation into the Obligations of Incumbent Local Exchange Carriers to Unbundle Local Circuit Switching for the Enterprise Market; Doc. No. I-00030100*

*Investigation into the Obligations of Incumbent Local Exchange Carriers to Unbundle Network Elements; Doc. No. I-00030099*

*Development of an Efficient Loop Migration Process; Doc. No. M-00031754*

### Procedural Order

*By the Commission:*

#### Background

In 1996, Congress adopted a National policy of promoting local telephone competition through the enactment of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996), codified at 47 U.S.C.A. § 151, et seq. (TA-96).<sup>1</sup> TA-96 relies upon the dual regulatory efforts of the Federal Communications Commission (FCC) and its counterpart in each of the states, including this Commission, to foster competition in local telecommunications markets by establishing broad interconnection, resale and network access requirements designed to facilitate multiple modes of entry. To this end, section 251 of TA-96 requires, among other things, an Incumbent Local Exchange Carrier (ILEC) to provide Competitive Local Exchange Carriers (CLECs) with nondiscriminatory access to its network elements on an unbundled basis.<sup>2</sup> See 47 U.S.C.A. § 251(c)(3).

In determining what ILEC network elements are to be made available to CLECs on an unbundled basis, TA-96 provides that the FCC, at a minimum, must consider whether access to unbundled network elements that are proprietary in nature are necessary and whether the failure to provide the unbundled network element would impair the ability of a CLEC to provide the retail services it seeks to offer. 47 U.S.C.A. § 251(d)(2)(A) and (B). Initially, the FCC defined impairment so as to require unbundling if "taking into consideration the availability of alternative elements outside the incumbent's network, including self-provisioning by a requesting carrier or acquiring an alternative form from a third-party supplier, lack of access to that element materially diminishes a requesting carrier's ability to provide the services it seeks to offer." *Implementation of the Local Provisions of the Telecommunications Act of 1996*, 15 FCC Rcd 3696, 3725 (1999) (UNE Remand Order).

Under this "impairment" standard, the FCC required that an ILEC provide unbundled access to the following network elements on a Nationwide basis in each geographic market: (1) loops (including dark fiber and high-capacity); (2) subloops; (3) network interface devices; (4) local circuit switching; (5) packet switching under certain

<sup>1</sup> In 1993, the General Assembly amended the Public Utility Code by adding Chapter 30, 66 Pa.C.S. §§ 3001-3009, which first introduced residents in this Commonwealth to competition in the provision of telecommunications services and flexibility in terms of pricing and profits.

<sup>2</sup> The Commission previously opened a docket to implement the requirements of the TA-96. See *Implementation of the Telecommunications Act of 1996*, Docket No. M-00960799, Order entered September 6, 1996, as reconsidered. See also *Joint Petition of Nextlink et. al. and Joint Petition of Bell Atlantic et al. and Joint Petition of Bell Atlantic et al.*, Docket Nos. P-00991648 and P-00991649, Opinion and Order entered September 30, 1999, as clarified (Global Order).

circumstances; (6) interoffice transmission facilities (including dark fiber); (7) signaling networks and call-related databases; and (8) operations support systems. UNE Remand Order, 15 FCC Rcd at 3771-3890. The FCC then added the high frequency portion of the loop to this list of unbundled network elements (UNEs) that an ILEC must offer. *Deployment of Wireline Services Offering Advanced Telecommunications Capability and Implementation of the Local Provisions of the Telecommunications Act of 1996*, 14 FCC Rcd 20912 (1999) (Line Sharing Order).

The UNE Remand Order also established that the FCC would revisit these unbundling rules every 3 years. UNE Remand Order, 15 FCC Rcd at 3766. In December, 2001, the FCC released a Notice of Proposed Rulemaking initiating its first triennial review of its policies regarding unbundled network elements. *Review of the Section 251 Unbundling Obligations of Local Exchange Carriers*, CC Docket No. 01-338, et al., Notice of Proposed Rulemaking, FCC 01-361 (rel. December 20, 2001).

Meanwhile, sundry ILECs and the United States Telecom Association (USTA)<sup>3</sup> filed an appeal of the FCC's UNE Remand and Line Sharing Orders in the United States Court of Appeals for the District of Columbia Circuit. On May 24, 2002, the D. C. Circuit Court remanded the FCC's unbundling rules established in the UNE Remand Order. *United States Telecom Ass'n v. Fed. Communications Comm'n*, 290 F.3d 415 (D. C. Cir. 2002), cert. denied, *WorldCom, Inc. v. United States Telecom Ass'n*, 155 L. Ed. 2d 344, 123 Sup. Ct. 1571 (2003). However, because the UNE Remand Order was not vacated, the FCC's unbundling rules for network elements were to remain in effect while the FCC re-examined its rules. In addition, the Court also vacated and remanded the FCC's Line Sharing Order.<sup>4</sup> Id.

On February 20, 2003, the FCC adopted new rules concerning an ILEC's obligation to make UNEs available to competing carriers. On August 21, 2003, the FCC released its long-awaited Triennial Review Order that it adopted 6 months earlier on February 20, 2003.<sup>5</sup> In the Triennial Review Order, the FCC adopts rules which establish a new standard for determining the existence of impairment under section 251(d)(2) of TA-96 and sets forth a new list of UNEs. Additionally, the FCC applies its unbundling analysis to individual elements in a more granular manner than before. Under this more granular approach, impairment varies by geographic location, customer class and service, including a consideration of the type and capacity of the facilities to be used.

Generally, the FCC requires that an ILEC provide unbundled access to the following network elements on a Nationwide basis: (a) local loops at §§ 197-342; (b) subloops at §§ 343-358; (c) network interface device at §§ 343-358; (d) local circuit switching at §§ 419-532; related shared transport at §§ 533-534; related signaling networks at §§ 542-548; related call-related databases at §§ 549-560; and related OS/DA (exception applies) at § 560; (e) dedicated transport at §§ 359-418; (f) 911 and E911 databases at § 557; and (g) operations support systems at §§ 561-568. OCn loops are removed,

subject to a transition scheme at §§ 315-319. Packet switching, including routers and DSLAMs, is removed entirely at §§ 535-541.

In addition, as a separate matter, the FCC requires state commissions to establish an ILEC batch cut process or issue detailed findings explaining why a batch cut process is unnecessary within 9 months of the effective date of the order. TRO §§ 464-475, 486-492 and 527. This requirement is designed to alleviate impairment associated with switching for mass market customers.

As a preliminary matter, the Commission emphasizes that as this order is implemented, the terms of an interconnection agreement may prohibit an ILEC from unilaterally discontinuing the provision of service on the ground that there is a change of law.<sup>6</sup> Furthermore, the Commission underscores our recent order, *Petition of Verizon Pennsylvania, Inc. for a Determination That its Provision of Business Telecommunications Services to Customers Generating Less Than \$10,000 in Annual Total Billed Revenue is a Competitive Service Under Chapter 30 of the Public Utility Code*, Docket No. P-00021973, Order entered August 13, 2003, wherein we stated that for any telecommunications service for which a Pennsylvania ILEC obtains competitive designation under Chapter 30, the ILEC is required, independent of Federal requirements, to unbundle basic service functions used to provide that local service. See 66 Pa.C.S. § 3005(e) (requiring unbundling of basic service functions); see also 47 U.S.C.A. § 271 (requiring Verizon PA to provide access to certain network elements).

#### Discussion

Not coincidentally, this Procedural Order is being adopted on the effective date of the FCC's Triennial Review Order, October 2, 2003. The purpose of this Procedural Order is to provide details regarding the process and procedure that will be used to implement the FCC's Triennial Review Order. This Procedural Order will serve as a guide by which the Commission will gather the information necessary to make its determination and set up the proceedings. The Commission also reserves the right to adjust the processes and procedures, as may be needed.

#### A. Investigation into the Obligations of ILECs to Unbundle Local Circuit Switching for the Enterprise Market (90-day proceeding)

As of October 2, 2003, the Commission has 90 days to rebut a National finding of no impairment regarding unbundled switching for the enterprise market, absent any additional time granted by the FCC.<sup>7</sup> Under the Triennial Review Order, the FCC has made a presumptive finding that CLECs are not impaired without unbundled local circuit switching when serving the enterprise market. Under this framework, however, the FCC has provided state commissions 90 days to rebut this presumption, if the state commissions so choose. Thus, under the findings in the Triennial Review Order, an ILEC is not required to provide access to local circuit switching on an unbundled basis to requesting telecommunications carriers for the purpose of serving end-user customers using DS1 capacity or above loops. TRO at §§ 451-458; 47

<sup>3</sup> USTA is a trade association representing service providers and suppliers for the telecom industry. USTA's 1,200 member companies offer a wide range of services, including local exchange, long distance, wireless, Internet and cable television service.

<sup>4</sup> On September 4, 2002, the D. C. Circuit Court granted a partial stay of the mandate, thereby staying the vacation of the Line Sharing Order in light of the pending completion of the FCC's triennial review decision. *United States Telecom Ass'n v. Fed. Communications Comm'n*, 2002 U.S. App. LEXIS 18823 (2002).

<sup>5</sup> *Review of the Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers*, CC Docket No. 01-338, Report and Order (rel. Aug. 21, 2003) (FCC 03-36), as corrected by errata, FCC 03-227 issued on September 17, 2003 (Triennial Review Order or TRO).

<sup>6</sup> See *In the Matter of the Petition of MCI Telecommunications Corp. for Emergency Declaratory Ruling and Enforcement of Interconnection Agreement with Bell Atlantic-Pennsylvania, Inc.*, Docket No. A-310236F0002, Order entered December 11, 2001 (Verizon required to submit to contractual dispute resolution procedures prior to modifying or terminating the provision of UNE-P based on a change in applicable law).

<sup>7</sup> We note that DSCI Corporation, InfoHighway Communications Corporation and Manhattan Telecommunications Corporation d/b/a Metropolitan Telecommunications have already petitioned the FCC to stay the 90-day proceeding charging that the FCC severely limited UNE-P carriers sufficient time to present evidence showing impairment.

CFR 51.319(d)(3). This FCC determination is based on record evidence that establishes that there are few barriers to deploying competitive switches to serve customers in the enterprise market at DS1 capacity and above, and therefore no operational or economic impairment on a National basis. TRO at ¶ 451.

Although the FCC found no impairment on a National basis, it recognized that a geographically specific analysis could possibly demonstrate that competitive carriers are impaired without access to unbundled local circuit switching for DS1 enterprise customers in a particular market. TRO at ¶ 454. We agree with the FCC that a geographically specific analysis could possibly rebut the National finding of no impairment. This conclusion is based upon our review of the evidence cited in support of the National finding. Much of the evidence is a broad brush look at conditions Nationally. There is evidence regarding Verizon generally, which would have some relevance to Pennsylvania, and an occasional reference to certain densely populated Pennsylvania localities such as Pittsburgh. There is also some aggregate data specific to Pennsylvania. But, we could find no evidence specific to much of the service territory served by Pennsylvania ILECs, including Verizon Pennsylvania Inc., especially the less densely populated areas.<sup>8</sup>

Our staff has been contacted by a handful of CLECs that believe they can demonstrate impairment if they do not have access to Verizon's local circuit switching for DS1 capacity and above. These CLECs have expressed an intent to present evidence that will show that the National finding of no impairment does not apply to particular geographic markets in Pennsylvania.

The FCC has encouraged these CLECs to come forward with their evidence by permitting state commissions to rebut the National finding of no impairment by undertaking a more granular analysis utilizing certain economic and operational criteria. TRO at ¶¶ 454—458; 47 CFR 51.319(d)(3)(i). This undertaking must be completed in no more than 90 days from the effective date of the TRO, which calculates to December 31, 2003. TRO at ¶ 455. If the state commission fails to act, the FCC will issue a finding within 90 days of assuming responsibility. TRO at ¶ 190, n. 606.<sup>9</sup>

The Commission appreciates the opportunity to conduct the geographic specific analysis required to avoid potentially harmful consequences on the viability of competition in various parts of Pennsylvania, especially the most rural areas. The Commission believes Pennsylvania CLECs wishing to present a case should be heard. Given the National finding of no impairment, we tentatively conclude there is no impairment in Pennsylvania. Therefore, any CLEC desiring to contest the presumption of nonimpairment must bear the burden of proving impairment. Any petition contesting impairment is due by October 15, 2003, for the Commission's consideration.

### 1. Impairment Standard

<sup>8</sup> We have recently acknowledged that a "one size fits all" approach is not appropriate when evaluating Verizon PA's service territory given the geographic differences that exist. See *Petition of Verizon Pennsylvania Inc. for a Determination That its Provision of Business Telecommunications Services to Customers Generating Less Than \$10,000 in Annual Total Billed Revenue is a Competitive Service Under Chapter 30 of the Public Utility Code*, Docket No. P-00021973, Order entered August 13, 2003, reconsideration pending (Business Services Case).

<sup>9</sup> FCC staff has informed us that there is some ambiguity in the FCC's Triennial Review Order concerning the FCC's willingness to assume responsibility. TRO at ¶ 455 (requiring state commissioners to petition the FCC to waive the finding of no impairment). Nevertheless, the Commission believes that the FCC has indicated it would accept responsibility. TRO at ¶190, n. 606; 47 CFR 51.320 (specifically providing for assumption of responsibility); see also *MCI Telecom. Corp. v. Bell Atlantic-PA*, 271 F.3d 491, 511 (3d Cir. 2001) (holding that a state commission is free to accept or reject participation in the federal scheme).

In the Triennial Review Order, the FCC established that a requesting carrier is not impaired without access to local circuit switching to serve end users using DS1 capacity and above loops, unless a state commission can show the FCC that operational or economic barriers exist in a particular geographic market. In making this showing, state commissions must consider the following operational characteristics: ILEC performance in provisioning loops, difficulties associated with obtaining collocation space and difficulties associated with obtaining cross-connects in the ILECs wire center. State commissions must also consider the following economic characteristics: cost of entry into a particular market, potential revenues and prices carriers are likely to be able to charge based on consideration of the ILECs retail rates. TRO at ¶¶454—458; FCC Rule 51.319(d)(3)(i).

### 2. Procedural Rules

Any CLEC seeking to persuade the Commission to make a showing to rebut the National finding must file a Petition to Initiate Proceeding with the Commission's Secretary's Bureau in the 90-day proceeding Docket by October 15, 2003. Any filings should reference the previous investigation caption and the assigned investigation docket number. The Petition to Initiate Proceedings should contain the names, telephone numbers and e-mail addresses for: (1) the company representative who will be the contact person for official Commission documents; (2) the point person for all discovery requests; and (3) any expert witnesses. The Petition to Initiate Proceeding should address applicable matters of law, policy and facts, including the requirements of the Triennial Review Order. In addition, the Petition must explicitly establish standing by identifying the number of existing customers it has that are served using a combination of unbundled local circuit switching and unbundled DS1 capacity or above loops.

Any petitions will be consolidated into a single proceeding. Upon the receipt of a Petition to Initiate Proceeding, an Administrative Law Judge (ALJ) will be assigned to hold a hearing and otherwise develop the record for certification to the Commission.

The Commission directs that in addition to the regular manner of filing and service, one electronic copy of each Petition to Initiate should be submitted with the Secretary, with reference to the applicable docket number. Any Petition to Initiate Proceeding and Petition to Intervene should include all pertinent e-mail addresses to facilitate an electronic exchange of information during the proceeding.

Further, any petitioning CLEC must serve a copy of the Petition upon the subject ILEC by overnight mail (or in hand delivery) and e-mail. Answers to any petition are due by October 20, 2003, and they must be served upon the petitioner by overnight mail (or in hand delivery) and e-mail. Petitions to Intervene are also due on October 20, 2003, and must be served as expeditiously as possible.

Given the condensed timeframe set forth in the TRO, we must necessarily truncate our normal processes. The assigned ALJ will not issue a recommended decision, rather he or she will preside over the development of the record and certify the record to the Commission on or before October 31, 2003. Thereafter, parties may file one brief for the Commission's consideration. Briefs are due November 17, 2003. In addition to the normal requirements, parties shall provide a copy of their briefs to the Law Bureau and the Bureau of Fixed Utilities. These bureaus shall recommend whether the Commission

should make a showing to rebut the National finding. Their recommendation shall be made in the form of a public meeting order for consideration at our public meeting on December 18, 2003. If the Commission decides to rebut the National finding, staff will be directed to prepare and file the necessary filing before the FCC.

### 3. Procedural Schedule

We note that our decision regarding whether the failure to provide unbundled access to the above network elements meets the "impairment" standard during the 90-day proceeding will be an adjudication pursuant to the Administrative Agency Law, 2 Pa.C.S. § 101 (definition of "adjudication"). Accordingly, the same administrative rules and procedures that typically apply to an on-the-record, contested hearing before the Commission will also apply here. That is, *inter alia*, the Commission's *ex parte* rules, the Commission's rules governing proprietary information and the Commission's rules of administrative practice and procedure will apply. Moreover, as a final adjudication, the parties will have the same appellate rights that accompany the issuance of any final Commission order.

Following is a timeline for the beginning and ending stages of the 90-day proceeding. The assigned ALJ will provide further guidance on due dates for any discovery, testimony and hearings, and shall otherwise regulate the conduct of this proceeding. Be advised that the following is the Commission's schedule and we reserve the right to suspend or revise it as may be necessary.

October 2, 2003	Triennial Review Order effective
October 15, 2003	Petitions to Initiate Proceedings due
October 20, 2003	Petitions to Intervene and Answers due
October 31, 2003	Last possible date for Hearing and Certification of the Record
November 17, 2003	Briefs due, including service upon Law Bureau and Bureau of Fixed Utility Services
December 18, 2003	Public meeting vote
December 31, 2003	Deadline for PA PUC petition to the FCC, if necessary.

### B. Investigation into the Obligations of ILECs to Unbundle Network Elements (9-month proceeding)

In the Triennial Review Order, the FCC also provides that within 9 months of the effective date of the order (that is, by June 2, 2004), state commissions may conduct a granular analysis to determine whether ILECs in that state must continue to provide access to certain network elements. To this end, the Commission must determine whether ILECs in Pennsylvania must continue to provide competing carriers with access to: (1) mass market high-capacity loops; (2) mass market switching; and (3) dedicated transport.

#### 1. Impairment Standard

In the Triennial Review Order, the FCC established specific criteria that states shall apply to determine, on a granular basis, whether economic and operation impairment exists in a particular market for the previously referenced network elements. According to the FCC, a requesting carrier is impaired when lack of access to an ILEC network element poses barriers to entry, including operation and economic barriers that are likely to make entry into a market uneconomic. The barriers include scale economics, sunk costs, first-mover advantages and barriers within the control of an ILEC. The FCC further notes that this unbundling analysis is to consider market-

specific variations, including customer class, geography and service.<sup>10</sup> Per the directions of the FCC, these are the standards that the Commission will use to make its determination.

Given the National findings of impairment, we tentatively conclude there is impairment in Pennsylvania. Therefore, any ILEC desiring to contest the presumption of impairment must bear the burden of proving nonimpairment. The Commission offers this brief summary of the 9-month proceeding for interested parties; the full scope and nature of the necessary inquiry, however, shall be made in accordance with the rules set forth in Appendix B of the Triennial Review Order and its explanatory text.

#### a. LOOPS

##### i) DS1 Loops:

a) The Commission will find a requesting telecommunications carrier is not impaired without access to a DS1 loop if the evidence shows two or more nonaffiliated competing providers have deployed their own DS1 facilities, offer wholesale access to their facilities and the facilities reach entire customer location. See FCC Rule 319(a) and related TRO text.

##### ii) DS3 Loops:

a) The Commission will find a requesting telecommunications carrier is not impaired if the evidence shows two or more nonaffiliated competing providers have deployed their own DS3 facilities, offer wholesale access to their facilities and the facilities reach entire customer location.

b) The Commission will find no impairment at a specific customer location if the evidence shows two or more nonaffiliated competing providers have either: (a) each deployed its own facilities at that location and is serving customers via those facilities at that location; or (b) each deployed DS3 facilities by attaching its own optronics to activate dark fiber transmission facilities obtained on a long-term infeasible right-to-use (RTU) basis and is serving customers via those facilities at that location. See FCC Rule 319(a) and related TRO text.

##### iii) Dark Fiber Loops:

a) The Commission will find no impairment at specific customer location if the evidence shows two or more nonaffiliated competing providers have deployed their own dark fiber facilities at that location on a long-term infeasible RTU basis. For purposes of making this determination, a competing provider that has obtained those dark fiber facilities under a long-term infeasible right of use shall be considered a competing provider with its own dark fiber facilities. Dark fiber purchased on an unbundled basis from the ILEC shall not be considered under this section. See FCC Rule 319(a) and related TRO text.

##### iv) General Inquiry:

In formulating a position on these issues, interested parties should propose how the Commission should define "specific customer location" and whether the Commission has essentially adopted a "specific customer location" when it established a locational definitional for purposes of the availability of UNE-P on a total billed revenue basis. See *Further Pricing of Verizon Pennsylvania Inc.'s Unbundled Network Elements*, Order at 16 (entered May 1, 2003) at Docket No. R-00005261 and related decisions.

<sup>10</sup> It is our intent to develop the appropriate market definition for application in the 9-month proceeding based upon the record developed in the 9-month proceeding. Any markets definition developed in any 90-day proceeding will not dictate the definition used in the 9-month proceeding.

Interested parties should consider what standards apply to determine whether intermodal providers of service provide service that is “comparable in quality to that of the incumbent LEC” and which, if any, of our existing service quality requirements should apply? See, for example, 52 Pa. Code Chapter 63 (setting forth the telephone service standards). In addition, parties should address how relevant, if at all, is the Form 477 data compiled semiannually by the FCC to our review in any proceedings under the Triennial Review Order.<sup>11</sup>

b. *SWITCHING*

i) *Local Switching:*

a) The Commission will find a requesting telecommunications carrier is not impaired in a particular market if the evidence shows two or more nonaffiliated competing providers have their own switches in that market and offer wholesale local switching service to customers serving DSO capacity loops.

b) The Commission will find no impairment in a particular market if the evidence shows three or more nonaffiliated competing providers are serving mass market customers in the particular market with use of their own switches. See FCC Rule 319(d) and related TRO text.

ii) *General Inquiry:*

In formulating comments and answering questions on this issue, interested parties should propose how the Commission should determine the “relevant geographic area to include in each market” when considering the mass market addressed in the Triennial Review Order. Parties should also address whether the Commission has already adopted an applicable market definition in either the Global Order at p. 90 (addressing UNE-P availability) or its recent Business Case under Chapter 30 and explain why or why not. *Business Services Case*, supra. Another issue to consider is whether there is a useful definition of geographic market suggested by a regulatory or court decision.<sup>12</sup>

c. *TRANSPORT*

i) *Dedicated DS1 Transport:*

a) The Commission will find a requesting telecommunications carrier is not impaired if the evidence shows two or more nonaffiliated competing providers have developed their own transport facilities that are operationally ready to provide dedicated DS1 transport along the particular route, offer transport on widely available basis, the facilities terminate in a collocation arrangement and reasonable nondiscriminatory access is obtainable through a cross-connect of the collocation arrangement at each end of the transport route. See FCC Rule 319(e) and related TRO text.

ii) *Dedicated DS3 Transport:*

a) The Commission will find a requesting telecommunications carrier is not impaired if the evidence shows that two or more nonaffiliated competing providers have deployed their own transport facilities that are operationally ready to provide dedicated DS3 transport along the particular route, offer dedicated DS3 transport along the particular route on a widely available basis, that the facilities terminate in a collocation arrangement and that reasonable and nondiscriminatory access is obtainable

through a cross-connect to the collocation arrangement at each end of the transportation route.

b) The Commission will find no impairment along a particular route if the evidence shows three or more nonaffiliated competing providers each has deployed its own transport facilities, is operationally ready to use those facilities to provide dedicated DS3 transport along the particular route and the facilities terminate at a collocation arrangement at each end of the transport route. See FCC Rule 319(e) and related TRO text.

iii) *Dark Fiber Transport:*

a) The Commission will find a requesting telecommunications carrier is not impaired if the evidence shows two or more nonaffiliated competing providers have sufficient quantities of dark fiber available to satisfy current demand (optional), have deployed their own dark fiber that is operationally ready for lease or sale, provide on a widely available basis dark fiber along the particular route, which dark fiber terminates in a collocation arrangement, and reasonable and nonaccess is obtainable through interconnect at each end of transport route.

b) The Commission will find no impairment along a particular route if the evidence shows three or more nonaffiliated competing providers each has deployed its own dark fiber facilities obtained on a long-term infeasible RTU basis and the facilities terminate in a collocation arrangement at each end of the transportation route. See FCC Rule 319(e) and related TRO text.

iv) *General Inquiry:*

Parties should propose how the Commission should identify the “particular routes” that are relevant to the impairment analysis.

2. *Potential Deployment Analysis*

We believe it may be most appropriate to consider potential deployment as part of any continuing review, if necessary. If the impairments triggers set forth by the FCC are not satisfied and an incumbent wishes to pursue relief under a “potential deployment analysis,” the Commission suggests that the party file for appropriate relief upon the conclusion of our 9-month investigation. If the incumbent is unwilling to take this course, then the incumbent should propose to the ALJ a feasible way of accomplishing the potential deployment analysis within the 9-month proceeding.

In the event this analysis is necessary, the Commission provides the following guidelines.

1. *DS3 Loops:* The Commission will find no impairment at specific customer locations if other evidence shows that a requesting telecommunications carrier is not impaired without access to an unbundled DS3 Loop at a specific customer location. To make this determination, the Commission must consider the following factors: (1) evidence of alternative loop development at that location; (2) local engineering costs of building and utilizing transmission facilities; (3) cost of underground or aerial laying of fiber or copper; (4) cost of equipment needed for transmission; (5) installation and other necessary costs involved in setting up service; (6) local topography such as hills and rivers; (7) availability of reasonable access to rights-of-way; (8) building access restrictions/costs; and (9) availability/feasibility of similar quality/reliability alternative transmission technologies at that particular location. See FCC Rule 319(a) and related TRO text.

2. *Dark Fiber Loops:* The Commission will find no impairment at specific customer locations if other evi-

<sup>11</sup> The Commission has access to the Pennsylvania source data, under a data sharing agreement with the FCC. This data includes data collected from intermodal providers of service.

<sup>12</sup> See, for example, *In the Applications of NYNEX Corp., Transferor, and Bell Atlantic Corp., Transferee, Memorandum Order and Opinion* (rel. Aug. 14, 1997), at FCC File No. NSD-L-96-10 (FCC 97-286), at ¶¶ 49–94 (discussing relevant markets and market participants).

dence shows that a requesting telecommunications carrier is not impaired without access to an unbundled DS3 Loop at a specific customer location. To make this determination, the Commission must consider the following factors: (1) evidence of alternative loop development at that location; (2) local engineering costs of building and utilizing transmission facilities; (3) cost of underground or aerial laying of fiber or copper; (4) cost of equipment needed for transmission; (5) installation and other necessary costs involved in setting up service; (6) local topography such as hills and rivers; (7) availability of reasonable access to rights-of-way; (8) building access restrictions/costs; and (9) availability/feasibility of similar quality/reliability alternative transmission technologies at that particular location. See FCC Rule 319(a) and related TRO text.

3. *Local Switching*: The Commission will find no impairment in a particular market if other evidence shows that self-provisioning of local switching is economic based on the following criteria: (1) evidence of actual deployment; (2) operational barriers; (3) economic barriers; and (4) multiline DSO end users. See FCC Rule 319(d) and related text.

4. *DS3 Transport*: The Commission will find no impairment if the evidence shows that a requesting telecommunications carrier is not impaired without access to unbundled dedicated DS3 transport along a particular route. To make this determination, the Commission will consider: (1) local engineering costs of building and utilizing transmission facilities; (2) cost of underground or aerial laying of fiber or copper; (3) cost of equipment needed for transmission; (4) installation and other necessary costs involved in setting up service; (5) local topography such as hills and rivers; (6) availability of reasonable access to rights-of-way; (7) availability/feasibility of similar quality/reliability alternative transmission technologies along the particular route; (8) customer density or addressable market; and (9) existing facilities-based competition. See FCC Rule 319(e) and related TRO text.

5. *Dark Fiber Transport*: The Commission will find no impairment if the evidence shows that a requesting telecommunications carrier is not impaired without access to unbundled dark fiber transport along a particular route. To make this determination, the Commission will consider: (1) local engineering costs of building and utilizing transmission facilities; (2) cost of underground or aerial laying of fiber or copper; (3) cost of equipment needed for transmission; (4) installation and other necessary costs involved in setting up service; (5) local topography such as hills and rivers; (6) availability of reasonable access to rights of way; (7) availability/feasibility of similar quality/reliability alternative transmission technologies along the particular route; (8) customer density or addressable market; and (9) existing facilities-based competition. See FCC Rule 319(e) and related TRO text.

### 3. Procedural Rules

Any ILEC seeking review of its unbundling obligations must file a Petition to Initiate Proceeding with the Commission's Secretary's Bureau at the 9-month proceeding Docket by October 31, 2003.<sup>13</sup> Any filings should reference the previous investigation caption and the assigned investigation docket number. The Petition to Initiate Proceedings should contain the names, telephone numbers and e-mail addresses for: (1) the company

<sup>13</sup> Due to the time constraints imposed by the Triennial Review Order, all petitions for a 9-month initial review must be filed by Oct. 31, 2003. Petitions for continuing review will be accepted no earlier than October 2, 2004, absent extraordinary circumstances.

representative who will be the contact person for official Commission documents; (2) the point person for all discovery requests; and (3) any expert witnesses. The Petition to Initiate Proceeding should address applicable matters of law, policy, and facts, including the requirements of the Triennial Review Order. In addition, the petition should answer the questions following this order in Appendix A. Any ILEC filing a Petition to Initiate Proceeding must serve the CLECs listed in footnote 14.

Any petitions will be consolidated into a single proceeding, including any petition regarding loops, switching and transport. Upon the receipt of a Petition to Initiate Proceeding, an ALJ will be assigned to develop the record and make a determination.

The Commission directs that in addition to the regular manner of filing and service, one electronic copy of each petition to initiate should be submitted with the Secretary, with reference to the applicable docket number. Any Petition to Initiate Proceeding, Answer or Petition to Intervene should include all pertinent e-mail addresses to facilitate an electronic exchange of information during the proceeding.

The Commission emphasizes that parties are not required to intervene. However, to fulfill the FCC's directive, certain information must be collected from CLECs to evaluate Petitions. Consequently, under the Commission's authority under sections 504, 505 and 506 of the Public Utility Code as well as the authority delegated by the FCC to conduct these proceedings, certain CLECs and intervenors are instructed to answer the following list of questions in Appendix A.<sup>14</sup> Necessary CLEC representatives may be called as witnesses under the Commission's subpoena power, if necessary. See 66 Pa.C.S. § 333(f) and (j). Any interested party must file a Petition to Intervene (if applicable) and Answer by November 14, 2003.

To the extent possible, the Commission will endeavor to access information already available to it and efficiently make use of its resources in an effort to avoid burdening other parties. Commission Prosecutory Staff will have access to portions of the current Local Exchange Routing Guide (LERG) free of charge. Carriers use the LERG to rate and route calls over the public switched network, therefore, it may prove helpful in state proceedings implementing the FCC's Triennial Review Order. Staff will also have access to FCC Form 477 to efficiently gather and collect data.

### 4. Procedural Schedule

We note that our decision regarding whether the failure to provide unbundled access to the previous network elements meets the "impairment" standard during the 9-month proceeding will be an adjudication under the Administrative Agency Law, 2 Pa.C.S. § 101 (definition of "adjudication"). Accordingly, the same administrative rules and procedures that typically apply to an on-the-record, contested hearing before the Commission will also apply here. That is, *inter alia*, the Commission's *ex parte* rules, the Commission's rules governing proprietary information and the Commission's rules of administrative

<sup>14</sup> CLEC responses to questions are due on November 14, 2003. To reduce the burden on the community at large, the following limited list of CLECs must file responses to the questions in Appendix A: AT&T Communications of Pa., Inc.; Adelphia Business Solutions of Pa., Inc.; Allegiance Telecom of Pennsylvania, Inc.; ATX Licensing, Inc.; Cavalier Telephone Mid-Atlantic; CEI Networks, Inc.; Choice One Communications of Pa., Inc.; ComCast Phone of Pennsylvania; CTSI Incorporated, Inc.; CTC Communications Corp.; Focal Communications Corporation of Pa.; Intermedia Communications, Inc.; Level 3 Communications; MCI WorldCom Communications, Inc.; MCI Metro Access Transmission Services, LLC; Metro Teleconnect Companies, Inc.; PECO Hyperion Telecommunications; Penn Telecom; RCN Telecom Services, Inc.; RCN Telecom of Phil.; Sprint Communications Company, LP; Talk America, Inc.; TCG Delaware Valley, Inc.; TCG Pittsburgh; XO Pennsylvania, Inc.; and Z-Tel Communications Inc., LLC.

practice and procedure will apply. Moreover, as a final adjudication, the parties will have the same appellate rights that accompany the issuance of any final Commission order.

Following is a timeline for the beginning and ending stages of the 9-month impairment proceeding. The assigned ALJ will provide further guidance on due dates for any discovery, testimony and hearings, and shall otherwise regulate the conduct of this proceeding. Be advised that the following is the Commission's schedule and we reserve the right to suspend or revise it as may be necessary.

October 2, 2003	Triennial Review Order effective
October 31, 2003	Petitions to Initiate Proceedings with accompanying ILEC responses due (see Appendix A)
November 14, 2003	Petitions to Intervene and Answers due CLEC's Response to Questions/Comments due (see Appendix A)
April 1, 2004	ALJ Recommended Decision
April 16, 2004	Exceptions
April 27, 2004	Reply Exceptions
May 27, 2004	Commission Decision

### C. Development of an Efficient Loop Migration Process

We now turn to our discussion of the development of a batch cut process or other efficient loop migration process, for example, electronic loop provisioning, for switching mass market customers from one carrier to another. The Triennial Review Order requires a determination on a process to ensure that carriers can compete effectively in the market place.

#### 1. Discussion

For the incumbent, connecting or disconnecting a customer is generally merely a matter of software change. TRO at ¶ 465. In contrast, a competitive carrier must overcome the economic and operational barriers associated with manual hot cuts. TRO at ¶ 465. The hot cut cost assessed by the incumbent is a nonrecurring, per-line charge on competitive carriers that connect their own switches to unbundled loops. TRO at ¶ 470. Although hot cut costs vary among incumbents, the FCC found on a National level that these costs contribute to a significant barrier to entry. TRO at ¶ 470. Operationally, the FCC also found that it is unlikely that incumbents will be able to provision hot cuts in sufficient volumes absent unbundled local circuit switching in all markets. TRO at ¶ 468. For these reasons, and others discussed in the Triennial Review Order, the FCC concluded that the overall impact of the current hot cut process "raises competitors' costs, lowers their quality of service, and delays the provisioning of service, thereby preventing them from serving the mass market in the large majority of locations." TRO at ¶ 473.

To eliminate the operational and economic barriers arising from the existing hot cut process, the FCC has asked state commissioners to review and approve a batch cut migration process to be implemented by incumbents that will address the costs and timeliness of the existing hot cut process. TRO at ¶¶ 488—492; see also 47 CFR 51.319(d)(2)(ii). The state commissioners may decline to institute a batch cut process so long as it details its reasons. Satisfactory reasons to decline may include the existence of electronic loop provisioning or the lack of a significant volume of customer migrations for a wire center. TRO at ¶¶ 487 n. 1517, 490 and 491. Generally,

incumbent proposed Frame Due Time and project managed approaches would not be an adequate basis to decline. TRO at ¶ 474.

During our review of Verizon PA's Section 271 application, we concluded that Verizon PA is able to comply with its existing hot cut process, and is in fact, complying. Consultative Report of the PA PUC, filed June 26, 2001, with the FCC at CC Docket No. 01-138, pp. 131, 145—48 and Appendix D at pp. 12—14. Since then, Verizon has continued to adequately perform under the existing process, as demonstrated by data collected under our Performance Assurance Plan. Therefore, we take no issue with Verizon PA's hot cut performance.

Nevertheless, the Commission has long held a concern as to whether the process should remain unchanged. When the Commission decided to refrain from structurally separating Verizon PA, we conditioned our discussion, in part, upon Verizon's willingness to conduct a technical trial of electronic loop provisioning. See *Re: Structural Separation of Bell Atlantic-Pennsylvania, Inc. Retail and Wholesale Operations*, Docket No. M-00001353, Order entered April 11, 2001. Verizon agreed to the condition and has submitted a proposal for conducting the trial. See Letter from Julie Conover dated May 14, 2001. The time is now ripe for moving forward, especially in light of the FCC's release of the Triennial Review Order. We also note the FCC staff's comments on Verizon's hot cut process in the Virginia arbitration. The FCC staff found that "[w]ith an efficient OSS in place, there should be limited need for the types of manual coordination activities that Verizon claims are necessary." *In the Matter of Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*, (FCC-DA 03-2738) released on August 29, 2003, at para. 604.

The Commission hereby directs staff to convene a technical conference to evaluate the feasibility of ELP. Staff shall report to the Commission on November 3, 2003, and provide other reports as necessary. The Commission further directs staff to conduct a technical conference to develop a batch cut process in Pennsylvania.<sup>15</sup> Staff is directed to recommend approval of an appropriate batch cut process or otherwise recommend why such a process is not necessary within 9 months of the effective date of the Triennial Review Order. The Bureau of Fixed Utility Services (FUS) staff shall take the lead, assisted by Law Bureau and any other staff deemed appropriate by our Executive Director. Staff may consider combining the electronic loop and deployment of a batch cut process technical conferences, to the extent practicable. Staff may also accommodate any requests to proceed with the development of these very technical issues on a regional basis. Parties should also be cognizant of the Commission's ongoing efforts to develop carrier migration guidelines, to the extent there are common issues. See *Notice of Proposed Rulemaking Re: Changing Local Service Providers and Interfering Stations*, Docket No. L-00030163.

<sup>15</sup> We note that Verizon PA and Verizon North have a combined OSS obligations. *In re Application of GTE Corp., Transferor, and Bell Atlantic Corp., Transferee, Memorandum Opinion and Order* (rel. June 16, 2000), CC Docket No. 98-184 (FCC 00-221), at paras. 285—287 (requiring GTE and Bell Atlantic to establish a uniform enhanced OSS). Staff shall make use of the hot cut data collected from Verizon PA on a monthly basis to the extent the data is relevant, for example, aggregate data on the volume of hot cuts performed by Verizon PA. The volume data is associated with metric PR-9-01-3520 in the denominator. According to the June 1, 2003, report, Verizon PA performed 878 hot cuts in the relevant month with a 98.18% on time rate. The highest volume reported historically is on the April 1, 2002, report, where Verizon PA reported 3,009 hot cuts in 1 month with a 98.47% on time rate.

## 2. Procedural Rules

This technical proceeding will be conducted by FUS along with Law Bureau assistance and other Bureaus as needed. FUS staff will conduct a loop migration technical conference encompassing the previously ordered Verizon electronic loop provisioning trial and the development of a Verizon batch cut process. Interested parties are directed to contact the FUS Telecommunications Manager by October 31, 2003.<sup>16</sup> Thereafter, any filing should be addressed in the Miscellaneous Docket referenced at the beginning of this Order.<sup>17</sup>

Verizon is directed to answer the questions following this order in Appendix B (Questions to Verizon). Other entities interested in participating in the technical conference should answer the questions following this order in Appendix B (Questions for Other Participants). All answers are due by October 31, 2003, and should be filed at the M Docket previously cited with an electronic copy provided to the FUS Telecom Manager.

The Commission directs FUS to provide the Commission with periodic progress reports due on November 3, 2003, January 7, 2004, February 13, 2004, and April 15, 2004. These interim reports will be made available to the public and posted on the Commission's website. These interim reports should, *inter alia*, include a status report that will keep the Commission updated and informed as to the proceeding's progress. FUS shall provide a final recommendation reflecting a consensus to the Commission on or before May 13, 2004, for approval at a public meeting.

If the parties are not making satisfactory progress toward a consensus recommendation, staff is directed to inform the Commission immediately. If no consensus is foreseeable, the Commission will take appropriate action to impose a process or otherwise meet the requirements of the FCC's Triennial Review Order.

### D. Protective Order

In recognition that documents, information and other materials submitted to the Commission and provided to the parties in the course of this proceeding may represent or contain proprietary or highly confidential information, the Commission will enter a Protective Order and will adopt a Form Confidentiality Agreement to ensure that proprietary or confidential information is afforded protection from unwarranted disclosure, while permitting parties appropriate access to this information. The details of the Protective Order are found in a separate order issued concurrently this day.

Therefore,

*It Is Ordered That:*

1. Proceedings are hereby instituted to undertake the state commission analyses required and described in the FCC's Triennial Review Order.

2. In regard to the 90-day proceeding, parties participating in this investigation shall follow the rules and procedures outlined in this Order including:

a. Filing any Petition to Initiate Proceeding by October 15, 2003.

b. A petitioning CLEC must serve the affected ILEC by overnight mail (or in hand).

c. Filing any Petition to Intervene or Answer by October 20, 2003.

3. In regard to the 9-month proceeding, parties participating in this investigation shall follow the rules and procedures outlined in this order including:

a. Filing any Petition to Initiate Proceeding by October 31, 2003.

b. A petitioning ILEC must serve the CLECs in Ordering Paragraph No. 4, with a copy of the Petition to Initiate Proceeding on or before October 31, 2003.

c. Filing any Petition to Intervene or Answer by November 14, 2003.

4. In regard to the 9-month proceeding, the following CLECs must file responses to the following questions in Appendix A by November 14, 2003: AT&T Communications of Pa., Inc.; Adelphia Business Solutions of Pa., Inc.; Allegiance Telecom of Pennsylvania, Inc.; ATX Licensing, Inc.; Cavalier Telephone Mid-Atlantic; CEI Networks, Inc.; Choice One Communications of Pa., Inc.; ComCast Phone of Pennsylvania; CTSI Incorporated, Inc.; CTC Communications Corp.; Focal Communications Corporation of Pa.; Intermedia Communications, Inc.; Level 3 Communications; MCI WorldCom Communications, Inc.; MCImetro Access Transmission Services, LLC; Metro Teleconnect Companies, Inc.; PECO Hyperion Telecommunications; Penn Telecom; RCN Telecom Services, Inc.; RCN Telecom of Phil.; Sprint Communications Company, LP; Talk America, Inc.; TCG Delaware Valley, Inc.; TCG Pittsburgh; XO Pennsylvania, Inc.; and Z-Tel Communications Inc., LLC.

5. If a Pennsylvania ILEC wishes the Commission to undertake a potential deployment analysis for loops, switching or transport within the initial 9-month period, then the ILEC shall propose to the ALJ a feasible way of accomplishing such analysis within the 9 months.

6. The Office of Trial Staff is directed to participate in our 90-day and 9-month proceedings and to exercise its prosecutorial discretion in determining whether information available to it in the LERG or FCC Form 477 source data is relevant to the proceeding.

7. All participants in each of the previously referenced dockets are bound by the Protective Order issued on this date.

8. The Secretary's Bureau is directed to assign all Petitions to Initiate Proceeding to the Office of the ALJ for action consistent with this Opinion and Order.

9. Verizon is directed to answer the questions following this order in Appendix B by October 31, 2003. Other interested parties to the technical conference are directed to contact the FUS Telecommunications Manager, Janet Tuzinski, by October 31, 2003, and to file their Answers to Appendix B questions by October 31, 2003.

10. FUS is directed to convene technical conferences for the purpose of considering an electronic loop provisioning trial and the development of a batch cut process for Verizon. FUS shall provide the Commission with periodic progress reports on November 3, 2003, January 7, 2004, February 13, 2004, and April 15, 2004. FUS shall provide a final recommendation reflecting a consensus to the Commission by May 13, 2004. Staff is directed to inform the Commission immediately if a consensus is not foreseeable.

11. The Secretary's Bureau is directed to serve this Order upon all jurisdictional telecommunications carriers and in addition, the Pennsylvania Telephone Association,

<sup>16</sup> The Telecommunications Manager is Janet Tuzinski, (717) 783-6175, jtuzinski@state.pa.us.

<sup>17</sup> For the purposes of this technical conference, the proceeding will be limited to Verizon. If any interested parties believe that the Commission should develop a batch cut process within the Triennial Review Order's 9-month window for any other ILEC, contact the FUS Telecommunications Director by October 13, 2003.



the Office of Consumer Advocate, the Office of Small Business Advocate and the Office of Trial Staff.

12. The Secretary's Bureau is directed to publish this Order in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
Secretary

## Appendix A

### PRELIMINARY DISCOVERY REQUESTS

#### In the Investigation into the Obligations of Incumbent Local Exchange Carriers to Unbundle Network Elements

##### A. Requests for Information submitted to CLECs in Response to Petitioning ILEC

###### Switching

1. Provide a list of all switches that you currently use to provide a qualifying service (as defined in 47 C.F.R. § 51.5, as that section will be amended by the Final Rules issued by the FCC pursuant to the *Triennial Review Order*) anywhere in Pennsylvania, regardless of whether the switch itself is located in Pennsylvania. Do not include ILEC switches utilized by you on an unbundled basis in the ILEC's service territory or through the resale of the incumbent's services at wholesale rates.

2. Identify each ILEC wire center district (i.e., the territory served by a wire center of the ILEC) in which you provide qualifying service to any end user customers utilizing any of the switches identified in your response to Question 1. Wire centers should be identified by providing their name, address, and CLLI code.

3. For each ILEC wire center identified in response to Question 2, identify the total number of voice-grade equivalent lines you are providing to customers in that wire center from your switch(es) identified in response to Question 1. For purposes of this question, "voice-grade equivalent lines" should be defined consistent with the FCC's use of the term. See, e.g. *FCC Form 477, Instructions for the Local Competition and Broadband Reporting Form*.

4. For each switch identified in response Question 1, identify the approximate capacity of the switch—that is, the maximum number of voice-grade equivalent lines it is capable of serving—based on that switch's existing configuration and component parts.

5. With respect to the voice-grade equivalent lines identified in response to Question 3, separately indicate the number being provided to (a) residential customers; (b) business customers to whom you provide only voice-grade or DS0 lines; and (c) business customers to whom you provide DS1, ISDN-PRI, or other high capacity lines. For purposes of this question, "high capacity" means DS1 or equivalent or higher capacity lines, including, but not limited to DS1, ISDN-PRI, DS3, OCn.

6. For each of the switches identified in your response to Question 1, state whether the switch is owned by you, or whether you have leased the switching capacity or otherwise obtained the right to use the switch on some non-ownership basis. If the facility is not owned by you, identify the entity owning the switch and (if different) the entity with which you entered into the lease or other arrangement, identify the nature of the arrangement, and state whether such entity or entities are affiliates of yours, in the sense defined in ¶ 408, footnote 1263 of the *Triennial Review Order*.

7. Provide a list of all switches from which you offer or provide switching capacity to another local service provider for use in providing qualifying service anywhere in Pennsylvania.

###### Transport

1. For each ILEC, identify, by name, address, and CLLI code, each ILEC wire center (by the name, address, and CLLI code of that wire center) in which you have established a collocation arrangement or in which such arrangements have been ordered.

2. For each wire center identified in your response to Question 1, provide the number of arrangements by wire center, identify the transport facilities that currently serve such collocation arrangement (or that will serve such arrangement and that you are currently in the process of constructing, ordering, purchasing, or arranging for the use of). For purposes of this Question, "transport facilities" (a) does not include unbundled facilities obtained from the petitioning ILEC, and (b) does include dark fiber.

3. For each transport facility identified in the response to Question 2, identify the transport technology utilized (e.g., fiber optic (specify whether dark or lit), microwave, radio, or coaxial cable), and the quantity/capacity of the facility deployed.

4. For each wire center and transport technology identified in the responses to Questions 1–3, identify the type of termination equipment utilized in the collocation arrangement.

5. For each transport facility identified in your response to Question 2, state whether the facility is owned by you or whether you acquired rights to utilize it under a lease or other some other form of non-ownership arrangement. (If the facility was provisioned through the use of dark fiber that you acquired and subsequently "lit," answer separately for the fiber and the optronics utilized.) If the facility is not owned by you, identify the entity that owns the facility and (if different) the entity with which you entered into the lease or other arrangement, identify the nature of the arrangement, and state whether such entity or entities are affiliates of yours, in the sense defined in ¶ 408, footnote 1263 of the *Triennial Review Order*.

6. Identify and describe any arrangements into which you have entered with another entity for such other entity's use of transport facilities in Pennsylvania that you own or control, on a lease or other basis.

7. Provide a list of all recurring and non-recurring rate elements and rates when a CLEC purchases UNE-Loop and special access, EEL, DS1, or DS3 transport from the ILEC rate center to the CLEC rate center.

##### B. Questions for Petitioning ILECs

1. For each wire center in your territory in Pennsylvania, please provide the number of business voice-grade equivalent lines that you directly serve.

2. For each wire center in your territory in Pennsylvania, please provide the number of business voice-grade equivalent lines that CLECs are serving through resale.

3. For each wire center in your territory in Pennsylvania, please provide the number of business voice-grade equivalent lines that CLECs are serving through UNE-P.

4. For each wire center in your territory in Pennsylvania, please provide the number of business voice grade equivalent lines that CLECs are serving through own facilities.

5. For each wire center in your territory in Pennsylvania, please provide the number of residential voice-grade equivalent lines that you directly serve.

6. For each wire center in your territory in Pennsylvania, please provide the number of residential voice-grade equivalent lines that CLECs are serving through resale.

7. For each wire center in your territory in Pennsylvania, please provide the number of residential voice-grade equivalent lines that CLECs are serving through UNE-P.

8. For each wire center in your territory in Pennsylvania, please provide the estimated number of residential lines that CLECs are serving through their own facilities (complete bypass).

9. For each wire center in your territory in Pennsylvania, please provide the number of in-service collocation arrangements that you have, and for each collocation arrangement, please indicate the type of collocation that you are providing.

10. For each wire center in your territory in Pennsylvania, please provide the number of provisioned collocation arrangements that you have in place that have yet to be activated, and for each collocation arrangement, please indicate the type of collocation.

11. For each wire center in your territory in Pennsylvania, please provide the number of pending collocation arrangements that you have, and for each collocation arrangement, please indicate the type of collocation.

### **Appendix B**

#### **Requests for Information Regarding the Development of an Efficient Loop Migration Process**

##### **A. Questions for Verizon**

1. For the period of time from January 1, 2000 through June 30, 2003, on a monthly basis for every wire center, provide, in an electronic format, the number of UNE-P lines at the beginning of the month, added during the month, disconnected during the month and at the end of the month.

2. For the period of time from December 31, 2000 through June 30, 2003, on a monthly basis for every wire center, provide, in an electronic format, the number of UNE-L lines at the beginning of the month, added during the month, disconnected during the month and at the end of the month.

3. Describe the hot cut process currently used to transfer lines from the ILEC switch to the CLEC facilities.

4. List each task that is part of the current process. Provide the average time it takes to complete the task, the typical occurrence of the task during the process, the labor rate for the task, and the common overhead loading associated with the labor rate. Indicate the source of the data; i.e., time/motion studies, SME analysis, etc.

5. Describe a batch hot cut process that Verizon would implement to meet the FCC's requirement to establish a batch hot cut process. Include an estimate of number of lines per batch.

6. List each task that is part of the batch hot cut process described in the answer to the above question regarding a batch process. Provide the average time it takes to complete the task, the typical occurrence of the task during the process, the labor rate for the task, and

the common overhead loading associated with the labor rate. Indicate the source of the data; i.e., time/motion studies, SME analysis, etc.

7. List each task that is part of the batch hot cut process that is not included in the current hot cut process.

8. List each task that is part of the current hot cut process that is not included in the batch hot cut process.

9. For each wire center as of December 31, 2002 and June 30, 2003, provide the total number of residential lines served and the number of residential lines served using integrated digital line carriers. Provide separately for every wire center the number of Verizon retail residential lines, UNE served residential lines, and Wholesale served residential lines.

10. For each wire center as of December 31, 2002 and June 30, 2003, provide the total number of business mass-market lines served and the number of business mass-market lines served using integrated digital line carriers. Provide separately for every wire center the number of Verizon retail business mass-market lines, UNE served business mass-market lines, and Wholesale served business mass-market lines. Explain how Verizon determined which business lines were mass-market lines and which are enterprise lines.

11. If the tasks related to the hot cut process for lines served using integrated digital line carriers differs from the process used for other lines, discuss how the process is different and list the tasks that must be added specifically for the lines served using integrated digital line carriers. Include the time required to accomplish those tasks, the labor cost and loaded labor cost associated with those tasks.

12. On a monthly basis for the time period from January 2000 through June 2003, provide the average time a customer's service was disconnected due to the hot cut process.

13. On a monthly basis for the time period from January 2000 through June 2003, provide the number of technicians during each month who have transferred a line from an ILEC switch to the CLEC facility as part of the hot cut process. Count only those employees who perform the manual process.

14. On a monthly basis for the time period from January 2000 through June 2003, provide the number of technicians trained and capable of transferring a line from an ILEC switch to the CLEC facility as part of the hot cut process. Count only those employees who can perform the manual process. Do not include management or supervisory personnel who can perform these tasks but do not do so as part of their regular work effort.

15. For the period of time from January 1, 2000 through June 30, 2003, on a monthly basis for every wire center, provide, in an electronic format, the number of hot cuts performed.

16. Provide a list of all carriers with which Verizon has an interconnection agreement for the provision of local service in Pennsylvania.

17. Provide a list of all carriers to which Verizon has sold collocation services in Pennsylvania. For each carrier, list the wire centers where the carrier is collocated.

18. Provide a list of Verizon wire centers with indicators that identify whether the office is unstaffed, has a technician on duty but the technician can not perform hot cuts, or has a technician on duty and the technician can

perform hot cuts. For unstaffed offices and offices where the technician can not perform hot cuts, specify the number of miles that the technician must drive and driving time to reach that office from the closest office where a technician who can perform hot cuts is normally on duty.

19. Compare and contrast electronic loop provisions (as contemplated by the *PA PUC's Functional Structural Separation Order*) and the batch cut process (contemplated by the *Triennial Review Order*).

20. If a batch cut process is developed, does that make it more or less likely that an electronic loop provisioning process will be implemented.

#### **B. Questions for Other Participants**

1. Describe the hot cut process currently used to transfer lines from the ILEC switch to the CLEC facilities.

2. List each task that is part of the current process. Provide the average time it takes to complete the task, the typical occurrence of the task during the process, the labor rate for the task, and the common overhead loading associated with the labor rate. Indicate the source of the data; i.e. time/motion studies, SME analysis, etc.

3. Describe a batch hot cut process that you would implement to meet the FCC's requirement to establish a batch hot cut process. Include an estimate of the maximum number of lines per batch.

4. List each task that is part of the batch hot cut process described in the answer to the preceding question. Provide the average time it takes to complete the task, the typical occurrence of the task during the process, the labor rate for the task, and the common overhead loading associated with the labor rate.

5. If UNE-P is no longer available, what monthly volumes of hot cuts would be required: (a) to migrate existing UNE-P customers to another form of service and (b) to connect new customers in the ordinary course of business. Provide supporting documentation for these volume estimates.

[Pa.B. Doc. No. 03-2057. Filed for public inspection October 17, 2003, 9:00 a.m.]

#### **Protective Order**

Public Meeting held  
October 2, 2003

*Commissioners Present:* Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzingrilli; Wendell F. Holland, abstaining

*Investigation into the Obligations of Incumbent Local Exchange Carriers to Unbundle Local Circuit Switching for the Enterprise Market; Doc. No. I-00030100*

*Investigation into the Obligations of Incumbent Local Exchange Carriers to Unbundle Network Elements; Doc. No. I-00030099*

*Development of an Efficient Loop Migration Process; Doc. No. M-00031754*

#### **Protective Order**

*By the Commission:*

In accordance with the Commission's Procedural Order, adopted this same date in the previously captioned

proceedings and in recognition that documents, information and other materials submitted to the Commission and provided to the parties in the course of the investigations into the obligations of incumbent local exchange carriers to unbundle network elements and the development of an efficient loop migration process may represent or contain proprietary or highly confidential information, the Commission hereby enters this Protective Order. As part of this Protective Order, we also adopt the following Confidentiality Agreement to ensure that proprietary or confidential information is afforded protection from unwarranted disclosure, while permitting parties appropriate access to proprietary or confidential information, *Therefore:*

*It Is Ordered That:*

1. This Protective Order is entered with respect to all materials and information identified at Ordering Paragraph No. 2 that are filed with the Commission, produced in discovery or otherwise presented during any proceedings. All persons now and hereafter granted access to the materials and information identified in Ordering Paragraph No. 5 shall use and disclose the information only in accordance with this Protective Order.

2. The materials subject to this Protective Order include all correspondence, documents, data, information, studies, methodologies and other materials that a party (or an affiliate of a party) furnishes in the previously captioned proceedings under Commission rules, regulations, discovery procedures or cross-examination or provides as a courtesy to a party to this proceeding, which materials are claimed to be of a proprietary or confidential nature and that are designated "PROPRIETARY INFORMATION."

3. The parties may designate extremely sensitive Proprietary Information as "HIGHLY CONFIDENTIAL" and secure additional protections as set forth in this Protective Order pertaining to the material. The Highly Confidential Information shall be only a subset of Proprietary Information as constitutes or describes the producing party's marketing plans, competitive strategies, market share projections, marketing materials that have not yet been used, customer-identifying information or customer prospects for services that are subject to competition.

4. Proprietary Information and Highly Confidential Proprietary Information shall be made available to the Commission and any retained Commission experts, as well as the statutory advocates, for use in this proceeding. For purposes of filing, to the extent that Proprietary Information or Highly Confidential Proprietary Information is placed in the Commission's report folders, the information shall be marked and handled in accordance with routine Commission procedures inasmuch the report folders are not subject to public disclosure. To the extent the Proprietary Information or Highly Confidential Proprietary Information is placed in the Commission's testimony or document folders, the information shall be separately bound, conspicuously marked and accompanied by a copy of this Protective Order. Public inspection of Proprietary Information and Highly Confidential Proprietary Information shall be permitted only in accordance with this Protective Order.

5. Proprietary Information and Highly Confidential Proprietary Information shall be made available to counsel of record in this proceeding (including secretaries, legal assistants or other employees of counsel) under the following procedures:

a. *Proprietary Information.* To the extent required for participation in this proceeding, counsel for a party

(retaining party) may have access to Proprietary Information made available by another party (producing party) to the retaining party's expert(s), subject to the following restrictions.

i. The expert may not hold any of the following positions with any actual or potential competitor of the producing party: (a) an officer, board member, stockholder, partner, owner other than stock of the producing party or an employee of any competitor of the producing party; or (b) an officer, board member, stockholder, partner, owner other than stock of any affiliate of a competitor of the producing party; provided, however, that any expert shall not be disqualified on account of being a stockholder, partner or owner unless his/her interest in the competitor's business creates a significant potential for violations of the limitations of permissible use of the Proprietary Information. For purposes of this Protective Order, stocks, partnership or other ownership interest valued at less than \$100,000 and/or constituting less than a 2% interest in a business does not, in itself, establish a significant potential for violation.

ii. If a retaining party's independent expert, another member of the independent expert's firm or the independent expert's firm generally also serves as an expert for, or as a consultant or advisor to a competitor or any affiliate of a competitor of the producing party, the independent expert must: (1) advise the producing party of the competitor's or affiliate's names(s); (2) make reasonable attempts to segregate those personnel assisting in the expert's participation in this proceeding from those personnel working on behalf of a competitor or any affiliate of a competitor of the producing party; and (3) if segregation of the personnel is impractical, the independent expert shall give to the producing party written assurances that the lack of segregation will in no way jeopardize the interests of the producing party. The producing party retains the right to challenge the adequacy of the written assurances that its interests will not be jeopardized.

b. *Highly Confidential Proprietary Information.* Highly Confidential Proprietary Information shall be produced only for inspection by the retaining party's counsel of record. If the inspecting lawyer desires copies of the material or desires to disclose its contents to other persons, he or she shall submit a written request to the producing party's counsel. If requesting and producing parties are unable to reach agreement with respect to such a request, they may submit the issue orally to the presiding Administrative Law Judge (ALJ).

c. No other persons may have access to the Proprietary Information or Highly Confidential Proprietary Information except as authorized by order of the Commission or the presiding ALJ.

6. Persons obtaining access to Proprietary Information or Highly Confidential Proprietary Information under this Protective Order shall use the information only in the conduct of this proceeding and any administrative or judicial proceeding arising from this proceeding and shall not use the information for any other purpose, including business, governmental, commercial or other administrative or judicial proceedings. No person who may be entitled to receive, or who is afforded access to, any Proprietary Information or Highly Confidential Proprietary Information shall use or disclose the information for any other purpose, including business, governmental, commercial or other administrative or judicial proceedings.

7. Prior to making Proprietary Information or Highly Confidential Proprietary Information available to any person as provided in Ordering Paragraph No. 5, counsel shall deliver a copy of this Protective Order to the person and shall receive a written acknowledgment from that person in the applicable form in Appendix A to this Protective Order and designated as the Confidentiality Agreement. Counsel shall promptly deliver to the producing party a copy of the executed Confidentiality Agreement. A copy of any executed Confidentiality Agreement must be filed with the Secretary's Bureau.

8. A producing party shall designate the data or documents as constituting or containing Proprietary Information or Highly Confidential Proprietary Information by affixing an appropriate proprietary stamp or typewritten designation on the data or documents. Where only part of the data compilations or multipage documents constitutes or contains Proprietary Information or Highly Confidential Proprietary Information, the producing party shall so designate only the specific data or pages which constitute or contain Proprietary Information or Highly Confidential Proprietary Information.

9. Any public reference to Proprietary Information or Highly Confidential Proprietary Information by counsel or persons afforded access thereto shall only be to the title or exhibit reference in sufficient detail to permit persons with access to the Proprietary Information or Highly Confidential Proprietary Information to fully understand the reference and not more.

10. The Proprietary Information or Highly Confidential Proprietary Information shall remain a part of the record, to the extent admitted into the record, for all purposes of administrative or judicial review. The part of the record in this proceeding containing Proprietary Information or Highly Confidential Proprietary Information, including but not limited to all exhibits, writings, testimony, cross-examination, argument and responses to discovery, and including reference thereto as mentioned in ordering Ordering Paragraph No. 9, shall be sealed for all purposes, except as provided herein, including administrative and judicial review, unless the Proprietary Information or Highly Confidential Proprietary Information is released from the restrictions of this Protective Order, either through the agreement of the parties or under an order of an ALJ or the Commission.

11. The parties affected by the terms of this Protective Order shall retain the right to: (1) question or challenge the alleged proprietary or confidential nature of Proprietary Information or Highly Confidential Proprietary Information; (2) question or challenge the admissibility of Proprietary Information or Highly Confidential Proprietary Information; (3) refuse or object to the production of Proprietary Information or Highly Confidential Proprietary Information on any proper ground, including but not limited to irrelevance, immateriality or undue burden; (4) seek an order permitting disclosure of Proprietary Information or Highly Confidential Proprietary Information beyond that allowed in this Protective Order; (5) and to seek additional measures or protection of Proprietary Information or Highly Confidential Proprietary Information beyond those provided in this Protective Order. If a challenge is made to the designation of a document or information as Proprietary Information or Highly Confidential Proprietary Information, the party claiming that the information is Proprietary Information or Highly

Confidential Proprietary Information bears the burden of demonstrating that the designation is necessary and appropriate. Unresolved challenges shall be decided on motion or petition by the presiding ALJ or the Commission as provided by 52 Pa. Code § 5.423(a). All challenges will be resolved in conformity with existing rules, regulations, orders, statutes, precedent, and the like, to the extent that guidance is available.

12. Upon completion of this proceeding and any FCC, administrative or judicial proceeding arising from this proceeding, all copies (except as have been filed with the Commission or used or created by the Commission or its experts using same) of all documents and other materials, including notes, which contain any Proprietary Information or Highly Confidential Proprietary Information, shall be immediately returned upon request to the providing party

13. The Secretary's Bureau is directed to serve this Order upon all jurisdictional telecommunication carriers, as well as the Pennsylvania Telephone Association, the Office of Consumer Advocate, the Office of Small Business Advocate and the Office of Trial Staff.

14. The Secretary's Bureau is directed to publish this Order in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,  
*Secretary*

**Appendix A-1**

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg, PA 17105-3265**

Investigation into the Docket No. I-00030100  
Obligations of Incumbent Local  
Exchange Carriers to Unbundle  
Local Circuit Switching for the  
Enterprise Market

**CONFIDENTIALITY AGREEMENT**

TO WHOM IT MAY CONCERN:

The undersigned is the \_\_\_\_\_ of \_\_\_\_\_ (retaining party) and is not, or has no knowledge or basis for believing that he/she is: (1) an officer, board member, stockholder, partner or owner other than stock of any competitor of \_\_\_\_\_ (producing party) or an employee of any competitor of the producing party who is primarily involved in the pricing, development, and/or marketing of products or services that are offered in competition with those of the producing party; or (2) an officer, board member, stockholder, partner, or owner than stock of any affiliate of a competitor of the producing party. (See ¶5 of Protective Order).

The undersigned has read the Protective Order and understands that it and this Confidentiality Agreement deal with the treatment of Proprietary Information and Highly Confidential Proprietary Information. The undersigned agrees to be bound by, and to comply with, the terms and conditions of said Protective Order as a condition of access to the Proprietary Information and Highly Confidential Proprietary Information. Further, the undersigned, if an independent expert, represents that he/she has complied with the provisions of ordering paragraph number 5(a)(ii) of the Protective Order prior to executing this Confidentiality Agreement.

DATE: \_\_\_\_\_  
Signature \_\_\_\_\_  
Print Name \_\_\_\_\_  
Status relative to Retaining Party \_\_\_\_\_  
Employer \_\_\_\_\_  
Address \_\_\_\_\_

**Appendix A-2**

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg PA 17105-3265**

Investigation into the Docket No. I-00031754  
Obligations of Incumbent Local  
Exchange Carriers to Unbundle  
Network Elements

**CONFIDENTIALITY AGREEMENT**

TO WHOM IT MAY CONCERN:

The undersigned is the \_\_\_\_\_ of \_\_\_\_\_ (retaining party) and is not, or has no knowledge or basis for believing that he/she is: (1) an officer, board member, stockholder, partner or owner other than stock of any competitor of \_\_\_\_\_ (producing party) or an employee of any competitor of the producing party who is primarily involved in the pricing, development, and/or marketing of products or services that are offered in competition with those of the producing party; or (2) an officer, board member, stockholder, partner, or owner than stock of any affiliate of a competitor of the producing party. (See ¶5 of Protective Order).

The undersigned has read the Protective Order and understands that it and this Confidentiality Agreement deal with the treatment of Proprietary Information and Highly Confidential Proprietary Information. The undersigned agrees to be bound by, and to comply with, the terms and conditions of said Protective Order as a condition of access to the Proprietary Information and Highly Confidential Proprietary Information. Further, the undersigned, if an independent expert, represents that he/she has complied with the provisions of ordering paragraph number 5(a)(ii) of the Protective Order prior to executing this Confidentiality Agreement.

DATE: \_\_\_\_\_  
Signature \_\_\_\_\_  
Print Name \_\_\_\_\_  
Status relative to Retaining Party \_\_\_\_\_  
Employer \_\_\_\_\_  
Address \_\_\_\_\_

**Appendix A-3**

**PENNSYLVANIA  
PUBLIC UTILITY COMMISSION  
Harrisburg PA 17105-3265**

Development of an Efficient Docket No. M-00030099  
Loop Migration Process

**CONFIDENTIALITY AGREEMENT**

TO WHOM IT MAY CONCERN:

The undersigned is the \_\_\_\_\_ of \_\_\_\_\_ (retaining party) and is not, or has no knowledge or basis for

believing that he/she is: (1) an officer, board member, stockholder, partner or owner other than stock of any competitor of \_\_\_\_\_ (producing party) or an employee of any competitor of the producing party who is primarily involved in the pricing, development, and/or marketing of products or services that are offered in competition with those of the producing party; or (2) an officer, board member, stockholder, partner, or owner than stock of any affiliate of a competitor of the producing party. (See ¶5 of Protective Order).

The undersigned has read the Protective Order and understands that it and this Confidentiality Agreement deal with the treatment of Proprietary Information and Highly Confidential Proprietary Information. The undersigned agrees to be bound by, and to comply with, the terms and conditions of said Protective Order as a condition of access to the Proprietary Information and Highly Confidential Proprietary Information. Further, the undersigned, if an independent expert, represents that he/she has complied with the provisions of ordering paragraph number 5(a)(ii) of the Protective Order prior to executing this Confidentiality Agreement.

DATE: \_\_\_\_\_  
 \_\_\_\_\_  
 Signature  
 \_\_\_\_\_  
 Print Name  
 \_\_\_\_\_  
 Status relative to Retaining Party  
 \_\_\_\_\_  
 Employer  
 \_\_\_\_\_  
 Address

[Pa.B. Doc. No. 03-2058. Filed for public inspection October 17, 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 November 10, 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.

**Applications of the following for approval to begin operating as common carriers for transportation of persons as described under each application.**

**A-00120192. Safder Zaman & Waheed Haidri, Co-partners t/d/b/a American Cab Co.** (562 Lancaster Avenue, Frazer, Chester County, PA 19355)—persons, upon call or demand in the Township of East Whiteland and the Borough of Malvern, Chester County.

**A-00120191. Ronald C Jones** (R. D. 2, Box 906, Mifflintown, Juniata County, PA 17059)—persons in paratransit service, between points in the Counties of

Juniata and Mifflin, and from points in said counties, to points in Pennsylvania, and return; limited to the transportation of persons whose personal convictions prevent them from owning or operating motor vehicles.

**Application of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under the application.**

**A-00111651, Folder 1, Am-A. WGM Transportation, Inc.** (9074 Franklin Hill Road, East Stroudsburg, Monroe County, PA 18301), a corporation of the Commonwealth—persons upon call or demand in the Counties of Pike and Monroe: *So As To Permit* the transportation of persons upon call or demand in the Boroughs of Bangor, East Bangor, Pen Argyle, Portland, Roseto and Wind Gap, the Townships of Plainfield, Upper Mt. Bethel and Washington, all in Northampton County.

**Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under the application**

**A-00120195. Michael's Classic Limousine, Inc.** (720 Reading Avenue, West Reading, Berks County, PA 19611), a corporation of the Commonwealth—persons in limousine service, between points in Pennsylvania; which is to be a transfer of the rights authorized under the certificate issued at A-00118042 to Wally Woytovich t/d/b/a Wally Anthony's Transportation, subject to the same limitations and conditions. *Attorney:* David P. Temple, 1760 Market Street, Suite 1100, Philadelphia, PA 19103.

**Complaint**

June 19, 2003

A-00117286  
 A-00117286C0301

JEFFERY STRAWAY  
 180 HAWTHORNE DRIVE  
 MILFORD PA 18337

Re: Jeffery Straway

Dear Respondent:

On May 9, 2003, the Bureau of Transportation and Safety instituted a Complaint against Jeffery Straway, respondent, alleging failure to maintain evidence of bodily injury and property damage liability insurance and cargo insurance on file with this Commission, a violation of the Public Utility Code at 66 Pa.C.S. § 512, 52 Pa. Code § 32.2(c), and 52 Pa. Code § 32.11(a), § 32.12(a) or § 32.13(a).

In accordance with 52 Pa. Code § 5.61, the Bureau of Transportation and Safety notified the Respondent that it must file an Answer to the Complaint within twenty days of the date of service. The Notice further specified that, if respondent failed to answer the Complaint within twenty days, the Bureau of Transportation and Safety would request the Commission issue an order cancelling respondent's Certificate of Public Convenience.

The Complaint was served on respondent on May 15, 2003. To date, more than twenty days later, respondent has failed to file an Answer to the Complaint.

Therefore, the allegations in the Complaint are deemed to be admitted. The Complaint is hereby sustained and the Certificate of Public Convenience, issued to respondent at A-00117286, is hereby cancelled.

Respondent is hereby notified to cease and desist from further violations of the Public Utility Code, 66 Pa.C.S. §§ 101, et seq. and the regulations of the Commission, 52 Pa. Code §§ 1.1, et seq. In view of the cancellation of respondent's Certificate of Public Convenience, it is specifically prohibited from rendering service as a common carrier by motor vehicle in intrastate commerce in the Commonwealth of Pennsylvania.

Should respondent wish to again begin transportation operations in the Commonwealth of Pennsylvania, respondent must file a new application for authority in order to obtain a Certificate of Public Convenience. The respondent must pay all outstanding assessments and fines before this Commission will act on an application for authority. Payment must be made by certified check or money order payable to the Pa. Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

James J. McNulty  
Secretary

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 03-2059. Filed for public inspection October 17, 2003, 9:00 a.m.]

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### Telecommunications

**A-310482F7001. Verizon North Inc. and Metro Teleconnect Companies, Inc. d/b/a Metro Teleconnect.** Joint petition of Verizon North Inc. and Metro Teleconnect Companies, Inc. d/b/a Metro Teleconnect for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and Metro Teleconnect Companies, Inc. d/b/a Metro Teleconnect, by its counsel, filed on September 30, 2003, at the Pennsylvania Public Utility Commission (Commission) a joint petition for approval of

an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North Inc. and Metro Teleconnect Companies, Inc. d/b/a Metro Teleconnect joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 03-2060. Filed for public inspection October 17, 2003, 9:00 a.m.]

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## TURNPIKE COMMISSION

### Request for Proposals and Statements of Interest

As of October 1, 2003, future requests for Statements of Interest or Request for Proposals (RFPs) will be advertised on the Turnpike Commission's (Commission) website at [www.paturnpike.com](http://www.paturnpike.com) (select the button on the left side for "Doing Business with the PTC"). Advertisements for engineering services as well as all other RFPs will be placed on the Commission's website and a minimum of 2 weeks to reply will be standard. Questions should be directed to George Hatalowich, Manager of Contract Administration, (717) 986-8737, [ghatalow@paturnpike.com](mailto:ghatalow@paturnpike.com).

MITCHELL RUBIN,  
*Chairperson*

[Pa.B. Doc. No. 03-2061. Filed for public inspection October 17, 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 Department
Duration:	12/1/93-12/30/93	⑤ Location
Contact:	Procurement Division 787-0000	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

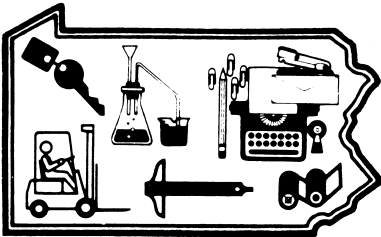


## PA TREASURY BUSINESS OUTLET—PLUG INTO IT!

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. 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 explains how to take advantage of available services.

Contact: **Bureau of Contracts and Public Records**  
 Pennsylvania State Treasury  
 Room 201 Finance Building  
 Harrisburg, PA 17120  
 717-787-4586  
 1-800-252-4700  
 BizOutlet@patreasury.org

BARBARA HAFER,  
*State Treasurer*



### Commodities

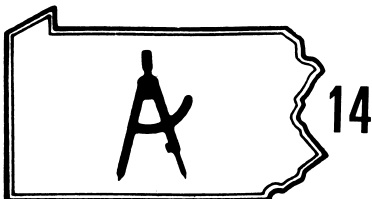
**SU-03-05** Contractor to provide office copy paper listed or an approved equal. (30% post consumer recycled dual purpose for use on laser printers and high speed copiers. Must be able to run on both sides, 8 1/2 x 11, 20/10 white, 84 brightness, 86 opacity, 4.0 caliper, 150 smoothness, ream packing, packed 10 reams per carton, cartons to be shipped on pallets). Vendors interested in receiving a bid package must fax a request to Mona Holtry, Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257; Fax (717) 477-1350; or email a request to: mmholt@wharf.ship.edu. Bids are due 11/4/03 by 4:00 P.M. and the bid opening is scheduled for 11/5/03 at 2:00 P.M. All responsible bidders are invited to participate including MBE/WBE firms.

**Department:** State System of Higher Education  
**Location:** Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257  
**Duration:** November 2003 through August 2004.  
**Contact:** Mona M. Holtry, (717) 477-1386

**021510** Hydraulic pre-wet system (approximately 12), dump-truck mounted, controlled by ground speed spreader, control model GL400, manufactured by Component Technology, or approved equal. To request a bid package e-mail to JAMIELE@state.pa.us, or fax to 814-765-0424 to attention of Janis Miele the following information: your company name, address, contact person, phone, and e-mail address.

**Department:** Transportation  
**Location:** Maintenance District 2-1, 1000 East Bishop Street, Bellefonte, PA 16823  
**Duration:** Delivery within approximately six weeks after receipt of approved Field Purchase Order  
**Contact:** Janis Miele, (814) 765-0404

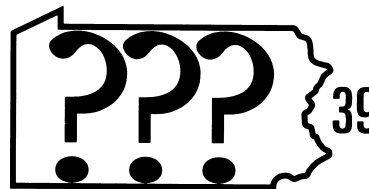
## SERVICES



### 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](http://www.dot2.state.pa.us).

**Department:** Transportation  
**Location:** Various  
**Contact:** [www.dot2.state.pa.us](http://www.dot2.state.pa.us)



### Miscellaneous

**CN00005462** Contractor (Imam) is to provide Muslim ministry services at the Youth Development Center in New Castle, PA for student residents practicing the Nation of Islam beliefs. Services are to be provided on site on a weekly basis. Call for specification package, 724-656-7310.

**Department:** Public Welfare  
**Location:** Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101  
**Duration:** Tentative start date 1-1-2004 for a period of 36 months.  
**Contact:** Tom Mateja, Pur. Agt., (724) 656-7310

**08-102022** PENNDOT, Butler County Dist.1020, is soliciting the service of individuals, firms, and corporations to provide service of removal of dead deer carcasses from Butler County State Routes according to technical specifications. Please fax or e-mail your name and your company name and complete address, phone number, fax number with your S. S. # or Fed. #; information can be faxed to (724) 283-3571 or e-mail to askunda@state.pa.us.

**Department:** Transportation  
**Location:** Butler County Dist. 1020  
**Duration:** Two (2) year contract, by mutual consent of both parties. This contract is renewable for one (1) year.  
**Contact:** Andy Skunda, (724) 284-8226

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**rw040001** Sale of land no longer needed for transportation purposes located in the Borough of Tunkhannock, Wyoming County, Pennsylvania. Notice is hereby given that the PA Department of Transportation, pursuant to 71 P.S. § 513(e)(7), intends to sell certain vacant land owned by it located at the SR 0006/0092 intersection. The parcel is irregular in shape and is fully curbed with no direct access from the street. The frontage along the street is fairly level; however, the rear of the slope includes a significant slope down to the creek. The site is improved with grass and minimal plantings, as well as a chain link fence. The land area for sale consists of approximately 13,022 SF. This parcel was acquired from Frank Sirocki. It has been determined that the land is no longer needed for present or future transportation purposes. Interested public entities are invited to express their interest in purchasing the site within thirty (30) calendar days from the date of publication of this notice to: Ralph DelRosso, Right-of-Way Administrator I, PA Department of Transportation, P. O. Box 111, Scranton, PA 18501, (570) 963-4072.

**Department:** Transportation  
**Location:** SR 0006/0092 intersection, Tunkhannock, Wyoming County, Pennsylvania  
**Duration:** 30 days  
**Contact:** Ralph DelRosso, (570) 963-4072

[Pa.B. Doc. No. 03-2062. Filed for public inspection October 17, 2003, 9:00 a.m.]



