

PENNSYLVANIA BULLETIN

Volume 34

Number 18

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Pages 2279—2456

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Agricultural Security Area
Program Regulations

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

No. 354, May 2004

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Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2004.

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THE GOVERNOR

Title 4—ADMINISTRATION

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 5]

[EXECUTIVE ORDER 2004-5]

Pennsylvania Energy Development Authority

April 8, 2004

Whereas, Pennsylvania's economy, health and safety, and quality of life of its citizens are dependent on uninterrupted supplies of reasonably priced energy; and

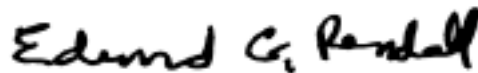
Whereas, the development and efficient use of Pennsylvania's significant indigenous coal, gas, oil, and renewable energy resources are essential to sustain future economic growth; and

Whereas, the protection of Pennsylvania's natural environment is dependent on the wise use of resources and the development of technologies to enable economic growth while improving the state's environment; and

Whereas, the Act of December 14, 1982, P. L. 1213, No. 280, which amended The Administrative Code of 1929, provides that the Governor shall designate an agency to provide staff services to the Pennsylvania Energy Development Authority; and

Whereas, Executive Order 1995-3, dated July 10, 1995, designated the Department of Commerce as the agency responsible for providing staff services to the Pennsylvania Energy Development Authority.

Now, Therefore, I, Edward G. Rendell, Governor of the Commonwealth of Pennsylvania, by virtue of the authority vested in me by the Constitution of the Commonwealth of Pennsylvania and other laws, do hereby order as follows:



Governor

Fiscal Note: GOV 04-4. (1) General Fund; (2) Implementing Year 2004-05 is \$180,000; (3) 1st Succeeding Year 2005-06 is \$190,000; 2nd Succeeding Year 2006-07 is \$200,000; 3rd Succeeding Year 2007-08 is \$210,000; 4th Succeeding Year 2008-09 is \$220,000; 5th Succeeding Year 2009-10 is \$230,000; (4) 2003-04 Program—\$N/A; 2002-03 Program—\$ N/A; 2001-02 Program—\$ N/A; (7) General Government Operations—Department of Environmental Protection; (8) recommends adoption.

Annex A

TITLE 4. ADMINISTRATION

PART I. GOVERNOR'S OFFICE

CHAPTER 5. COUNCILS AND COMMITTEES

Subchapter Q. PENNSYLVANIA MANAGEMENT AGENCY AND PENNSYLVANIA ENERGY DEVELOPMENT AUTHORITY

§ 5.187. Designation of the Department of Environmental Protection.

(a) *Designated agency.* The Department of Environmental Protection, in addition to other duties conferred by the laws of the Commonwealth, is designated as the agency primarily responsible for providing staff services to the Pennsylvania Energy Development Authority (PEDA). The PEDA will

refer any projects which require the issuance of debt to the Pennsylvania Economic Development Financing Authority for the issuance of bonds or notes.

(b) *Rescission.* Executive Order 1995-3 is rescinded.

[Pa.B. Doc. No. 04-751. Filed for public inspection April 30, 2004, 9:00 a.m.]

PART I. GOVERNOR'S OFFICE

[4 PA. CODE CH. 6]

[EXECUTIVE ORDER 2004-3]

[Correction]

Pennsylvania Business Tax Reform Commission

An error occurred in the document which appeared at 34 Pa.B. 2164, 2166 (April 24, 2004). The last section number was a duplicate and should have read:

§ 6.198. Effective date.

This subchapter will take effect immediately and will continue in effect until rescinded.

[Pa.B. Doc. No. 04-686. Filed for public inspection April 23, 2004, 9:00 a.m.]

THE COURTS

Title 255—LOCAL COURT RULES

LANCASTER COUNTY Common Pleas Local Rules

Administrative Order

The following rules constitute the Lancaster County Court of Common Pleas Local Rules and will be effective on July 26, 2004. On that date, all previously issued Local Rules will be rescinded.

By the Court

MICHAEL A. GEORGELIS,
President Judge

LANCASTER COUNTY COURT OF COMMON PLEAS LOCAL RULES

Board of Judges

MICHAEL A. GEORGELIS
PRESIDENT JUDGE

WAYNE G. HUMMER, JR.
JUDGE

MICHAEL J. PEREZOUS
JUDGE

LOUIS J. FARINA
JUDGE

LAWRENCE F. STENGEL
JUDGE

PAUL K. ALLISON
JUDGE

HENRY S. KENDERDINE, JR.
JUDGE

JAMES P. CULLEN
JUDGE

LESLIE GORBAY
JUDGE

JOSEPH C. MADENSPACHER
JUDGE

DAVID L. ASHWORTH
JUDGE

JAY J. HOBERG
JUDGE

DAVID R. WORKMAN
JUDGE

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The Honorable Michael A. Georgelis, President Judge

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The Honorable Henry S. Kenderdine, Jr., Judge

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DEFINITIONS**Party.**

For all of the sections of these Local Rules, a party is defined as a litigant in a legal proceeding and may be self-represented or represented by counsel.

RULES OF CIVIL PROCEDURE**Rule 1. Title and Citation of Rules**

These rules shall be known as the Lancaster County Rules of Civil Procedure and may be cited as "L.C.R.C.P. No. ."

Rule 10. Business Judge

A. The District Court Administrator shall designate the daily Business Judge. Motions and petitions, not otherwise covered by these Rules for presentation to the Court, shall be forwarded to the Business Judge by the Prothonotary or may be presented by counsel directly to the Business Judge by appointment.

B. Family Court motions and petitions may be presented at Family Business Court, held as indicated in the Court's calendar, or directly to the Family Business Judge, as designated in the Court's calendar, by appointment.

ADMINISTRATIVE APPEALS**Rule 27. Land Use Appeals****A. Appeal Notice**

A land use appeal shall contain:

1. A caption in substantially the following form:

Name of Appellant

v.

NO. CI-_____

Name of municipality and name of body (i.e. zoning hearing board, governing body or or planning commission) which rendered decision

LAND USE APPEAL

2. When applicable, in separately numbered paragraphs and in the following order:

- a. Name and address of the appellant.
- b. Name and address of the zoning hearing board, governing body or planning commission ("local agency") which rendered the decision.
- c. Name and address of the applicant to the local agency, if the applicant is not the appellant.
- d. Name and address of the owners, both real and equitable, of any real estate which was the subject of the decision and identification of the real estate.
- e. The chronology of the matter, including the following as applicable:
 - i. Date of filing application or appeal with zoning officer or other official.
 - ii. Date of action of the zoning officer or other official.
 - iii. Date of appeal from action of zoning officer or other official to local agency or date of filing application with local agency.
 - iv. Dates of all hearings or meetings of the local agency.
 - v. Date of written decision or, if applicable, date of deemed decision from which the appeal has been taken.
 - vi. Date written decision served.
- f. The purpose for which the application was made.

- g. The basis for appellant's standing to file the appeal.
- h. All specific legal and factual grounds for the appeal.
- i. Specific request for relief.

3. If a court reporter was present and if a transcript is not already in existence, appellant's certification that appellant has ordered a transcript of the proceedings and has made satisfactory arrangements with the court reporter for payment. Upon receipt of the transcript, appellant shall provide the original transcript to the solicitor of the local agency filing the return of the record. If appellant does not include a certification that appellant has ordered the transcript, any other party may file a petition requesting the Court dismiss the appeal.

B. Intervention

1. A notice of intervention under Section 1004-A of the Pennsylvania Municipalities Planning Code, 53 P.S. § 11004-A, shall contain:

- a. The caption and number of the appeal.
- b. Name and address of intervenor.
- c. Nature of the interest of intervenor in the appeal.
- d. Legal and factual circumstances under which intervenor claims a right to intervene.
- e. Summary of intervenor's position and grounds therefor.

2. Pa. R.C.P. Nos. 2326-2350 shall govern all other intervention.

C. Certiorari

1. The local agency shall submit its entire record within twenty days after receipt of the writ of certiorari or receipt of the transcript(s), whichever is later, including but not limited to:

- a. All original papers filed in chronological order, commencing with the application.
- b. Minutes of meetings of the local agency at which the application was considered.
- c. The transcript of all hearings. The local agency shall not submit its record to the Prothonotary until appellant has provided the transcript of all hearings if the transcript is not in existence and available to the local agency prior to appellant's filing the appeal.
- d. The complete ordinance under which the local agency rendered its decision, including maps.
- e. The findings of fact and conclusions of law of the local agency, if any, and its written decision.
- f. Names and addresses of all persons the local agency recognized as parties to the proceedings.

2. The chairperson or presiding officer shall certify the submission of the record.

3. The Prothonotary shall give notice of the return of the local agency's record to appellant who shall, within four days after receipt of the notice, notify the local agency, the applicant before the local agency (if appellant was not the applicant), the legal and equitable owner of the land which was the subject of the application and all other persons recognized as parties to the local agency's proceedings. Appellant shall file proof of service.

D. Disposition

1. Within ten days after the Prothonotary gives notice of the filing of the complete return of the record, any party who believes the appeal is not ready for disposition

may file a motion for a conference and a praecipe requesting that the appeal be assigned to a judge. The motion for a conference shall state why the party believes that the appeal is not ready for disposition and shall identify all actions that the party requests. At the conference, the Court may, inter alia:

- a. Require or approve supplementation of the record.
- b. Fix a time for a de novo hearing before the Court.
- c. Employ expert(s) to aid the Court to frame an appropriate order.
- d. Refer the appeal to a referee to receive additional evidence, with directions as to time deadlines and other matters the Court deems appropriate.
- e. If allowed by law, remand the appeal to the local agency with directions as to time deadlines and other matters, including mediation.

2. After the conference, the Court shall issue an appropriate order addressing the filing of briefs.

3. If no party has filed a request for a conference, the appellant shall file a brief within forty days after the date the Prothonotary gives notice of the filing of the local agency's complete record. The appellant shall limit the brief to the issues appellant raised in the land use appeal. Each other party shall file a responsive brief within thirty days after service of appellant's brief. The appellant may file a reply brief within ten days after service of the responsive brief. Any party may thereafter file and serve a praecipe stating that the appeal is ready for disposition and requesting the Prothonotary to assign it to a judge.

4. If appellant fails to file a brief within the time period established by Paragraph D.3 above or by the Court after a conference, any party may file and serve a praecipe stating that the appeal is ready for disposition together with a brief or may petition the Court for dismissal of the appeal. If a party files a praecipe requesting disposition due to the failure of the appellant to file a brief, the Court shall render a decision, without oral argument, on the record before it.

5. Any party may request oral argument when filing its brief. The Court shall hear oral argument at its discretion.

6. An appeal from a decision the local agency renders after a remand shall be filed and docketed to the original caption and number. The party filing such appeal shall be limited to issues arising from the remand. All other requirements of this Rule shall apply to an appeal from a decision after remand.

Rule 28. Tax Assessment Appeals

A. Petition

Appeals from orders of the Lancaster County Board of Assessment Appeals (Board) shall be by petition and shall contain:

- 1. A caption in substantially the following form:

In Re: Appeal of)
 (NAME OF APPELLANT))
 from the Lancaster County Board of)
 Assessment Appeals)
 Tax Account No. _____) No. _____ .
 Municipality _____)
 Assessment for the year _____)
 Property of _____)

- 2. Name and address of appellant.

3. Date of filing appeal to Board and amount of assessment originally fixed by the Board.

4. Date of final decision of Board amount of assessment finally fixed by the Board.

5. Reason for appeal.

B. Service

Within ten days after filing the petition, the appellant shall, by certified mail, serve copies of the petition on the Board, the County solicitor, the municipality in which the tax parcel is located, the school district in which the tax parcel is located and the property owner. Within twenty days thereafter, the appellant shall file a proof of service.

C. Intervention

Any person or political subdivision required to be served under paragraph B may intervene as a matter of right by filing within forty days after receipt of the petition, a notice of intervention either as an appellant or appellee. After the forty day period, intervention shall be governed by Pa. R.C.P. Nos. 2326 through 2350.

D. Further Proceedings

Thereafter, the appeal shall proceed pursuant to Local Rule Nos. 208.3(a) and (b) or 212.2A.

Rule 29. Local Agency and Administrative Agency Appeals other than Land Use Appeals

A. Appeals Governed by Rule

This Rule shall apply to all appeals allowed from adjudications under the Local Agency Law, 2 Pa.C.S.A. § 501 et. seq., or the Administrative Agency Law, 2 Pa.C.S.A. § 101 et. seq., and appeals which may be taken to the Court under the Judicial Code, 42 Pa.C.S.A. § 933, other than appeals filed under Article X-A of the Pennsylvania Municipalities Planning Code, 53 P. S. § 11001-A.

B. Notice of Appeal

The notice of appeal shall contain all information required by the statute which authorizes filing of the appeal. The notice of appeal shall also contain:

- 1. A caption in substantially the following form:

Name of Appellant _____
 v. NO. CI-_____
 Name of local or administrative agency which rendered decision STATUTORY APPEAL

2. All relevant information required in Local Rule 27A.2.

3. If a court reporter was present and if a transcript is not already in existence, appellant's certification that appellant has ordered a transcript of the proceedings and has made satisfactory arrangements with the court reporter for payment if a transcript is not already in existence. Upon receipt of the transcript, appellant shall provide the original transcript to the solicitor of the agency filing the return of the record.

C. Intervention

Pa. R.C.P. Nos. 2326-2350 shall govern all intervention.

D. Certiorari

The agency shall submit its entire record within twenty days after receipt of the writ of certiorari in accordance with the procedure in Local Rule 27C. The Prothonotary shall give notice of the return of the agency's record to appellant who shall, within four days after receipt of the notice, notify the agency, the applicant before the agency

(if appellant was not the applicant) and all other parties to the local agency's proceedings. Appellant shall file of proof of service.

E. Disposition

Disposition of the appeal shall be in accordance with the procedure in Local Rule 27D.

Rule 36. Assigned Judge

The assigned judge shall be the judge who:

A. Has been assigned a petition pursuant to Local Rule 206.4(c)B.5, a preliminary objection pursuant to Local Rule 1028(c) or a motion pursuant to Local Rules 1034(a) or 1035.2(a).

B. Conducts a hearing prior to trial.

C. Has been assigned a case pursuant to Local Rules 212.2A or 212.2B.

Rule 205.2(a). Physical Characteristics of Legal Papers

Legal papers submitted to the Prothonotary shall comply with the following requirements:

A. The first page shall set forth:

1. The case caption.
2. The case number.
3. The name of the assigned judge, if applicable.

4. The name, identification number, address and telephone number of the attorney and law firm or pro se party submitting the legal papers.

5. In medical malpractice actions, "Code 96" shall appear beneath the case number.

B. No manuscript cover or manuscript backing such as a blue back or firm identification strip shall be attached to any legal papers.

C. Legal papers shall be stapled once in the upper left hand corner. No tape or other material shall cover the staple.

D. All originals shall be marked "ORIGINAL." Copies shall be marked "COPY."

E. Each page shall be numbered at the bottom center of the page. The case number shall appear, in twelve point font or larger, in the upper right hand corner of each page.

F. Tabs shall be placed at the bottom of all exhibits and appendices.

G. The name of each person signing a legal paper shall be typed beneath the person's signature.

H. Briefs and memoranda shall be filed separately and not appended to other documents.

I. Verifications shall be dated.

Rule 205.2(b). Cover Sheet

A. The initial legal paper filed shall be accompanied by a civil cover sheet in the form provided by the Prothonotary.

B. A request for argument, hearing or arbitration shall be accompanied by a scheduling cover sheet in the form provided by the District Court Administrator.

C. Civil cover sheets and scheduling cover sheets may also be obtained at www.co.lancaster.pa.us/courts.

Rule 205.4. Electronic Filing and Service of Legal Papers

A. "Legal paper" includes a writ of summons or a complaint that is original process naming an original defendant or an additional defendant. It excludes any pleading or other paper filed in any action subject to Pa.R.C.P. Nos. 1910.1 through 1910.50, governing support actions.

B. A party may file a legal paper with the Prothonotary by means of electronic filing at the following Internet address:

www.lexisnexis.com/fileandserve

C. A filing party shall pay the costs of the electronic filing of a legal paper to the agent designated by the Prothonotary.

D. Any document filed electronically by 11:59 p.m. ET shall be deemed filed with the Court once the transmission is successfully completed (authorized date and time) as recorded on the LexisNexis File & Serve System.

E. The Prothonotary or the Prothonotary's designated agent shall promptly provide a filing status message to the filing party setting forth the date and time of acceptance of the filing. If the filing party does not receive a filing status message within one hour, the legal paper is not considered filed, and the filing party shall contact the Prothonotary.

F. If an electronic filing is not filed with the Prothonotary or is not served because of (1) an error in the transmission of the document to LexisNexis, which error was unknown to the sending party, or (2) a failure to process the electronic filing when received by LexisNexis, or (3) rejection by the Prothonotary or (4) other technical problems experienced by the filer, the Court shall, upon cause shown, enter an order permitting the document to be filed nunc pro tunc to the date and time it was attempted to be filed electronically. In the case of service, the party shall, absent extraordinary circumstances, be entitled to an order extending the date for any response or the period within which any right, duty or other act must be performed.

Rule 206.1(a). Petition. Definition. Stipulation

A. Petition Defined.

A petition is a request which seeks relief ancillary to a given cause of action and which avers facts not of record. Petitions include, but are not limited to:

1. Petitions to open or strike judgment.
2. Petitions to transfer venue.
3. Preliminary objections filed pursuant to Pa.R.C.P. No. 1028(a)(1), (5) or (6).
4. Petitions which seek the issuance of a rule to serve the interests of justice.

B. Stipulated Matters.

If the parties agree to the relief sought, the petition shall be accompanied by a stipulation signed by all affected counsel or unrepresented parties and a proposed order.

Rule 206.4(c). Petition. Rule to Show Cause

A. The procedure of Pa.R.C.P. No. 206.6 is adopted, and a rule shall issue as a matter of course pursuant to that Rule.

B. The petitioner shall attach to the petition a proposed order substantially in the following form:

ORDER

Upon consideration of the attached petition, it is hereby ordered that:

1. A rule is issued upon the respondent to show cause why the petitioner is not entitled to the relief requested.
2. The respondent shall file an answer to the petition within twenty days of service.
3. The petition shall be decided under Pa.R.C.P. No. 206.7.
4. Discovery shall be completed within forty-five days of service of the answer.
5. The petitioner shall file a brief in support of the petition within twenty days after the discovery deadline. Any party opposing the petition shall file a responsive brief within ten days of service of the petitioner's brief. The petitioner may file a reply brief within five business days of service of a responsive brief. After all briefs have been filed, any party may file a praecipe for assignment to a judge.
6. The parties may agree to amend the above deadlines in writing.
7. The petitioner shall provide notice of the entry of this Order to all parties.

BY THE COURT:

_____ J.

_____ DATE

C. When the petitioner requests a hearing or argument date, the form of the order may be modified accordingly.

D. When the petitioner requests a stay, the form of the order may be modified accordingly.

E. All petitions, except as provided in F, shall be filed with the Prothonotary. The Prothonotary shall forward such petitions to the Business Judge for entry of the Order.

F. A petition which requests a stay, the filing of an answer in fewer than twenty days or other substantive relief shall be presented in person to the Business Judge. For such petitions, the Court shall not issue the rule to show cause unless:

1. It appears from the petition that reasonable notice has been given to all affected parties of the date, time and place of the presentation; or
2. It appears from the petition that there is an agreement of all affected parties; or
3. The Court in its discretion shall determine that there are extraordinary circumstances justifying immediate relief.

Rule 206.7. Procedure After Issuance of Rule to Show Cause

If an answer is not filed, the petitioner shall submit a proposed order and file a praecipe to assign the petition for disposition.

Rule 208.1. Motion. Definition. Scope

A. Motions for judgment on the pleadings shall be governed by Local Rule 1034(a).

B. Motions for summary judgment shall be governed by Local Rule 1035.2(a).

C. Motions in limine shall be governed by the Court's certification order after a pre-trial conference.

D. Discovery motions shall be governed by Local Rule 208.3(c).

E. Emergency motions shall be governed by Local Rule 208.3(a)(3).

F. If the parties agree to the relief sought, a motion shall be accompanied by a stipulation signed by all affected counsel or unrepresented parties, a proposed order and a praecipe to assign the stipulated matter for disposition.

Rule 208.2(c). Motion. Form. Content

Motions shall identify the applicable procedural rule, statute or other authority.

Rule 208.2(e). Motion. Form. Content

Every motion relating to discovery shall contain a certification that the parties, after reasonable effort, are unable to resolve the dispute.

Rule 208.3(a). Alternative Procedures

A. Praecipe for Assignment. Any party may file a praecipe to assign a motion for disposition at the expiration of the briefing schedule set forth in Local Rule 208.3(b). The Prothonotary shall assign the matter to a judge for disposition and shall deliver the file to the assigned judge.

B. Oral Argument. Any party may request oral argument by filing a praecipe. Oral argument shall be held at such time and place as the judge shall direct.

C. Emergency Motions. Emergency motions must be presented to the Business Judge, who will advise the parties how to proceed.

Rule 208.3(b). Alternative Procedures

A. Motion and Brief. The moving party shall file a motion, proposed order and supporting brief concurrently. If a brief is not filed with the motion, the motion shall be deemed withdrawn, without prejudice, upon praecipe of an opposing party.

B. Responsive Brief. Within twenty days after service of the moving party's motion and brief, any party opposing the motion shall file a responsive brief, together with any opposing affidavits, depositions, transcripts or other documents. Any party who fails to file a responsive brief shall be deemed not to oppose the motion.

C. Reply Brief. The moving party may file a brief in reply to the responsive brief within five business days after service of a responsive brief.

Rule 208.3(c). Discovery Motions Court

A. Purpose of Rule. It is the intention of this Rule that discovery motion practice be expedited and that discovery motions and responses be concise.

B. Discovery Motions Judge. Every discovery motion shall be presented to the Discovery Motions Judge. Discovery Motions Court shall be held at 1:30 p.m. on Friday afternoons as scheduled by the Discovery Motions Judge. The District Court Administrator shall publish notice of the location, dates and times of Discovery Motions Court in the weekly courtroom schedule.

C. Contents of Motion. Every discovery motion shall contain the following:

1. A concise statement describing the nature of the case.

2. A concise statement of the status of any discovery procedure involved.

3. A copy of the discovery request and response, if any, in dispute.

4. A statement of the relief requested and a citation to the statute, procedural rule or other authority for the relief requested.

5. A statement identifying all other parties and their counsel, with mailing addresses, telephone numbers and fax numbers.

6. If necessary, a request for the suspension of discovery until the dispute is resolved.

7. A certification that the parties, after reasonable effort, are unable to resolve the dispute.

8. A proposed rule or order.

D. Notice and Service.

1. A copy of the discovery motion, along with notice of when it will be presented, shall be served upon all parties no later than 5:00 p.m. on the Tuesday preceding the scheduled court date. Discovery motions shall not be filed or presented to the Court in any fashion other than to the Discovery Motions Judge. The moving party shall present an original and one copy of the motion to the Court.

2. If service of the motion is made by first class mail, the mailing must be postmarked no later than Friday preceding the scheduled court date. In the event of a Monday holiday, service, if sent by mail, shall be postmarked by the preceding Thursday. Hand delivery of the motion may be made until 5:00 p.m. on the Tuesday preceding the scheduled court date. The parties may serve discovery motions by facsimile, provided that receipt of the fax by all other parties is confirmed by the serving party. The serving party shall attach proof of service to the discovery motion. Failure to serve the motion and notice shall be grounds for dismissal.

E. Briefs. Briefs are not permitted unless directed by the Court.

F. Responses. Any party may submit a response to the discovery motion. The response shall not exceed five pages. The response shall be presented to the Court and served on all parties or their counsel on the scheduled court date. Affidavits, discovery responses, references to depositions, transcripts or other documents responsive to the discovery motion shall not be included in the response but may be referenced during oral argument.

G. Scheduling. Arguments on discovery motions shall be scheduled at ten minute intervals. Counsel seeking to list a motion for argument shall contact the Discovery Motions Judge no later than 5:00 p.m. on the Tuesday immediately preceding the requested court date. The assignment of all discovery motions to an argument date and time will be made by the Discovery Motions Judge. A list of cases scheduled for argument will be sent via facsimile by the Discovery Motions Judge by the close of business on the Wednesday preceding the scheduled argument date to all parties or their counsel.

Rule 210. Form of Briefs

A. Briefs shall contain complete and accurate citations of all authorities.

B. The brief of the moving party shall contain: all relevant facts; a procedural history; the questions involved; the argument; and a conclusion.

C. The brief of the opposition need contain only an argument and a conclusion. If a counter statement of the case or the questions involved is not filed, the statement of the moving party shall be deemed adopted.

D. Briefs shall be submitted on 8 1/2 x 11 inch paper and shall be double-spaced.

E. Any brief more than fifteen pages shall contain a table of contents and a table of citations.

F. A party shall file a brief with the Prothonotary and shall serve copies pursuant to Pa. R.C.P. No. 440 and Local Rule 440.1.

Rule 212.2A. Pre-trial Conference. Status Report. Memorandum

A. Request for Pre-trial Conference

When an action is at issue, any party who has substantially completed discovery and who desires to proceed to trial shall file with the Prothonotary (1) a praecipe requesting a pre-trial conference; (2) a Status Report; and (3) proof of service. Within ten business days of being served with a praecipe requesting a pre-trial conference and Status Report, each party may file a Status Report. Any party who fails to file a Status Report shall be deemed ready for trial and no further discovery will be permitted by such party.

A Status Report shall include:

1. A short paragraph summarizing the facts.
2. A short paragraph summarizing the claims or defenses.
3. The status of remaining discovery and the time required for completion.
4. Any reason a pre-trial conference should not be held.
5. The complete identification of any cases which should be tried with the case for which pre-trial conference is being requested.

B. Arbitration Appeals

Following an appeal from a compulsory arbitration award, the parties shall proceed in accordance with Section A.

C. Assignment to Judge

Within twenty days of the receipt of a Request For Pre-trial Conference, the Prothonotary shall assign the matter to the trial judge and deliver the file to that judge who shall schedule a pre-trial conference. If the case has previously been assigned to a judge, the Prothonotary shall deliver the file to that judge. Whenever a case has previously been assigned to a judge, the party or attorney who requested the pre-trial conference shall identify the assigned judge on the praecipe. The assigned judge may, upon a review of the Status Reports, refuse to schedule a pre-trial conference. If the requesting party has not substantially completed discovery, the assigned judge shall enter an appropriate order.

D. Trial Counsel

Counsel, who is to conduct the trial, must appear with authority to bind the client.

E. Settlement

The assigned judge shall conduct settlement discussions. Clients or their authorized representatives must be available by phone during the pre-trial conference.

F. Preparation

Counsel shall file a pre-trial conference memorandum, furnish a copy to the assigned judge and serve it on all parties at least one week before the conference.

The pre-trial conference memorandum shall include:

1. A concise statement of the claim or defense on liability and damages.
2. A list of the types and amounts of all damages
3. A list of the legal issues.
4. A list of witnesses on liability and damages with the address of each and a concise statement of their proposed testimony.
5. A list of exhibits on liability and damages.
6. A copy of the report, or answer to interrogatory consistent with Pa.R.C.P. No. 4003.5, containing the opinion and the basis for the opinion of any person who may be called as an expert witness.
7. A list of all deposition transcripts to be used in lieu of testimony and a statement of all objections.
8. A statement of all stipulations sought.
9. A statement of special requests such as for a view, witness needs or courtroom needs.
10. A list of all questions which counsel expects to ask in voir dire which are beyond the areas of inquiry set forth in Pa.R.C.P. No. 220.1.

G. Supplemental Pre-trial Conference Memoranda

At trial, each party will be limited to those witnesses, exhibits and documents set forth in that party's pre-trial conference memorandum unless a supplemental pre-trial conference memorandum is filed and served with a copy furnished to the assigned judge. Unless an objection is filed within ten business days, the changes will be deemed unopposed.

H. Orders

At the conclusion of the pre-trial conference, the assigned judge shall issue an order certifying the case as ready for trial, placing it on a trial list and establishing deadlines.

Rule 212.2B. Special Management Cases

A. Any party may file a praecipe for special management status with a proposed order. The praecipe shall be filed at any time up to thirty days after the close of the pleadings and shall state the reasons for the request. Objections to any such request shall be filed within seven days of service of the praecipe.

B. Criteria for special management may include any of the following:

1. Large number of parties.
2. Large number of claims or defenses.
3. Complex factual or legal issues.
4. Large volume of evidence.
5. Problems locating or preserving evidence.
6. Extensive discovery.
7. Exceptionally long time needed to prepare for disposition.
8. Decision needed within an exceptionally short time.
9. Need to decide preliminary issues before final disposition.

C. Special management designation shall be at the discretion of the Court. Cases granted special management status shall be assigned to an individual judge. Notice of the decision shall be served pursuant to Local Rule 236.

D. Parties shall identify the assigned judge on all documents by including in the caption, under the civil action number, the words "SPECIAL MANAGEMENT: ASSIGNED TO JUDGE _____."

E. At any time after the Court's approval of special management status, any party may file a praecipe entitled request for status conference, with a certificate of service identifying all parties.

F. The status conference shall address the following:

1. All discovery issues.
2. Identification of experts and the furnishing of their reports.
3. Pre-trial motions.
4. Settlement conference, mediation or summary jury trial.
5. Final pretrial conference.
6. Tentative trial date.

G. The parties shall confer, by telephone or in person, and shall address each of the matters listed in Paragraph F. Plaintiff shall file and serve, not later than two business days before the status conference, a joint memorandum for status conference. The memorandum shall contain a brief, non-argumentative statement of the nature of the case, a summary of the positions of the parties on the items in Paragraph F.

Rule 225.1. Opening and Closing Statements

Opening statements shall be limited to a statement of the party's case. Plaintiff shall open first and close last.

Rule 226. Points for Charge

A. Points for charge shall be submitted to the trial judge as directed by the certification order.

B. All points taken from the Pennsylvania Suggested Standard Jury Instructions shall be listed on one page and cited as "Pa. SSJI (Civ) ___."

C. All other points shall be one to a page, citing the authority and exact page number in support.

Rule 227.1. Post Trial Relief

The party filing a post-trial motion shall serve a copy of the motion on the trial judge on the same day the motion is filed. That party shall also deliver to the trial judge the original and necessary copies of a proposed order for the transcription of the record. The trial judge shall enter an order addressing the transcription of the record and a briefing schedule.

Rule 236. Notice by Prothonotary of Entry of Order, Decree or Judgment

The moving party shall provide sufficient copies of all orders, decrees or judgments, together with addressed, stamped envelopes, necessary for the Prothonotary to comply with Pa.R.C.P. No. 236.

Rule 257. Money Paid Into Court

Unless otherwise provided by the Pennsylvania Rules of Civil Procedure, a local rule or order of Court, a party seeking to pay money into Court shall file a petition which conforms to Pa. R.C.P. No. 2303(a)(1)-(4). Service shall be pursuant to Pa. R.C.P. No. 440, and proof of

service shall be pursuant to Local Rule 440.1. A petition shall be governed by Pa. R.C.P. Nos. 206.6 and 206.7.

Rule 260. Trial List

A. Entry on List

When an action has been certified by the trial judge as ready for trial, the District Court Administrator shall place it on a trial list.

B. Order of Trial

Actions shall be listed on a trial list in the order in which they were certified and shall be tried in that order unless otherwise directed by the trial judge.

C. Relisting

Cases not disposed of shall be automatically relisted on the next trial list.

Rule 280. Costs

A. Items of Allowable Costs

Costs may include: fees of Court appointed examiners, masters, auditors, accountants or other experts; statutorily permitted costs for the attendance of witnesses; and such other costs permitted by statute or allowed by the Court.

B. Security for Costs

The Court may require a party to post security for costs.

C. Interlocutory Orders for Costs

A party directed by an interlocutory order to pay costs may not take any further action until such costs are paid.

D. Liability for Costs

Costs shall follow the entry of judgment or decree unless the Court directs otherwise.

E. Time of Filing and Service

Bills of costs must be filed and served within ten days after the entry of a judgment or decree.

F. Exceptions

Exceptions may be filed within five business days of the date of service or shall be deemed waived.

Rule 285. Accounts and Inventories

A. Accounts

When an account is required in a civil action, the account shall proceed in accordance with the Lancaster County Rules of Orphans' Court, except that filings shall be with the Prothonotary.

B. Inventories

Any fiduciary required to file an account shall file a signed and verified inventory within sixty days of appointment.

Rule 286. Sureties

A. General Requirements

Where security is required, a bond shall be filed and approved by the Prothonotary before any action is taken. One corporate surety or two individual securities shall be required.

B. Corporate Requirements

A corporate surety, except as identified in Pa.R.C.P. No. 105, shall file with the Prothonotary evidence that it is authorized to do business in Pennsylvania and its current financial statement, sworn to by an officer or authorized

agent. A new financial statement must be filed at least annually by the third Monday of January. No corporation will be accepted as sole security for an amount greater than half its paid-in capital and surplus. The Prothonotary shall keep a list of qualified companies.

C. Individual Requirements

No bond shall be approved until each surety has filed an affidavit which states that the surety is the owner of real estate having a value in excess of the penalty of the bond and which lists the surety's debts, liabilities and all legal exemptions. The affidavit shall state whether the surety is also a surety on any other obligations, and, if so, what they are. Tenants by the entireties shall be considered a single surety. No person concerned in the execution of process shall become a surety.

D. Objections

Any party in interest may object to the security in accordance with Pa.R.C.P. No. 1535.

Rule 430. Service Pursuant to Special Order of Court. Publication

The Lancaster Law Review is designated as the legal publication for the publication of legal notices.

Rule 440.1. Proof of Service

A proof of service shall conform to Pa. R.A.P. 122.

Rule 1018.1. Notice to Defend

The following is designated to be named in the Notice to Defend as the organization from which information can be obtained:

Lancaster Bar Association
Lawyer Referral Service
Telephone: 717-393-0737

Rule 1028(c). Preliminary Objections

A. Preliminary Objections Pursuant to Pa. R.C.P. No. 1028(a)(2), (3) or (4).

1. Proposed Order. All preliminary objections shall be accompanied by a proposed order.

2. Stipulated Matters. If the parties agree to the relief sought, the preliminary objections shall be accompanied by a stipulation signed by all affected counsel or unrepresented parties, a proposed order and a praecipe to assign the stipulated matter for disposition.

3. Brief. The party filing preliminary objections shall file a supporting brief within ten days of the date of filing of the preliminary objections. If a supporting brief is not filed within ten days of the filing of the preliminary objections, the preliminary objections shall be deemed withdrawn upon praecipe of the respondent. In that event, the objecting party shall file an answer to the complaint within twenty days of the date the praecipe is filed.

4. Responsive Brief. If a supporting brief is filed, the respondent shall file a responsive brief within twenty days after service of the supporting brief. Any party who fails to file a responsive brief shall be deemed not to oppose the objections.

5. Reply Brief. The moving party may file a reply brief within five business days after service of the responsive brief.

6. Praecipe for Assignment. Any party may file a praecipe to assign the objections for disposition at the

expiration of the briefing schedule. The Prothonotary shall assign the objections and deliver the file to the assigned judge.

7. Oral Argument. Any party may request oral argument by filing a praecipe. Oral argument shall be held at such time and place as the judge shall direct.

B. Preliminary Objections Pursuant to Pa. R.C.P. No. 1028(a)(1), (5) or (6).

Any party filing preliminary objections pursuant to Pa. R.C.P. No. 1028(a)(1), (5) or (6) shall attach a notice to plead. Such objections are governed by Local Rules 206.1(a), 206.4(c) and 206.7.

Rule 1034(a). Motion for Judgment on the Pleadings

A. Proposed Order. All motions shall be accompanied by a proposed order.

B. Stipulated Matters. If the parties agree to the relief sought, the motion shall be accompanied by a stipulation signed by all affected counsel or unrepresented parties, a proposed order and a praecipe to assign the stipulated matter for disposition.

C. Motion and Brief. The moving party shall file the motion, proposed order and a supporting brief concurrently. If a brief is not filed with the motion, the motion shall be deemed withdrawn, without prejudice, upon praecipe of an opposing party.

D. Responsive Brief. Within twenty days after service of the moving party's motion and brief, any party opposing the motion shall file a responsive brief. Any party who fails to file a responsive brief shall be deemed not to oppose the motion.

E. Reply Brief. The moving party may file a brief in reply to the responsive brief within five business days after service of the responsive brief.

F. Praecipe for Assignment. Any party may file a praecipe to assign the motion for disposition at the expiration of the briefing schedule. The Prothonotary shall assign the matter to a judge for disposition and shall deliver the file to the assigned judge.

G. Oral Argument. Any party may request oral argument by filing a praecipe. Oral argument shall be held at such time and place as the judge shall direct.

Rule 1035.2(a). Motion for Summary Judgment

A. Proposed Order. All motions shall be accompanied by a proposed order.

B. Stipulated Matters. If the parties agree to the relief sought, the motion shall be accompanied by a stipulation signed by all affected counsel or unrepresented parties, a proposed order and a praecipe to assign the stipulated matter for disposition.

C. Motion and Brief. The moving party shall file the motion, a proposed order and a supporting brief concurrently. If a brief is not filed with the motion, the motion shall be deemed withdrawn, without prejudice, upon praecipe of an opposing party.

D. Responsive Brief. Within thirty business days after service of the moving party's motion and brief, any party opposing the motion shall file a responsive brief, together with any opposing affidavits, depositions, transcripts or other documents. Any party who fails to file a responsive brief shall be deemed not to oppose the motion.

E. Reply Brief. The moving party may file a brief in reply to the responsive brief within five business days after service of the responsive brief.

F. Praecipe for Assignment. Any party may file a praecipe to assign the motion for disposition at the expiration of the briefing schedule. The Prothonotary shall assign the matter to a judge for disposition and shall deliver the file to the assigned judge.

G. Oral Argument. Any party may request oral argument by filing a praecipe. Oral argument shall be held at such time and place as the judge shall direct.

Rule 1301. Compulsory Arbitration. Scope

A. All civil suits or actions, where the amount in controversy is \$50,000.00 or less, when at issue, shall first be submitted to arbitration.

B. This Rule shall not apply to cases involving title to real estate, cases which have been consolidated for trial with cases involving more than \$50,000.00 or cases requiring equitable or declaratory relief.

C. A case is at issue when:

1. a party files a Praecipe for Reference or
2. when the Court issues an order for reference.

D. A party filing a Praecipe for Reference shall serve all other parties and the District Court Administrator within four business days.

Rule 1302. List of Arbitrators. Appointment to Board

The President Judge shall appoint attorneys to serve as arbitrators and as chairpersons of boards of arbitrators. The District Court Administrator shall maintain the lists of attorneys so appointed and shall assign the attorneys to serve from those lists.

Rule 1303. Hearing. Notice

The District Court Administrator shall fix the date, time and place of the hearing, assign the arbitrators and give notice to the parties not less than sixty days before the hearing.

Rule 1308. Arbitrators' Compensation

Arbitrators and chairpersons shall be compensated at rates established by the President Judge.

Rule 1507. Notice Pursuant to Pa. R.C.P. No. 1507

When notice is required pursuant to Pa. R.C.P. No. 1507:

A. The notice shall be given by publication pursuant to Pa. R.C.P. No. 430 and Local Rule 430.

B. The notice shall state:

1. That an action has been filed.
2. The caption of the case as defined in Pa. R.C.P. No. 1018.
3. The nature of the action and the relief sought.
4. The nature of the noticed party's interest in the property.

C. The notice shall also state that the noticed party may appear in the action and that, if the party fails to do so within thirty days of the publication, a decree which may bind the party's interests may be entered.

ACTIONS FOR SUPPORT**Rule 1910.11(a). Hearings Before the Court. Scheduling. Responsibilities of Counsel**

A. Upon motion of a party, the Court may approve a special listing. Upon approval, counsel shall contact the District Court Administrator to schedule a hearing. The scheduling shall not occur unless the District Court Administrator is notified of the Court's decision by counsel.

B. The scheduling of a special relief hearing must be approved by the Family Business Judge.

ACTIONS FOR CUSTODY, PARTIAL CUSTODY AND VISITATION OF MINOR CHILDREN**Rule 1915.1. Scope. Definitions**

Local Rules 1915.1 through 1915.19(a) govern all actions for custody, partial custody and visitation, including original actions, contempt proceedings and petitions to modify orders.

Rule 1915.3. Commencement of Action. Complaint. Order. Service

A. Except as provided in subdivisions F and G, all custody complaints shall be filed with the Prothonotary.

B. In addition to fees assessed for filing a complaint, an additional administrative fee shall be assessed by order of Court and shall be paid to the Prothonotary at the filing of the custody complaint.

C. When a custody claim is asserted in a divorce action, either party may request a date and time for a conference on the custody issue by filing an order with the complaint or with a motion. The administrative fee must be paid to the Prothonotary when the conference is requested.

D. After filing, all complaints or motions for conferences shall be forwarded to the District Court Administrator, who shall set the time, date and place for a custody conference.

E. The moving party shall serve the complaint and order or motion in accordance with the Pennsylvania Rules of Civil Procedure and shall file a proof of service.

F. Any complaint seeking custody of a child within the jurisdiction of the Juvenile Court pursuant to any proceeding under the Juvenile Act shall be presented to the Juvenile Court Judge who will determine how the matter will proceed.

G. Any complaint seeking custody of a child within the jurisdiction of the Orphans' Court pursuant to a petition for voluntarily relinquishment of parental rights, confirmation of consent to adoption, involuntary termination of parental rights or adoption shall be presented to the Orphans' Court Judge who will determine how the matter will proceed.

Rule 1915.5(a). Jurisdiction. Contempt. Continuances. Emergency Relief

A. A party objecting to jurisdiction or venue before the custody conference shall present the objection to the Court and present a request for a continuance to the District Court Administrator.

B. A contested request for a continuance of a scheduled custody conference shall be presented to the Court for decision. A request for continuance shall be filed with the District Court Administrator in accordance with local procedure. In all requests for a continuance, no continu-

ances will be granted within 14 days of the conference without an order of Court and payment of the conference fee.

C. Any complaint for custody, petition for modification, request for special relief or contempt petition containing a request for interim relief must be presented to the assigned Family Court Judge in Family Business Court.

D. Where the parties are in agreement for a continuance, they shall file an Uncontested Motion for Continuance and Waiver of Custody Case Time Requirements in the form provided in Local Rule 1915.19(a).

Rule 1915.5(b). Custody Conference Officer. Confer- ences. Procedure

A. The Court shall appoint members of the Lancaster County Bar or other appropriate persons as custody conference officers to conciliate custody cases filed with the Court and to recommend temporary custody orders.

B. All custody matters shall be scheduled for conference before a custody conference officer no sooner than ten days after the filing of a request for conference. All parties shall be present at such conference unless excused by the custody conference officer. Failure of a party to appear at the conference may result in the entry of a temporary or permanent order without information from that party.

C. A child shall not be brought to the conference except by order of Court. If a child, who is the subject of an action, attends a hearing or conference pursuant to Pa. R.C.P. No. 1915.11(c) or other rule, the party bringing the child shall be responsible for supplying a person to supervise the child while the parties are in the custody conference or in Court.

D. To facilitate conciliation and to encourage frank exchanges between the parties and their respective counsel, statements made by the parties at the custody conference shall be inadmissible as evidence at a later custody hearing. The custody conference officer shall not be a witness for or against any party at any subsequent custody hearing.

E. Post-conference Procedure

1. Settled Case. If an agreement is reached during the conference, the custody conference officer shall record the agreement on a memorandum of agreement form supplied by the Court. All parties shall sign the memorandum, and the custody conference officer shall prepare and present a proposed order to the assigned Family Court Judge. The proposed order shall not be presented to the Court for approval until the parties have furnished the custody conference officer, who shall attach to the proposed order, certificates verifying each party's completion of the custody education seminar referred to in Local Rule 1915.15 Form of Order, or completion of such alternative education program which may be utilized by the Court at the time a custody complaint is filed. If an agreement is reached within twenty four hours before a scheduled conference, the parties shall submit a stipulation signed by all parties and a proposed order to the custody conference officer, who shall submit them to the assigned Family Court Judge. Counsel shall attach to the stipulation certificates verifying completion of the custody education program requirement then in effect.

2. Contested Case. If the parties fail to reach an agreement before the conclusion of the custody conference, within ten days of the conference the custody conference officer shall submit to the assigned Family Court Judge a conference summary report and recom-

mended temporary order. The recommendation may propose a follow-up custody conference with or without consent of the parties. The order will schedule a follow-up custody conference or a hearing.

F. Pre-trial Conference

1. Scheduling. Upon recommendation of a conference officer or a motion of counsel, the Court may schedule a custody pre-trial conference.

2. Attendance. Each party shall be represented at the conference by trial counsel, who shall have authority to bind the client.

3. Preparation. At two business days before the conference, counsel shall file a pre-trial memorandum containing:

- a. A concise statement of the issues and proposed resolution;
- b. A list of any contempt issue;
- c. A list of fact and expert witnesses with their addresses and a concise statement of their proposed testimony;
- d. A list of exhibits;
- e. A list of deposition transcripts to be used in lieu of testimony and a statement of all known objections;
- f. A statement of stipulations sought; and
- g. A statement of requests such as a special time for a witness, courtroom needs etc.

Rule 1915.7. Consent Order

If an agreement is reached regarding custody, partial custody or visitation at least twenty four hours prior to the scheduled conference, the parties may submit a stipulation, with attached custody education seminar completion certificates, and proposed order to the Family Court Judge for disposition. An agreement reached within twenty four hours of the scheduled conference shall be governed by Local Rule 1915.5(b)(E)(1).

Rule 1915.15. Form of Order

The order to be attached on top of a complaint for custody or petition for visitation or to modify custody shall be in substantially the following form:

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA CIVIL ACTION LAW

_____,
 Plaintiff,
 v. _____, No.
 Defendant.

ORDER

You, _____, (defendant) (respondent), have been sued in Court to (obtain)(modify) custody, partial custody or visitation of the following child/children: (names)

1. You are ordered to appear in person at 50 North Duke Street, Lancaster County Courthouse, Lancaster, Pennsylvania, on the ___ day of _____, 20 __, at ___ o'clock __.m. for a conciliation conference to be held in room number _____ before Custody Conference Officer _____.

2. Pending the custody conference: (Court selects option)

No temporary order is requested.

The Court issues no temporary order.

The custody Order _____ (date and reference No.) remains in effect.

With the following revisions (if applicable)

The Court enters the following Temporary Order:

3. Required Education Seminar:

a. All parties named in the caption of the case MUST participate in the custody education seminar approved by the Court at the time the custody action was filed.

b. Unless specifically directed by order of Court, no children shall be present at either the custody education seminar or the conciliation conference. For those cases in which the Court directs the party to bring a child or children to the conference, the supervision requirements of Local Rule 1915.5(b)C apply.

c. Attendance at the custody education seminar will be verified by a certificate which must be presented to the Conference Officer at the beginning of the conciliation conference.

d. A brochure and registration form identifying the seminar and giving the dates, times and location of the seminar is attached. The registration form and fee MUST be returned promptly to assure timely attendance. All parties must attend the required seminar even if the seminar information was omitted from the attached complaint or petition.

e. If a brochure and registration form are not attached, call the District Court Administrator at 717-299-8041 or access the form on the County website which is www.co.lancaster.pa.us/Courts.

f. If you fail to attend the custody education seminar without being excused by order of Court, you WILL be subject to contempt proceedings.

4. If you fail to appear as provided by this order, an order for custody, partial custody or visitation may be entered against you or the Court may issue a warrant for your arrest.

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. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER. IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

OFFICE OF THE DISTRICT COURT ADMINISTRATOR
LANCASTER COUNTY COURTHOUSE
50 NORTH DUKE STREET
LANCASTER, PA 1760
(717) 299-8041

disabled individuals having business before the Court, please contact the District Court Administrator. All arrangements must be made at least seventy two hours prior to any hearing or business before the Court. You must attend the scheduled conference or hearing.

AMERICANS WITH DISABILITIES ACT OF 1990

BY THE COURT:

The Court of Common Pleas of Lancaster County is required by law to comply with the Americans with Disabilities Act of 1990. For information about accessible facilities and reasonable accommodations available to

JUDGE

DATE:
ATTEST:

Rule 1915.15(a). Form of Motion

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION—LAW

Plaintiff v. Defendant
Docket Number: CI-_____

UNCONTESTED MOTION FOR CONTINUANCE AND WAIVER OF CUSTODY CASE TIME REQUIREMENTS

Motion is hereby made to continue the above captioned case scheduled on [date], [time], [place], [Officer/Judge], for a ___ conference ___ hearing, for reason(s) as follows:

Table with 3 columns: Signature of Applying Counsel or Pro se Party, Representing, Date. Includes rows for opposing counsel and a waiver section with checkboxes for initial custody conference, start of hearing, and completion of hearing.

Order

AND NOW, this ___ day of ___, ___, the Motion is granted. The custody ___ conference ___ hearing, (date) ___ is rescheduled to (time) ___ Place: ___, Officer/Judge: ___.

BY THE COURT

Judge

Rule 1920.42(a). Praecepto to Transmit Record

Any party filing a praecipe to Transmit Record shall give notice to the opposing party and shall file proof of service of that notice within five days of filing. Failure to give such notice shall be grounds to strike the Praecepto to Transmit Record at the request of any party not given such notice.

ACTIONS FOR DIVORCE OR ANNULMENT OF MARRIAGE

Rule 1920.51. Hearing by the Court. Appointment of Master. Notice of Hearing

A. Master's Authority. A master shall hear claims in an action of divorce under Section 3301(a), (b) and (d)(1)(ii) of the Divorce Code, in an action for annulment and in claims for alimony, equitable distribution of marital property, counsel fees, costs and expenses.

B. Filing Fees and Costs. The party first raising an issue which is to be referred to a master under these Local Rules shall pay the sum required by the Prothonotary's fee bill, in addition to any normal filing fees. This sum is not refundable. If a hearing requires more than

one-half day, an additional fee will be due for each one-half day or part thereof. These fees shall be paid within ten days after a continuance has been granted.

C. Motion for the Appointment of a Master. When an action is at issue pursuant to Pa.R.C.P. No. 1920.51(a), a party may file a motion and proposed Order to Appoint Master. The motion and proposed order shall be in conformity with Pa.R.C.P. No. 1920.74 and L.C.R.C.P. No. 1920.74.

D. Affidavit of Vital Statistics. The party filing the motion for the appointment of the master shall file the Pennsylvania Department of Health, Bureau of Vital Statistics form.

E. Actions Not Requiring a Hearing or a Master In the following cases, neither a master nor a hearing will be required:

1. No hearing will be required in an action which is filed under Section 3301(c) or Section 3301(d) of the Domestic Relations Code and in which an agreement is to be incorporated into the divorce decree relative to claims for equitable distribution, alimony, counsel fees, costs and

expenses. Instead, the master shall review the record and file a recommendation with the Court within twenty days after receipt of the record.

2. Pursuant to Pa.R.C.P. No. 1920.51(a)(2)(ii), no master will be appointed where a divorce action contains a claim for divorce under Section 3301(c) or Section 3301(d) of the Domestic Relations Code and there are no claims for equitable distribution, alimony, counsel fees, costs and expenses or there are no other factual disputes and there is no agreement to be incorporated into the divorce decree. Instead, after all pleadings and other documents have been filed, either party may file with the Prothonotary a praecipe in the form prescribed by Pa.R.C.P. No. 1920.73, and the Prothonotary shall transmit the record to the Court, which shall review the record and enter an appropriate decree.

F. Hearing Pursuant to Local Rule. In all other actions for divorce in which there are no claims for alimony, counsel fees, costs, expenses, or equitable distribution or if all such claims have been resolved by an agreement which is to be made a part of the Court order, the master may conduct a hearing in the manner set forth in Paragraph M.

G. Hearing Pursuant to Pa.R.C.P. No. 1920.53. In all other cases, the master shall take testimony and file a report which complies with the requirements of Pa.R.C.P. No. 1920.53.

H. Special Relief Hearings. Any request for a special relief hearing is subject to approval by the assigned Family Court Judge.

I. Telephonic Conference before Pre-hearing Conference. There shall be a telephonic conference between the parties and the master before any pre-hearing conference to discuss the status of discovery, the need for appraisals, general issues and the scheduling of a pre-hearing conference by the master.

J. Pre-hearing Conferences and Pre-trial Statements. Pre-hearing conferences shall be held in a Court facility designated by the District Court Administrator. Each party shall attend the pre-trial conference prepared to stipulate to items not in dispute. The master shall have the discretion to require the attendance of the parties, if necessary. Clients shall be consulted by counsel in advance of the pre-hearing conference as to authority respecting stipulations as to items not in dispute and settlement, including definite maximum or minimum limits, as appropriate, and regarding such other questions as may reasonably be anticipated to be relevant. The parties shall also prepare and furnish to the master and other party, at least five business days prior to the date scheduled for conference, a pre-trial statement as described in Pa.R.C.P. No. 1920.33(b). At the hearing, the parties will be limited to those witnesses, exhibits and documents set forth in their pre-trial report unless:

1. All parties affected by any changes agree in a writing which shall be filed with the Court.

2. Prompt notice of changes in the list of witnesses, exhibits or documents is made by filing with the master and by serving the other party with a supplemental pre-trial statement. A proof of service shall be filed with the supplemental pre-trial report pursuant to Local Rule 440.

3. Supplemental pre-trial statements will be liberally received by the master, absent a showing of failure to give prompt notice, undue inconvenience, expense or prejudice. Any objections shall be ruled on by the master or the

Court. If no pre-hearing conference is required by the master, a pre-trial statement, as set forth herein, shall be furnished to the master and opposing party at least five business days before the hearing.

K. Scheduling and Notice of Hearing. The master shall give at least twenty days written notice of the time and place of the hearing to all parties unless waived in writing by all parties. All hearings shall be held in a facility designated by the District Court Administrator.

L. Evidence in Uncontested Cases. A plaintiff who believes the action will be uncontested shall submit to the master at the hearing the following:

1. Affidavit Re Vital Statistics;
2. Plaintiff's Record of Testimony in question and answer or narrative form, signed and verified by plaintiff;
3. The testimony of each of plaintiff's witnesses, in question and answer or narrative form, signed and verified by the witness; and
4. Any exhibits identified in the testimony.

M. Uncontested Hearings Using Plaintiff's Record of Testimony. The master shall conduct the hearing in an uncontested hearing as follows:

1. The plaintiff and all witnesses whose evidence has been prepared in advance shall attend the hearing, and shall swear to or affirm their prerecorded evidence.

2. The master may examine the plaintiff and the witnesses with respect to the evidence prepared in advance in order to evaluate the credibility of those offering pre-recorded evidence, and, to this end, may interrogate the plaintiff and the witnesses as to any relevant matters, including any post-nuptial agreement, whether or not included in the prepared Record of Testimony.

3. The master, upon being satisfied that the Plaintiffs Record of Testimony is credible evidence, shall accept it and include it in the report in lieu of findings on the merits, provided, however, that, in the report, the master certifies:

a. That, at the hearing, the plaintiff and the witnesses offering pre-recorded testimony were placed under oath or affirmation and were examined and that they, by credible evidence, substantiated the facts set forth in the Plaintiff's Record of Testimony; and

b. That no witness, who was sworn or affirmed, presented testimony or evidence to the contrary of the facts set forth in such Record of Testimony.

N. Master's Report in Uncontested Cases. After the hearing wherein the Plaintiff's Record of Testimony has been accepted, the master shall prepare and file the report together with a recommendation in accordance with Pa.R.C.P. No. 1920.53.

O. Master's Status Report if Filing Not Timely. Masters shall submit a status report to the Court and the parties if the report is not timely filed.

Rule 1920.55-2. Exceptions To Master's Report

A. A party filing exceptions to a master's report shall also file a praecipe listing the exceptions for argument and shall serve all parties with copies. The District Court Administrator shall maintain a list of all such cases. Argument Court dates and filing deadlines are as published in the Court calendar.

B. The listing party shall file and serve a brief thirty days before the Argument Court date, and all other parties shall file briefs fifteen days before that date. The

District Court Administrator shall publish the list of cases to be argued. The President Judge shall assign cases, and the assigned judge shall notify the parties how and when argument shall be presented.

Rule 1920.74. Form of Motion for Appointment of Master. Order

The motion and proposed order, in addition to confirming to the requirements of Pa.R.C.P. No. 1920.74 shall also contain the following:

(Caption)

ORDER

AND NOW, this _____ day of _____, 20 __, _____ is appointed Master with respect to the following claims:

Counsel and unrepresented parties are hereby directed to participate in a telephonic status conference with the divorce master on the _____ day of _____, 20 __, at _____ o'clock __ .m. The conference call shall be initiated by the counsel or unrepresented party who requested the master's appointment.

In the event that the status conference is required to be re-scheduled at the request of an unrepresented party or counsel, the unrepresented party or counsel requesting the change shall be responsible for promptly coordinating the new date and time with the divorce master and initiating the conference call.

BY THE COURT:

_____ J.

Copies To: Divorce Master
All Parties

Rule 2039. Compromise, Settlement, Discontinuance and Distribution

A. Contents of Petition

A petition for leave to compromise, settle or discontinue an action in which a minor is a party or an action for wrongful death in which a minor is interested shall set forth:

1. The facts of the case.
2. The damages sustained.
3. All expenses incurred or to be incurred, including counsel fees.
4. Any other relevant information.

B. Hearing

The Court may require a hearing to determine whether the proposed compromise, settlement or discontinuance should be approved.

C. Appearance at Hearing

Necessary parties and witnesses shall appear at the hearing unless excused for cause shown.

Rule 2064. Compromise, Settlement, Discontinuance and Distribution

A petition for leave to compromise, settle or discontinue an action in which an incapacitated person is a party shall be governed by Local Rule 2039.

Rule 2206. Settlement, Compromise, Discontinuance and Judgment

A petition filed pursuant to Pa. R.C.P. No. 2206 shall be governed by Local Rule 2039.

Rule 3252. Writ of Execution

The following is designated to be named in the Writ of Execution Notice as the organization from which information can be obtained:

Lancaster Bar Association
Lawyer Referral Service
Telephone: 717-393-0737

Rule 4007.1. Procedure in Deposition by Oral Examination

A. A period of at least ten days is deemed reasonable notice as required by Pa.R.C.P. No. 4007.1(a).

B. Depositions shall be taken in Lancaster County unless the Court directs otherwise.

RULES OF CRIMINAL PROCEDURE

Rule 1. Title and Citation of Rules

These rules shall be known as the Lancaster County Rules of Criminal Procedure and may be cited as "L.C.R. Crim.P. No. _____."

Rule 2. Trial List

The District Court Administrator shall publish the list of all cases certified as trial ready for each term of Court no later than one week prior to the commencement of the following trial term. This will be known as the trial list.

Rule 3. Call of the List

A call of the trial list will take place as scheduled by the District Court Administrator prior to each trial term. At that time, the President Judge or his designee will address all motions for trial continuances and requests to schedule guilty pleas. Any case not removed from the trial list at the call of the list will be considered trial ready. Pro se defendants must be present for all calls of the list on which their cases appear.

Rule 4. Continuances During Trial Term

Once the trial term begins, any continuance must be authorized by the President Judge or his designee and will only be granted for compelling reasons.

Rule 5. Trial Priority List

A. All cases on the Trial Priority List are deemed to be trial ready and will be listed in a priority established by the District Attorney.

B. The Trial Priority List will be published by the District Court Administrator before the commencement of the Criminal Court term.

C. As cases are disposed of and/or called for trial, the District Attorney will continue to update the Trial Priority List in conjunction with the District Court Administrator, who will publish the updated lists.

D. Cases will be placed into a courtroom in accordance with their priority, attorney availability and witness availability.

E. Cases on the Trial Priority List can be moved up on the list by the District Attorney with reasonable notice to counsel.

F. Counsel and/or pro se defendants for cases on the Trial Priority List not immediately assigned to a courtroom must be available to commence trial on reasonable notice.

G. Pro se defendants must contact the District Court Administrator as frequently as needed throughout the term of Court to determine where their cases appear on the Trial Priority List and when they will be placed into a courtroom.

Rule 6. Guilty Pleas During Trial Term

If a case on the Trial Priority List is to be presented as a guilty plea during the trial term, it must be presented when it is assigned to a courtroom.

Rule 10. Business Judge

The District Court Administrator shall designate the daily Business Judge. Motions and petitions, not otherwise covered by these Rules for presentation to the Court, shall be forwarded to the Business Judge by the Clerk of Courts or may be presented by counsel directly to the Business Judge by appointment.

Rule 120. Attorneys—Appearances and Withdrawals

A. Counsel for the defendant shall file an appearance in writing in all cases with the Clerk of Courts at or before the time of arraignment. An appearance shall be filed immediately if employment follows arraignment.

B. No appearance may be withdrawn except by leave of Court unless an appearance by another attorney is entered. The delay or continuance of a case listed for trial shall be considered by the Court in ruling upon motions to withdraw an appearance.

C. Once an appearance has been entered, counsel shall represent the defendant through sentencing.

D. Except as provided in E, after a case has been returned to Court, any motion filed by counsel shall be deemed an entry of appearance.

E. In any ancillary proceeding such as a bail petition, motion for return of seized property, probation or parole violation or ARD revocation, an appearance of counsel shall be limited to that proceeding if the appearance so indicates.

Rule 202. Approval of Search Warrant Applications by Attorney for the Commonwealth—Local Option

The District Attorney having filed a certification pursuant to Pa.R.Crim.P. 202, search warrants for the crimes listed below, shall not hereafter be issued by any judicial officer, unless the search warrant applications have the approval of an attorney for the Commonwealth before filing:

A. Criminal Homicide in violation of 18 Pa.C.S.A. Section 2501;

B. Murder in any degree in violation of 18 Pa.C.S.A. Section 2502;

C. Voluntary Manslaughter in violation of 18 Pa.C.S.A. Section 2503;

D. Involuntary Manslaughter in violation of 18 Pa.C.S.A. Section 2504;

E. Homicide by Vehicle in violation of 75 Pa.C.S.A. Section 3732;

F. Homicide by Vehicle While Driving Under Influence in violation of 75 Pa.C.S.A. Section 3735;

G. Rape in violation of 18 Pa.C.S.A. Section 3121;

H. Statutory Sexual Assault in violation of 18 Pa.C.S.A. Section 3122.1;

I. Involuntary Deviate Sexual Intercourse in violation of 18 Pa.C.S.A. Section 3123;

J. Aggravated Indecent Assault in violation of 18 Pa.C.S.A. Section 3125;

K. Sexual Assault in violation of 18 Pa.C.S.A. Section 3124.1;

L. Crimes Against Unborn Child in violation of 18 Pa.C.S.A. Chapter 26;

M. Arson in violation of 18 Pa.C.S.A. Section 3301;

N. Obscene and Other Sexual Materials in violation of 18 Pa.C.S.A. Section 5903; and

O. Violation of the Controlled Substance, Drug, Device and Cosmetic Act, 35 P. S. Section 780-113(30) (Delivery or Possession with Intent to Deliver a Controlled Substance).

Rule 311A. ARD Application Process

A. Accelerated Rehabilitative Disposition (ARD) applications shall be submitted to the Office of the District Attorney using the approved form. A defendant shall simultaneously submit a Motion for Trial Continuance and Waiver using the approved form. A defendant shall be notified by first class United States mail of acceptance or rejection. A defendant whose application has been accepted shall be listed for an ARD hearing on the first available date. A defendant whose application has been rejected shall be placed on the next pre-trial conference list.

B. Application for non-DUI related ARD may be made anytime prior to formal arraignment.

C. Applications for DUI related ARD shall be submitted to the Office of the District Attorney within thirty days of the filing of the criminal complaint. Additionally, within thirty days of the filing of the criminal complaint, a defendant shall waive the preliminary hearing and schedule a Court Reporting Network evaluation. Qualification information and further application requirements may be obtained by contacting the Office of the District Attorney.

Rule 421A. Approval of Private Criminal Complaints for Summary Bad Check Charges by Attorney for the Commonwealth

The District Attorney having filed a certification pursuant to Pa.R.Crim.P. 421 and its Comments, summary private criminal complaints, in which the affiant is not a law enforcement officer, as defined in Pa.R.Crim.P. 103, and which charge the crime of BAD CHECKS, 18 Pa.C.S.A. § 4105, shall not be submitted to any issuing authority unless the private criminal complaint has been reviewed and has been approved by an attorney for the Commonwealth.

Rule 507. Approval of Police Complaints and Arrest Warrant Affidavits by Attorney for the Commonwealth—Local Option

The District Attorney having filed a certification pursuant to Pa.R.Crim.P. 507, criminal complaints and arrest warrant affidavits by police officers, as defined in the Rules of Criminal Procedure, charging the crimes listed below, shall not hereafter be accepted by any judicial officer, unless the complaints and affidavits have the approval of an attorney for the Commonwealth before filing:

A. Criminal Homicide in violation of 18 Pa.C.S.A. Section 2501;

B. Murder in any degree in violation of 18 Pa.C.S.A. Section 2502;

C. Voluntary Manslaughter in violation of 18 Pa.C.S.A. Section 2503;

D. Involuntary Manslaughter in violation of 18 Pa.C.S.A. Section 2504;

E. Homicide by Vehicle in violation of 75 Pa.C.S.A. Section 3732;

F. Homicide by Vehicle While Driving Under Influence in violation of 75 Pa.C.S.A. Section 3735;

G. Rape in violation of 18 Pa.C.S.A. Section 3121;

H. Statutory Sexual Assault in violation of 18 Pa.C.S.A. Section 3122.1;

I. Involuntary Deviate Sexual Intercourse in violation of 18 Pa.C.S.A. Section 3123;

J. Aggravated Indecent Assault in violation of 18 Pa.C.S.A. Section 3125;

K. Sexual Assault in violation of 18 Pa.C.S.A. Section 3124.1;

L. Crimes Against Unborn Child in violation of 18 Pa.C.S.A. Chapter 26;

M. Arson in violation of 18 Pa.C.S.A. Section 3301;

N. Obscene and Other Sexual Materials in violation of 18 Pa.C.S.A. Section 5903; and

O. Violation of the Controlled Substance, Drug, Device and Cosmetic Act, 35 P. S. Section 780-113 (30)(Delivery or Possession with Intent to Deliver a Controlled Substance).

Rule 528. Use of Realty to Satisfy Monetary Condition of Release on Bail

A. When realty located in Lancaster County is offered as security for bail of \$10,000 or less, such security must include an affidavit of all record owners and must recite the fair market value of the realty, all liens and the balance of each lien.

B. When realty located in Lancaster County is offered as security for bail greater than \$10,000, such security must include a certification of an attorney, a title insurance company or a title abstracting company and must identify all record owners, all liens and the balance of each lien. The certification must be accompanied by an appraisal by a licensed appraiser conducted within thirty days of the date the realty is offered as security.

C. When realty located outside Lancaster County is offered as security for bail in any amount, such security must include the certification and appraisal described in B.

Rule 529. Modification of Bail Order Prior to Verdict

A. Upon filing any motion to modify or reinstate bail, the moving party shall schedule a conference with the business judge by communicating directly with such judge's chambers. An unopposed motion may be presented to the business judge at any time provided that it contains written verification by the opposing party of the lack of opposition.

B. The conference may occur in chambers or in the courtroom at the discretion of the business judge.

C. At least twenty-four hours before the conference, the moving party shall serve a copy of the motion on the opposing party or counsel for the opposing party, including notice of the date, time and place of the conference.

D. For purposes of this rule, "business judge" is the assigned business judge on the date of the scheduled conference.

E. All orders modifying or reinstating bail shall be filed immediately with the Clerk of Courts. In cases pending in Court or in an appellate court, the Clerk of Courts shall immediately serve the Lancaster County Prison a copy of the order by facsimile or other electronic means when the order accomplishes any of the following:

1. reinstates bail to a monetary condition where the bail has previously been posted and not withdrawn;

2. reinstates bail to ROR, unsecured or a non-monetary condition; or

3. modifies bail to ROR, unsecured or a non-monetary condition.

In all other cases pending before the Court or in an appellate court, the Clerk of Courts, unless the Court explicitly orders to the contrary, shall not be required to serve the Lancaster County Prison a copy of the order until the actual satisfaction of the full amount of any monetary condition of bail.

F. In cases pending before a district justice, service of an order on the district justice may be effected by any of the following:

1. the Clerk of Courts' delivery of a certified copy by regular or interdepartmental mail;

2. the moving party's personal service of a certified copy at the regular office of the district justice; or

3. the moving party's transmitting a copy to the district justice by facsimile or other electronic means and simultaneously sending a certified copy to the district justice by regular or interdepartmental mail.

G. In cases pending before a district justice when the Court has modified bail, the district justice shall issue a new bail bond in either of the following:

1. the district justice's directing a constable to transport the defendant to the office of the district justice, whereupon the defendant can execute the new bail bond; or

2. where the modified bail does not have a monetary condition, the district justice shall transmit by facsimile a new bail bond to the Lancaster County Prison, whereupon prison personnel shall act as the authorized agent of the district justice and secure the defendant's execution of the new bail bond.

A defendant proceeding under G(2) shall comply with F(3) and shall serve a certified copy of the order on the Lancaster County Prison.

H. Nothing in this rule shall affect the right of the Commonwealth or the defendant to request a bail hearing.

Rule 530. Duties and Powers of a Bail Agency

A. Pursuant to Pa.R.Crim.P. 530, the Court designates the Office of Bail Administration and Pre-Trial Services as the bail agency.

B. The bail agency, after investigating and concluding that a defendant is appropriate for release on bail, may present a motion to modify or reinstate bail. The bail

agency may act on behalf of defendants who are incarcerated on bench warrants or who are unable to post the monetary amount of bail.

C. If the issuing authority sets bail which includes supervision by the bail agency, the issuing authority shall require the defendant to complete the bail agency's supervision form.

Rule 570. Pre-trial Conference

A. Scheduling of pre-trial conference

1. After the information is filed, the District Court Administrator shall schedule a pre-trial conference.

The District Court Administrator shall provide notice of the pre-trial conference to counsel no later than seven days before the conference and shall provide notice to pro se defendants pursuant to Pa.R.Crim.P. 113.

2. A pre-trial conference for a homicide case shall be governed by Local Rule 570A.

B. Appearances required

The attorney for the Commonwealth and the attorney for the defendant or the pro se defendant shall appear at the pre-trial conference.

C. Certification for trial

A case may be certified ready for trial by the attorneys for the Commonwealth and the defendant (or the pro se defendant) at the pre-trial conference.

When a case is certified ready for trial, it shall not be scheduled for any further pre-trial conferences.

D. Continuance

A continuance request made at the pre-trial conference must be in writing and shall state the position of the opposing attorney.

E. Guilty plea

1. If the status of a case is a guilty plea, the guilty plea must be scheduled at the pre-trial conference.

2. A defendant may plead guilty at the pre-trial conference at the discretion of the Court.

F. Status order

The Court shall issue a status order at the pre-trial conference. Copies shall be provided to all parties and the District Court Administrator.

Rule 570A. Assignment and Trial of Homicide Cases

A. The assignment and trial of any criminal case in which one or more of the offenses charged is any grade or type of homicide, including homicide by vehicle and homicide by vehicle while driving under the influence, shall be conducted in accordance with the provisions of this rule.

B. Homicide cases shall be assigned to a trial judge by the President Judge. All matters thereafter shall be the responsibility of the trial judge.

C. Pre-trial conferences shall be scheduled by the trial judge and shall not be included on the regularly scheduled criminal pre-trial conference lists.

D. Additional pre-trial conferences may be scheduled at the discretion of the trial judge. The trial judge shall issue a final pre-trial order establishing a firm trial date and containing any further final instructions. Once set, the firm trial date shall not be continued except for extraordinary circumstances.

E. Copies of all pre-trial orders shall be provided to the President Judge, the District Court Administrator and counsel.

Rule 571. Arraignment

A. The District Attorney shall conduct arraignment pursuant to Pa.R.Crim.P. 571(C). A plea of not guilty shall be entered on behalf of the defendant unless the defendant states an intent to enter a plea of guilty.

B. Arraignment shall take place at least thirty days prior to trial, unless a defendant and defense counsel agree otherwise.

C. A defendant and defense counsel may waive arraignment and enter a plea of either guilty or not guilty by filing a written waiver of arraignment. The form for the waiver is available in the Office of the District Attorney. To waive arraignment, the written waiver must either be filed in the Clerk of Courts Office or be delivered to the Office of the District Attorney by noon on the day before the scheduled arraignment date or at the time of arraignment. An unrepresented defendant must appear at arraignment.

Rule 575A. Motions Other Than Bail

Motions not otherwise governed by Pennsylvania Rules of Criminal Procedure or these rules shall be submitted as follows:

A. Upon filing any motion requiring a conference in the Court, the moving party shall schedule the conference with the business judge by communicating directly with such judge's chambers. An unopposed motion may be presented to the business judge at any time provided that it contains written verification by the opposing party and, if applicable, the probation or parole officer, of the lack of opposition.

B. The conference may occur in chambers or in the courtroom at the discretion of the business judge.

C. At least twenty-four hours before the conference, the moving party shall serve a copy of the motion on the opposing party or counsel for the opposing party, including notice of the date, time and place of the conference. In emergency matters in which it is not possible to provide twenty-four hours notice, the moving party shall provide opposing counsel with a copy of the motion as soon as possible prior to the scheduling of the conference.

D. For purposes of this rule, "business judge" is the assigned business judge on the date of the scheduled conference.

E. After decision on the motion, the motion and order shall be filed immediately with the Clerk of Courts.

F. Motions which may be submitted ex parte pursuant to the Pennsylvania Rules of Criminal Procedure and which require a Court order shall be submitted directly to the business judge or the judge assigned to the case.

Rule 575B. Uncontested and Ex-parte Motions

A. If the relief requested in a motion is not opposed, counsel for the moving party shall certify that opposing counsel and, if applicable, the probation or parole officer, do not object to the relief requested. The motion shall be submitted to the business judge or judge to whom the case has been assigned.

B. Motions which may be submitted ex-parte shall be submitted to the business judge or the judge to whom the case has been assigned.

Rule 590. Pleas and Plea Agreements

A. Guilty pleas shall be scheduled with the guilty plea secretary in the Office of the District Attorney. When scheduling the guilty plea, counsel shall inform the guilty plea secretary if and where the defendant is incarcerated. Once a guilty plea date is obtained, the defendant or counsel must file with the District Attorney a Request to Schedule a Guilty Plea in the form provided by the District Attorney.

B. Once a guilty plea is scheduled, it may be removed from the guilty plea list at anytime up to seven days before the scheduled date by notifying the guilty plea secretary. If the defendant or counsel elects to remove the guilty plea from the list within seven days of the scheduled date, the defendant must personally appear on the scheduled date to request a continuance from the Court.

C. Prior to entering a guilty plea, a defendant shall complete and sign a written guilty plea colloquy on the form provided by the District Attorney. The form shall be presented to the Court at the time of the guilty plea hearing.

Rule 604. Opening Statements and Closing Arguments

A. Opening statements shall be limited to a brief statement of the party's case and the facts to be adduced in support thereof and shall not include any argument concerning the facts or the law applicable thereto.

B. The length of closing arguments may be regulated by the trial judge, but any time limitation shall be made known to all counsel before the closing arguments begin.

Rule 620. Waiver of Jury Trial

A waiver of jury trial shall be in compliance with Pa.R.Crim.P. 620 and on the form provided by the District Attorney.

Rule 631. Examination and Challenges of Trial Jurors

Unless a specific method is required by statute or general rule, the trial judge shall determine the method of examination and challenges of trial jurors, giving due consideration to the nature and circumstances of the case.

Rule 647. Requests for Instructions, Charge to the Jury and Preliminary Instructions

Written requests for instructions to the jury shall contain citations to the authority relied upon and shall be submitted at the time set by the trial judge. Case and article citations shall be pinpoint. The failure to submit written requests for instructions to the jury at the time set may be deemed a waiver of the right to do so unless the trial judge determines otherwise in the interests of justice.

RULES OF JUVENILE COURT PROCEDURE**DELINQUENCY****Rule 1. Title and Citation of Rules**

These rules shall be known as the Lancaster County Rules of Juvenile Court Procedure—Delinquency.

Rule 2. Scope of Rules

These rules govern actions alleging delinquency pursuant to the Juvenile Act, 42 Pa.C.S.A. § 6301 et seq.

Rule 3. Scheduling

All juvenile court delinquency matters, with the exception of transfer hearings which are governed by Local Rule 394, shall be scheduled by the Office of Juvenile Probation.

Rule 112. Continuances

A. All requests for continuances or time changes must be submitted on the approved District Court Administration continuance request forms to the District Court Administrator no later than five business days before the scheduled hearing in all transfer proceedings and two business days before the scheduled hearing in all other juvenile proceedings.

B. In the case of an initial continuance request, the moving party shall indicate whether or not the opposing party is in agreement. In the case of second and subsequent continuances of the same juvenile adjudication, the moving party shall include a signed statement of the opposing counsel indicating either agreement with or opposition to the continuance request.

C. All other continuance requests must be presented in person to the presiding judge at the scheduled proceeding to which the continuance request pertains.

Rule 394. Transfer Hearing

All dates for transfer hearings pursuant to 42 Pa.C.S.A. § 6322 (Transfer from Criminal Proceedings) and 42 Pa.C.S.A. § 6355 (Transfer to Criminal Proceedings) shall be set by the District Court Administrator.

DEPENDENCY**Rule 1. Title and Citation of Rules**

These rules shall be known as the Lancaster County Rules of Juvenile Court Procedure—Dependency.

Rule 2. Scope of Rules.

These Rules govern actions alleging dependency pursuant to the Juvenile Act, 42 Pa.C.S.A. § 6301 et seq.

Rule 3. Commencement of Action. Petition.

A. Petitions shall conform to the provisions of Section 6334 of the Juvenile Act and shall be filed with the Clerk of Courts.

B. After filing, the Clerk of Courts shall forward the petition to the juvenile judge for scheduling a hearing.

C. Petitioner shall serve copies of the petition and the order scheduling a hearing on all parties as set forth in the Juvenile Act or as ordered by the Court.

D. Petitioner shall file proof of service before or at the hearing.

Rule 4. Juvenile Dependency Business Court.

A. Petitions and motions after the filing of the original action shall be presented in Juvenile Dependency Business Court.

B. Copies of each petition or motion shall be served on all parties at least two business days before the presentation to the Court and as provided by Pa.R.C.P. No. 440. A proposed rule or order shall be attached as the first page, and a proof of service shall be attached as the last page.

Rule 5. Master's Hearing. Record. Master's Findings and Recommendations.

A. With the consent of all parties, the Court shall appoint a master who shall conduct hearings as directed by the Court. A stenographic record shall be made. The Master's Findings and Recommendations shall be presented to the juvenile judge on a form provided therefor with a Recommended Order for the Court's approval. The Court shall enter an appropriate Order. The Clerk of Courts shall serve copies of the Order and the Master's Findings and Recommendations on all parties.

B. If all parties do not consent to hearings before a master, the juvenile judge shall hear the action.

Rule 6. Exceptions. Request for Hearing. Scheduling of Hearing.

A. Exceptions to the Master's Findings and Recommendations or the Court's Order and a request for a hearing before the Court shall be filed with the Clerk of Courts within ten days after receipt of the Master's Findings and Recommendations and the Court's Order. Exceptions shall specify the reasons in detail. The party filing exceptions and request for a hearing shall serve copies of the exceptions and request on all parties and file proof of service.

B. The Clerk of Courts shall promptly transmit the request for a hearing to the Court Administrator.

C. If no request for a hearing is filed within ten days of receipt of the Master's Findings and Recommendations and the Court's Order, the Court's Order shall become final.

Rule 7. Notes of Testimony.

The hearing before the Master shall not be transcribed except by order of the Court. In any such order, the Court shall fix responsibility for the payment of the costs of a transcript.

Rule 8. Form of Hearing. Use of Record.

The Court may conduct a hearing de novo or may hear only matters in dispute. The Court may adopt in whole or in part the factual record, if any, of the Master's hearing or the Master's findings or fact.

RULES OF ORPHANS' COURT

Rule 1. Judges—Local Rules

Rule 1.2. Title and Citation of Rules

These rules shall be known as the Lancaster County Rules of Orphans' Court and may be cited as "L.C.R.O.C. No. ."

Rule 3. Pleadings and Practice

Rule 3.2. Pleadings

Pleadings shall be limited to a petition, an answer, new matter, a reply to new matter, preliminary objections and an answer to preliminary objections.

Rule 3.6. Depositions, Discovery, Production of Documents and Perpetuation of Testimony

No discovery or perpetuation of testimony is permitted except by petition for leave of Court or by agreement of the parties.

A. A petition shall set forth the nature of the discovery sought, the reasons why the discovery is necessary and the time period within which discovery is to be completed. Upon receipt of a petition, any other party seeking discovery shall file a petition within five days unless all parties agree to proceed under 3.6B.

B. Parties may request leave of court to conduct discovery by agreement. The agreement shall be signed by counsel and shall describe the proposed discovery and shall state the time for completion.

Rule 3.7. Pre-trial Conferences

The Court, sua sponte or on motion of any party, may order a pre-trial conference to consider:

A. The simplification of issues.

B. The necessity or desirability of amendments to the pleadings.

C. Stipulations or admissions of facts or documents.

D. Such other matters as may aid in the disposition of the action.

Rule 3.8. Trust Inter Vivos

Any party requesting the Court to exercise jurisdiction over an inter vivos trust first shall file with the Clerk of the Orphans Court the original of the trust instrument and any amendments thereto or a copy certified by counsel to be true and correct.

Rule 6. Account and Distribution

Rule 6.1. Accounts

Accounts shall be prepared in substantial conformity to accounting forms approved by the Supreme Court of Pennsylvania.

Rule 6.3. Notice of Audit of Account

Notice shall be given at least twenty days prior to the audit, and a copy of the form of notice shall be filed before or at the audit. In addition to the requirements of Pa. O.C. Rule 6.3, notice shall include the following:

A. Except as to legatees or claimants whose legacies or claims have been or will be paid in full, either that a copy of the account and a copy of the will or trust instrument will be sent upon request or the location where a copy of the same is available for inspection, and that any persons who object to the transactions shown in the account must either (1) file written objections in conformity to Rule 6.10 prior to audit or (2) appear in person or by counsel at the audit under penalty that the Court may otherwise conclude that no objection exists; and

B. The accountant's interpretation of any dispute, or fairly disputable question, which will be presented to the Court; a copy of the instrument or material parts relevant to the dispute; and a statement that, if the person notified does not agree with the accountant's interpretation, the person must appear at the audit or by counsel to present the contention, under penalty for failure to appear that the Court will conclude that the persons agrees with the accountant's interpretation; and

C. Notice to a claimant shall include: the accountant's understanding of the nature of the claim; whether the claim is admitted or contested; if admitted, whether it will be paid in full or in part, or, if contested, that failure by the claimant to appear at the audit in person or by counsel may result in the court concluding the claimant has elected not to press the claim.

Rule 6.4. Time of Filing Account and Call of Audit List

A. Accounts to appear on a particular audit list must be filed not later than noon of the third Wednesday preceding the session of court when that audit list will be called. When that Wednesday falls on a holiday, accounts must be filed not later than noon of the preceding business day.

B. The audit list will be called on the first Tuesday of every month except July, August and September. In September, the audit list will be called on the third Tuesday.

Rule 6.6. Compliance with Local Rules

Accounts received by the Court for audit found to violate any provisions of these rules may be returned unaudited to the Clerk of the Orphans Court pursuant to Court order.

Rule 6.9. Petition for Adjudication

A petition for adjudication shall be filed and served no later than seven days prior to the audit, using forms supplied by the Clerk of the Orphans Court or reproductions thereof. The petition shall include a schedule of proposed distribution in sufficient detail to provide the basis for the Court's decree of distribution. The petition shall be signed and sworn or affirmed to by at least one accountant. Any accountant objecting shall comply with Rule 6.10.

Rule 6.10. Written Objections to Accounts

A. Form. Written objections to accounts shall be numbered consecutively and signed by the objector or his attorney. Each objection shall:

1. Be specific as to description and amount.
2. Contain as far as practicable only one material allegation.
3. Set forth briefly the reason or reasons in support thereof.

B. Time of Filing. Objections may be filed with the Clerk of the Orphans Court on any day prior to the day when the account objected to is listed for audit, or at, but not later than, such audit.

C. Service. A copy of the objections shall be served without delay after filing on accountant's attorney or on the accountant promptly.

D. Continuance of Audit. When objections to an account have been filed, the audit of the account will be continued, upon call of the audit list, to a day fixed by the Court for auditing the account and hearing the objections.

Rule 6.13. Memorandum for Audit

Amendments to the account, such as additional receipts and disbursements, and any other pertinent information may be brought before the Court by a memorandum for audit. Where appropriate, the memorandum for audit shall be in accounting form and contain a revised computation of the balance for distribution.

Rule 6.14. Tax Certificate

A form pertaining to Pennsylvania inheritance tax liability is available in the office of the Clerk of the Orphans Court and shall be completed, signed by counsel for the accountant or the accountant and filed prior to the closing of the audit.

Rule 10. Register of Wills**Rule 10.2. Appeal**

A. Anyone desiring to appeal from a judicial act or proceeding of the Register of Wills shall file with the Register a Notice of Intention to Appeal using the form supplied by the Register.

B. After the Notice of Intention to Appeal has been filed with the Register, the Register shall certify the record to the Court.

C. Within thirty days after the filing of the Notice of Intention to Appeal, appellant shall file a Petition for Citation Sur Appeal with the Clerk of the Orphans Court. The petition shall set forth the grounds for the appeal, the names and addresses of all interested parties and the necessary jurisdictional facts. If the petition sets forth a prima facie case, the Court shall award a citation directed to all parties in interest to show cause why the appeal should not be sustained and the act or proceeding of the Register set aside. If the petition is not filed within thirty

days after the filing of the Notice of Intention to Appeal, the appeal shall be deemed abandoned without prejudice to the right of any party to file another appeal within the statutory period for taking an appeal.

Rule 12. Special Petitions**Rule 12.2. Allowance to Surviving Spouse of Intestate Appraisal of Property**

Where the allowance is claimed from property at valuations agreed upon by all parties in interest, no formal appraisal is required. If an appraisal is needed, the manner of appraising, or of filing and confirming the appraisal, and of advertising or giving notice thereof shall be by special order in each case.

Rule 12.5. Appointment of a Guardian for the Estate or Person of a Minor Appearance in Court

Unless required by the Court, the appearance of the minor in Court for the appointment of a guardian of his estate is not required.

Rule 12.9A. Public Sale of Property. Contents of Petition—Additional Requirements

A. Personal Representative. The petition of a personal representative to sell real or personal property at public sale (in addition to the requirements of Pa. O.C. Rule 12.9) shall set forth in separate paragraphs:

1. The name, residence and date of death of the decedent; whether the decedent died intestate or testate; and the date of the grant of Letters.

2. That the personal representative is not otherwise authorized to sell by statute, or is denied the power to do so by the will or that it is desirable that the sale have the effect of a judicial sale, stating the reasons.

3. Whether an inventory and appraisement has been filed; the total value of the property shown therein; and the value at which the property to be sold was included therein.

4. If the personal representative posted bond, the name of the surety and the amount of such bond.

5. The names and relationships of all parties in interest; a brief description of their respective interests; and whether any of them are minors, incapacitated persons or deceased, and, if so, the names of their fiduciaries, if any;

6. For real property, any improvements, by whom it is occupied, its rental value and current tax assessment.

7. Sufficient facts to enable the Court to determine that the sale is desirable for the proper administration and distribution of the estate.

B. Trustee. The petition of a trustee to sell real or personal property at public sale (in addition to the requirements of Pa. O.C. Rule 12.9) shall set forth in separate paragraphs:

1. How title was acquired, stating the date and place of probate of the will or recording of the deed.

2. A recital of the relevant provisions of the will or deed pertaining to the property to be sold.

3. The names and relationships of all parties in interest; a brief description of their respective interests; whether any of them are minors, incapacitated persons or deceased, and, if so, the names of their fiduciaries, if any;

4. For real property, any improvements, by whom it is occupied, its rental value and the current tax assessment;

5. That the trustee is not otherwise authorized to sell by statute, or is denied the power by the trust instrument

or that it is desirable that the sale have the effect of a judicial sale, stating the reason; and

6. Sufficient facts to enable the Court to determine that the proposed sale is for the best interests of the trust,

C. Guardian of a Minor or an Incapacitated Person. The petition of a guardian to sell real or personal property at public sale (in addition to the requirements of Pa. O.C. Rule 12.9) shall set forth in separate paragraphs:

1. The age of the minor or incapacitated person.
2. The names of those who would be entitled to take under the intestate laws and the notice given them of the presentation of the petition.
3. How title was acquired, stating the date and place of probate of the will or recording of the deed.
4. A recital of the relevant provisions of the will or deed pertaining to the property to be sold.
5. The nature and extent of the interest of the minor or incapacitated person, and of other persons in the real property.
6. For real property, any improvements on the property, by whom it is occupied, its rental value and current tax assessment; and
7. Sufficient facts to enable the Court to determine that the sale will be for the best interests of the minor or incapacitated person.

Rule 12.9B. Public Sale of Real Property. Notice. Return

A. Notice. After the allowance of a petition for the public sale of real property, notice shall be by personal service or certified mail to such parties in interest as the Court may direct in its decree.

B. Return. Returns of public sales of real property for the purpose of approval or confirmation by the Court shall be on the form provided by the Register of Wills.

C. Security. On the return day of the sale, the Court, in the decree approving or confirming the sale, shall fix the amount of bond or additional security which the personal representative, trustee or guardian shall be required to enter or will excuse the fiduciary from entering additional security.

Rule 12.10A. Private Sale of Real Property or Options Therefor. Contents of Petition—Additional Requirements. Exhibits

A. Additional Requirements. When it is required that a personal representative, trustee or guardian petition the Court to sell real property at private sale, the petition shall conform as closely as practicable to the requirements of these Rules with regard to a petition to sell real property at public sale.

B. Exhibits. The following exhibits must be attached to the petition by a personal representative, trustee or guardian:

1. A copy of the will, deed or decree by which the fiduciary was appointed.
2. Any consents or joinders of parties in interest, and the names and a copy of the notice which has been given to those parties who do not consent or join.
3. A copy of the agreement of sale.
4. Affidavits as to value by two real estate appraisers in the form prescribed by Pa. O.C. Rule 12.10(b).

Rule 12.11. Mortgage or Lease of Real Property. Additional Requirements

A. Contents of Petition. A petition to mortgage or lease real property shall: conform as closely as practicable to the requirements of these Rules with regard to a petition to sell real property at public sale; set forth the amount and terms of the proposed mortgage loan or lease; and set forth facts to enable the Court to determine whether the mortgage should be approved.

B. Exhibits. The following exhibits shall be attached to the petition:

1. A copy of the will, deed or decree by which the fiduciary was appointed.
2. Any consents or joinders of parties in interest, and the names and a copy of the notice which has been given to those parties who do not consent or join.

C. Security. The amount of the bond or additional security required to be entered, or the waiver thereof, will be determined by the Court in its decree approving the mortgage.

Rule 12.16. Settlement of Small Estates on Petition

A. Contents of Petition. In addition to any requirements set forth under Section 3102 of the Probate, Estates and Fiduciaries Code, as amended, or any subsequent legislation relating thereto, petitions presented to the Court for the settlement of small estates shall contain the following averments:

1. The standing of the petitioner.
2. The date and place of death as well as the residency of the decedent.
3. Whether or not the decedent died testate, and
 - (i) the names, addresses, ages and relationships of the decedent's heirs under Pennsylvania intestate laws or beneficiaries under decedent's last will and testament.
4. The nature and value of the assets comprising the decedent's gross probate estate.
5. A statement of all known liabilities of the estate and the source of their payment.
6. A schedule of proposed distribution.

B. Exhibits.

1. If the decedent died testate, the original will must be attached to the petition as an exhibit.
2. A death certificate must be attached as an exhibit.

C. Notice. Notice of intention to present the petition shall be furnished to all parties in interest as provided under Pa. O.C. Rule 5.3.

Rule 12.17. Change of Situs of Trust

A petition for transfer of situs of any testamentary or inter vivos trust filed by a trustee or any party in interest shall set forth the following:

- A. The name of the decedent or settlor and the date of the creation of the trust estate.
- B. The names and addresses of all parties in interest and whether they are sui juris and join in the prayer of the petition.
- C. The names and addresses of all fiduciaries.
- D. A statement whether all taxes due the Commonwealth of Pennsylvania and its political subdivisions have been paid or provided for.

E. The reasons why the change of situs is necessary or desirable.

F. The name and address of a successor trustee, if appropriate, and the court which will have jurisdiction over the trust.

G. The place where the trust instrument is recorded.

H. A statement of what actions will be taken in the other jurisdiction causing the appropriate court to accept jurisdiction of the trust.

Rule 12.18. Allowance from Minor's Estate. Contents of Petition

A petition for allowance from a minor's estate shall set forth:

A. The manner of the guardian's appointment and the date thereof.

B. The age and residence of the minor, whether the minor's parents are living, with whom the minor resides and the name and age of the minor's spouse and children, if any.

C. The value of the minor's estate, real and personal, and the net annual income.

D. The circumstances of the minor: whether employed or attending school; the name and address of the person charged with the duty to support the minor and, if that person is living, the financial condition and income of such person and why he is not discharging the duty to support the minor; and whether there is adequate provision for the support and education of the minor, his spouse and children.

E. The date and amount of any previous allowance by the Court.

F. The financial requirements of the minor and the minor's family unit, in detail, and the circumstances making such allowance necessary.

Rule 13. Distribution—Special Situations

Rule 13.1. Representation by Counsel

At the time of counsel's entry of appearance for a foreign distributee or claimant, a valid, duly authenticated power of attorney executed by the foreign distributee or claimant in favor of counsel shall be filed with the Clerk of the Orphans Court.

Rule 13.2. Report by Fiduciary

If it appears that the existence, identity or whereabouts of a distributee is unknown, the report required under Rule 13.3 of the Pa. O.C. Rules shall be filed at or before the audit of the account. Upon examination of such report, the Court may:

A. Require the fiduciary to make further investigation.

B. Appoint a master

C. Direct distribution pursuant to 20 Pa.C.S.A. § 3540.

D. Take other action appropriate under the circumstances.

Rule 15. Adoptions

Rule 15.1. Local Rules

A. These Rules are adopted under the option given by Rule 15.1 of the Pa. O.C. Rules to adopt local rules. These Rules may be modified in a particular case by a special order of the Court.

B. Petitions which require a hearing shall have a preliminary decree attached for the purpose of setting a

hearing date, specifying persons to whom and the manner in which notice is to be given and, in the case of an adoption petition, indicating which agency is to make the required investigation. Petitions shall be signed by the petitioners and by counsel and shall be verified.

C. In every proceeding where the Pa. O.C. Rules or the Adoption Act require the adoptee's birth certificate to be exhibited to the Court, the birth certificate shall show the names of the mother and father if that information is recorded. If the name of the father is not recorded, but there is a claim of paternity under Section 8303 of the Adoption Act, such information shall be provided to the Court.

D. In all proceedings under the Adoption Act, counsel for petitioners shall present at the time of the hearing a proposed decree. In any proceeding for voluntary relinquishment of parental rights, confirmation of consent or involuntary termination of parental rights, at the time of the hearing, counsel shall present the notices to the birth parents concerning their right to place information on file with the Court and with the Department of Public Welfare or the Division of Vital Records, together with a stamped envelope addressed to each birth parent.

E. At the time of the hearing the return of notice shall be by affidavit of the person serving, mailing, publishing or delivering such notice.

F. In any proceeding for voluntary relinquishment of parental rights, confirmation of consent, involuntary termination of parental rights or adoption in which a parent whose parental rights are to be relinquished or terminated is a minor, is incarcerated or is in military service, counsel for petitioner shall provide in the preliminary decree for the appointment of counsel to represent such parent.

G. Special requests for scheduling shall be submitted to the Court.

H. If the person to be adopted is an adult, no investigation by an agency shall be required. The preliminary decree shall provide for notice of the proposed adoption to the biological parents unless the Court waives this requirement for good cause.

Rule 15.2. Voluntary Relinquishment to Agency

A. Representatives of agencies who have acted as intermediaries shall appear at the hearing unless excused by the Court.

B. The Court may allow a relinquishment or termination of parental rights by one parent to be conditioned upon relinquishment or termination of parental rights of the other parent of the child intended to be adopted.

Rule 15.3. Voluntary Relinquishment to Adult Intending to Adopt Child

A. Individuals who have acted as intermediaries shall appear at the hearing unless excused by the Court.

B. The Court may allow a relinquishment or termination of parental rights by one parent to be conditioned upon relinquishment or termination of parental rights of the other parent of the child intended to be adopted.

Rule 15.4. Involuntary Termination of Parental Rights

A. When the Court appoints counsel to represent a child in an involuntary termination proceeding, the cost shall be paid in such manner as the Court directs.

B. In any proceeding where a petition for involuntary termination of parental rights is either granted or denied,

the Clerk shall promptly, by first class, mail a certified copy of the decree to all parties at their last known addresses and to their attorneys of record.

Rule 15.5. Adoption

A. The original and one copy of a petition for adoption shall be filed with the Clerk with the required fee.

B. All necessary exhibits such as birth certificates and consents to adoption shall be attached to the petition for adoption unless previously filed with the Report of Intermediary.

C. All consents to adoption shall be in the form required by the Adoption Act and shall be completed with exactitude.

D. The certificate of adoption form furnished by the Bureau of Vital Statistics of the Pennsylvania Department of Health shall be submitted to the Court at the adoption hearing.

E. The report concerning disclosure of fees and costs required by Pa. O.C. Rule 15.5(d) shall be submitted to the Court at the adoption hearing.

F. The statements set forth in the petition for adoption shall be investigated by an agency designated by the Court. The fee for the report of investigation shall be taxed as costs to the adopting parent or parents and is payable directly to the agency.

G. Notice of the adoption hearing shall be given to each person whose consent to the adoption is required and to such other persons directed by the Court.

H. If the person to be adopted is an adult and a change of name is desired, the petitioner shall present evidence of compliance with the law relating to change of name. The petition shall be captioned Petition for Adoption and Change of Name.

Rule 15.6. Notice; Method and Time

A. If the identity of any person whose parental rights are to be terminated is unknown or cannot be determined, the petition shall include an affidavit setting forth in detail the basis for such allegations. The Court may require further testimony.

B. In any proceeding in which notice is to be given to one or more persons by publication, a separate petition shall be submitted to the Court setting forth in detail the efforts made to determine the address of the person to be notified and the results of such efforts.

The decree authorizing service by publication in the location of the last known address of the person to be notified shall include the name of the newspaper of general circulation and the name of the legal periodical, if any, in which such notice is to be published. Publication shall be made by advertising once each week for two successive weeks in the newspaper of general circulation and in the legal periodical, if any.

RULES FOR CONSTABLES AND DISTRICT JUSTICES

RULES FOR CONSTABLES

CONSTABLES

Rule 1. Title and Citation of Rules

These rules shall be known as the Lancaster County Rules for Constables and District Justices and may be cited as "L.C.R.C.D.J. No. ."

Rule 2. District Court Administrator. Screening of Applicants Constable Vacancies

The District Court Administrator shall be responsible for screening all applicants for the offices of constable or deputy constable and shall submit all petitions and recommendations to the President Judge.

RULES FOR DISTRICT JUSTICES

Rule 3. Supervision of District Justices by President Judge

The President Judge designates the District Court Administrator as the liaison between the Court and district justices.

COMMENT: The District Court Administrator is so designated to assist the President Judge with exercising the authority granted by Rule 17 of the Rules Governing Standards of Conduct of District Justices.

Rule 4. Termination of Inactive Summary Matters

A. A summary offense may be terminated if it has not been adjudicated within two years of the filing of the charge.

B. Before any such termination, the district justice shall give at least thirty days notice in writing to counsel of record and unrepresented parties of impending termination. Such notice shall be given in person or by mail to the last address of record of the parties or their counsel of record (including the District Attorney and Public Defender) and shall minimally consist of the name of the defendant, docket number, a brief description of the charge and date the offense was filed.

COMMENT: This Rule covers some of the provisions of Pa. R.J.A. No. 1901.

Rule 5. Duty Courts

A. There shall be four duty courts in Lancaster County: the Central Sector, the Northeast Sector, the Southern Sector and the Northwest Sector. The Central Sector consists of Magisterial Districts 02-1-01; 02-2-01; 02-2-02; 02-2-03 and 02-2-04. The Northeast Sector consists of Magisterial Districts 02-1-02; 02-2-07; 02-2-08; 02-3-06 and 02-3-07. The Southern Sector consists of Magisterial Districts 02-2-06; 02-3-02; 02-3-03; 02-3-04 and 02-3-05. The Northwest Sector consists of Magisterial Districts 02-1-03; 02-2-05; 02-3-01; 02-3-08 and 02-3-09.

B. One district justice from each duty court shall handle all misdemeanor and felony cases and may also handle summary cases during the hours when the other district justice offices in the sector are not regularly open. However, the duty court district justice shall exercise jurisdiction for a sector only while the district justice is on call to cover such cases.

C. The duty court district justice before whom such a case is brought shall have jurisdiction and venue over the matter. Any case filed before the duty court district justice shall be transferred to the district justice for the magisterial district where the offense was allegedly committed.

D. If a district justice is unavailable during regular business hours, the duty court district justice shall have jurisdiction and venue in any matter for which the unavailable district justice would be responsible.

E. The district justices from each duty court sector shall select one of their members to prepare an annual duty court schedule and shall submit the schedule to the District Court Administrator and other appropriate, interested officials no later than the third Monday of Decem-

ber. This schedule shall be binding but may be amended from time to time with notice to the District Court Administrator.

COMMENT: This Rule covers some of the provisions of Pa. R.Crim.P. 130 and 132.

Rule 6. Judicial or Notary Fees

Fees received by a district justice or any staff member for affidavits, oaths, acknowledgments or other similar services, regardless of where the work is performed, shall be remitted to the County of Lancaster.

COMMENT: This Rule covers some of the provisions of Rule 13 of the Rules Governing Standards of Conduct of District Justices.

[Pa.B. Doc. No. 04-752. Filed for public inspection April 30, 2004, 9:00 a.m.]

MONTGOMERY COUNTY

Revision of the Local Rules of Civil Procedure Governing Motion Practice; No. 04-00001

Order

And Now, this 14th day of April, 2004, the Court approves and adopts the following Revision of the Montgomery County Local Rules of Civil Procedure Governing Motion Practice. This Revision shall become effective on July 26, 2004.

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

By the Court

S. GERALD CORSO,
President Judge

Rule 205.2(b). Cover Sheet.

The cover sheet required by Rules 208.3(b), 1028(c), 1034(a) and 1035.2(a) shall be as follows:

- (1) Cover Sheet of the Moving Party

See Form

- (2) Cover Sheet of the Respondent

See Form

Rule 206.1(a). Petition. Definition.

The following applications are defined as "petitions," and are to be governed by Rule 206.1, et seq.:

- (1) Requests to transfer venue on the ground of forum non conveniens.

Comment:

1. The following applications are not governed by Rule 206.1, et seq. or by Rule 208.1, et seq., but rather are governed by the provisions of the general rule(s) governing the particular matter: Request to Appoint Trustee or Receiver pursuant to Pa.R.C.P. 1533; Petition to Compromise, Settle or Discontinue Minor's Action pursuant to Pa.R.C.P. 2039 and Local Rule 2039(a)*; Petition for Supplementary Relief in Aid of Execution pursuant to Pa.R.C.P. 3118; Petition to Fix Fair Market Value of Real Property Sold pursuant to Pa.R.C.P. 3282; Petition for Appointment of Viewers pursuant to 26 P.S. § 1-504; Petition to Post Bond in Land Use Appeals pursuant to 53 P.S. § 11003-A; Petition to Intervene pursuant to Pa.R.C.P. 2328; Petition for Change of Name pursuant to 54 Pa.C.S.A. § 701 et seq.

Rule 206.4(c). Issuance of a Rule to Show Cause.

(1) *Issuance.* The issuance of a Rule to Show Cause for petitions governed by Rule 206.1, et seq., shall issue as a matter of course pursuant to Rule 206.6. Petitions governed by this Rule shall not be faced with a cover sheet of moving party, but rather shall be accompanied by a proposed order in the following form:

See Form *Proposed Order*

The petition and proposed order shall be filed in the Prothonotary's Office, and forwarded to the Court Administrator, who shall have the authority to sign the Rule to Show Cause Order.

If a petitioner requests a stay of execution pending disposition of a petition to open default judgment, or any other petition governed by this rule, the Court Administrator shall promptly refer the stay request to the Civil Equity/Emergency Judge for review and determination.

(2) *Praecepte.* After the filing of respondent's answer and/or the completion of discovery, any party may file with the Prothonotary, in duplicate, a praecipe for argument in the form set forth herein, including a certification that a copy thereof has been served upon all other parties. If the respondent does not file an answer to the petition within the timeframe outlined in the proposed order, petitioner may, by checking the appropriate box on the argument praecipe, request the court to consider the petition without the need for briefs, and enter an appropriate order in accordance with Rule 206.7(a).

The Prothonotary shall forthwith deliver a copy of the praecipe to Court Administration. The praecipe shall be in the following form:

See Form *Argument Praecepte*

(3) *Briefs.* The brief of the moving party shall be filed in the Prothonotary's Office within thirty (30) days of the filing of the praecipe for argument, unless otherwise directly by the assigned Judge. The brief of the respondent shall be filed within thirty (30) days of the date of the filing of the moving party's brief.

If the brief of either party is not timely filed, either in accordance with this Rule or by order of the Court, the assigned Judge may:

(a) Dismiss the petition where the moving party has failed to comply;

(b) Grant the requested relief where the respondent has failed to comply, except that no civil action or proceeding shall be dismissed for failure to comply;

(c) List the matter for argument, at which time only the complying party shall be heard; or

(d) Impose such other sanctions upon the non-complying party as the Judge shall deem proper.

(4) *Disposition.* Once briefs are filed, the matter shall be referred to the assigned Judge for disposition. If oral argument is requested by either party on either their respective cover sheets or the argument praecipe, the matter shall then be scheduled for argument. If oral argument is not requested by either party, the assigned Judge may direct the scheduling of argument, or may simply decide the matter upon the filings.

Rule 208.2(c). Motion. Brief Statement of Applicable Authority

Any motion filed pursuant to Rule 208.1 shall include a brief statement of the applicable authority.

Rule 208.2(d). Uncontested Motions. Certification.

If counsel for the moving party determines that a motion is uncontested by all parties involved in the case, counsel may file a certification that the motion is uncontested. This certification language is included on the cover sheet of the moving party required by Local Rule 208.3(b). By checking the appropriate box on the cover sheet of the moving party, and signing the certification section of the cover sheet, counsel for the moving party will satisfy the certification requirement under this Rule.

Disposition of an uncontested motion is governed by Local Rule 208.3(a).

Rule 208.2(e). Motions Relating to Discovery. Certification.

Any motion relating to discovery must include a certification by counsel for the moving party that counsel has conferred or attempted to confer with all interested parties in order to resolve the matter without court action. This certification language is included on the cover sheet of moving party required by Local Rule 208.3(b). By checking the appropriate box on the cover sheet of the moving party, and signing the certification section of the cover sheet, counsel for the moving party will satisfy the certification requirement under this Rule.

Rule 208.3(a). Motions. Simplified Procedure.

The following "motions" shall be considered by the court without written responses or briefs:

- (1) Requests for Alternative Service pursuant to Rule 430;
- (2) Requests to Proceed Informa Pauperis (Rule 240);
- (3) Any motion certified as uncontested pursuant to Local Rule 208.2(d).

The foregoing motions, after filing with the Prothonotary, shall be presented to the Court Administrator. The Court Administrator shall promptly deliver the motion to the Civil Equity/Emergency Judge for review and determination.

Rule 208.3(b). Motion Practice. Rule to Show Cause.

(1) *Filing.* All other "motions" as defined by Rule 208.1, excepting those listed above in Local Rule 208.3(a), shall be governed by this Rule. All such motions shall be faced with a cover sheet of the moving party in the form set forth in Local Rule 205.2(b) and shall be accompanied by the moving party's proposed order. The motion, together with the cover sheet, shall be presented to the Court Administrator, after filing with the Prothonotary, for a return day on the rule.

(2) *Listing.* Excepting motions for sanctions or contempt of a prior court order, the Court Administrator

shall fix promptly a return day which shall not be less than thirty (30) days from the date of filing of said motion, and the moving party shall forthwith serve the respondent with a copy of the motion and the cover sheet indicating the return day thereon. The moving party shall thereafter file a certification that the motion and the rule return date were served upon all parties, in substantially the following form:

See Form *Certificate of Service*

Motions for sanctions or contempt of a prior court order shall be forwarded by the Court Administrator to the assigned Judge for the scheduling of a hearing.

Motions that are alleged to be "emergencies" will not initially be given a rule return date, but rather the Court Administrator will forward the emergency motion to the assigned Judge. If the matter is deemed to be an emergency by the assigned Judge, the Judge will process the matter accordingly. If the matter is not deemed to be an emergency, the matter will be returned to the Court Administrator for listing pursuant to this Rule.

(3) *Response.* At or before the call of the list on the return day, the respondent shall file an answer to the motion, even if there are no contested issues of fact. The answer shall be faced with the respondent's cover sheet in the form set forth in Rule 205.2(b) and shall be accompanied by a proposed order.

Comments:

1. Rule 208.1(b)(1)(iv) specifically excludes motions to exclude expert testimony pursuant to Rule 207.1 and motions in limine from the above process. These motions are filed with the Prothonotary and referred to the trial judge, upon assignment of trial.

2. Rule 208.1(b)(2)(i) specifically excludes asbestos litigation matters from the above process. Motions filed in said matters are handled pursuant to Local Rule 1041.1*.

3. Requests for leave to withdraw an appearance in family court actions pursuant to Rule 1012 and requests under local Rule 229(a)*(1) are considered "motions" that are subject to this Rule.

Rule 208.4. Disposition of Motions.

(1) *Initial Consideration of Motion—Rule Return Day.* On the return day, the Court Administrator or his/her designee shall call all matters listed. If a response is not filed to the motion at or before the call of the list, the court will treat the motion as uncontested, and grant the requested relief, if appropriate, and if a proper certificate of service was filed pursuant to Local Rule 208.3(b)(2). In the absence of a proper certificate of service, the motion will be stricken.

Matters relating to discovery in which responses have been filed will proceed by Local Rule 4019*. Motions raising appealable matters in which responses have been filed will proceed pursuant to section (2) herein. All other matters (interlocutory) in which responses have been filed will forthwith be referred to the assigned Judge for disposition, including argument, if requested.

(2) *Praecipe.* On all motions raising appealable matters in which responses have been filed, the Court Administrator, after the return day, will issue an order directing the completion of discovery, if necessary, within sixty (60) days of the date of the order. Upon completion of discovery, if necessary, any party may file with the Prothonotary, in duplicate, a praecipe for argument in the form set forth herein, including a certification that a copy thereof has been served upon all other parties. The Prothonotary

shall forthwith deliver a copy of the praecipe to Court Administration. The praecipe shall be in the following form:

See Form *Argument Praecipe*

(3) *Briefs*. For motions raising appealable matters, the brief of the moving party shall be filed in the Prothonotary's Office within thirty (30) days of the filing of the praecipe for argument, unless otherwise directly by the assigned Judge. Regarding appealable matters, the brief of the respondent shall be filed within thirty (30) days of the date of the filing of the moving party's brief.

For motions raising interlocutory matters, where the Court orders briefs, the brief of the moving party shall be filed in the Prothonotary's Office within thirty (30) days of the date of said order and the respondent's brief shall be filed within thirty (30) days of the filing of the brief of the moving party, unless otherwise directly by the assigned Judge. A party may also voluntarily file a brief regarding interlocutory matters even though not specifically directed by the Court.

If the brief of either party is not timely filed, either per the directive of this Rule or by order of the Court, the assigned Judge may:

(a) Dismiss the motion where the moving party has failed to comply;

(b) Grant the requested relief where the respondent has failed to comply, except that no civil action or proceeding shall be dismissed for failure to comply;

(c) List the matter for argument, at which time only the complying party shall be heard; or

(d) Impose such other sanctions upon the non-complying party as the Judge shall deem proper.

(4) *Disposition*. Once briefs, if required, are filed, the matter shall be referred to the assigned Judge for disposition. If oral argument was requested by either party on either their respective cover sheets or the argument praecipe, the matter shall be scheduled for argument. If oral argument was not requested by either party, the assigned Judge may direct the scheduling of argument, or may simply decide the matter upon the filings.

Comments:

1. Appealable matters are those that are before the Court for final judgment or adjudication. Please refer to the Pennsylvania Rules of Appellate Procedure for further guidance.

2. Motions relating to discovery in family law actions—excluded from the above process by Rule 208.1(b)(2)(iv)—are governed by Local Rule 4019.1* Family Discovery Master.

Rule *301. Argument Court—Interlocutory Matters.
Rescinded.

Rule *302. Argument Court—Appealable Matters.
Rescinded.

Rule *303. Argument Court Forms.
Rescinded.

Rule *406. Termination of Inactive Cases.
Rescinded.

Rule 1028(c). Preliminary Objections.

(1) *Filing*. Preliminary objections shall be faced with a cover sheet of the moving party in the form set forth in Local Rule 205.2(b) and shall be accompanied by the

moving party's proposed order. The moving party shall check the box on the cover sheet requiring a response, if any, per the Pennsylvania Rules of Civil Procedure. Preliminary objections are not given a rule return date by Court Administration.

(2) *Response*. The respondent shall file an answer or other responsive document in accordance with the Pennsylvania Rules of Civil Procedure, if any, which response shall be faced with a cover sheet of the respondent in the form set forth in Local Rule 205.2(b) and shall be accompanied by the respondent's proposed order. After the response is filed, if any, where any party demands discovery, the parties shall complete such discovery within sixty (60) days of the filing of the response, unless otherwise directed by the Court.

(3) *Praecipe*. After the filing of respondent's answer and/or the completion of discovery, any party may file with the Prothonotary, in duplicate, a praecipe for argument in the form set forth herein, including a certification that a copy thereof has been served upon all other parties. The Prothonotary shall forthwith deliver a copy of said praecipe to Court Administration. The praecipe shall be in the following form:

See Form *Argument Praecipe*

(4) *Briefs*. For preliminary objections raising appealable matters, the brief of the moving party shall be filed in the Prothonotary's Office within thirty (30) days of the filing of the praecipe for argument, unless otherwise directly by the assigned Judge. Regarding appealable matters, the brief of the respondent shall be filed within thirty (30) days of the date of the filing of the moving party's brief.

For preliminary objections raising interlocutory matters, where the Court orders briefs, the brief of the moving party shall be filed in the Prothonotary's Office within thirty (30) days of the date of said order and the respondent's brief shall be filed within thirty (30) days of the filing of the brief of the moving party, unless otherwise directly by the assigned Judge. A party may also voluntarily file a brief regarding interlocutory matters even though not specifically directed by the Court.

If the brief of either party is not timely filed, either in accordance with this Rule or by order of the Court, the assigned Judge may:

(a) Dismiss the preliminary objections where the moving party has failed to comply;

(b) Grant the requested relief where the respondent has failed to comply, except that no civil action or proceeding shall be dismissed for failure to comply;

(c) List the matter for argument, at which time only the complying party shall be heard; or

(d) Impose such other sanctions upon the non-complying party as the Judge shall deem proper.

(5) *Disposition*. Once briefs, if required, are filed, the matter shall be referred to the assigned Judge for disposition. If oral argument was requested by either party on either their respective cover sheets or the argument praecipe, the matter shall be scheduled for argument. If oral argument was not requested by either party, the assigned Judge may direct the scheduling of argument, or may simply decide the matter upon the filings.

Comments:

1. Appealable matters are those that are before the Court for final judgment or adjudication. Please refer to the Pennsylvania Rules of Appellate Procedure for further guidance.

2. The term “party” or “parties” shall be deemed to mean counsel for a party or parties to a legal proceeding and such party or parties as are unrepresented by counsel.

Rule 1034(a). Motion for Judgment on the Pleadings.

(1) *Filing.* A motion for judgment on the pleadings shall be faced with a cover sheet of the moving party in the form set forth in Local Rule 205.2(b), and shall be accompanied by the moving party’s proposed order. The moving party shall check the box on the cover sheet requiring a response, if any, per the Pennsylvania Rules of Civil Procedure. Motions for judgment on the pleadings are not given a rule return date by Court Administration.

(2) *Response.* The respondent shall file an answer or other responsive document in accordance with the Pennsylvania Rules of Civil Procedure, if any, which shall be faced with a cover sheet of the respondent in the form set forth in Local Rule 205.2(b), and shall be accompanied by the respondent’s proposed order.

(3) *Praecepte.* After filing of respondent’s answer, if any, any party may file with the Prothonotary, in duplicate, a praecipe for argument in the form set forth herein, including a certification that a copy thereof has been served upon all other parties. The Prothonotary shall forthwith deliver a copy of said praecipe to Court Administration. The praecipe shall be in the following form:

See Form *Argument Praecepte*

(4) *Briefs.* For motions for judgment on the pleadings raising appealable matters, the brief of the moving party shall be filed in the Prothonotary’s Office within thirty (30) days of the filing of the praecipe for argument, unless otherwise directly by the Judge assigned to the case. Regarding appealable matters, the brief of the respondent shall be filed within thirty (30) days of the date of the filing of the moving party’s brief.

For motions for judgment on the pleadings raising interlocutory matters, where the Court orders briefs, the brief of the moving party shall be filed in the Prothonotary’s Office within thirty (30) days of the date of said order and the respondent’s brief shall be filed within thirty (30) days of the filing of the brief of the moving party, unless otherwise directly by the assigned Judge. A party may also voluntarily file a brief regarding interlocutory matters, even though not specifically directed by the Court.

If the brief of either party is not timely filed, either in accordance with this Rule or by order of the Court, the assigned Judge may:

(a) Dismiss the motion where the moving party has failed to comply;

(b) Grant the requested relief where the respondent has failed to comply, except that no civil action or proceeding shall be dismissed for failure to comply;

(c) List the matter for argument, at which time only the complying party shall be heard; or

(d) Impose such other sanctions upon the non-complying party as the Judge shall deem proper.

(5) *Disposition.* Once briefs, if required, are filed, the matter shall be referred to the assigned Judge for disposition. If oral argument is requested by either party on their respective cover sheets or argument praecipe, the matter shall be scheduled for argument. If oral argument is not requested by either party, the assigned Judge may direct the scheduling of argument, or may simply decide the matter upon the filings.

Comments:

1. Appealable matters are those that are before the Court for final judgment or adjudication. Please refer to the Pennsylvania Rules of Appellate Procedure for further guidance.

2. The term “party” or “parties” shall be deemed to mean counsel for a party or parties to a legal proceeding and such party or parties as are unrepresented by counsel.

Rule 1035.2(a). Motion for Summary Judgment.

(1) *Filing.* A motion for summary judgment shall be faced with a cover sheet of the moving party in the form set forth in Local Rule 205.2(b) and shall be accompanied by the moving party’s proposed order. The moving party shall check the box on the cover sheet requiring a response, if any, per the Pennsylvania Rules of Civil Procedure. Motions for summary judgment are not given a rule return date by Court Administration.

(2) *Response.* The respondent shall file an answer or other responsive document in accordance with the Pennsylvania Rules of Civil Procedure, if any, which shall be faced with a cover sheet of the respondent in the form set forth in Local Rule 205.2(b) and shall be accompanied by the respondent’s proposed order. After the response is filed, if any, where any party demands discovery, the parties shall complete such discovery within sixty (60) days, unless otherwise directed by the Court.

(3) *Praecepte.* After filing of respondent’s answer and/or the completion of discovery, any party may file with the Prothonotary, in duplicate, a praecipe for argument in the form set forth herein, including a certification that a copy thereof has been served upon all other parties. The Prothonotary shall forthwith deliver a copy of said praecipe to Court Administration. The praecipe shall be in the following form:

See Form *Argument Praecepte*

(4) *Briefs.* For motions for summary judgment raising appealable matters, the brief of the moving party shall be filed in the Prothonotary’s Office within thirty (30) days of the filing of the praecipe for argument, unless otherwise directed by the Judge assigned to the case. Regarding appealable matters, the brief of the respondent shall be filed within thirty (30) days of the date of the filing of the moving party’s brief.

For motions for summary judgment raising interlocutory matters, where the Court orders briefs, the brief of the moving party shall be filed in the Prothonotary’s Office within thirty (30) days of the date of said order and the respondent’s brief shall be filed within thirty (30) days of the filing of the brief of the moving party, unless otherwise directed by the assigned Judge. A party may also voluntarily file a brief regarding interlocutory matters even though not specifically directed by the Court.

If the brief of either party is not timely filed, either in accordance with this Rule or by order of the Court, the assigned Judge may:

(a) Dismiss the motion where the moving party has failed to comply;

(b) Grant the requested relief where the respondent has failed to comply, except that no civil action or proceeding shall be dismissed for failure to comply;

(c) List the matter for argument, at which time only the complying party shall be heard; or

(d) Impose such other sanctions upon the non-complying party as the Judge shall deem proper.

(5) *Disposition.* Once briefs, if required, are filed, the matter shall be referred to the assigned Judge for disposition, unless the underlying case has already been praeciped for trial or ordered on the trial list, in which case the motion will be assigned to the trial judge for disposition.

If oral argument was requested by either party on either their respective cover sheets or the argument praecipe, the matter shall be scheduled for argument. If oral argument was not requested by either party, the assigned Judge may direct the scheduling of argument, or may simply decide the matter upon the filings.

Comments:

1. Appealable matters are those that are before the Court for final judgment or adjudication. Please refer to the Pennsylvania Rules of Appellate Procedure for further guidance.

2. The term "party" or "parties" shall be deemed to mean counsel for a party or parties to a legal proceeding and such party or parties as are unrepresented by counsel.

Rule 4019*. Discovery Master.

In order to facilitate the prompt disposition of discovery motions, the Court adopts Local Rule of Civil Procedure 4019* implementing the "Discovery Master Program" as follows:

(1) The Board of Judges shall appoint a designated number of members of the Bar who shall have practiced civil law in Montgomery County for a minimum of 15 years to serve as Discovery Masters, for an indeterminate term, without compensation, at the pleasure of the Court.

(2) All motions relating to discovery, originally processed under Local Rule 208.3(b), other than a motion for sanctions, shall be subject to this Rule.

(3) If the motion is resolved amicably prior to the return day issued pursuant to Local Rule 208.3(b), the

motion shall either be withdrawn or a stipulated order shall be submitted to the Court Administrator for submission to the signing Judge. If the motion is opposed, the parties shall appear in a courtroom or arbitration room designated by the Court Administrator on the Friday of the week in which the rule was made returnable, to argue the matter before the Discovery Master designated by the Court Administrator to hear the matter. In the event that Friday is a legal holiday, the matter shall be argued before the Discovery Master on the Thursday following the return day. Briefs in support of and in opposition to the motion may be submitted to the Court Administrator's Office prior to the day on which the matter is to be argued before the Discovery Master.

(4) After hearing argument and considering the motion, answer, and any briefs filed, the Discovery Master shall submit a written recommendation and proposed order to the assigned Judge for entry of an appropriate order.

(5) In civil actions in which the damages sought exceed the jurisdictional limit for compulsory arbitration, any party may request the judge assigned to the case to direct the Court Administrator to list the case for a Discovery Management Conference before a Discovery Master. The Discovery Master may recommend a Discovery Management Order, which establishes the following:

a. A date for completion of all discovery, except for depositions for use at trial;

b. A date for plaintiff to submit expert reports and curricula vitae of said experts, or answer expert interrogatories;

c. A date for defendant to submit expert reports and curricula vitae of said experts, or answer expert interrogatories;

(6) The parties may, by agreement in writing, extend any dates set forth in the Discovery Management Order.

(7) Upon request of any party, for good cause shown, the Discovery Master may recommend an extension of any dates set forth in the Discovery Management Order.

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA

VS.

NO.

COVER SHEET OF MOVING PARTY

Date of Filing _____ Moving Party _____

Counsel for Moving Party _____ I.D. No. _____

Document Filed (Specify) _____

Matter is (Check One) _____ (Appealable) _____ (Interlocutory)

Oral Argument _____ (Yes) _____ (No)

CERTIFICATIONS—Check ONLY if appropriate:

_____ Counsel certify that they have conferred in a good faith effort to resolve the subject discovery dispute. (Required by Local Rule 208.2(e) on motions relating to discovery.)

_____ Counsel for moving party certifies that the subject civil motion is uncontested by all parties involved in the case. (If checked, skip Rule to Show Cause section below.)

By: _____
Counsel for Moving Party

RULE TO SHOW CAUSE—Check ONE of the Choices Listed Below:

_____ Respondent is Directed to Show Cause, in the Form of a Written Response, Why the Attached Motion Should Not be Granted. Rule Returnable the _____ day of _____, 20____ at 1:00 p.m. in Video Room 1.

_____ Respondent is Directed to Show Cause, in the Form of a Written Response, Why the Attached Family Court Discovery Motion Should Not be Granted. Rule Returnable and Argument the _____ day of _____, 20____ at 1:00 p.m. at 321 Swede Street, Norristown, Pa.

_____ Respondent is Directed to File a Written Response in Conformity with the Pennsylvania Rules of Civil Procedure.

By: _____
Court Administrator

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL DIVISION

VS. :
: NO.
:
:

COVER SHEET OF RESPONDENT

Date of Filing _____ Respondent _____

Counsel for Respondent _____ I.D. No. _____

Document Filed (Specify) _____

RULE RETURN DATE of Related Motion _____

Matter is (Check One) _____ (Appealable) _____ (Interlocutory)

Oral Argument _____ (Yes) _____ (No)

Respondent Requires (Specify Reason Only if Interlocutory) :

_____ DISCOVERY _____

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL ACTION—LAW

VS. :
: NO.
:
:

ORDER

AND NOW, this _____ day of _____, 200____, upon consideration of the attached Petition, it is hereby ORDERED that:

- (1) A rule is issued upon the Respondent to show cause why the Petitioner is not entitled to the relief requested;
- (2) The Respondent shall file an answer to the Petition within twenty (20) days of service upon the Respondent;
- (3) The Petition shall be decided under Pa.R.C.P. No. 206.7;

(4) Discovery related to the Petition shall be completed within sixty (60) days from the date of filing of Respondent's answer.

BY THE COURT:

Court Administrator

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL ACTION—LAW

VS. :
: NO.
:
:

ARGUMENT PRAECIPE

Please submit the following matter to the designated Judge for disposition:

INTERLOCUTORY matter:
(Specify) _____
(Name of Moving Party) _____

APPEALABLE matter:
 (Specify) _____
(Name of Moving Party) _____

ORAL ARGUMENT: Requested Waived

NO ANSWER FILED—(for petitions governed by Rule 206.1 ONLY)—Petitioner certifies that the time period for response to the above petition, as directed in the proposed order attached to the petition, has expired, and that no answer was filed to the subject petition. Accordingly, petitioner requests the court to consider the petition without the need for briefs, and enter an appropriate order in accordance with Rule 206.7(a).

Signature of Filing Party

Name Typed and Attorney I.D. #

Phone Number

NOTE—PRAECIPES TO BE FILED IN DUPLICATE WITH THE PROTHONOTARY BRIEFS OR MEMORANDUMS TO BE FILED WITH THE PROTHONOTARY
IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL DIVISION

VS. :
: NO.
:
:

CERTIFICATE OF SERVICE

I, _____, hereby certify that a true and correct copy of
(Name of Server)
_____ noting a Rule Return date of
(Name of Motion/Petition)
_____ in Video Room "1" of the Montgomery County Court House,
(Date of Rule Return)
Airy & Swede Streets, Norristown, PA at 1:00 p.m. has been served upon the following persons:
(Insert Complete Name(s) and Address(s))

Via: _____ on _____
(Form of Delivery e.g. Mail/Courier etc.) (Date Mailed or Delivered)

(Signature of Server)

SUPREME COURT

Reestablishment of the Magisterial Districts Within the 11th Judicial District; 205 Magisterial Doc. No. 1

Order

Per Curiam:

And Now, this 13th day of April, 2004, upon consideration of the Petition to Reestablish the Magisterial Districts of the 11th Judicial District (Luzerne County) of the Commonwealth of Pennsylvania, it is hereby *Ordered and*

Decreed that the Petition, which provides for the elimination of Magisterial District 11-2-02, within Luzerne County, to be effective immediately, is granted; and that the Petition, which provides for the realignment of Magisterial Districts 11-1-05, 11-1-06, 11-3-01, 11-3-02, 11-3-03 and 11-3-06, within Luzerne County, to be effective immediately, is granted. It is further *Ordered and Decreed* that the Petition, which also provides for the reestablishment of the remaining Magisterial Districts, within Luzerne County, as they currently exist, to be effective immediately, is granted.

Said Magisterial Districts shall be as follows:

Magisterial District 11-1-01
District Justice William H. Amesbury

Magisterial District 11-1-02
District Justice Martin R. Kane

Magisterial District 11-1-03
District Justice Joseph D. Zola

Magisterial District 11-1-04
District Justice Fred A. Pierantoni, III

Magisterial District 11-1-05
District Justice Paul J. Roberts, Jr.

Magisterial District 11-1-06
District Justice Andrew Barilla

Magisterial District 11-2-01
District Justice Joseph Carmody

Magisterial District 11-2-03
District Justice Joseph A. Halesey

Magisterial District 11-3-01
District Justice John E. Hasay

Magisterial District 11-3-02
District Justice Donald L. Whittaker

Magisterial District 11-3-03
District Justice Daniel O'Donnell

City of Wilkes Barre:
Wards 10, 12, 13, 14 and 15

City of Wilkes Barre:
Wards 1, 2, 3, 4, 5, 6, 8, 9, 16, 17, 18, 19 and 20

City of Hazleton

City of Pittston
Avoca Borough
Dupont Borough
Duryea Borough
Hughestown Borough
Municipality of Kingston
Borough of Edwardsville

Courtdale Borough
Forty Fort Borough
Larksville Borough
Luzerne Borough
Pringle Borough
Swoyersville Borough

Exeter Borough
West Pittston Borough
West Wyoming Borough
Wyoming Borough
Exeter Township

Ashley Borough
Sugar Notch Borough
Warrior Run Borough
Hanover Township

Nescopeck Borough
New Columbus Borough
Shickshinny Borough
Conygham Township
Fairmont Township
Hunlock Township
Huntingdon Township
Nescopeck Township
Ross Township
Salem Township
Union Township

City of Nanticoke
Plymouth Borough
Newport Township
Plymouth Township

Conygham Borough
Black Creek Township
Butler Township
Hollenback Township
Sugarloaf Township

Magisterial District 11-3-04
District Justice Thomas J. Sharkey
Magisterial District 11-3-05
District Justice Gerald L. Feissner

Magisterial District 11-3-06
District Justice Ronald W. Swank

Magisterial District 11-3-07
District Justice Michael G. Dotzel

Magisterial District 11-3-08
District Justice Diana Malast

Magisterial District 11-3-09
District Justice James E. Tupper

West Hazleton Borough
Hazle Township
Freeland Borough
Jeddo Borough
Penn Lake Park Borough
White Haven Borough
Dennison Township
Foster Township
Nuangola Borough
Dorrance Township
Fairview Township
Rice Township
Slocum Township
Wright Township
Bear Creek Village Borough
Laurel Run Borough
Bear Creek Township
Buck Township
Wilkes Barre Township
Lafin Borough
Yatesville Borough
Jenkins Township
Pittston Township
Plains Township
Dallas Borough
Harveys Lake Borough
Dallas Township
Franklin Township
Jackson Township
Kingston Township
Lake Township
Lehman Township

Mr. Justice Baer did not participate in the consideration or decision of this matter.

[Pa.B. Doc. No. 04-754. Filed for public inspection April 30, 2004, 9:00 a.m.]

**Reestablishment of the Magisterial Districts Within
the 14th Judicial District; 206 Magisterial Doc.
No. 1**

Order

Per Curiam:

And Now, this 13th day of April, 2004, upon consideration of the Petition to Reestablish the Magisterial Districts of the 14th Judicial District (Fayette County) of the Commonwealth of Pennsylvania, it is hereby *Ordered and Decreed* that the Petition, which provides for the elimination of Magisterial Districts 14-3-01, 14-3-03, 14-3-05 and

14-3-08, within Fayette County, to be effective January 2, 2006, and the elimination of Magisterial District 14-3-07, to be effective January 7, 2008, within Fayette County, is granted; and that the Petition which also provides for the realignment of Magisterial Districts 14-2-02, 14-2-03, 14-3-02 and 14-3-06, within Fayette County, to be effective January 2, 2006, and 14-1-02, within Fayette County, to be effective January 7, 2008, is granted. It is further *Ordered and Decreed* that the Petition, which provides for the reestablishment of Magisterial Districts 14-1-01, 14-2-01 and 14-3-04, within Fayette County, as they currently exist, to be effective immediately, is granted.

Said Magisterial Districts shall be as follows:

Magisterial District 14-1-01
District Justice Mark L. Blair
Magisterial District 14-1-02
District Justice Ronald J. Haggerty, Sr.

Magisterial District 14-2-01
District Justice Rick Vernon

City of Uniontown
City of Connellsville
South Connellsville Borough
Bullskin Township
Connellsville Township
Saltlick Township
Springfield Township
Menallen Township
South Union Township

Magisterial District 14-2-02
District Justice Deberah L. Kula

Markleysburg Borough
Ohiopyle Borough
Henry Clay Township
North Union Township
Stewart Township
Wharton Township

Magisterial District 14-2-03
District Justice Herbert G. Mitchell, Jr.

Brownsville Borough
Brownsville Township
Luzerne Township
Redstone Township

Magisterial District 14-3-02
District Justice Randy S. Abraham

Fairchance Borough
Masontown Borough
Point Marion Borough
Smithfield Borough
Georges Township
German Township
Nicholson Township
Springhill Township

Magisterial District 14-3-04
District Justice Jesse J. Cramer

Belle Vernon Borough
Fayette City Borough
Newell Borough
Jefferson Township
Washington Township

Magisterial District 14-3-06
District Justice Dwight Shaner

Dawson Borough
Dunbar Borough
Everson Borough
Perryopolis Borough
Vanderbilt Borough
Dunbar Township
Franklin Township
Lower Tyrone Township
Perry Township
Upper Tyrone Township

Mr. Justice Baer did not participate in the consideration or decision of this matter.

[Pa.B. Doc. No. 04-755. Filed for public inspection April 30, 2004, 9:00 a.m.]

2004-2005 Professional Liability Insurance Certification; No. 27 Disciplinary Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 15th day of April, 2004, pursuant to this Court's inherent and exclusive power to supervise the conduct of attorneys, as set forth in Section 10(c) of Article V of the Constitution of Pennsylvania, and in furtherance thereof, *It Is Hereby Ordered* that every attorney admitted to practice law in this Commonwealth and selecting active status shall respond to all inquiries

made by the Administrative Office pursuant to Rule 219(d)(1)(vi), Pa.R.D.E. concerning professional liability insurance. Responses to such inquiries will be used to provide statistical information to the Court and will be kept strictly confidential.

It is *Further Ordered* that the failure to fully respond to all such inquiries shall be deemed a request for transfer to inactive status, and the Administrative Office shall certify the names of such attorneys to the Court, which shall immediately enter an order transferring the attorney to inactive status. Attorneys transferred to inactive status for failure to respond shall not regain active status until they have fully responded to all such inquiries.

2004-05 PROFESSIONAL LIABILITY INSURANCE CERTIFICATION

To obtain current, accurate information about the financial responsibility of each attorney *electing to assume or continue active status* for professional liability claims, the Supreme Court requires this certification to be *fully executed* and returned with your 2004-2005 Annual Fee Form to: Administrative Office of PA Courts/Lawyer Assessment, P. O. Box 46, Camp Hill, PA 17001-0046. A copy of the Supreme Court's Order requiring certification is provided on reverse.

1. Name: _____ 2. Attorney ID Number: _____
3. Office Address: _____
4. County Where Primary Practice is Located: _____

5. Places of Legal Employment (Check all that apply):

- Small Law Firm (2-5 attorneys)
- Medium Law Firm (6-20 attorneys)
- Large Law Firm (21+ attorneys)
- Solo Practitioner
- Public Defender
- Other Law Related Employment
- Corporate Legal Department
- Federal Government
- State Government
- Local Government
- Legal Service Organization

6. I am engaged exclusively in the practice of law as a full-time government attorney, legal service organization attorney, public defender, judicial clerk or corporate in-house counsel and do not represent clients outside that capacity. If yes, I am not required to provide information requested in Questions 7-8 below.

- YES
- NO

7. I am currently covered by a professional liability insurance policy, other than an extended reporting endorsement (also referred to as "tail" coverage, it generally provides liability coverage for claims that are made after a policy's expiration and only if the claim-related occurrence took place prior to the expiration date).

- YES
- NO

If yes, then provide the policy details below (or attach a copy of a verification of insurance by carrier(s) providing policy details as specified).

Name of Insurance Carriers	Per Claimant or Occurrence Limits	Aggregate Limits
	\$. 0 0	\$. 0 0
	\$. 0 0	\$. 0 0
	\$. 0 0	\$. 0 0

8. I am engaged in the private practice of law (full or part-time) involving representation of one or more clients within the Commonwealth of Pennsylvania. YES NO

9. I have unsatisfied legal malpractice judgments entered against me or against a professional entity arising from my performance of legal services. YES NO

If yes, then provide the date of judgment, amount of judgment and court below.

Dates	Amounts	Courts
	\$. 0 0	
	\$. 0 0	
	\$. 0 0	

I certify the information provided is true. If any statements are false, I realize I am subject to discipline by the Supreme Court of Pennsylvania.

Signature of Attorney

Date

ALL CERTIFICATION QUESTIONS MUST BE ANSWERED TO RETAIN ACTIVE ATTORNEY STATUS.

[Pa.B. Doc. No. 04-756. Filed for public inspection April 30, 2004, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Transfer of Attorneys to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated March 19, 2004, pursuant to Rule 111(b) Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective April 18, 2004 for Compliance Group 2 due August 31, 2004.

Notice with respect to attorneys having Pennsylvania registration addresses, who have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

- Carolyn Loraine Adams
Wells River, VT
- Guido Babore
Cherry Hill, NJ
- John J. Baulis
San Anselmo, CA
- Mark Andrew Bernstein
Cherry Hill, NJ
- Lawrence Timothy Cullen
Gaithersburg, MD
- Michael C. Dorf
New York, NY
- Karen Eisele
Haddon Heights, NJ
- Rebecca Henszey Ewing
Washington, DC
- Patrick J. Flor
Trenton, NJ

Joshua A. Friedman
Voorhees, NJ

Thomas Edward Golden
Maple Shade, NJ

Karen Eta Goldman
Washington, DC

James W. Govert
Ann Arbor, MI

William Joseph Healy
Trenton, NJ

William Lewis Hoffman
Princeton, NJ

Henry Jackson Howard
Washington, DC

Gregory Joseph Hubachek
Matairie, LA

Steven Jay Jozwiak
Cherry Hill, NJ

Walter H. Killian
Columbia, MD

Theresa Pirmann Kirkpatrick
Mt. Laurel, NJ

Kimberly A. Kitterman
Cherry Hill, NJ

Penelope Margaret Lister
Washington, DC

Jane A. Lorber
Westmont, NJ

David Marshall McCoy
Bridgewater, NJ

Deborah Marie Murray
Basking Ridge, NJ

Steven M. Paikin
West Bloomfield, MI

Stephanie P. Pennant
Cherry Hill, NJ

F. Phillip Renzulli
Wilmington, DE

Mark Anthony Rinaldi
Marlton, NJ

Laurence E. Rosoff
Cherry Hill, NJ

Jonathan Blair Slade
Washington, DC

George Henry Smith Jr.
College Park, MD

Thadeus A. Tanski
Garfield, NJ

Christopher Dwayne Taylor
Willingboro, NJ

Lee David Unterman
New York, NY

Jane Susan Weaver
Arlington, VA

Lisa J. Whipkey
Parsippany, NJ

Stephen M. Zullo
Parsippany, NJ

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

[Pa.B. Doc. No. 04-757. Filed for public inspection April 30, 2004, 9:00 a.m.]

RULES AND REGULATIONS

Title 22—EDUCATION

STATE BOARD OF EDUCATION

[22 PA. CODE CH. 14]

Special Education Services and Programs

The State Board of Education (Board) amends Chapter 14 (relating to special education services and programs). The Board takes this action under the authority of sections 1372 and 2603-B of the Public School Code of 1949 (code) (24 P. S. §§ 13-1372 and 26-2603-B). Notice of proposed rulemaking was published at 33 Pa.B. 4306 (August 30, 2003) with an invitation to submit written comments.

Purpose

The final-form rulemaking amends § 14.162(c) (relating to impartial due process hearing and expedited due process hearing). The purpose of amending § 14.162(c) is to align the Commonwealth's special education regulations with the requirements imposed by the United States Department of Education's Office of Special Education Programs (OSEP) regarding parental consent and the initiation of educational services. If the Commonwealth does not make this change by June 30, 2004, the Commonwealth risks having more than \$336 million in Federal special education funds withheld by the United States Department of Education, affecting services to nearly 250,000 students.

Comments and Responses

The Board received public comments regarding the proposed rulemaking. In addition, the House Education Committee (Committee) held a hearing on October 8, 2003, and briefly continued its discussion at a hearing on October 15, 2003. Though the Committee did not officially submit comments, one member of the Committee did submit comments for consideration and Committee staff asked a question about the OSEP's position. In a letter, a State Representative urged the Board to challenge the OSEP, arguing that the OSEP's position is inconsistent with the requirements of the Individuals With Disabilities Education Act (IDEA). The State Representative believes the OSEP's position puts school districts at risk for legal challenges that could result in assessment of monetary damages were parents later to claim that the district did not fulfill its duty.

In addition, the Board received a letter from the Pennsylvania School Boards Association (PSBA). The PSBA opposes the rulemaking, believing the OSEP's position to be inappropriate and putting school districts at risk of legal liability for not providing students a free appropriate public education (FAPE) as required by IDEA. In its letter, the PSBA urges the Board to move forward to a hearing with the United States Department of Education, believing that an administrative hearing would result in a favorable decision for the Commonwealth and no loss of Federal funds.

At a public committee meeting held by the Board on February 21, 2003, the Standing Committee on Special Education received written and oral testimony regarding the proposed rulemaking from five commentators. The Education Law Center did not take a position on the proposed rulemaking and asked that other changes be made to Chapter 14 beyond those outlined in § 14.162.

The Pennsylvania State Education Association concurred that the proposed rulemaking was necessary to avoid Federal funding jeopardy. Two commentators asked the Board not to make the revision and to challenge the OSEP's position through the hearing process. They expressed concern that school districts will face financial judgments resulting from legal challenges to districts that do not provide FAPE, even when a parent refuses FAPE. Another commentator asked the Board to state explicitly that a school district's obligation to provide FAPE ends upon a parent's refusal to consent to an initial offer of FAPE and does not request an impartial hearing.

Overall Comments and Policy Considerations

Federal IDEA funding awarded to the Commonwealth for the 2003-04 school year is conditioned upon the Commonwealth making the necessary regulatory revision by June 30, 2004. In correspondence dated June 23, 2003, the Department of Education (Department) informed OSEP that it is committed to making this proposed rulemaking.

The following outlines the substance of correspondence between the United States Department of Education and the Department regarding this issue.

- In an e-mail message sent June 28, 2002, the OSEP advised the Director of the Department's Bureau of Special Education (Bureau) that the Commonwealth must revise the regulation. The message stated:

In reviewing your eligibility documents, OGC brought it to my attention that there is a problem in Chapter 14. Specifically, § 14.162, Impartial due process hearing and expedited due process hearing, paragraph (c), reads: "A school district may request a hearing to proceed with an initial evaluation, *an initial educational placement* or a reevaluation when the district has not obtained parental consent as required by 34 CFR 300.505(c) (relating to parental consent). When a parent rejects the district's proposed identification of a child, proposed evaluation, proposed provision of a free appropriate public education or proposed educational placement, the school district may request an impartial due process hearing.

The emphasized words need to be eliminated to be consistent with 34 CFR 300.505(b), which does not include a parent's refusal to provide consent for initial placement.

- On January 28, 2003, in an e-mail message to the Director of the Bureau, the OSEP confirmed that the proposed amendment to § 14.162(c) conforms to the OSEP's interpretation of 34 CFR 300.505(b).

- In a letter dated June 23, 2003, to the United States Department of Education's Division of Monitoring and State Improvement Planning, the Director of the Bureau delivered a signed statement assuring the OSEP "that Pennsylvania will continue to implement all required actions to ensure adherence with requirements for Part B grant awards under the Individuals with Disabilities Education Act (IDEA)." The Department also assured the OSEP that "[a]ll necessary modifications to state regulations required to address 34 CFR § 300.505 have been provided to the State Board of Education, have progressed through public input stages, and are pending regulatory adoption. . . ."

The Department's statement of assurance also provided:

1. As soon as possible, but no later than July 1, 2004, the State will make all of the changes to its statutes, regulations, policies and procedures, as specified in the memorandum from Hugh Reid to Dr. Fran James Warkowski that are necessary to make them consistent with the following requirements of the Individuals with Disabilities Education Act (IDEA) and its implementing regulations in 34 CFR Part 300 (relating to assistance to states for the education of children with disabilities), and will provide the Secretary with a copy of the revised documents showing those revisions to Chapter 14 of the *Pennsylvania Code* to change § 14.162 consistent with 34 CFR § 300.505(b). The suggested language should include: "The Individuals with Disabilities Education Act Amendments of 1997 require a public agency to obtain informed parental consent before it initiates provision of special education and related services (34 CFR § 300.505). The Pennsylvania Department of Education, Bureau of Special Education has agreed to seek a State Board revision to Chapter 14 of the *Pennsylvania Code* to change § 14.162(c) to enhance the Pennsylvania Department of Education's enforcement capabilities. Informed parental consent must be obtained before: (1) conducting an initial evaluation; (2) reevaluation; and (3) the initial provision of special education and related services (34 CFR § 300.505(a)(1)). The public agency may seek a hearing officer decision permitting an initial evaluation and reevaluation when parents withhold consent (34 CFR § 300.505(b)). However, a hearing officer may not override a parental withholding of consent for the initiation of special education services. A parent's decision on whether to allow a school district to begin to initiate special education program is exclusive to the parent."

2. Throughout the period of the State's grant awards for fiscal year 2003 under Part B of the IDEA, the State will ensure that all public agencies in the State will comply with all of the requirements of Parts A and B of the IDEA and its implementing regulations; and

3. The State will provide OSEP with a copy of a memorandum notifying all public agencies of the changes that impact on public agencies' provision of special education and related services that OSEP requires as a result of its review of the State's eligibility documents.

- In a letter dated July 1, 2003, from Stephanie S. Lee, Director of the OSEP to Vicki L. Phillips, Secretary of Education, the OSEP conditionally approved the Commonwealth's Eligibility Document Submission for Federal Fiscal Year 2003. The OSEP's determination that the Commonwealth was eligible for conditional approval was based on the Department providing its assurance that "as soon as possible, but no later than July 1, 2004, Pennsylvania will revise Chapter 14 of the *Pennsylvania Code* to change § 14.162, consistent with 34 CFR § 300.505(b)." The letter also required the Department to notify all public schools of this final-form rulemaking and the impact on their provision of special education services. The Department distributed a memorandum by means of an e-mail on August 15, 2003, to school administrators notifying them of the final-form rulemaking and the need for schools to comply with the change during the 2003-04 school year.

Finally, Congress is currently engaged in reauthorization of IDEA. A bill recently approved by the Senate Health, Education, Labor and Pension Committee includes language that addresses this issue. The language in the bill is consistent with the OSEP's existing interpretation. Therefore, it is highly probable that this requirement will be clearly addressed in Federal statute upon reauthorization of IDEA.

The Board believes the number of students affected by this final-form rulemaking is relatively small. Based on the most recent school year for which data is available, of nearly 250,000 students eligible for special education services, there was only one case where a school district sought a hearing officer's order to allow it to provide special education services to a student without parental consent.

Upon careful consideration of the issues raised by all commentators, the Board believes it is in the best interest of the Commonwealth to comply with the directive from the OSEP and to revise § 14.162(c).

Affected Parties

The final-form rulemaking affects the students and professional employees of the public schools of this Commonwealth (including intermediate units, area vocational-technical schools, public charter and alternative schools).

Costs and Paperwork Estimates

Without proper alignment with Federal requirements, the Department might have its Federal funding for special education withheld, the current total exceeding \$336 million.

Effective Date

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

Sunset Date

In accordance with its policy and practice respecting all of its regulations, the Board will review the effectiveness of Chapter 14 every 4 years. Thus, no sunset date is necessary.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 18, 2003, the Board submitted a copy of the notice of proposed rulemaking, published at 33 Pa.B. 4306, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Committees on Education for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on March 24, 2004, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on March 25, 2004, and approved the final-form rulemaking.

Contact Person

The official responsible for information on the final-form rulemaking is Jim Buckheit, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 787-3787 or TDD (717) 787-7367.

Findings

The Board finds that:

(1) Public notice of the intention to adopt this final-form rulemaking was given under sections 201 and 202 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S.

§§ 1201 and 1202) and the regulations promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

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

(3) The final-form rulemaking is necessary and appropriate for the administration of the Public School Code of 1949.

Order

The Board, acting under authorizing statute, orders that:

(a) The regulations of the Board, 22 Pa. Code Chapter 14, are amended by amending § 14.162(c) to read as set forth at 33 Pa.B. 4306.

(b) The Executive Director shall submit this order and 33 Pa.B. 4306 to the Office of General Counsel and the Office of Attorney General for review and approval as to legality and form as required by law.

(c) The Executive Director of the Board shall certify this order and 33 Pa.B. 4306 and deposit them with the Legislative Reference Bureau as required by law.

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

JIM BUCKHEIT,
Executive Director

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 2027 (April 10, 2004).)

Fiscal Note: Fiscal Note 6-287 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 04-758. Filed for public inspection April 30, 2004, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF DENTISTRY

[49 PA. CODE CH. 33]

Application Fees

The State Board of Dentistry (Board) amends § 33.3 (relating to fees) by revising certain application fees to read as set forth in Annex A.

A. Effective Date

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

B. Statutory Authority

The final-form rulemaking is authorized under section 4(b) of the Dental Law (act) (63 P. S. § 123(b)).

C. Background and Purpose

The act requires the Board to set fees by regulation so that revenues meet or exceed expenditures over a biennial period. General operating expenses of the Board for services that are provided directly to individual licensees or applicants are excluded from general operating revenues and are funded through fees in which the cost of providing the service forms the basis for the fee.

In a recent systems audit of the operations of the Board within the Bureau of Professional and Occupational Affairs (Bureau), the fees for services to licensees and applicants were analyzed to determine if the fees reflected the actual cost of providing the services. Actual cost calculations are based on the following formula:

$$\begin{array}{r} \text{Number of minutes to perform the function} \\ \times \\ \text{Pay rate for the classification of personnel performing the} \\ \text{function} \\ + \\ \text{A proportionate share of administrative overhead} \end{array}$$

The analysis, with regard to the Board, determined that there are currently no fees for two services, which does not support the actual cost of providing those services: application for dental radiology authorization and notification application—postgraduate training or faculty member.

Section 11.4 of the act (63 P. S. § 130e) provides that no auxiliary personnel may perform radiologic procedures unless under the direct supervision of the dentist who is on the premises at the time that the X-ray is taken, and unless the person has passed the radiologic examination. Section 33.302 (relating to auxiliary personnel performing radiologic procedures) implements these provisions. Persons who have passed the Board approved dental radiologic procedure examination file an application requesting authorization to perform those radiologic procedures under the direct supervision of a dentist. A letter of authorization is issued by the Board.

Section 2(d) of the act (63 P. S. § 121(d)) allows dentists who are licensed in another state or country to practice without licensure in this Commonwealth for the limited purpose of teaching, including clinical teaching, in a dental school or advanced dental education program in this Commonwealth approved by the Board after notification to the Board and in accordance with Board regulations. Section 2(f) of the act allows the practice of dentistry without a license by persons in a dental clinic operated nonprofit during the duration of an internship, residency or other approved graduate training program by persons with the required education for admission into the program, and after notification to the Board.

In this final-form rulemaking, fees for the services identified previously would be adjusted to allocate costs to those who use the service or make application. The Board would continue to apportion enforcement and operating costs to the general licensing population by means of its license renewal fee through the biennial reconciliation of revenue and expenditures.

D. Description of Services

Application Fee for Dental Radiology Authorization

This fee is necessary to offset costs incurred by the Board to process a request for authorization to perform radiologic procedures under the direct supervision of a dentist.

Applicants apply to and are examined by a professional testing contractor. Candidates who pass the examination are reported to the Bureau by the contractor. This information is entered into the Bureau's database and an authorization letter is issued to the applicant. The information must be maintained in the database perpetually for informational purposes and for providing duplicate authorization letters upon request. This fee is the only contribution applicants make to the operational expenses

of the Board since the authorization is not subject to renewal. The administrative overhead charge has been averaged for the boards offering the radiology examination.

Notification Application—Postgraduate Training or Faculty Member

This fee is necessary to offset costs incurred by the Board to process a notification application for postgraduate training or faculty member.

The Board receives the application and supporting documents, reviews for completeness, contacts the applicant to request any missing information or documents, or both, confirms the status of the applicant's license in another state or foreign education, if applicable, and issues a letter of authorization, or discrepancy notice, as appropriate.

E. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on October 3, 2001, the Board submitted a copy of the notice of proposed rulemaking, published at 31 Pa. B. 5714 (October 13, 2001), to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House Professional Licensure Committee and the Senate Consumer Protection and Professional Licensure Committee for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on December 16, 2003, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5g of the Regulatory Review Act, the amendment was deemed approved by IRRC, effective December 17, 2003.

F. Fiscal Impact and Paperwork Requirements

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The fees will have a modest impact on those members of the private sector who apply for services from the Board. The final-form rulemaking will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

G. Sunset Date

The Board continuously monitors the cost effectiveness of its regulation. Therefore, no sunset date has been assigned.

G. Contact Person

Further information may be obtained by contacting Lisa Burns, Board Administrator, State Board of Dentistry, P. O. Box 2649, Harrisburg, PA 17105-2649, liburns@state.pa.us.

I. Findings

The Board finds that:

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

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

(3) This final-form rulemaking does not enlarge the purpose of proposed rulemaking published at 31 Pa. B. 5714.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing act identified in Part B of this preamble.

J. Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 33, are amended by amending § 33.3 to read as set forth in Annex A.

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

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

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

VEASEY B. CULLEN, Jr., D.M.D.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 134 (January 3, 2004).)

Fiscal Note: Fiscal Note 16A-4611 remains valid for the final adoption of the subject regulation.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 33. STATE BOARD OF DENTISTRY

Subchapter A. GENERAL PROVISIONS

§ 33.3. Fees.

Following is the schedule of fees charged by the Board:

Application fee—dentists, dental hygienists and expanded function dental assistants	\$20
Criteria approval application fee—dentists, dental hygienists and expanded function dental assistants	\$35
Fictitious name registration fee	\$35
Verification of license, permit or registration fee—dentists, dental hygienists and expanded function dental assistants	\$15
Certification of scores, permit or registration fee—dentists, dental hygienists and expanded function dental assistants	\$25
Biennial renewal fee—dentists	\$100
Biennial renewal fee—dental hygienists	\$40
Biennial renewal fee—expanded function dental assistants	\$25
Biennial renewal fee—unrestricted or restricted anesthesia permit	\$25
Temporary permit—expanded dental assistants	\$15
Application fee—dental radiology authorization	\$20
Notification application—postgraduate training or faculty member	\$25

[Pa.B. Doc. No. 04-759. Filed for public inspection April 30, 2004, 9:00 a.m.]

Title 58—RECREATION

GAME COMMISSION [58 PA. CODE CH. 141] Hunting and Trapping

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 7, 2003, meeting, adopted the following amendments:

Amend §§ 141.4, 141.22, 141.41, 141.43 and 141.45 and add § 141.20 (relating to protective material required) to reduce confusion related to the wearing of protective material by consolidating related regulations into one section.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 33 Pa.B. 4680 (September 20, 2003).

1. Introduction

The Commission amends §§ 141.4, 141.22, 141.41, 141.43 and 141.45 and adds § 141.20 to reduce confusion related to the wearing of protective material by consolidating related regulations into one section.

2. Purpose and Authority

Florescent orange requirements are currently in section 2524 of the code (relating to protective material required) and at least nine different sections of the attendant regulations in Chapter 141 (relating to hunting and trapping). These requirements have been amended many times and are so varied that Commission officers, the court system and, most importantly, the hunters have a difficult time interpreting them. By consolidating the regulations into one section, there should be a reduction in confusion regarding the wearing of protective material for all who must abide by or enforce the regulations. The final-form rulemaking will not take effect until the 2004-2005 hunting license year.

Section 2102(a) of the code (relating to regulations) provides that "the commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to...the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." This provision provides the statutory authority for the final-form rulemaking.

3. Regulatory Requirements

The final-form rulemaking will consolidate sections related to the wearing of protective material into one section to reduce confusion.

4. Persons Affected

Persons wishing to hunt game and wildlife in this Commonwealth will be affected by the final-form rulemaking.

5. Comment and Response Summary

In response to the proposed rulemaking regarding the wearing of fluorescent orange safety material, the Commission received a total of 5,174 comments. Of this total,

5,163 comments were in opposition to the proposed rulemaking and 11 comments were in support of the proposed rulemaking. The majority of the comments received in opposition to the proposed rulemaking were not opposed to the consolidation of the fluorescent orange requirements into one section, but rather were opposed to the inclusion of additional fluorescent orange requirements. In response to the comments received, the Commission removed the language imposing additional fluorescent orange requirements in an attempt to make them more amenable. The final-form rulemaking consolidates sections related to the wearing of protective material into one section and imposes no new or more expansive requirements regarding the wearing of fluorescent orange safety material.

6. Cost and Paperwork Requirements

The final-form rulemaking should not result in additional cost or paperwork.

7. Effective Date

The final-form rulemaking will be effective July 1, 2004, and will remain in effect until changed by the Commission.

8. Contact Person

For further information regarding the final-form rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending §§ 141.4, 141.22, 141.41, 141.43 and 141.45 to read as set forth at 33 Pa.B. 4680 and by adding § 141.20 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order, 33 Pa.B. 4680 and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective July 1, 2004.

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-171 remains valid for the final adoption of the subject regulations.

Annex A

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter A. GENERAL

§ 141.20. Protective material required.

(a) It is unlawful to hunt or assist to hunt game or wildlife or move to or from a hunting location, from 1 hour before legal hunting hours to 1 hour after legal hunting hours outside of a motorized vehicle, at any time without wearing a minimum of 250 square inches of daylight fluorescent orange-colored material on the head, chest and back combined so that it is visible in a 360° arc. This shall include going to or from a hunting location before or after legal shooting hours. Except as provided in subsection (b)(2) and (3), camouflage orange clothing is lawful provided it contains the minimum amount of fluorescent orange-colored material.

(b) *Permitted acts.* It is lawful to:

(1) Hunt without wearing daylight fluorescent orange-colored material for:

- (i) Crows.
- (ii) Doves.
- (ii) Waterfowl.

(iv) Small game under the authority of a valid falconry permit.

(v) Deer during the flintlock muzzleloader season.

(2) Except during any big game season, hunt for woodchucks while wearing a hat made of solid daylight fluorescent orange-colored material on the head only.

(3) Move about or relocate while wearing a hat containing a minimum of 100 square inches of a solid daylight fluorescent orange-colored material on the head only and be stationary without wearing the required orange-colored material when hunting for:

- (i) Turkey during the spring turkey season.
- (ii) Turkey during the fall turkey season in Wildlife Management Units 1A, 1B, 2A, 2B, 5B, 5C and 5D.
- (iii) Deer with a bow and arrow or crossbow and bolt during any archery season which is concurrent with the fall turkey season.

(4) Be on stand and stationary while hunting for turkey during the fall season in Wildlife Management Units 2C, 2D, 2E, 2F, 2G, 3A, 3B, 3C, 3D, 4A, 4B, 4C, 4D, 4E and 5A and in lieu of the required 250 square inches place a band containing a minimum of 100 square inches of daylight fluorescent orange-colored material within 15 feet of their location so it is visible in a 360° arc.

(5) Except as provided in paragraph (3)(iii) and during any firearms season for deer that precedes the regular firearms season, hunt for deer with a bow and arrow or crossbow during any archery deer season without wearing daylight fluorescent orange-colored material. When stationary during the overlap with the firearms season for deer in lieu of the required 250 square inches place a minimum of 100 square inches of daylight fluorescent orange-colored material within 15 feet of their location so it is visible in a 360° arc.

(c) A person who violates any provision of this section shall be subject to the penalties as provided in the act.

[Pa.B. Doc. No. 04-760. Filed for public inspection April 30, 2004, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 147, 147a AND 147b]

Depredation

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 7, 2003, meeting, adopted the following amendments:

Add Chapter 147, Subchapter U (relating to depredation) to provide permanent regulations regarding the co-signing of Federal depredation permits for migratory birds (both waterfowl and nonwaterfowl); and rescind Chapters 147a and 147b.

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final-form rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 33 Pa.B. 4682 (September 20, 2003).

1. *Introduction*

The Commission is adding Subchapter U to provide policy and procedures regarding the co-signing of Federal depredation permits for migratory birds (both waterfowl and nonwaterfowl).

2. *Purpose and Authority*

Though waterfowl and other migratory birds are widely recognized as a valuable natural resource and are enjoyed by millions of residents in this Commonwealth, their presence in certain natural and man-altered environments can be devastating and costly. This is particularly the case in certain agricultural areas and during late winter and spring. Regulated hunting has been and still is the most effective and preferred method to control waterfowl populations over the long term. Thus, regulated hunting is given first priority in the proper management of waterfowl populations by this final-form rulemaking.

There are, however, some situations when hunting is ineffective or impractical to properly address waterfowl populations and their associated effects in certain areas. It is in these areas that the mitigation of nuisance and damage problems may require alternative methods of management, including both lethal and nonlethal procedures. The United States Fish and Wildlife Service has the authority, under the Migratory Bird Treaty Act (16 U.S.C.A. §§ 703—711), to issue migratory bird permits authorizing the taking of migratory birds and their nests, eggs and young to address depredation and damage problems. This final-form rulemaking will additionally require that applications for depredation permits be co-signed by the Commission.

Adding Subchapter U will, in part, replace Chapter 147a (relating to temporary guidelines relating to the co-signing of Federal depredation permits—statement of policy), first established in January 1995. Chapter 147a provided temporary guidelines relating to the co-signing of Federal depredation permits for migratory birds other than waterfowl. Subchapter U will provide permanent

procedures for the co-signing of depredation permits regarding migratory birds other than waterfowl by the Commission.

Adding Subchapter U, specifically §§ 147.744 and 147.745 (relating to depredation permits for migratory waterfowl; and exclusions), will also replace Chapter 147b (relating to guidelines relating to the issuance of depredation permits for waterfowl—statement of policy). Chapter 147b provided temporary guidelines regarding the co-signing of Federal depredation permits for migratory waterfowl. Subchapter U will provide permanent procedures for the co-signing of depredation permits regarding migratory waterfowl by the Commission. It will also provide a listing of those migratory bird species that are excluded from those species subject to depredation permits by standing Federal depredation order.

Section 2901(b) of the code (relating to authority to issue permits) provides “the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued.” Section 2103(a) of the code (relating to applicability of Federal laws) states that “Federal regulations shall not apply if commission regulations or other provisions of this title prescribe stronger or more detailed restrictions for the taking of migratory birds, nongame birds or game or wildlife.” Section 2102(a) of the code (relating to regulations) provides that “The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife . . . in this Commonwealth, including regulations relating to the . . . management of game or wildlife and game or wildlife habitat . . . in this Commonwealth.” These provisions provide the statutory authority for the final-form rule-making.

3. *Regulatory Requirements*

The final-form rulemaking will establish certain prerequisites and procedures for an applicant to complete before a Federal depredation permit will be co-signed by the Commission. These prerequisites and procedures include the exhaustion of all reasonable nonlethal methods for damage control and, in the case of waterfowl, having the site open to hunting and that hunting has been ineffective or is impractical.

4. *Persons Affected*

Persons suffering damage from and wishing to apply for depredation permits for migratory birds will be affected by the final-form rulemaking.

5. *Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

6. *Cost and Paperwork Requirements*

The final-form rulemaking should not result in additional cost or paperwork.

7. *Effective Date*

The final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

8. *Contact Person*

For further information regarding the final-form rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

Findings

The Commission finds that:

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

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

Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapters 147, 147a and 147b, are amended by adding §§ 147.741—147.745 and by deleting §§ 147a.1—147a.6 and 147b.1—147b.4 to read as set forth in Annex A.

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

(c) This order shall become effective upon publication in the *Pennsylvania Bulletin*.

VERNON R. ROSS,
Executive Director

Fiscal Note: Fiscal Note 48-170 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter U. DEPREDAATION

Sec.

- 147.741. Definitions.
- 147.742. Depredation permits for migratory birds other than waterfowl.
- 147.743. Disposition of birds destroyed.
- 147.744. Depredation permits for migratory waterfowl.
- 147.745. Exclusions.

§ 147.741. Definitions.

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

Applicant—The owner or principal officer of an aquaculture facility, which is suffering severe economic loss, or a person suffering property damage from migratory birds.

Aquaculture—The controlled culture of aquatic organisms, particularly finfish, under artificial circumstances—that is, ponds, raceways—for economic profit or by the Fish and Boat Commission. Net pens are excluded for the purpose of this definition.

WCO—Wildlife Conservation Officer.

WS—United States Department of Agriculture Wildlife Services.

§ 147.742. Depredation permits for migratory birds other than waterfowl.

(a) A depredation permit issued by the United States Fish and Wildlife Service to an applicant may be co-signed under the following circumstances:

(1) A visit to the applicant's facility has been made by a WCO or the WS representative and a problem is

verified to exist. A copy of WS Migratory Bird Damage Project Report will be furnished to the Commission by the WS investigator before submitting the form to the United States Fish and Wildlife Service.

(2) The applicant has exhausted all recommendations for reasonable nonlethal control methods provided by the Commission and the WS representative.

(3) The applicant agrees to implement WS/Commission recommendations for working towards a permanent solution within a period of time agreed to by the applicant, if economically feasible for the facility.

(b) Upon receipt of an application for a United States Fish and Wildlife Service depredation permit that meets the requirements of subsection (a)(1)—(3), the Commission will review the application and if approved forward the application to the United States Fish and Wildlife Service Migratory Bird Permit office.

§ 147.743. Disposition of birds destroyed.

Unless otherwise specified in a particular permit, the following apply:

(1) Within 48 hours of killing birds, the permittee shall notify the Commission by phone of the killing and of the number of birds killed and the species of birds killed.

(2) Birds shall be disposed of as specified in the permit or as directed by the Commission.

§ 147.744. Depredation permits for migratory waterfowl.

(a) A depredation permit issued by the United States Fish and Wildlife Service to an applicant may be co-signed by the Commission when the following criteria are met:

(1) Subsequent to a complaint, the site has been visited by a WCO to verify that a problem exists. A Commission waterfowl complaint form will be furnished to the Commission by the WCO. A copy of the Federal depredation permit application will be furnished to the complainant by the WCO.

(2) The applicant has demonstrated the site is open to hunting and hunting has been ineffective or hunting is impractical.

(3) The applicant shall demonstrate that reasonable nonlethal control methods have been attempted. Nonlethal control methods shall include the following:

(i) Feeding of waterfowl is prohibited. The applicant shall address this issue and include evidence of the enforcement of a “no feeding” policy.

(ii) Exclusion and harassment measures (fencing, repellents, scare devices, and the like).

(iii) Habitat manipulation (eliminate feeding areas, resting and breeding habitat).

(b) The following control methods are approved for population reduction and will be specifically identified in the depredation permit:

(1) Oiling, addling or freezing of eggs.

(2) Shooting may be used to reinforce nonlethal measures according to the following guidelines:

(i) The permit will specify the number of birds to be shot with no more than 10% of the nuisance flock to be killed except on airports covered by Airport Safety Control permits issued by the Commission.

(ii) Waterfowl may only be taken with shotgun using nontoxic shot no larger than size T.

(iii) The use of blinds, bait, decoys and calls is prohibited.

(3) Depopulation of waterfowl by the applicant, its employees, wildlife control agents, WS or authorized Federal or State wildlife agency personnel will be specified in the permit under the following guidelines:

(i) The number of birds to be killed may not exceed that specified in the permit.

(ii) Killing will be conducted only by persons specified in the permit by shooting with shotguns using nontoxic shot no larger than size T, or capturing birds and euthanasia by chemical or mechanical devices approved for use by the Executive Director or a designee.

(c) Waterfowl carcasses taken under depredation permits will be used according to the following guidelines:

(1) Care will be taken to preserve carcasses for human consumption and shall be made available to food banks or others specified in the permit. Birds euthanized by chemical means will not be utilized for human consumption.

(2) When the condition of the birds is unsuitable for human consumption or food banks, or individuals are not available to accept carcasses, the birds may be disposed of in a sanitary method by burying, incineration or depositing in approved landfills or refuse facilities.

§ 147.745. Exclusions.

(a) A permit is not required for red winged and rusty blackbirds, cowbirds and grackles which are listed in the United States Fish and Wildlife Service’s standing depredation order (50 CFR 21.43 (relating to depredation order for blackbirds, cowbirds, grackles, crows and magpies)).

(b) A depredation permit will not be issued for the taking of any endangered or threatened species, as defined in 50 CFR Part 17 (relating to endangered and threatened wildlife and plants) and § 133.21 (relating to classification of birds).

(c) Depredation permits for waterfowl will only be issued during the waterfowl hunting season, where hunting cannot be used as a control method.

(d) A depredation permit will not be renewed if the permittee has not made a good faith effort to implement nonlethal control recommendations by the Commission or WS.

CHAPTER 147a. (Reserved)

§§ 147a.1—147a.6. (Reserved).

CHAPTER 147b. (Reserved)

§§ 147b.1—147b.4. (Reserved).

[Pa.B. Doc. No. 04-761. Filed for public inspection April 30, 2004, 9:00 a.m.]

STATEMENTS OF POLICY

Title 4—ADMINISTRATION

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

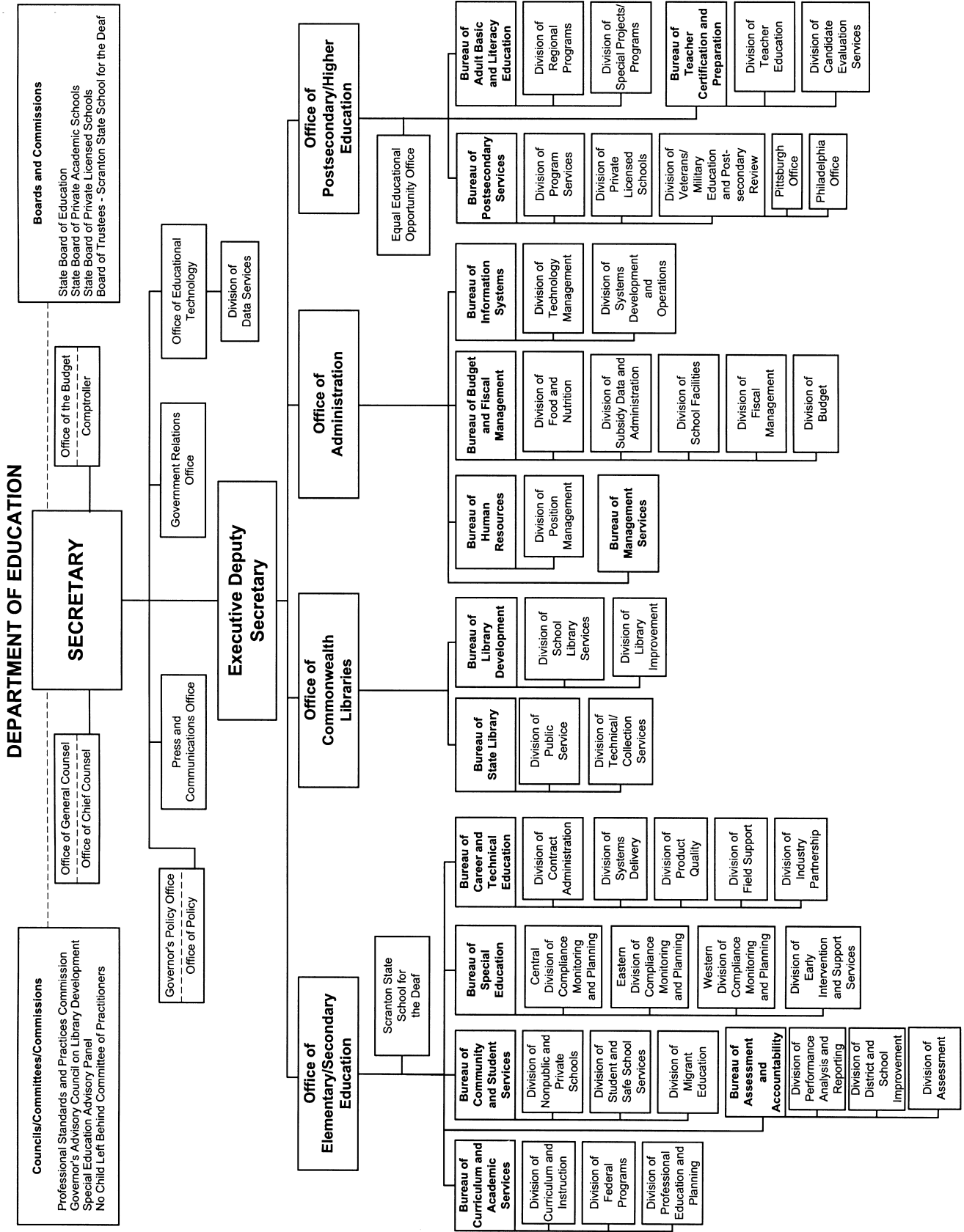
Reorganization of the Department of Education

The Executive Board approved a reorganization of the Department of Education effective November 20, 2003.

The organization chart at 34 Pa.B. 2333 (May 1, 2004) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

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

[Pa.B. Doc. No. 04-762. Filed for public inspection April 30, 2004, 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 April 13, 2004.

BANKING INSTITUTIONS

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
3-15-04	Farmers & Merchants Trust Company of Chambersburg Chambersburg Franklin County	800 East High Street Carlisle Cumberland County	Opened
4-8-04	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	Giant Eagle 700 Moraine Point Plaza Butler Butler County	Opened

Branch Relocations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-5-04	Northwest Savings Bank Warren Warren County	<i>To:</i> 22 Franklin Village Mall East Franklin Township Armstrong County <i>From:</i> 12 Franklin Village Mall East Franklin Township Armstrong County and 165 Butler Road West Kittanning Armstrong County	Effective
4-7-04	Patriot Bank Pottstown Montgomery County	<i>To:</i> 3101 Shillington Road Sinking Spring Berks County <i>From:</i> 155 Shillington Road Sinking Spring Berks County	Approved

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-8-04	United Bank of Philadelphia Philadelphia Philadelphia County	2 Penn Center 15th and JFK Boulevard Philadelphia Philadelphia County	Filed

SAVINGS INSTITUTIONS

Main Office Relocation

<i>Date</i>	<i>Name of Association</i>	<i>Location</i>	<i>Action</i>
4-8-04	ESSA Bank & Trust Stroudsburg Monroe County	<i>To:</i> 200 Palmer Street Stroudsburg Monroe County <i>From:</i> 744 Main Street Stroudsburg Monroe County (Will remain a branch office.)	Approved

CREDIT UNIONS

No activity.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 04-763. Filed for public inspection April 30, 2004, 9:00 a.m.]

Election by North Penn Bank to Exercise Conditional Powers

Effective on the date of this publication in the *Pennsylvania Bulletin*, under an election by North Penn Bank, authorized by section 513(b) of the Banking Code of 1965 (code) (7 P.S. § 513(b)), North Penn Bank is hereby granted the following conditional powers as described in sections 504(b)(xiii) and 506(a)(iv)(B) and (vi) of the code (7 P.S. §§ 504(b)(xiii) and 506(a)(iv)(B) and (vi)) to be exercised only with the prior written approval of the Department of Banking.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 04-764. Filed for public inspection April 30, 2004, 9:00 a.m.]

Maximum Lawful Rate of Interest for Residential Mortgages for the Month of May 2004

The Department of Banking (Department), under the authority contained in section 301 of the act of January 30, 1974 (P.L. 13, No. 6) (41 P.S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of May 2004 is 6 3/4%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on any individual who finances the sale or exchange of residential real property which the individual owns and which the individual occupies or has occupied as a principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 4.28 to which was added 2.50 percentage points for a total of 6.78 that by law is rounded off to the nearest quarter at 6 3/4%.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 04-765. Filed for public inspection April 30, 2004, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Snowmobile and ATV Advisory Committee Meeting

The Snowmobile and ATV Advisory Committee of the Department of Conservation and Natural Resources (Department) will hold a meeting on Tuesday, May 11, 2004, at 9:30 a.m. in Room 105, First Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting or agenda items should be directed to Anthony DiGirolomo, (717) 787-9306.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Anthony DiGirolomo at (717) 787-9306 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 04-766. Filed for public inspection April 30, 2004, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Application of Sean Flannery for Reinstatement of Teaching Certificates; Doc. No. RE 03-03

Hearing

Under the Professional Educator Discipline Act (act) (24 P.S. §§ 2070.1—2070.18a), the Professional Standards and Practices Commission (Commission) has initiated hearing procedures to consider the application of Sean Flannery for reinstatement of his teaching certificates.

On or about September 24, 2003, Sean Flannery filed an application for reinstatement of his teaching certificates under section 16 of the act (24 P.S. § 2070.16), 1 Pa. Code §§ 35.1 and 35.2 (relating to applications) and 22 Pa. Code § 233.14 (relating to reinstatement). Under section 16 of the act, the Department of Education, on March 19, 2004, recommended to the Commission that the application be denied. In accordance with the act and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), the Commission will appoint a hearing examiner to serve as presiding officer to conduct the proceedings and hearings as might be necessary, and to prepare a proposed report to the Commission containing findings of fact, conclusions of law and a recommended decision on the application.

Interested parties wishing to participate in these hearing procedures must file a notice of intervention or a petition to intervene in accordance with 1 Pa. Code §§ 35.27—35.32 (relating to intervention) within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Persons objecting to the approval of the application may also, within 30 days after publication of this notice in the *Pennsylvania Bulletin*, file a protest in accordance with 1 Pa. Code § 35.23 (relating to protest generally).

Notices and petitions to intervene and protest shall be filed on or before 4 p.m. on the due date prescribed by this notice with Carolyn Angelo, Executive Director, Professional Standards and Practices Commission, 333 Market Street, Harrisburg, PA 17126-0333. Persons with a disability who wish to attend the hearing and require an auxiliary aid, service or other accommodation to participate should contact Suzanne B. Markowicz at (717) 787-6576 to discuss how the Commission may best accommodate their needs.

VICKI L. PHILLIPS, Ed.D.,
Secretary

[Pa.B. Doc. No. 04-767. Filed for public inspection April 30, 2004, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the EPA Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an 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 regional 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 a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

I. NPDES Renewal Applications

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

<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>
PA0053376	Strawberry Family Restaurant 3152 Middle Creek Road Gilbertsville, PA 19525-9465	Montgomery County Upper Hanover Township	UNT of Perkiomen Creek	Y
PA0056197	Jay R. and Mary Anne Powell 31 Timber Lane Thornton, PA 19373-1050	Chester County Thornbury Township	UNT to West Branch of Chester Creek	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>
PA0040436	Chadds Ford Investment Company 514 McCue Road Avondale, PA 19311	Chester County New Garden Township	UNT East Branch White Clay Creek	Y
PA0056081	Victorian Wycombe Inn P. O. Box 104 Wycombe, PA 18980	Bucks County Wrightstown Township	UNT to Mill Creek	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>
PA0044911 IW	Land O'Lakes, Inc. 405 Park Drive Carlisle, PA 17013	Cumberland County S. Middleton Township	Mountain Creek 7E	Y

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

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

PA0050237, SEW, SIC 4952, **Walnut Hill Utility Company**, 400 Ashley Court, Glen Mills, PA 19342. This proposed facility is in Chester Heights Borough, **Delaware County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge treated sewage from Walnut Hill Utility Company STP.

The receiving stream, Chester Creek, is in the State Water Plan watershed 3G and is classified for TSF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Media Borough (auxiliary intake) is on Chester Creek, 3.0 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.15 MGD.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Average Monthly</i>	<i>Average Monthly</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅				
(5-1 to 10-31)	18.8		15	30
(11-1 to 4-30)	31.3		25	50
TSS	37.5		30	60
Ammonia as N				
(5-1 to 10-31)	16.3		13	26
(11-1 to 4-30)	25.0		20	40
TRC			0.5	1.2
Dissolved Oxygen				2.0 (Instantaneous Minimum)
Fecal Coliform			200 colonies/100 ml as a geometric average	
pH			within limits of 6.0 to 9.0 standard units at all times	

In addition to the effluent limits, the permit contains the following major special conditions: operator notification; abandon STP when municipal sewers are available; remedial measures if unsatisfactory effluent; no stormwater; acquire necessary property rights; change of ownership; chlorine minimization; proper sludge disposal; and laboratory certification.

PA0057363, Sewage, **ARCCA Real Estate Corporation**, 2288 Second Street Pike, Penns Park, PA 18943. This facility is in Wrightstown Township, **Bucks County**.

Description of Proposed Activity: Renewal of permit to discharge treated sewage effluent from a small flow treatment facility.

The receiving stream, an unnamed tributary to Neshaminy Creek, is in the State Water Plan watershed 2F and is classified for WWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for the Philadelphia Suburban Water Company is on Neshaminy Creek, 8.2 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 2,000 gallons per day. The limits are the same as in the current permit except for an additional requirement to monitor total phosphorus.

<i>Parameters</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>	
CBOD ₅ (5-1 to 10-31)			10		20
(11-1 to 4-30)			20		40
Total Suspended Solids			10		20
NH ₃ -N (5-1 to 10-31)			3.0		6.0
(11-1 to 4-30)			9.0		18.0
Fecal Coliform			200 #/100 ml		
Dissolved Oxygen			3.0 min.		
pH (STD Units)			6.0 min.		9.0
Total Residual Chlorine			0.5		1.3
Phosphorus (4-1 to 10-31)			Monitor		

The EPA waiver is in effect.

PA0051004, Sewage, SIC 4952, **Lower Salford Township Authority**, P. O. Box 243, Harleysville, PA 19438. This proposed facility is in Lower Salford Township, **Montgomery County**.

Description of Proposed Activity: Discharge of treated sewage from Indian Hill STP.

The receiving stream, West Branch Skippack Creek, is in the State Water Plan watershed 3E Skippack Creek and is classified for TSF. The nearest downstream public water supply intake for the Philadelphia Suburban Water Company is on Perkiomen Creek, 11.52 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 7,000 gallons per day.

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	40		50
Total Suspended Solids	30	45		60
NH ₃ -N (5-1 to 10-31)	2.0			4.0
(11-1 to 4-30)	6.0			12.0
Phosphorous as P	1.0			2.0
Dissolved Oxygen	5.0 minimum			
Fecal Coliform	200 # col./100 ml			
pH	6.0 minimum			9.0

In addition to the effluent limits, the permit contains the following major special conditions: remedial measures; sewage sludge disposal; TMDL/WLA analysis; operations and maintenance plan; and laboratory certification.

PA0012637, Industrial Waste, SIC 2911, **ConocoPhillips Company**, 4101 Post Road, Trainer, PA 19061. This proposed facility is in Trainer Borough, **Delaware County**.

Description of Proposed Activity: Approval to discharge treated process wastewater from an oil refinery and noncontact cooling water from cooling towers and boilers. It also includes stormwater discharge associated with industrial activities.

The receiving streams, Marcus Hook Creek and Stony Creek, are in the State Water Plan watershed 3G and are classified for WWF. There is no public water supply intake downstream of the discharge within the State boundary.

The following notice reflects the charges to the notice published at 33 Pa.B. 5832 (November 29, 2003). The revised proposed limits are as follows:

The proposed effluent limits for Outfall 101 are based on a design flow of 64.8 mgd.

<i>Parameters</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>	
Total Suspended Solids (Net)	16,200	32,400	30	60	75
Total Organic Carbon (Net)					5.0
PCBs			Monitor	Monitor	
Oil and Grease	8,100		15		30
Temperature					110°F
Heat Rejection Rate			3.6 × 10 ⁹ Btu/hr		
pH			within limits of 6.0—9.0 standard units at all times		
Total Residual Chlorine			0.16		0.5
Lead, Total			Monitor	Monitor	Monitor
Iron, Total			Monitor	Monitor	Monitor
Aluminum, Total			Monitor	Monitor	Monitor
Chronic Toxicity				Monitor	

The proposed effluent limits for Outfall 201 are based on a design flow of 2.83 mgd.

<i>Parameters</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>	
CBOD ₂₀	1,800				
BOD ₅	1,236	2,472	52	105	130
BOD ₅ Percent Removal	89.25				
Suspended Solids	708	1,416	30	60	75
Dissolved Solids (Net)	23,600	47,200	1,000	2,000	2,500
Ammonia as N	826	1,376	35	58	87
Total Residual Chlorine			0.16		0.50
Oil and Grease	354	708	15	30	30
Chemical Oxygen Demand	17,608	33,130	746	1,404	1,865
Zinc, Total			Monitor	Monitor	Monitor
Sulfide	13	30	0.55	1.27	1.37
Phenolic Compounds (4 AAP)	11	31	0.47	1.31	1.31
Chromium, Hexavalent	1	2.4	0.04	0.1	0.1
Cyanide, Free			Monitor	Monitor	Monitor
Chromium, Total	13	37	0.55	1.57	1.57
Cyanide, Total			Monitor	Monitor	Monitor
PCBs			Monitor	Monitor	Monitor
Chronic, Toxicity				Monitor	
Copper, Total			Monitor	Monitor	Monitor
Lead, Total			Monitor	Monitor	Monitor
Magnesium, Total			Monitor	Monitor	Monitor
Aluminum, Total			Monitor	Monitor	Monitor
Selenium, Total			Monitor	Monitor	Monitor
pH			within limits of 6.0—9.0 standard units at all times		

The proposed effluent limits for Outfall 002 are based on a design flow of 42.2 mgd.

<i>Parameters</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>	
Suspended Solids (Net)	10,560	21,120	30	60	75
Dissolved Solids (Net)	352,000	704,000	1,000	2,000	2,500
Total Organic Carbon (Net)					5
Aluminum, Total			Monitor	Monitor	Monitor
Oil and Grease	5,280		15		30
Temperature					110°F
Heat Rejection Rate	1.8 × 10 ⁹ Btu/hr				
PCBs			Monitor	Monitor	Monitor
Total Residual Chlorine				0.16	0.50
pH			within limits of 6.0 to 9.0 standard units at all times		

The proposed effluent limits for Outfalls 003, 004 and 012 to discharge stormwater runoff associated with industrial activities are as follows:

<i>Parameters</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>	
CBOD ₅			Monitor	Monitor	
COD			Monitor	Monitor	
Oil and Grease			Monitor	Monitor	
Total Suspended Solids			Monitor	Monitor	
Total Kjeldahl Nitrogen			Monitor	Monitor	
Total Phosphorus			Monitor	Monitor	
Iron, Dissolved			Monitor	Monitor	
pH (STD)			Monitor	Monitor	

The proposed effluent limits for Outfalls 005 and 011 to discharge steam trap condensate, stormwater runoff from Dock Drive Roadway and stormwater associated with industrial activities are as follows:

<i>Parameters</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>	
CBOD ₅			Monitor	Monitor	
COD			Monitor	Monitor	
Oil and Grease			Monitor	Monitor	

<i>Parameters</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>	
Total Suspended Solids			Monitor	Monitor	
Total Kjeldahl Nitrogen			Monitor	Monitor	
Total Phosphorus			Monitor	Monitor	
Iron, Dissolved			Monitor	Monitor	
pH (STD)			Monitor	Monitor	
Zinc, Total			Monitor	Monitor	

The proposed effluent limits for Outfall 006 to discharge stormwater runoff from PECO Boulevard are as follows:

<i>Parameters</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>	
CBOD ₅			Monitor	Monitor	
COD			Monitor	Monitor	
Oil and Grease			Monitor	Monitor	
Total Suspended Solids			Monitor	Monitor	
Total Kjeldahl Nitrogen			Monitor	Monitor	
Total Phosphorus			Monitor	Monitor	
Iron, Dissolved			Monitor	Monitor	
pH (STD)			Monitor	Monitor	
Zinc, Total			Monitor	Monitor	
PCBs			Monitor	Monitor	

The proposed effluent limits for Outfall 007 to discharge stormwater runoff from South Drive Roadway are as follows:

<i>Parameters</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>	
CBOD ₅			Monitor	Monitor	
COD			Monitor	Monitor	
Oil and Grease			Monitor	Monitor	
Total Suspended Solids			Monitor	Monitor	
Total Kjeldahl Nitrogen			Monitor	Monitor	
Total Phosphorus			Monitor	Monitor	
Iron, Dissolved			Monitor	Monitor	
pH (STD)			Monitor	Monitor	
PCBs			Monitor	Monitor	
Zinc, Total			Monitor	Monitor	
Copper, Total			Monitor	Monitor	
Lead, Total			Monitor	Monitor	

The proposed effluent limits for Outfall 008 to discharge steam trap condensate and stormwater runoff from Crude Drive Roadway are as follows:

<i>Parameters</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>	
CBOD ₅			Monitor	Monitor	
COD			Monitor	Monitor	
Oil and Grease			Monitor	Monitor	
Total Suspended Solids			Monitor	Monitor	
Total Kjeldahl Nitrogen			Monitor	Monitor	
Total Phosphorus			Monitor	Monitor	
Iron, Dissolved			Monitor	Monitor	
pH (STD)			Monitor	Monitor	
PCBs			Monitor	Monitor	
Zinc, Total			Monitor	Monitor	

The EPA waiver is not in effect.

In addition to the effluent limits, the permit contains the following major special conditions: approved chemical additives; approved test methods; disposal of industrial sludge; other requirements for stormwater Outfalls 003—008, 011 and 012; modifications based on estuary study; worksheets to calculate net concentrations; stormwater credits; 316(a) variance; 316(b) demonstration; intake credits for total dissolved solids, total suspended solids and TOC; chronic toxicity tests for certain outfalls; PCB testing for certain outfalls during wet and/or dry weather conditions; and PBC waste minimization plan.

PA0012572, Industrial Waste, SIC 2631, **Jefferson Smurfit Corporation**, 5000 Flat Rock Road, Philadelphia, PA 19127. This proposed facility is in City of Philadelphia, **Philadelphia County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge noncontact cooling water, backflow from river water intake screens, cleanout from river water pump intake chamber and stormwater. This is an existing discharge to the Schuylkill River

The receiving stream, Schuylkill River, is in the State Water Plan watershed 3F and is classified for WWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for the City of Philadelphia—Queen Lane Intake is on the Schuylkill River, approximately 2.4 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 4.062 MGD.

Parameters	Mass (lb/day)		Concentration (mg/l)		Instantaneous Maximum (mg/l)
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
Temperature					110 °F
pH	within limits of 6.0—9.0 standard units at all times				

The proposed effluent limits for Outfall 002 are based on a design flow of 0.2 MGD (reserved).

Parameters	Mass (lb/day)		Concentration (mg/l)		Instantaneous Maximum (mg/l)
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
Temperature					110 °F
pH	within limits of 6.0—9.0 standard units at all times				

The proposed effluent limits for Outfall 008 are based on a design flow of 0.5 MGD.

Parameters	Mass (lb/day)		Concentration (mg/l)		Instantaneous Maximum (mg/l)
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
Total Suspended Solids					Monitor and Report
Oil and Grease					Monitor and Report
pH	within limits of 6.0—9.0 standard units at all times				

The proposed effluent limits for Outfalls 101—108 are based on a discharge of stormwater.

Parameters	Mass (lb/day)		Concentration (mg/l)		Instantaneous Maximum (mg/l)
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	
CBOD ₅					Monitor and Report
COD					Monitor and Report
Oil and Grease					Monitor and Report
pH					Monitor and Report
Total Suspended Solids					Monitor and Report
Total Kjeldahl Nitrogen					Monitor and Report
Total Phosphorus (as P)					Monitor and Report
Iron, Dissolved					Monitor and Report

In addition to the effluent limits, the permit contains the following major special conditions: No temperature change greater than 2 °F; no chemical additives without approval; change of ownership; stormwater requirements; and laboratory certification.

The EPA waiver is in effect.

PA0011282, Industrial Waste, **Aqua Pennsylvania, Inc.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010. This proposed facility is in Springfield Township, **Delaware County**.

Description of Proposed Activity: Existing discharge of treated industrial wastewater generated at the Crum Creek Water Filtration Plant.

The receiving stream, Crum Creek, is in the State Water Plan watershed 3G and is classified for WWF. There are no downstream public water supply intakes between the proposed discharge and the PA/DE border.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.8 mgd.

Parameters	Concentration (mg/l)			Instantaneous Maximum
	Instantaneous Minimum	Average Monthly	Maximum Daily	
Total Suspended Solids		30	60	75
Aluminum, Total		1.24	2.48	3.10
Iron, Total		2.0	4.0	5.0
Manganese, Total		1.0	2.0	2.5

NOTICES

<i>Parameters</i>	<i>Concentration (mg/l)</i>			
	<i>Instantaneous Minimum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
pH (Standard Units)	6.0			9.0
Total Residual Chlorine		0.5	1.0	1.2
Chlorodibromomethane			Monitor and Report	
Chloroform			Monitor and Report	
Dichlorobromomethane			Monitor and Report	

The proposed effluent limits for Outfall 002 are based on a design flow of 1.7 mgd.

<i>Parameters</i>	<i>Concentration (mg/l)</i>			
	<i>Instantaneous Minimum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total Suspended Solids		30	60	75
Aluminum, Total		4.0	8.0	10.0
Iron, Total		2.0	4.0	5.0
Manganese, Total		2.0	4.0	5.0
pH (Standard Units)	6.0			9.0
Total Residual Chlorine		0.5	1.0	1.2
Chlorodibromomethane			Monitor and Report	
Chloroform			Monitor and Report	
Dichlorobromomethane			Monitor and Report	
Turbidity				Monitor and Report

The proposed effluent limits for Outfall 002 are based on a design flow of 0.018 mgd.

<i>Parameters</i>	<i>Concentration (mg/l)</i>			
	<i>Instantaneous Minimum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total Suspended Solids		30	60	75
Aluminum, Total		4.0	8.0	10.0
Iron, Total		2.0	4.0	5.0
Manganese, Total		2.0	4.0	5.0
pH (Standard Units)	6.0			9.0
Total Residual Chlorine		0.5	1.0	1.2
Chlorodibromomethane			Monitor and Report	
Chloroform			Monitor and Report	
Dichlorobromomethane			Monitor and Report	
Turbidity				Monitor and Report

The proposed effluent limits for Outfalls 003 and 004 for emergency discharges only are as follows.

<i>Parameters</i>	<i>Concentration (mg/l)</i>			
	<i>Instantaneous Minimum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total Suspended Solids			Monitor and Report	
Aluminum, Total			Monitor and Report	
Iron, Total			Monitor and Report	
Manganese, Total			Monitor and Report	
pH (Standard Units)	6.0			9.0

The proposed effluent limits for Outfall 005 are based on a design flow of 2.15 mgd.

<i>Parameters</i>	<i>Concentration (mg/l)</i>			
	<i>Instantaneous Minimum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total Suspended Solids		30	60	75
Aluminum, Total		4.0	8.0	10.0
Iron, Total		2.0	4.0	5.0
Manganese, Total		1.0	2.0	2.5
pH (Standard Units)	6.0			9.0
Total Residual Chlorine		0.5	1.0	1.2
Chlorodibromomethane			Monitor and Report	
Chloroform			Monitor and Report	
Dichlorobromomethane			Monitor and Report	

The proposed effluent limits for Outfall 013 are based on a design flow of 0.003 mgd.

<i>Parameters</i>	<i>Concentration (mg/l)</i>			<i>Instantaneous Maximum</i>
	<i>Instantaneous Minimum</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
pH (Standard Units)	6.0			9.0
Total Residual Chlorine		0.5		1.0

PA0038296, IW, SIC 5171, **Sunoco Partners Marketing and Terminals, L. P.**, 1801 Market Street 3/10 PC, Philadelphia, PA 19103-1699. This facility is in Upper Moreland Township, **Montgomery County**.

Description of Proposed Activity: Stormwater runoff from petroleum marketing terminal for storage and distribution of petroleum product.

The receiving stream, unnamed tributary to Pennypack Creek, is in the State Water Plan watershed 3J and is classified for TSF and MF.

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

<i>Parameters</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>	
Total Recoverable Petroleum Hydrocarbons					Monitor and Report

The proposed effluent limits for Outfall 001 only during hydrostatic testwater discharges, are as follows:

<i>Parameters</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow (GPM)	Monitor and Report
Duration (Hours)	Monitor and Report
Dissolved Oxygen	minimum of 5.0 mg/l
Total Suspended Solids	60
Oil and Grease	30
Iron	7.0
Benzene*	0.0025
BETX*	0.25
Ethylbenzene*	Monitor and Report
Toluene*	Monitor and Report
Xylene (Total)*	Monitor and Report
Total Residual Chlorine**	0.5 mg/l
pH (STD Units)	between 6 to 9 STD units at all times

*Not applicable to new pipelines and/or tanks.

**Applicable only if chlorinated water is used as the source of testwater.

In addition to the effluent limits, the permit contains the following major special conditions: product contaminated stormwater runoff; additional monitoring report requirement; PPC plan requirement; other wastewater discharges associated with the facility; and hydrostatic test water discharge requirements.

PA0055344, SEW, SIC 4952, **Upper Makefield Township**, 1076 Eagle Road, Newtown, PA 18940. This proposed facility is in Upper Makefield Township, **Bucks County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge 400 gpd of treated sewage into unnamed tributary to Jericho Creek.

The receiving stream, unnamed tributary to Jericho Creek, is in the State Water Plan watershed 2E and is classified for WWF. The nearest downstream public water supply intake for the Keystone Water Company is on the Delaware River, 8.2 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 400 gpd.

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅		
(5-1 to 10-31)	10	20
(11-1 to 4-30)	20	40
Suspended Solids	10	20
Ammonia (as N)		
(5-1 to 10-31)	3.0	6.0
(11-1 to 4-30)	9.0	18.0
Total Residual Chlorine	Monitor and Report	Monitor and Report
Fecal Coliform	200 colonies/100 ml as a geometric average	
pH	within limits of 6.0—9.0 standard units at all times	

The EPA waiver is in effect.

PA0011428, IW, SIC 5171, **Amerada Hess Corporation**, One Hess Plaza, Woodbridge, NJ 07095-0961. This proposed facility is in the City of Philadelphia, **Philadelphia County**.

Description of Proposed Activity: Bulk storage and distribution of petroleum products.

The receiving stream, Schuylkill River, is in the State Water Plan watershed 3F and is classified for WWF and MF.

The proposed effluent limits for Outfall 001 are based on a design flow of 1.008 MGD.

<i>Parameters</i>	<i>Instantaneous Maximum (mg/l)</i>
Total Recoverable Petroleum Hydrocarbon	Monitor and Report
Benzene	Monitor and Report
Methyl Tert Butyl Ether	Monitor and Report

The proposed effluent limit for Outfall 001 during hydrostatic test water discharges are as follows:

<i>Parameters</i>	<i>Instantaneous Maximum (mg/l)</i>
Flow	Monitor and Report
Duration	Monitor and Report
Dissolved Oxygen	Minimum of 5.0
Total Suspended Solids	60
Oil and Grease	30
Iron	7.0
Benzene*	0.0025
BETX*	0.25
Ethylbenzene	Monitor and Report
Toluene*	Monitor and Report
Xylenes (Total)*	Monitor and Report
Total Residual Chlorine	0.5
pH (STD units)	6 to 9

*These parameters are applicable for existing tanks and/or pipelines.

In addition to the effluent limits, the permit contains the following major special conditions: remedial measures if public nuisance; applicable BAT/BCT; product contaminated runoff; groundwater monitoring requirement; and hydrostatic test water discharge requirements.

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

PA0247421, Sewage, **Rodney and Francine Groff**, 7729 Wertzville Road, Carlisle, PA 17013. This facility is in Middlesex Township, **Cumberland County**.

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

The receiving stream, of an unnamed tributary to Conodoguinet Creek, is in Watershed 7-B and classified for WWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake for the Pennsylvania American Water Company is on the Conodoguinet Creek, approximately 12 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 for a design flow of 0.0005 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	25	50
Total Suspended Solids	30	60
Total Residual Chlorine	Monitor and Report	XXX
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.

PA0247391, Sewage, **North Codorus Township**, 1986 Stoverstown Road, Spring Grove, PA 17360.

Description of activity: Issuance of an NPDES permit for a proposed discharge of treated sewage from a publicly owned treatment works in North Codorus Township, **York County**.

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

The proposed effluent limits for Outfall 001 based on an annual average flow rate of 0.55 MGD are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	15	24	XXX	30
Total Suspended Solids	30	45	XXX	60
Total Phosphorus	2.0	XXX	XXX	4.0
NH ₃ -N				
(5-1 to 10-31)	2.0	XXX	XXX	4.0
(11-1 to 4-30)	6.0	XXX	XXX	12
Total Copper	XXX	XXX	Monitor and Report	XXX
Dissolved Oxygen			minimum of 5.0 at all times	
pH			from 6.0 to 9.0 inclusive	
Fecal Coliform				
(5-1 to 9-30)		200/100 ml as a geometric average		
(10-1 to 4-30)		3,300/100 ml as a geometric average		
Total Copper	XXX	XXX	Monitor and Report	XXX
Total Lead	XXX	XXX	Monitor and Report	XXX
Total Zinc	XXX	XXX	Monitor and Report	XXX

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is in effect.

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

PA0092797, Industrial Waste, SIC, 1211, **Avonmore Rail Loading, Inc.**, P. O. Box 119, R. D. 1, Avonmore, PA 15681. This application is for renewal of an NPDES permit to discharge treated stormwater from rail loading in Conemaugh Township, **Indiana County**.

The following effluent limitations are proposed for discharge to the receiving waters, Kiskiminetas, classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is the Buffalo Township Water Authority at Freeport, 25 miles below the discharge point.

Outfall 001: existing discharge.

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Flow (MGD)	Monitor and Report				
TSS			35		70
Iron			3.5		7.0
Manganese			2.0		4.0
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

PA0097497, Industrial Waste, SIC, 4941, **Cowanshannock Municipal Authority**, Box 127, NuMine, PA 16244. This application is for renewal of an NPDES permit to discharge backwash water from Sagamore Water Treatment Plant in Cowanshannock Township, **Armstrong County**.

The following effluent limitations are proposed for discharge to the receiving waters, unnamed tributary to the North Branch of Plum Creek, classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is the Buffalo Township Municipal Authority, 30 miles below the discharge point.

Outfall 001: existing discharge, design flow of 0.0035 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>	<i>Instantaneous Maximum</i>
Flow	Monitor and Report				
Total Suspended Solids			30		60
Total Iron			2		4
Aluminum (T)			4		8
Manganese (T)			1		2
Total Residual Chlorine			0.5		1
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

PA0252620, Industrial Waste, SIC, 4941, **West Carroll Township Water and Sewer Authority**, P. O. Box 328, Elmore, PA 15737. This application is for issuance of an NPDES permit to discharge treated process water from the water treatment plant in West Carroll Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, unnamed tributary of Fox Run, classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply the is Reliant Energy at Shawville, 51 miles below the discharge point.

Outfall 001: new discharge, design flow of 0.0021 mgd.

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow (MGD)	Monitor and Report				
TSS			30		60
Aluminum			4		8
Iron			2		4
Manganese			1		2
TRC			0.5		1.0
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

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

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

WQM Permit No. 3604202, CAFO, **Ken Martin Farm**, 1397 Robert Fulton Highway, Quarryville, PA 17566. This proposed facility is in East Drumore Township, **Lancaster County**.

Description of Proposed Action/Activity: Replace earthen manure storage facility with concrete manure storage facility.

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

WQM Permit No. 6504202, Industrial Waste, **Westinghouse Electric Co., Specialty Metals Plant**, 559 Westinghouse Road, Blairsville, PA 15717. This proposed facility is in Derry Township, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the construction and operation of the Westinghouse Electric Co. Specialty Metals Plant.

WQM Permit No. 0204402, Sewage, **Collier Township Municipal Authority**, 2418 Hilltop Road, Presto, PA 15142. This proposed facility is in Collier Township, **Allegheny County**.

Description of Proposed Action/Activity: Application for the construction and operation of the Cowan-Upper McMichael Sanitary Sewer Extension.

WQM Permit No. 3204401, Sewage, **William F. and Loretta J. Lange**, Box 3041 Sportsman Road, Apollo, PA 15613. This proposed facility is in Young Township, **Indiana County**.

Description of Proposed Action/Activity: Application for the construction and operation of a small flow sewage treatment plant to serve the Lange residence.

WQM Permit No. 6304402, Sewage, **Cecil Township Municipal Authority**, 3599 Millers Run Road, Cecil, PA 15321. This proposed facility is in Cecil Township, **Washington County**.

Description of Proposed Action/Activity: Application for the construction and operation of the Millers Run Sewerage Treatment Plant.

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

WQM Permit No. 2504411, Sewerage, **Gary L. Schell**, 2423 East Grandview Boulevard, Erie, PA 16510. This proposed facility is in Girard Township, **Erie County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

IV. NPDES Applications for Stormwater Discharges from MS4

V. Applications for NPDES Waiver Stormwater Discharges from MS4

VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

NPDES Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use
PAI011504021	Epic Builders, Inc. Ridgebury Hunt Subdivision 977 East Schuylkill Road Pottstown, PA 19465	Chester	North Coventry Township	Unnamed tributary to Schuylkill River HQ-TSF

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011504022	Echo Dell Builders, Inc. 403 Echo Dell Road Downingtown, PA 19335	Chester	East Brandywine Township	Unnamed tributary East Branch Brandywine Creek HQ-TSF-MF

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

Northampton County Conservation District: Greystone Building, Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024804012	County of Northampton Attn: Edward J. Boscola 669 Washington St. Easton, PA 18042-7465	Northampton	Upper Nazareth Township	Monocacy Creek HQ-CWF

Wayne County Conservation District: Ag Service Center, 470 Sunrise Ave., Honesdale, PA 18431, (570) 253-0930.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI026404002	Joseph Marcum The Woods @ Duck Harbor R. R. 1, Box 214C Equinunk, PA 18417	Wayne	Lebanon Township	Little Equinunk Creek HQ-CWF

PAI026404001	James R. and Debra A. Fruehan Fruehan Office Bldg. R. R. 1, Box 345 Moscow, PA 18444-9801	Wayne	Salem Township	West Branch Wallenpaupack Creek HQ-CWF
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Wilkes-Barre District: District Engineer, 2 Public Square, Floor 5, 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>
PAG2111304001	Department of Environmental Protection Bureau of Abandoned Mine Reclamation 2 Public Square, 5th Floor Wilkes-Barre, PA 18711	Carbon	Lansford and Summit Hill Boroughs	Panther Creek CWF

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

PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

**PUBLIC WATER SUPPLY (PWS)
PERMIT**

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), 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 should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

Southeast Region: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 1504502 , Public Water Supply.	
Applicant	Mt. I-A Manufacture Housing Community
Township	East Brandywine

Responsible Official Eric Byerly
1007 Appleville Road
West Chester, PA 19380

Type of Facility PWS

Consulting Engineer Evans Mills Environmental, Inc.
Uwchland, PA 19480

Application Received Date April 8, 2004

Description of Action Modification to an existing water system to include installation of an additional storage tank.

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

Permit No. 5004502, Public Water Supply.

Applicant **Bloomfield Borough Water Authority**

Municipality New Bloomfield Borough

County **Perry**

Responsible Official Kenneth Reed, Chairperson
P. O. Box 293
New Bloomfield, PA 17068

Type of Facility PWS

Consulting Engineer Max E. Stoner, P. E.
Glacé Associates, Inc.
3705 Trindle Rd.
Camp Hill, PA 17011

Application Received Date April 2, 2004

Description of Action Project is for the addition of a phosphate compound to address iron problem in the system and for general corrosion control.

Permit No. 3604507, Public Water Supply.

Applicant **Greentree Inn**

Municipality Bart Township

County **Lancaster**

Responsible Official Cecelia E. Ranck, President
11 Greentree Lane
Quarryville, PA 17566

Type of Facility PWS

Consulting Engineer G. Matthew Brown, P. E.
ARRO Consulting Inc.
270 Granite Run Drive
Lancaster, PA 17601

Application Received Date April 7, 2004

Description of Action Installation of nitrate treatment to address the nitrate contamination. The project will also involve the installation of softening, pH adjustment and disinfection by UV light.

Permit No. 0604503, Public Water Supply.

Applicant **Governor Mifflin School District**

Municipality Brecknock Township

County **Berks**

Responsible Official Mark R. Naylon, Administrative Assistant for Business
10 South Waverly Street
Shillington, PA 19607

Type of Facility PWS

Consulting Engineer Keith R. Showalter, P. E.
Systems Design Engineering Inc.
4 Park Plaza, Suite 105
Wyomissing, PA 19610

Application Received Date March 24, 2004

Description of Action This permit application is for the modification of the Brecknock Elementary School's current pH control system. The proposed changes consist of using 25% caustic soda solution in place of 50% caustic soda solution and the addition of an automatic pH control and monitoring system in place of manual control.

Permit No. 0604504, Public Water Supply.

Applicant **Highland Estates**

Municipality Greenwich Township

County **Berks**

Responsible Official Jeffrey V. Yorick, P. E.
1275 Foreman Drive
Morgantown, WV 26508

Type of Facility PWS

Consulting Engineer Cynthia L. Zawrotuck, P. E.
ARRO Consulting Inc.
270 Granite Run Drive
Lancaster, PA 17601

Application Received Date March 31, 2004

Description of Action Construct well no. 5 for PWS to Highland Estates Mobile Home Park.

Permit No. 0604505, Public Water Supply.

Applicant **Western Berks Water Authority**

Municipality Lower Heidelberg Township

County **Berks**

Responsible Official Robert L. Walborn, Manager
91 Water Road
Sinking Spring, PA 19608-9633

Type of Facility PWS

Consulting Engineer Robert A. Stark, P. E.
Gannett Fleming Inc.
P. O. Box 67100
Harrisburg, PA 17106-7100

Application Received Date April 2, 2004

Description of Action Addition of chlorination equipment at the interconnection with the Wernersville Municipal Authority.

Central Office: Bureau Director, Water Supply and Wastewater Management, P. O. Box 8467, Harrisburg, PA 17105-8467.

Permit No. 9996518, Public Water Supply.

Applicant **Absopure Water Company, Inc.**
 Township or Borough Plymouth, MI
 Responsible Official Glen P. Davis, Quality Control Manager
 Type of Facility Out-of-State Bottled Water System
 Application Received Date April 13, 2004
 Description of Action Applicant requesting a major permit amendment to add new distilled bottled water products to their current PWS permit. Bottled water to be sold in this Commonwealth under the brand names Absopure Natural Spring Water, Absopure Steam Distilled Drinking Water, Absopure Purified Drinking Water, Roundy's Infant Drinking Water, Roundy's Steam Distilled Water, Roundy's Natural Spring Water and Roundy's Sodium Free Drinking Water.

Responsible Official Kelly Marie Bezdecki, President Bezdecki Family, LLC
 1823 Sutton Road
 Shavertown, PA 18708
 Type of Facility Bottled Water System
 Application Received Date April 9, 2004
 Description of Action This application requests the transfer of PWS Permit 2406272 from CBD Enterprises d/b/a Sutton Springs to Bezdecki Family, LLC, 1823 Sutton Road, Shavertown, PA 18708.

**BIOSOLIDS INDIVIDUAL PERMITS
(PABIG AND PABIS)**

The following parties have applied for either an Individual Site Permit (PABIS) or an Individual Generator Permit (PABIG) for beneficial use of sewage sludge (biosolids) by land application. Unless otherwise indicated, on the basis of preliminary review and application of lawful standards and regulations, the Department of Environmental Protection (Department) proposes to issue a permit to land apply biosolids subject to certain requirements set forth in the permit.

Persons wishing to comment on the proposed permit are invited to submit a statement to the responsible Department regional office noted before the application within 30 days from the date of this public notice. Comments received within this 30-day period will be considered in the formulation of the final determination regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement of a comment and the relevant facts upon which it is based. A public hearing may be held if the regional office considers the public response significant.

Following the 30-day comment period, the water management regional manager will make a final determination regarding the proposed permit. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board (Board).

The application and related documents, comments received and other information are on file and may be inspected and arrangements made for copying at the responsible Department regional office indicated before the application.

Persons with a disability who require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the Secretary to the Board at (717) 787-3483. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

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

PABIS 3502. Dennis McCollough Farm, West Pennsboro Township, **Cumberland County**. Newville Borough Water and Sewer Authority, 99 Cove Avenue, Newville, PA 17241 has applied to beneficially use their biosolids on the Dennis McCollough Farm in Pennsboro Township, Cumberland County.

MINOR AMENDMENT

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Application No. Minor Amendment.

Applicant **Aqua Pennsylvania, Inc.**
 Township or Borough Dallas Township, **Luzerne County**
 Responsible Official Mark J. Kropilak, Vice-President Corporate Development and Corporate Counsel
 Aqua Pennsylvania, Inc.
 762 West Lancaster Avenue
 Bryn Mawr, PA 19010
 Type of Facility PWS
 Application Received Date April 2, 2004
 Description of Action This application requests the transfer of PWS facilities permitted under 165W5-T1 from the Applewood Water Company to Aqua Pennsylvania, Inc., 762 West Lancaster Avenue, Bryn Mawr, PA 19010.

Application No. Minor Amendment.

Applicant **Bezdecki Family, LLC**
 Township or Borough Jackson Township, **Luzerne County**

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before 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:

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Former BOC Gases, East Petersburg Borough, Lancaster County. ENSR International, Suite 100, 2005 Cabot Boulevard West, Langhorne, PA 19047, on behalf of Auto-Metrics of Lancaster, 1800 West State Street, East Petersburg, PA 17520, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with no. 2 fuel oil. The applicant proposes to remediate the site to meet the Statewide Health Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Intelligencer Journal-Lancaster New Era-Sunday News* on March 3, 2004.

The Promenade at Carlisle, Carlisle Borough, Cumberland County. BL Companies, 830 Sir Thomas Court, Harrisburg, PA 17109, on behalf of Seven Gables Estates Partnership, c/o Landis & Black, 36 South Hanover Street, Carlisle, PA 17013, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with semivolatile petroleum compounds. The applicant proposes to remediate the site to meet the Statewide Health Standards.

Defense Distribution Depot Susquehanna PA SWMU 2, Fairview Township, York County. Defense Logistics Agency, Defense Distribution Depot Susquehanna PA, 2001 Mission Drive, Suite 1, New Cumberland, PA 17070-5002, submitted a Notice of Intent to Remediate site soils contaminated with chlorinated solvents, PAHs, PCBs, pesticides and inorganics. The applicant proposes to remediate the site to meet the Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Harrisburg Patriot News* and *York Daily Record/Dispatch* on March 12, 2004.

Defense Distribution Depot Susquehanna PA SWMU 4, Fairview Township, York County. Defense Logistics Agency, Defense Distribution Depot Susquehanna PA, 2001 Mission Drive, Suite 1, New Cumberland, PA 17070-5002, submitted a Notice of Intent to Remediate site soils contaminated with chlorinated solvents, PAHs, PCBs, pesticides and inorganics. The applicant proposes to remediate the site to meet the Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Harrisburg Patriot News* and *York Daily Record/Dispatch* on March 12, 2004.

Northcentral Region: Environmental Cleanup Program, 208 West Third Street, Williamsport, PA 17701.

Jackson MHP—Lot No. 65 Cleanup, Wysox Township, Bradford County. Teeter Environmental Services, Inc. on behalf of William Them, Modular One, R. R. 6, Box 6100-A, Towanda, PA 18848, has submitted a Notice of Intent to Remediate soil and groundwater contaminated with no. 2 fuel oil. The applicant proposes to meet the requirements of the Statewide Health Standard. A summary of the Notice of Intent to Remediate was published in *The Daily Review* on March 16, 2004.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all

the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121–143, the Federal Clean Air Act (act) and regulations adopted under the act.

PLAN APPROVALS

Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001–4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.

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

28-05035: St. Thomas Development, Inc. (P. O. Box 1667, 1750 Walton Road, Blue Bell, PA 19422) for installation of a batch asphalt plant at their facility in St. Thomas Township, **Franklin County**.

29-03010: JLG Industries, Inc. (1 JLG Drive, McConnellsburg, PA 17233) for operation of two blast booths controlled by fabric collectors, a paint kitchen and two paint spray booths controlled by dry filters. The equipment had previously been operated as the NES Rebuild Center, Inc. in Ayr Township, **Fulton County**.

67-03126A: Yorkshire Animal Hospital, Inc. (3434 East Market Street, York, PA 17402) for construction of a new 130 lb/hr natural gas fired animal crematory in Springettsbury Township, **York County**.

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

59-00005E: Dominion Transmission, Inc. (625 Liberty Avenue, Pittsburgh, PA 15222) for installation of an air cleaning device (a high pressure fuel injection system) on a 2,000-horsepower natural gas-fired reciprocating internal combustion compressor engine (engine 6) at the Sabinsville Compressor Station in Clymer Township, **Tioga County**.

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

37-248F: United States Can Co. (1902 Old Butler Road, New Castle, PA 16101) for the temporary bypassing of the RTO when using compliant coatings during periods of RTO maintenance and malfunctions in Shenango Township, **Lawrence County**. This is a Title V facility.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.

AMS 04088: City of Philadelphia—Capital Programs Office (1515 Arch Street, Philadelphia, PA 19101) to install two natural gas fired chillers in Philadelphia, **Philadelphia County**.

AMS 4089: The Philadelphia Phillies (1001 Pattison Avenue, Philadelphia, PA 19148) to install three 191 hp natural gas and no. 2 fuel oil fired boilers and one 2,000 kW and one 1,250 kW emergency generators in Philadelphia, **Philadelphia County**.

AMS 04096: Sunoco Inc.—R and M (3144 Passyunk Avenue, Philadelphia, PA 19145) to remove the 868 FCCU feed rate limitation in Philadelphia, **Philadelphia County**.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

46-0027A: Ortho-McNeil Pharmaceutical, Inc. (Welsh and McKean Roads, Springhouse, PA 19477) for installation of a selective catalytic reduction system on an existing 1.5 mW electric generator (SCR) and modification of this 1.5 mW electric generator at the Ortho-McNeil manufacturing/pharmaceutical research and development facility at Welsh and McKean Roads, Lower Gwynedd Township, **Montgomery County**. The installation of the SCR and the modification of the generator will result in the emissions of 0.63 ton per year of NO_x, 0.64 ton per year of CO, 0.08 ton per year of VOCs, 0.44 ton per year of SO_x, 0.05 ton per year of PM and 0.03 ton per year of ammonia. 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.

23-0065: General Chemical Corp. (6300 Philadelphia Pike, Claymont, DE 19703-2712) for installation of a natural gas fired boiler in Marcus Hook Borough, **Delaware County**. This facility is a non-Title V (State-only) facility. This installation will not result in NO_x emission increase of 11.62 tons per year and CO emissions increase

of 17.42 tons per year. The Plan Approval and Operating Permit will contain recordkeeping requirements and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

46-0155D: Sermatech International, Inc. (155 South Limerick Road, Limerick, PA 19468) for installation of a four-chamber spray booth at their plant in Limerick Township, **Montgomery County**.

Under 25 Pa. Code §§ 127.44(a) and 127.424(b), the Department intends to issue a Plan Approval to Sermatech International, Inc. This plan approval will authorize the applicant to install a four-chamber spray booth, as described in the applicant's application of January 23, 2004. The Plan Approval will subsequently be incorporated into the company's facility Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Based on the information provided by the applicant and the Department's own analysis, the four-chamber spray booth will emit 3.5 tons of VOCs per year and 0.6 ton of PM per year. The four-chamber spray booth will be able to operate in a variety of configurations, including operation as a single large chamber or four small chambers. A dry PM filter and a carbon adsorption system will control the emissions of VOCs and PM from each chamber.

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, (484) 250-5910.

Persons wishing to provide the Department with additional information they believe should be considered may submit the information to the following address. Comments must be received by the Department within 30 days of publication. Written comments should include the name, address and telephone number of the person submitting comments, identification of proposed Plan Approval PA-46-0155D 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, 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, 2 East Main Street, Norristown, PA 19401, (484) 250-5920.

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

35-313-013: Gentex Corp. (P. O. Box 315, Carbondale, PA 18407) for construction of an electric kiln and associated air cleaning devices filters at their site in Archbald Borough, **Lackawanna County**. This facility is a non-Title V facility. The CO emissions from the facility will be less than 100 tpy. There will be no malodorous emissions past the property line. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system.

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

ER-67-05016E: R. H. Sheppard Co., Inc. (101 Philadelphia Street, Hanover, PA 17331) for an Emission Reduction Credit approval for 14.84 tons of VOC resulting from the shutdown of three cold box core making machines at its ductile and gray iron foundry in Hanover Borough, **York County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Richard Maxwell, New Source Review Chief, (570) 327-3637.

41-318-047A: Reynolds Iron Works, Inc. (157 Palmer Industrial Road, Williamsport, PA 17701) for modification of a steel parts surface coating operation in Woodward Township, **Lycoming County**.

The respective surface coating operation is used to coat (paint) various steel parts such as beams, pipes and columns. The proposed modification is an increase in the allowable emission rate of VOCs, from the current limit of 6.0 tons in any 12 consecutive month period to a limit of 14.85 tons in any 12 consecutive month period, as well as an increase in the allowable emission rate of combined volatile HAPs, from the current limit of 1.0 ton in any 12 consecutive month period to a limit of 9.54 tons in any 12 consecutive month period. Up to 8.53 tons of the volatile HAPs could be a single HAP, methyl isobutyl ketone. The surface coating operation will also emit up to .66 ton of acetone in any 12 consecutive month period.

The Department's review of the information submitted by Reynolds Iron Works, Inc. indicates that the modified surface coating operation will meet all air quality requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue a plan approval for the modification of the respective surface coating operation. Additionally, if the plan approval is issued and the surface coating operation is subsequently determined by the Department to have been modified in accordance with the conditions of the plan approval as well as all applicable regulatory requirements, the conditions of the plan approval will be incorporated into Operating Permit 41-318-047 through administrative amendment in accordance with 25 Pa. Code § 127.450.

The following is a summary of the conditions the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements:

1. All surface coating building doors shall be closed while surface coating is occurring. Additionally, the building shall be exhausted to the outdoor atmosphere through spray booth filters whenever surface coating is occurring.
2. The VOC content of any coating applied in the surface coating operation shall not exceed 6.4 pounds per gallon of coating solids, as applied.
3. No thinner, reducer or other additive shall be mixed with any coating onsite prior to coating application.
4. All coating shall be performed with airless spray technology or an application technique having an equivalent transfer efficiency as determined by the Department.
5. Only acetone shall be used for any cleanup activities associated with the surface coating operation and the amount used shall not exceed 200 gallons in any 12 consecutive month period.

6. All VOC-containing materials, all volatile HAP-containing materials and all acetone-containing materials shall be stored in closed containers when not in actual use. Spray gun lines shall be cleaned by flushing cleaning solvent through the lines into closed containers as a solid solvent stream; cleaning solvent shall never be flushed into a container as an atomized spray nor shall it ever be sprayed directly into the atmosphere. All used cleaning rags shall be stored in closed containers when not in actual use and the rags shall never be treated in any manner which would unnecessarily promote the evaporative loss of cleaning solvent to the atmosphere.

7. The total combined VOC emissions from the surface coating operation shall not exceed 14.85 tons in any 12 consecutive month period. The total combined volatile HAP emission shall not exceed 9.54 tons in any 12 consecutive month period, of which no more than 8.53 tons may be a single HAP. No halogenated HAP may, however, be emitted from the surface coating operation, nor may any formaldehyde.

8. Records shall be maintained of the identity and amount of each individual coating, coating additive, cleaning solvent and any other VOC-containing material, volatile HAP-containing material or acetone-containing material used each month as well as records of the VOC content of each material, the content of each individual volatile HAP in each material and the acetone content of each material. All records shall be retained onsite for at least 5 years and shall be made available to the Department upon request.

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

25-911A Humane Society of Northwest Pennsylvania (2507 Zimmerly Road, Erie, PA 16509) for construction of a small animal crematory in Millcreek Township, **Erie County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department intends to issue a plan approval to construct a small animal crematory in Millcreek Township, Erie County. Issuance of the plan approval is recommended with the appropriate conditions in the plan approval.

25-999A: Riley Power, Inc. (1420 Cascade Street, Erie, PA 16502) for post-construction plan approval of surface coating operations at their facility in the City of Erie, **Erie County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department intends to issue a plan approval for post-construction plan approval of surface coating operations at its facility in the City of Erie, Erie County. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State-only operating permit through an administrative amendment at a later date. Issuance of the plan approval is recommended with the appropriate conditions in the plan approval:

1. The source shall comply with 25 Pa. Code §§ 123.1, 123.31 and 123.41.

2. The source shall use coatings that are compliant with 25 Pa. Code § 129.52, Table 1(10)(e) for the category miscellaneous metal parts and products, only.

3. VOC emissions from the facility shall not exceed 15.1 tons in any 12-month rolling period and 9.8 tons of HAPs in any 12-month rolling period.

4. The sources shall not operate when the control device is not operating.

5. Records of coating usage shall be maintained in accordance with 25 Pa. Code § 129.52(c). Daily records shall be maintained of the usage of all coatings, organic cleaners and diluents used. The facility shall maintain monthly totals of VOC and HAPs and maintain 12-month rolling totals. The records shall be maintained for a minimum of 5 years and shall be made available to the Department upon request.

6. The weight of VOC per volume of coating solids must be equal to or less than 6.67 pounds of VOCs per gallon of coating solids unless the owner or operator of the facility complies with the exemptions listed in 25 Pa. Code § 129.52(h).

7. No person shall cause or permit the operation of the sources unless the source and air cleaning devices are operated and maintained in accordance with specifications in the Plan Approval application and conditions 1–6 according to 25 Pa. Code § 127.25.

8. Issuance of an Operating Permit is contingent upon satisfactory compliance with previous condition numbers, upon the source being constructed and operated as stated within the application and upon satisfactory demonstration that the emissions from the source will not be in violation of applicable rules and regulations of the Department.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.

AMS 03007: Clean Earth of Philadelphia, Inc. (3201 South 61st Street, Philadelphia, PA 19153) for use of no. 2 fuel oil in their existing TDU thermal oxidizer as back up fuel when natural gas supply is interrupted, an existing cyclone system and modifications to existing process building and its negative pressure system in the City of Philadelphia, **Philadelphia County**. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

AMS 03200: Wayne Industries (130 West Berkley Street, Philadelphia, PA 19144) for permitting of a 200 hp no. 4 oil fired boiler in the City of Philadelphia, **Philadelphia County**. The potential NO_x emission increase is 1.8 tons per year. The plan approval will contain requirements to ensure transfer within all applicable requirements.

AMS 04088: City of Philadelphia—Capital Programs Office (1515 Arch Street, 11th Floor, Philadelphia, PA 19101) for installation of two natural gas fired chillers. The potential NO_x emission increase is 9.6 tons per year in the City of Philadelphia, **Philadelphia County**. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

OPERATING PERMITS

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

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

35-00002: PEI Power Corp. (170 Power Boulevard, P. O. Box 157, Archbald, PA 18403) for issuance of a Title

IV Phase II Acid Rain Permit and Title V Operating Permit to their Archbald Power Station for the operation of a 300 mmBtu/hr utility boiler, 62.5 mmBtu/hr auxiliary boiler, two green house boiler and a gas turbine in Archbald Borough, **Lackawanna County**.

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

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428; Thomas McGinley, New Source Review Chief, (610) 832-6242.

46-00151: PPL Interstate Energy Co. (214 Shoemaker Road, Pottstown, PA 19464) for operation of pumping station in Salford Township, **Montgomery County**. The permit is for a non-Title V (State-only) facility. The facility's primary source is a direct fired residium (fuel) heater that fires no. 2 fuel oil and has a maximum rated heat input capacity of 14.0 mBtu/hr. This combustion source is used to warm the petroleum pipeline at the Salford Pumping Station in unusually hot or cold weather. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

05-03015: American Chrome Plating, LLC (230 North Street, Bedford, PA 15522) for operation of a decorative chromium electroplating facility in Bedford Borough, **Bedford County**. The operation will be controlled by a fume suppressant.

36-03137: Martin Limestone, Inc. (404 Martindale Road, Ephrata, PA 17522) for operation of a limestone crushing facility in Earl Township, **Lancaster County**. This is a non-Title V (State-only) facility. The State-only operating permit shall contain testing, monitoring, recordkeeping and reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

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

17-00042: Clearfield Leather, Inc.—Wickett and Craig of America (120 Cooper Road, Curwensville, PA 16833) for their plant in Curwensville Borough, **Clearfield County**. The facility's main sources include 4 spray booths, 1 cold cleaning solvent parts washer, fertilizer production operations, various storage tanks, 2 granulators, 1 emergency generator, a process water treatment facility and 19 combustion units. The facility has the potential to emit SO_x, NO_x, CO, PM/PM₁₀, VOCs and HAPs below the major emission thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

14-00009: Mount Nittany Medical Center (1800, East Park Avenue, State College, PA 16803) for their general medical and surgical hospital facility in College Township, **Centre County**. The facility's main sources include three natural gas/no. 2 fuel oil fired boilers, one natural gas fired boiler, two natural gas fired emergency generators and six no. 2 fuel oil fired emergency generators. The facility has the potential to emit SO_x, NO_x, CO,

PM (PM₁₀), VOCs and HAPs below the major emission thresholds. The proposed 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 included.

49-00055: Jeff's Autobody and Recycling Center, Inc. (R. R. 1, Box 318, Paxinos, PA 17860) for their facility in Shamokin Township, **Northumberland County**. The facility's main sources includes a propane-fired secondary aluminum smelting furnace, five propane-fired heaters, one propane-fired water heater and one no. 2 fuel oil-fired furnace. These sources have the potential to emit PM/PM₁₀, NO_x, SO_x, HAPs and CO below the major emission thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and report conditions.

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

25-00395: Eriez Manufacturing Co. (2200 Asbury Road, Erie, PA 16506) for a Natural Minor Permit for two spray surface coating operations at their Eriez Magnetics Plant in Erie, **Erie County**.

61-00204: Franklin Bronze and Alloy Co., Inc. (655 Grant Street, Franklin, PA 16323) for a Natural Minor Permit for the operation of a mold dewax furnace and after-burner at their investment casting foundry in Franklin, **Venango County**.

61-00034: Franklin Industries Co. (600 Atlantic Avenue, Franklin, PA 16323) for a Natural Minor operating permit for emissions from the operation of a rail rolling mill and the dip coating of steel posts in Franklin Borough, **Venango County**.

20-00201: Crawford County Humane Society (11012 Kennedy Hill Road, Meadville, PA 16335) on April 19, 2004, for a Natural Minor Operating Permit to operate a cremator/incinerator in Vernon Township, **Crawford 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); 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 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 an 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 district mining office indicated before an application 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, 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 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 the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

Effluent Limits—The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

*The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas, active areas disturbed by coal refuse disposal activities and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

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

54870102R3 and PA0593923. Joe Kuperavage Coal Company (916 Park Avenue, Port Carbon, PA 17965), renewal of an existing anthracite surface mine operation and discharge of treated mine drainage in Blythe Township, **Schuylkill County**, affecting 106.1 acres. Receiving streams: unnamed tributary to East Branch Schuylkill River. Application received April 13, 2004.

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

11733701. NPDES Permit No. NA, Robindale Energy Services, Inc. (1001 Broad Street, Suite 130, Johnstown, PA 15906), to revise the permit for the Cambria Slope Mine No. 33 in Cambria Township, **Cambria County**, to add acreage to utilize an existing building and install a truck scale. CRDP Refuse Disposal Acres Proposed 3.9. No additional discharges. Application received March 29, 2004.

03851301. NPDES Permit No. PA0214086, Rosebud Mining Company (301 Market Street, Kittanning, PA 16201-9642), to renew the permit the Rosebud No. 2 Mine in Perry Township, **Armstrong County** and related NPDES permit for reclamation only. No additional discharges. Application received April 6, 2004.

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

33980103 and NPDES Permit No. PA0227722. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767), renewal of an existing bituminous surface strip operation in Warsaw Township, **Jefferson County**, affecting 74.3 acres. Receiving streams: unnamed tributaries to Mill Creek (CWF) and unnamed tributary to Laurel Run (HQ-CWF). There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received April 12, 2004.

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

56663094 and NPDES Permit No. PA0606031. Croner, Inc. (P. O. Box 260, Friedens, PA 15541), surface mine permit renewal in Brothersvalley Township, **Somerset County**, affecting 182 acres. Receiving streams: unnamed tributaries to Blue Lick Creek and Blue Lick Creek (CWF). There are no potable water supply intakes within 10 miles downstream. Application received April 8, 2004.

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

03020113 and NPDES Permit No. PA0250279. Reichard Contracting, Inc. (212 Olean Trail, New Bethlehem, PA 16242), revision for additional acres to an existing bituminous surface mine in Wayne Township, **Armstrong County**, affecting 73 acres. Receiving streams: unnamed tributaries to Glade Run to Mahoning Creek (CWF). There is no potable water supply intake within 10 miles from the point of discharge. Revision application received April 12, 2004.

02-04-01 and NPDES Permit No. PA0250554. Kerry Coal Company (R. D. 2, Box 2139, Wampum, PA 16157), Government Finance Construction Contract to reclaim abandoned mine spoil and daylight abandoned deep mines in North Fayette Township, **Allegheny County**, affecting 13.7 acres. Receiving streams: unnamed tributaries to the North Branch of Robinson Run (WWF). There is no potable water supply intake within 10 miles from the point of discharge. GFCC application received April 9, 2004.

03020109 and NPDES Permit No. PA0250228. Thomas J. Smith, Inc. (R. D. 1, Box 260D, Shelocta, PA 15774), revision to include auger mining to an existing

bituminous surface mine in Plumcreek Township, **Armstrong County**, affecting 181 acres. Receiving streams: unnamed tributary to Cherry Run and Cherry Run (CWF). There is no potable water supply intake within 10 miles from the point of discharge. Revision application received April 14, 2004.

Noncoal Applications Received

Effluent Limits—The following noncoal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	

*The parameter is applicable at all times.

A settleable solids instantaneous maximum of 0.5 ml/l applied to surface runoff resulting from a precipitation event. If coal will be extracted incidental to the extraction of noncoal minerals, at a minimum, the technology-based effluent limitations identified under coal applications will apply to discharges of wastewater to streams.

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

7775SM3T2 and NPDES Permit No. PA0594679. Lehigh Cement Company (7600 Imperial Way, Allentown, PA 18195), transfer of an existing quarry from Allentown Cement Company in Richmond and Manatawny Townships, **Berks County**, affecting 206.3 acres. Receiving streams: unnamed tributary to Moselem Creek. Application received April 13, 2004.

7775SM4T2 and NPDES Permit No. PA0594563. Lehigh Cement Company (7600 Imperial Way, Allentown, PA 18195), transfer of an existing quarry from Allentown Cement Company in Oley Township, **Berks County**, affecting 143.4 acres. Receiving streams: unnamed tributary to Maxatawny Creek. Application received April 13, 2004.

7775SM5T2 and NPDES Permit No. PA0594954. Lehigh Cement Company (7600 Imperial Way, Allentown, PA 18195), transfer of an existing quarry from Allentown Cement Company in Oley Township, **Berks County**, affecting 64.0 acres. Receiving streams: Limekiln Creek. Application received April 13, 2004.

7775SM10T2 and NPDES Permit No. PA0011789. Lehigh Cement Company (7600 Imperial Way, Allentown, PA 18195), transfer of an existing quarry from Allentown Cement Company in Maiden creek Township, **Berks County**, affecting 175.0 acres. Receiving streams: Lake Ontelaunee. Application received April 13, 2004.

06960301T and PA0223379. Lehigh Cement Company (7600 Imperial Way, Allentown, PA 18195), transfer of an existing quarry from Allentown Cement Company in Oley Township, **Berks County** affecting 201.0 acres, receiving stream: Manatawny Creek. Application received April 13, 2004.

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 regional 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 regional 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 should 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.

E45-463. Pocono Mountain School District West High School, HC 89, Box 2002, Pocono Summit, PA 18346 in Tobyhanna Township, **Monroe County**, U. S. Army Corps of Engineers, Philadelphia District.

To place fill in a de minimis area of PFO wetlands equal to 0.02 acre for the purpose of constructing a 1,100-foot long by 2-foot wide floating, low-impact cedar log boardwalk and associated 3-foot by 3-foot timber crib support structures. The boardwalk is to be used for educational purposes as part of wetlands curriculum, as well as private environmental tours. The project is behind Pocono Mountain School District—West High School, approximately 0.5 mile south of SR 0940 (Pocono Pines, PA Quadrangle N: 19.5 inches; W: 7.9 inches).

E35-372. Glenburn Township, P. O. Box 694, Dalton, PA 18414 in Glenburn Township, **Lackawanna County**, U. S. Army Corps of Engineers, Baltimore District.

To remove the existing structure and construct and maintain a road crossing consisting of a 3-foot long, 8-foot by 5-foot concrete box culvert, depressed 1 foot below streambed elevation, across South Branch Tunkhannock Creek (CWF). The project is on Kittle Lane (T-568) approximately 0.1 mile southwest of Old State Road (Dalton, PA Quadrangle N: 1.1 inches; W: 12.9 inches).

E54-313. Jason and Heather Leininger, 93 North Tulpehocken Street, Pine Grove, PA 17963-1216 in Pine Grove Borough, **Schuylkill County**, U. S. Army Corps of Engineers, Baltimore District.

To remove the existing structure and construct and maintain a 24-foot by 34-foot garage and an aboveground swimming pool in the floodway of Satara Creek (CWF). The project is on the southwest side of Tulpehocken Street approximately 0.25 mile northwest of Pottsville Road (SR 0443) (Pine Grove, PA Quadrangle N: 9.9 inches; W: 2.1 inches).

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

E06-589. Richmond Township, P. O. Box 474, Fleetwood, PA 19522 in Richmond Township, **Berks County**, ACOE Philadelphia District.

To construct and maintain a 7-foot by 7-foot 11-inch precast reinforced concrete box culvert and remove an existing 6-foot by 6-foot concrete slab bridge, over an unnamed tributary to Maiden Creek (WWF), for the purpose of replacing a structurally deteriorating existing structure in Richmond Township, Berks County (Kutztown, PA Quadrangle N: 2.57 inches; W: 17.14 inches).

E31-195. R. Scott Shearer, 850 Weldon Street, Latrobe, PA 15650 in Franklin Township, **Huntingdon County**, ACOE Baltimore District.

To replace and maintain an existing timber plank bridge across Spruce Creek (HQ-CWF) (Franklinville, PA Quadrangle N: 3.7 inches; W: 12.7 inches) for the purpose of removing two residential structures to construct and maintain a 36-foot by 128-foot residential structure with associated fill material within (Franklinville, PA Quadrangle N: 3.4 inches; W: 12.7 inches), the left floodway of Spruce Creek (HQ-CWF) in Franklin Township, Huntingdon County.

E29-087. Thompson Township, 1208 Gem Bridge Road, Needmore, PA 17328 in Thompson Township, **Fulton County**, ACOE Baltimore District.

To replace and maintain existing ford crossings along: (1) Dent Road (T-343) (Needmore, PA Quadrangle N: 10.5

inches; W: 2.0 inches) across Tonoloway Creek (WWF); (2) Delancy Road (T-325) (Needmore, PA Quadrangle N: 3.0 inches; W: 4.0 inches) across Tonoloway Creek (WWF); (3) South Hess Road (T-348) (Needmore, PA Quadrangle N: 12.0 inches; W: 13.8 inches) across Licking Creek (CWF); and (4) Licking Creek Road (T-312) (Needmore, PA Quadrangle N: 4.2 inches; W: 11.6 inches) across Licking Creek (CWF) in Thompson Township, Fulton County. The project will directly impact a total of 54 lineal feet of stream channel.

E29-088. Empire Industries, Limited, 100 Tonoloway Bluffs Lane, Needmore, PA 17238 in Thompson Township, **Fulton County**, ACOE Baltimore District.

To construct and maintain a pedestrian foot suspension bridge 120 feet in length by 3 feet wide with a low cord 15 feet above the normal water surface elevation, crossing the Tonoloway Creek (WWF) at a point (Hancock, WV Quadrangle N: 20.1 inches; W: 2.8 inches) approximately 1 mile upstream of SR 2005 in Thompson Township, Fulton County.

E05-322. Pennsylvania General Energy Company, LLC, 208 Liberty Street, Warren, PA 16365 in Monroe Township, **Bedford County**, ACOE Baltimore District.

To construct and maintain: (1) a 3-foot by 24-inch utility line crossing of an unnamed tributary to West Branch Sideling Hill Creek (EV) (Mench, PA Quadrangle N: 3.55 inches; W: 14.25 inches); (2) a 7-foot by 24-inch utility line crossing of an unnamed tributary to West Branch Sideling Hill Creek (EV) (Mench, PA Quadrangle N: 1.65 inches; W: 12.85 inches); (3) a 7-foot by 24-inch crossing of an unnamed tributary to West Branch Sideling Hill Creek (EV) (Mench, PA Quadrangle N: 1.6 inches; W: 13.1 inches) for the purpose of installing 8,400 lineal feet of 6-inch natural gas transmission line in Monroe Township, Bedford County. The project proposes to directly impact 17 linear feet of stream channel.

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

E02-1463. Links Development Company, Inc., 1060 Corporate Lane, Murry Corporate Park, Export, PA 15632. Hunt Club at Grandview Farm wetland fill in West Deer Township, **Allegheny County**, Pittsburgh ACOE District (Valencia, PA Quadrangle N: 0.9 inch; W: 6.3 inches) (Latitude: 40° 37' 48"—Longitude: 79° 55' 13"). The applicant proposes to place and maintain fill in 0.05 acre of wetlands (PEM) in the Deer Creek Watershed (CWF) as part of a development known as Hunt Club at Grandview Farms. The project is on the north side of Route 910 approximately 1 mile east of its intersection with Route 8. Permit No. E02-1316 was issued to Richland Properties, Inc. for the placement of fill in 0.45 acre of wetlands. This new permit application is part of the same development and the wetlands impacted are being considered accumulative to the original permit, thus making the developments total wetland impacts 0.50 acre. The original applicant made a payment to the Wetland Replacement Fund, which also covers the impacts of this application. The total wetland impact for the development is 0.50 acre (PEM).

E03-422. Freeport Area School District, P. O. Drawer C, Freeport, PA 16229-0303. Freeport Area School District Bridge Replacement in South Buffalo Township, **Armstrong County**, Pittsburgh ACOE District (Freeport, PA Quadrangle N: 14.1 inches; W: 5.8 inches) (Latitude: 40° 42' 10" and Longitude: 79° 40' 01"). The applicant proposes to remove the existing structure and to construct and maintain a two-lane bridge having a

clear span of 24 feet and a maximum underclearance of 78 feet across an unnamed tributary to the Allegheny River (WWF) for the purpose of providing access from SR 0128. The structure is approximately 250 feet east of SR 0128 in South Buffalo Township.

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

E10-394, Butler County, P. O. Box 1208, Butler, PA 16003-1208, Harrisville Borough Bridge replacement project (County Bridge No. 7) in Mercer Township, **Butler County**, ACOE Pittsburgh District (Grove City, PA Quadrangle N: 1.7 inches; W: 0.07 inch).

To remove the existing single lane reinforced concrete bridge having a clear span of 22 feet, a maximum underclearance of 14 feet and an instream length of 19 feet 5 inches and to construct and maintain a two lane steel girder bridge with reinforced concrete deck having a clear span of 26 feet, a maximum underclearance of 14 feet and an instream length of 25 feet at a point within McMurray Run (CWF) approximately 2,600 feet southeast of the Borough of Harrisville along Frampton Road.

E42-307, Bradford Area School District, 150 Lorana Avenue, Bradford, PA 16701, floodwall extension project at the Bradford High School Athletic Field and Track in Bradford City, **McKean County**, ACOE Pittsburgh District (Bradford, PA Quadrangle N: 15.5 inches; W: 5.2 inches).

To construct and maintain approximately 510 linear feet of reinforced concrete floodwall to be connected to the existing floodwall behind the Bradford Area High School and along the eastern side of Bennett Brook (CWF), 460 linear feet of wall will be extended from the northern end and 50 linear feet of wall will be extended from the southern end and to install and maintain 290 feet of R-6 riprap protection along the west bank of Bennett Brook, opposite the existing floodwall.

E43-307, Department of Transportation, District 1-0, P. O. Box 398, 255 Elm Street, Oil City, PA 16340. SR 0019, Segment 0420, Offset 0000 across tributary Little Shenango River Streambed Paving in Perry Township, **Mercer County**, ACOE Pittsburgh District (Hadley, PA Quadrangle N: 2.2 inches; W: 12.6 inches).

To install 63 linear feet of concrete paving and 10 feet of rock riprap aprons depressed 6 inches below the existing streambed elevation and maintain the existing reinforced concrete arch having a span of 10 feet and a maximum rise of 9.75 feet in a tributary to Little Shenango River on SR 0019, Segment 0420, Offset 0000 approximately 0.75 mile south of SR 358. This work was previously authorized by DEP Permit No. E43-281, but not completed.

E43-308, Department of Transportation, District 1-0, 255 Elm Street, Oil City, PA 16301. SR 0358, Segment 0030, Offset 0134 Streambed Paving in Booth Run in West Salem Township, **Mercer County**, ACOE Pittsburgh District (Kinsman, OH-PA Quadrangle N: 3.0 inches; W: 0.1 inch).

To install 93.5 linear feet of concrete paving and 10 feet of rock riprap aprons depressed 6 inches below the existing streambed elevation and to maintain the reinforced concrete slab bridge having a span of 19 feet and an underclearance of 10 feet across Booth Run on SR 0358, Segment 0030, Offset 0134 approximately 0.9 mile west of SR 4001. This project was previously authorized by DEP Permit No. E43-282, but not completed.

E43-309, Department of Transportation, District 1-0, 255 Elm Street, Oil City, PA 16301. SR 0062, Segment 0220, Offset 1540 Streambed Paving in a tributary to Magarree Run in Jefferson Township, **Mercer County**, ACOE Pittsburgh District (Greenfield, PA Quadrangle N: 20.4 inches; W: 14.6 inches).

To install 42 linear feet of concrete paving and 10 feet of rock riprap aprons depressed 6 inches below the existing streambed elevation and to maintain the reinforced concrete slab bridge having a span of 9 feet and an underclearance of 4 feet across a tributary to Magarree Run on SR 0062, Segment 0220, Offset 1540 approximately 0.3 mile east of Charleston Road at the Village of Charleston. This project was previously authorized by DEP Permit No. E43-285, but not completed.

E62-397, Robert Brace, Robert Brace & Sons, Inc., 1131 Route 97, Waterford, PA 16441, Blue Eye Run Bridge Reconstruction Project in Pittsfield Township, **Warren County**, ACOE Pittsburgh District (Pittsfield, PA Quadrangle N: 11.85 inches; W: 6.52 inches).

To repair and maintain two of the existing reinforced concrete abutments and to construct and maintain a pre-engineered steel bridge having a clear span of 75 feet a maximum rise of 13.5 feet and an instream length of 20 feet across Blue Eye Run (CWF) at a point approximately 6,000 feet due east of Garland along Old Kane Road.

E6514-001, Department of General Services, Bureau of Engineering and Architecture, 18th and Herr Streets, Harrisburg, PA 17125, Export Borough Flood Protection Project, **Westmoreland County**, ACOE Pittsburgh District.

The purpose of the project is to protect public health, safety and property by eliminating high water events that overtop Turtle Creek and flood through Export Borough. A permit is requested to perform the following activities associated with the construction of the project in and along approximately 5,100 linear feet (approximately 4 acres) of Turtle Creek (TSF, perennial):

1. To construct approximately 2,700 feet of concrete channel, having a minimum wall height of 5 1/2 feet and a maximum width of 24 feet.

2. Remove three existing bridges and construct two box culverts having lengths of 35 linear feet and 165 linear feet. Both box culverts will have 5 1/2 feet high by 20 feet wide openings.

3. Excavate and widen approximately 1,445 feet of Turtle Creek to accommodate a 5-foot wide low flow channel and a 15-foot wide elevated flood plain. Along this reach the right bank of the creek, which constitutes the left bank of Kennedy Avenue, will be protected with grouted riprap. The left bank of Turtle Creek, which includes the elevated floodplain, will be protected with turf reinforcement mat and be lined with grass.

4. Construct a pedestrian bridge having a span of 50 feet.

5. Grout the existing riprap downstream of the eastern Kennedy Avenue Bridge.

6. Remove an abandoned concrete bridge at the downstream end of the project to increase the cross section of flow and reduce the likelihood of debris clogging the opening. The abandoned bridge has a span of approximately 30 feet and consists of a concrete beams, a concrete deck and concrete abutments

The project begins at the downstream side of the Jefferson Street bridge in the Borough of Export

(Slickville Quadrangle N: 7.2 inches; W: 1.3 inches) and terminates just downstream of the abandoned concrete bridge adjacent to Duff Street in the Municipality of Murrysville (Murrysville Quadrangle N: 7.8 inches, W: 1.0 inch).

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

D15-364B. BHC Venture, Inc., 909 Delaware Avenue, Wilmington, DE 19806. To construct, operate and maintain a stormwater detention dam, crossing no. 5, across Bucktoe Creek (TSF), impacting 0.04 acre of wetlands (PFO) and 90 feet of stream for the purpose of providing stormwater detention for a subdivision at the Hartefeld National Golf Course (Kennett Square, PA Quadrangle N: 1.13 inches; W: 15.8 inches), New Garden Township, **Chester County**. This is a request to reissue a Dam Permit which was issued on January 30, 1997, and expired on December 31, 1997. The current design of the dam is 2 feet higher than the originally permitted structure, requiring the submission of a new Dam Permit application. The dimensions and location of the base of the dam have not been changed from those approved in the originally permitted structure. The project also proposes to construct a nonjurisdictional dam (crossing no. 4) across a tributary to Bucktoe Creek impacting 0.27 acre of wetland (PEM) and 120 feet of stream for stormwater

detention. Applicant proposes to construct 0.31 acre of replacement wetland.

STORAGE TANKS

SITE-SPECIFIC INSTALLATION PERMITS

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

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

SSIP

<i>Application No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
04004	Bud Mauger Mauger Oil Company 300 Lawrence Drive West Chester, PA 19380	Chester	West Chester	21 ASTs storing lubricating oil	154,000 gallons

ACTIONS

**THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT
FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE
ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY
MANAGEMENT (WQM) PERMITS**

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) 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 NOIs for coverage under general NPDES permits. The approval for coverage under 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. 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 should 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 of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

I. NPDES Renewal Permit Actions

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

NPDES Permit No. (Type)	Facility Name and Address	County and Municipality	Stream Name (Watershed No.)	EPA Waived Y/N?
PA0045985-A1	Mountaintop Area Joint Sanitary Authority Morio Drive Mountaintop, PA 18707	Dorrance Township Luzerne County	Big Wapwalopen Creek 5B	N

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

NPDES Permit No. (Type)	Facility Name and Address	County and Municipality	Stream Name (Watershed No.)	EPA Waived Y/N?
PA0098795 Industrial Waste	North Fayette County Muni. Auth. University Drive at Ranch Road Box 368 Dunbar, PA 15431	Fayette County Dunbar Township	Youghiogheny River	Y
PA0025755 Sewage	Freeport Borough 414 Market Street Freeport, PA 16229	Armstrong County Freeport Borough	Buffalo Creek	Y
PA0092266 Sewage	Brave Water and Sewer Authority P. O. Box 159 Brave, PA 15316	Greene County Wayne Township	Hoovers Run	Y
PA0093980 Sewage	Better Build Homes R. D. 1, Box 190 Irwin, PA 15642	Westmoreland County Sewickley Township	Unnamed tributary of Little Sewickley Creek	Y

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

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401, (484) 250-5970.

NPDES Permit No. PA0051802, IW, Brown Printing Company, 668 Gravel Pike, East Greenville, PA 18041-2199, Upper Hanover Township, Montgomery County.

The following notice reflects changes to the notice published at 34 Pa.B. 494 (January 24, 2004):

Based on additional effluent concentration levels for total residual chlorine and considering point of first use at Perkiomen Creek, the effluent limit for copper is revised to 0.09 mg/l and the limit for total residual chlorine is removed.

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

NPDES Permit No. PA0247243, Sewage, Foremost Industries, Inc., 2375 Buchanan Trail West, Greencastle, PA 17225. This proposed facility is in Montgomery Township, Franklin County.

Description of Proposed Action/Activity: Authorization to discharge to an unnamed tributary West Branch Conococheague Creek in Watershed 13-C.

NPDES Permit No. PA0087785, Sewage, Charles C. Powell, Cove Forge Treatment Center, New Beginnings Road, Williamsburg, PA 16693. This proposed facility is in Woodbury Township, Blair County.

Description of Proposed Action/Activity: Authorization to discharge to the Frankstown Branch Juniata River in Watershed 11-A.

WQM Permit No. PA0082481, Industrial Waste, Lewistown Borough Municipal Authority, Laurel Creek Water Filtration Plant, 70 Chestnut Street, P. O. Box 68, Lewistown, PA 17044. This proposed facility is in Armagh Township, Mifflin County.

Description of Proposed Action/Activity: Authorization to discharge to the Laurel Creek in Watershed 12-A.

WQM Permit No. PA0087971, Industrial Waste, **Bedford Borough Water Authority**, 244 West Penn Street, Bedford, PA 15522. This proposed facility is in Bedford Township, **Bedford County**.

Description of Proposed Action/Activity: Authorization to discharge to an unnamed tributary to Raystown Branch Juniata River in Watershed 11-C.

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

NPDES Permit No. PAS236107, Industrial Waste, **Poly-Hi Solidur/Menasha Corporation**, 200 Industrial Drive, Delmont, PA 15626. This proposed facility is in Salem Township, **Westmoreland County**.

Description of Proposed Action/Activity: Discharge of untreated stormwater from Poly-Hi Solidur/Menasha Facility.

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

NPDES Permit No. PA0239381, Sewage, **David L. Ostrander**, R. R. 2, Box 185, Cole Hill Road, Pittsfield, PA 16340. This proposed facility is in Deerfield Township, **Warren County**.

Description of Proposed Action/Activity: This is a single residence sewage treatment plant discharging to an unnamed tributary to Tidioute Creek.

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

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

WQM Permit No. 2204401, Sewerage, **Swatara Township Authority**, 599 Eisenhower Boulevard, Harrisburg, PA 17111. This proposed facility is in Swatara Township, **Dauphin County**.

Description of Proposed Action/Activity: Approval for the replacing/paralleling certain portions of the Authority's existing Eisenhower Boulevard Interceptor prior to the proposed Paxton Street reconstruction project.

WQM Permit No. 2804401, Sewerage, **Foremost Industries, Inc.**, 2375 Buchanan Trail West, Greencastle, PA 17225. This proposed facility is in Montgomery Township, **Franklin County**.

Description of Proposed Action/Activity: Approval for the construction of sewerage facilities consisting of an extended aeration package treatment facility with a discharge to a dry swale UNT West Branch Conococheague Creek.

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

WQM Permit No. 0402201, Industrial Waste, **Beaver Valley Slag, Inc.**, 3468 Broadhead Road, Monaca, PA 15061-2500. This proposed facility is in Center Township, **Beaver County**.

Description of Proposed Action/Activity: Mining and processing of slag at Blacks Run Mine.

WQM Permit No. 3277201-A1, Industrial Waste, **Reliant Energy Northeast Management Company**, 121 Champion Way, Suite 200, Canonsburg, PA 15317. This proposed facility is in West Wheatfield Township, **Indiana County**.

Description of Proposed Action/Activity: Modification of existing yard drainage final settling ponds 1 and 2 at the Conemaugh Power Plant.

WQM Permit No. 6583412, Sewerage, **Borough of Delmont**, 77 Greensburg Road, Delmont, PA 15626. This proposed facility is in Delmont Borough, **Westmoreland County**.

Description of Proposed Action/Activity: To construct a retention tank to eliminate sanitary sewer overflows during wet weather conditions.

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

WQM Permit No. 2504405, Sewerage, **William J. Frick**, 5140 Florek Road, Edinboro, PA 16412. This proposed facility is in Washington Township, **Erie County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

WQM Permit No. 6203416, Sewerage, **David L. Ostrander**, R. R. 2, Box 185, Cole Hill Road, Pittsfield, PA 16340. This proposed facility is in Deerfield Township, **Warren County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

WQM Permit No. 2504403, Sewerage, **Vicky L. Kowalski**, P. O. Box 176, McKean, PA 16426. This proposed facility is in Franklin Township, **Erie County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

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, 2 East Main Street, Norristown, PA 19401.

NPDES Permit No.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011503097	NVS Customs Homes, LP Highlands at Charlestown 347 East Conestoga Road Wayne, PA 19087-2547	Chester	Charlestown Township	Unnamed tributary Pickering Creek HQ-TSF
PAI011503105	R. Samuel McMichael Dev. P. O. Box 296 Oxford, PA 19363	Chester	Oxford Borough	Tributary Little Elk Creek HQ-TSF-MF
PAI011503107	East Coventry Township Northern Service Area Phase I—Sanitary Sewer 855 Ellis Woods Road Pottstown, PA 19465	Chester	East Coventry Township	Unnamed tributary Schuylkill River HQ-TSF
PAI010903014	James R. Yourtee Yourtee Subdivision a/k/a Almayer Subdivision 2277 Silver Creek Road Hellertown, PA 18055	Bucks	Springfield Township	Cooks Creek EV
PAI010904016	DMMW, Inc. Lacey's Grill and Pub 4905 Tilghman Street, Suite 250 Allentown, PA 18104	Bucks	Milford Township	Unami Creek HQ-TSF

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

NPDES Permit No.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10Q251-1	Tiger Den Partners, LLC 171 Route 173, Suite 201 Asbury, NJ 08802	Lehigh	City of Bethlehem	Monocacy Creek HQ-CWF
PAI023903047	Republic Bethlehem, LP 610 W. Germantown Pike Suite 340 Plymouth Meeting, PA 19462-1050	Lehigh	City of Bethlehem	Monocacy Creek HQ-CWF
PAS10S111	Arrowhead Lake Community Association, Inc. HC 88, Box 305 Pocono Lake, PA 18347	Monroe	Coolbaugh and Tobyhanna Townships	Arrowhead Lake Trout Creek HQ-CWF

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

NPDES Permit No.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI2034404001	Kerfam, Inc. P. O. Box 43 Milroy, PA 17099	Mifflin	Armagh Township	UNT to Laurel Creek HQ-CWF

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

NPDES Permit No.

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI045304001	Department of Conservation and Natural Resources P. O. Box 8451 Harrisburg, PA 17105-8451	Potter	Sweden Township	Palmatier Hollow Run 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 Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of 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>
Wrightstown Township Bucks County	PAG2000904004	Szarko Builders Minor Subdivision 35 Colonial Drive Newtown, PA 18940-1101	Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Southampton Township Bucks County	PAG2000903182	Thomas and Barbara Christine 1271 East Maple Avenue Langhorne, PA 19047	Mill Creek, Delaware River—Neshaminy Creek CWF—MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Richland Township Bucks County	PAG2000903113	Station Road Associates Lifestyles at Morgan Creek P. O. Box 172 Hellertown, PA 18055	Morgan Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hilltown Township Bucks County	PAG2000903051	Robert L. Johnson Subdivision 120 Schultz Road Sellersville, PA 18960	Pleasant Spring Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Southampton Township Bucks County	PAG2000903155	Peter Penna Subdivision 400 Ellerslie Avenue Ambler, PA 19002	Neshaminy Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Newtown Township Bucks County	PAG2000904030	Newtown Bucks Co. Jt. Mun. Auth. Stoopville Road Sanitary Sewer and Eagle Road Force Main 15 South Congress Street Newtown, PA 18940	Newtown/Hough Creek TSF-MF-WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Buckingham Township Bucks County	PAG2000904016	Moyer 4059 Skyron Assoc., LLC EMC Corporate Headquarters Exp. 1150 Glenlivet Drive Suite A11 Allentown, PA 18016	North Branch Neshaminy Creek TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<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	PAG2000904032	LABH, LLC of NJ Additions and Alterations to BAPS 1561 Woodbourne Road Levittown, PA 19057	Queen Anne Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Middletown Township Bucks County	PAG2000904021	Middletown Township Emergency Services Substation 3 Municipal Way Langhorne, PA 19047	Core Creek CWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hilltown Township Bucks County	PAG2000903183	Kathryn Quirk Cooper/Quirk Earth Dist. Plan 725 Harvest Hill Road Chalfont, PA 18914	Unnamed tributary Neshaminy Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Tinicum Township Bucks County	PAG2000903181	Cornelius Sigety Property 6 Ervin Road Pipersville, PA 18947	Unnamed tributary Tohickon Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bensalem Township Bucks County	PAG2000904014	Bob Evans Farms, Inc. Bob Evans Restaurant at Hampton Inn Business Park 3776 South Ninth Street Columbus, OH 43207	Poquessing Creek WWF Delaware Estuary WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Highland and West Sadsbury Townships Chester County	PAG2001504041	Harold, Anna Mae, Jennifer and Mervin Engel 47140 Lower Valley Road Atglen, PA 19310	Glen Run TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Caln Township Chester County	PAG2001503074	Farpoint Associates, Inc. Ponds View Subdivision 123 Culbertson Run Road Downingtown, PA 19335-1133	Rock Run TSF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Oxford Township Chester County	PAG2001504016	Wyncote Farms, LP 510 Philadelphia Pike Wilmington, DE 19809	Leech Run TSF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Whiteland Township Chester County	PAR10G329-R	Toll Brothers, Inc. Whiteland Woods Subdivision 3103 Philmont Avenue Huntington Valley, PA 19006	Valley Creek West CWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Westtown Township Chester County	PAG2001503100	St. Simon and Jude Church 8 Cavanaugh Court West Chester, PA 19382-7998	Chester Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Bradford Township Chester County	PAG2001503112	John and Maggie Madden Residence 102 Turnbray Lane West Chester, PA 19382	East Branch Brandywine Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Easttown Township Chester County	PAG2001504018	Devereux Foundation—Whitlock 139 Leopard Road Berwyn, PA 19312	Unnamed tributary Darby Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

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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>
City of Philadelphia Philadelphia County	PAG2015103018	Arthur Ashe Your Tennis and Education 3901 B Main Street Suite 304 Philadelphia, PA 19127	Schuylkill River WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015104003	Division of Aviation City of Philadelphia NE Philadelphia Airport— Taxiway E Philadelphia International Airport—Terminal E Philadelphia, PA 19153	Pennypack Creek WWF-MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hanover Township Northampton County	PAG2004804007	Hindu Temple Society 4200 Airport Rd. Allentown, PA 18102	Catasauqua Creek CWF	Northampton County Conservation District (610) 746-1971
Lenox Township Susquehanna County	PAG2005803007	Glenwood Stone Company, Inc. R. R. 1, Box 1130 Nicholson, PA 18846	Tunkhannock Creek CWF	Susquehanna County Conservation District (570) 278-4600
North Union Township Schuylkill County Black Creek Township Luzerne County	PAG2005404007	Twin County Joint Municipal Authority Frank Schrader, Chairperson P. O. Box 636 Nuremburg, PA 18241	Tomhicken, Raccoon and Catawissa Creeks CWF	Schuylkill County Conservation District (570) 622-3742
City of Reading Berks County	PAG2000604034	Berks Area Reading Transportation Authority 1700 N. 11th Street Reading, PA 19604	Schuylkill River WWF	Berks County Conservation District P. O. Box 520 1238 County Welfare Road Leesport, PA 19533 (610) 372-4657
Maidencreek Township Berks County	PAG2000604033	Digiorgio Mushroom Corporation P. O. Box 96 Temple, PA 19560	Willow Creek CWF	Berks County Conservation District P. O. Box 520 1238 County Welfare Road Leesport, PA 19533 (610) 372-4657
Centre County Ferguson Township	PAG001403026	Aaron Plaza Partners 129 Northland Center State College, PA 16803	UNT Big Hollow Run CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817
Union County Hartley Township	PAG2006004005	Hartley Township Supervisors P. O. Box 128 Laurelton, PA 17835	Laurel Run CWF	Union County Conservation District 88 Bull Run Crossing Suite 5 Lewisburg, PA 17837 (570) 523-8782
Allegheny County Findlay and Robinson Townships	PAR10A578-1	Turnpike Commission P. O. Box 67676 Harrisburg, PA 17106	Enlow Run WWF Montour Run TSF Potato Garden Run WWF St. Patrick Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Shaler Township	PAG2000203126	Richland Properties Ross Professional Bldg. 7805 McKnight Rd. Pittsburgh, PA 15237	Girty's Run WWF	Allegheny County Conservation District (412) 241-7645

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Allegheny County Coraopolis Borough Moon Township	PAG2000204015	Department of Transportation 45 Thoms Run Road Bridgeville, PA 15017	Ohio River WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County West Mifflin Borough	PAG2000204021	Storage Development Inc. 5879 Center Avenue Pittsburgh, PA 15206	Lewis Run TSF	Allegheny County Conservation District (412) 241-7645
Allegheny County Baldwin Borough	PAG2000204022	Baldwin-Whitehall School District 4900 Curry Rd. Pittsburgh, PA 15236-1817	Streets Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Richland Township	PAG2000204023	Space 4-U 381 Dinnerbell Road Butler, PA 16002	Glade Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County West Deer Township	PAG2000204024	Deer Lakes School District P. O. Box 10 17 East Union Road Russellton, PA 15076	Little Deer Creek TSF Deer Creek CWF	Allegheny County Conservation District (412) 241-7645
Allegheny County Robinson, Scott, Collier and South Fayette Townships Bridgeville and Heidelberg Boroughs	PAG2000204025	Department of Transportation 45 Thoms Run Rd. Bridgeville, PA 15017	Chartiers Creek and Campbells Run WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County City of Pittsburgh	PAG2000204026	Pittsburgh Public Schools 1305 Muriel St. Pittsburgh, PA 15203-1513	Allegheny River WWF	Allegheny County Conservation District (412) 241-7645
Allegheny County North Fayette Township	PAG2000204027	Single Source Roofing 1200 McKee Avenue McKees Rocks, PA 15136	Montour Run TSF	Allegheny County Conservation District (412) 241-7645
Beaver County Chippewa Townships	PAG200040400	Pennko Properties, LLC c/o Julian E. Gray 2710 20th St. Ext. Beaver Falls, PA 15010	Unnamed tributary to Brady's Run TSF	Beaver County Conservation District (724) 774-7090
Cambria County Cambria Township	PAG2001104004	Blacklick Valley Municipal Authority P. O. Box 272 Twin Rocks, PA 15960	South Branch Blacklick Creek CWF	Cambria County Conservation District (814) 472-2120
Somerset County Somerset Township	PAG2005604002	Department of Transportation 1620 N. Juniata St. Hollidaysburg, PA 16648	Kimberly Run CWF	Somerset County Conservation District (814) 445-4652
Somerset County Elk Lick Township	PAG2005604004	Salisbury Borough 171 Smith Avenue Salisbury, PA 15558	Unnamed tributary to Meadow Run CWF	Somerset County Conservation District (814) 445-4652
Westmoreland County New Kensington	PAG2006504018	Department of Transportation District 12-0 P. O. Box 459 Uniontown, PA 15401	Pucketa Creek WWF	Westmoreland County Conservation District (724) 837-5271
Butler County Adams Township	PAG2001004003	Breakneck Creek Regional Auth. P. O. Box 1180 Mars, PA 16046	Breakneck Creek WWF	Butler County Conservation District (724) 284-5270

General Permit Type—PAG-3

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Franklin County Antrim and Montgomery Townships	PAR403501	Mountain View Reclamation 9446 Letzburg Road Greencastle, PA 17225-9317	UNT Conococheague Creek WWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

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>
Berks County Alsace Township	PAG043718	Larry Hain Property P. O. Box 191 Mohrsville, PA 19541-0191	Bernhart Creek	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Union Township Erie County	PAG048626	Dale J. and Therese L. Mitchell 9712 Mitchell Road Union City, PA 16438-9764	Unnamed tributary to South Branch French Creek	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Washington Township Erie County	PAG048952	William J. Frick 5140 Florek Road Edinboro, PA 16412	Torry Run	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Franklin Township Erie County	PAG048949	Vicky L. Kowalski P. O. Box 176 McKean, PA 16426	Shenango Creek	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-5

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
North Fayette Township Allegheny County	PAG056131	James Schons Excaliber Oil Group Inc. 133 Rt. 30 Imperial, PA 15126	Montour Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-8

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
North Woodbury Township Blair County	PAG083534	Martinsburg Mun. Auth. WWTP P. O. Box 307 133 E. Allegheny St. Martinsburg, PA 16662-0307		SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Manor Township Lancaster County	PAG083533	Borough of Millersville WWTP 10 Colonial Ave. Millersville, PA 17551		SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Little Britain Township Lancaster County	PAG080004	Philadelphia Water Dept. Biosolids Recycling Center 1101 Market St. Philadelphia, PA 19153	Charlesie Coates Farm	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
Fulton Township Lancaster County	PAG080004	Philadelphia Water Dept. Biosolids Recycling Center 1101 Market St. Philadelphia, PA 19153	Hannum Farm 1	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
East Drumore Township Lancaster County	PAG080004	Philadelphia Water Dept. Biosolids Recycling Center 1101 Market St. Philadelphia, PA 19153	Elam Lapp Farm	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707
Drumore Township Lancaster County	PAG080004	Philadelphia Water Dept. Biosolids Recycling Center 1101 Market St. Philadelphia, PA 19153	Dorothy Testerman Farm	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

General Permit Type—PAG-13

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

<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>
PAG138330	Summit Township 8900 Old French Road Erie, PA 16509	Erie	Summit Township	Walnut, Mill and Elk Creeks	Y

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) 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 should 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 of 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.

Southeast Region: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401.

Operations Permit issued to **Buckingham Township**, P. O. Box 413, Buckingham, PA 18912, PWS ID 1090159, Buckingham Township, **Bucks County** on April 12, 2004, for the operation of facilities approved under Construction Permit No. 0903505.

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

Operations Permit issued to **Pennsylvania Utility Company**, 234 The Glen, Tamiment, PA 18371, PWS ID 2520070, Lehman Township, **Pike County** on April 7, 2004, for the operation of facilities approved under Construction Permit N/A.

Operations Permit issued to **Del-Aire Mobile Home Park**, 171 Winard Avenue, Sellersville, PA 18960, PWS ID 3480007, Williams Township, **Northampton County** on April 12, 2004, for the operation of facilities approved under Construction Permit No. 4888505.

Operations Permit issued to **Valley Gorge Mobile Home Park**, 316 Susquehanna Street, White Haven, PA 18661, PWS ID 2400126, White Haven Borough, **Luzerne County** on April 14, 2004, for the operation of facilities approved under Construction Permit Minor Amendment issued January 26, 2004.

Operations Permit issued to **Aqua Pennsylvania, Inc.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010, PWS ID 2400083, Dallas Township, **Luzerne County** on April 14, 2004, for the operation of facilities approved under Construction Permit N/A.

Operations Permit issued to **Bezdecki Family, LLC d/b/a Sutton Springs**, 1823 Sutton Road, Shavertown,

PA 18708, PWS ID 2406272, Jackson Township, **Luzerne County** on April 14, 2004, for the operation of facilities approved under Construction Permit N/A.

Operations Permit issued to **Pennsylvania American Water Co. (Blue Mountain District)**, 4 Wellington Blvd., Wyomissing, PA 19610, PWS ID 3480055, Palmer Township, **Northampton County** on April 15, 2004, for the operation of facilities approved under Construction Permit Emergency Permits 1 and 2.

Operations Permit issued to **Mahoning Manor Estates c/o F. Leon Morgan**, 45 White Birch Lane, Lehigh, PA 18235, PWS ID 3130031, Mahoning Township, **Carbon County** on April 16, 2004, for the operation of facilities approved under Construction Permit No. 1387503 and Minor Amendment.

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

Permit No. 0304502, Public Water Supply.

Applicant	Kittanning Suburban Joint Water Authority R. R. 1, Box 32 Adrian, PA 16210-9712
Borough or Township	East Franklin Township
County	Armstrong
Type of Facility	Cowansville Pump Station Chlorine Booster Facilities
Consulting Engineer	Bankson Engineers Inc. 267 Blue Run Road P. O. Box 200 Indianola, PA 15051
Permit to Construct Issued	March 25, 2004

Permit No. 0303502, Public Water Supply.

Applicant	Parker Area Authority P. O. Box 342 Parker City, PA 16049
Borough or Township	Parker City
County	Armstrong
Type of Facility	Water treatment plant upgrade
Consulting Engineer	Paul J. Cornetti, P. E. 225 East Christie Avenue Butler, PA 16001
Permit to Construct Issued	April 5, 2004

Operations Permit issued to **Jennerstown Municipal Authority**, P. O. Box 99, Jennerstown, PA 15547, PWS ID 4560038, Jenner Township, **Somerset County** on March 25, 2004, for the operation of facilities approved under Construction Permit No. 5692505-A1.

Operations Permit issued to **Carrolltown Borough Municipal Authority**, P. O. Box 307, 140 East Carroll Street, Carrolltown, PA 15722, PWS ID 4110004, Carrolltown Borough, **Cambria County** on April 5, 2004, for the operation of facilities approved under Construction Permit No. 1102501.

Operations Permit issued to **Southwestern Pennsylvania Water Authority**, P. O. Box 307, 187, Greene and Washington Streets, Jefferson, PA 15344, PWS ID 5300017, Franklin Township, **Greene County** on April 9, 2004, for the operation of facilities approved under Construction Permit No. 3097501-A1.

Operations Permit issued to **Department of Conservation and Natural Resources, Park Region No. 2**, P. O. Box 387, Prospect, PA 16052-0387, PWS ID 5040376, Hanover Township, **Beaver County** on April 9, 2004, for the operation of facilities approved under Construction Permit No. 0402502.

Permit No. 0486501-T1, Minor Amendment. Public Water Supply.

Applicant	D'Atri, Inc. d/b/a Knob Vue Estates 320 Sunset Drive Baden, PA 15005
Borough or Township	New Sewickley Township
County	Beaver
Type of Facility	Transfer from Knob Vue Estates Mobile Home Park to D'Atri, Inc.
Permit to Operate Issued	April 13, 2004

SEWAGE FACILITIES ACT PLAN DISAPPROVAL

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

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Walker Township	816 Nittany Valley Dr. Bellefonte, PA 16823	Centre

Plan Description: This plan proposed to construct a sewerage collection system and treatment plant to serve the Village of Hublersburg. The sewage treatment plant would discharge to Little Fishing Creek (HQ, wild trout). The plan was disapproved because it does not meet the requirements of 25 Pa. Code § 71.21 because wetland concerns have not been adequately addressed and implementation of the plan is in question as they have failed to show that their proposed sewage treatment plant will meet the stringent effluent limits required to discharge to a high quality stream. In addition, the plan does not meet the requirements of 25 Pa. Code § 93.4c because all cost effective nondischarge alternatives were not adequately evaluated and a social and economic justification was not submitted as part of the plan.

HAZARDOUS SITES CLEANUP UNDER THE ACT OF OCTOBER 18, 1988

Proposed Consent Order and Agreement

DuPont/New Castle Junk Site, City of New Castle and Union Township, Lawrence County

Under section 1113 of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. § 6020.1113), the Department of Environmental Protection (Department) has entered into a Consent Order and Agreement (Agreement) with D & D Development, L. P. (D & D) concerning the redevelopment of a portion of the DuPont/New Castle Junk Site (Site).

In the past, wastes containing hazardous substances were disposed at the Site and these substances contaminated the environment at the Site. The Department and some of the responsible persons for the Site conducted a response action at the Site between 1992 and 2002. This response action included treatment of wastes and soils contaminated by hazardous substances, followed by placement of a soil cap on one portion of the treated wastes and proper closure of a residual waste landfill on another portion of the Site. Upon completion of the response action, the portion of the Site owned by the Lawrence County Economic Development Corporation (LCEDC) was available for redevelopment.

D & D intends to purchase an approximately 5-acre parcel at the Site from the LCEDC. D & D is not a "responsible party" as defined in section 103 of the HSCA (35 P.S. § 6020.103). However, in recognition of the extensive cleanup efforts at the Site, under the terms of the Agreement, D & D has agreed to redevelop this portion of the Site property in a manner consistent with the completed response action, including not disturbing the wetland area. The redevelopment plan and post-construction maintenance plan shall be submitted for prior Department approval before construction begins.

The specific terms of this settlement are set forth in the Agreement between the Department and D & D. The Department will receive and consider comments relating to the Agreement for 60 days from the date of this notice. The Department has the right to withdraw its consent to the Agreement if the comments disclose facts or considerations that indicate that the Agreement is inappropriate, improper or not in the public interest. After the public comment period, the Department's settlement with D & D shall be effective upon the date that the Department notifies D & D, in writing, that this Agreement is final and effective in its present form and that the Department has filed a response to significant written comments to the Agreement, or that no comments were received.

Copies of the Agreement are available for inspection at the Northwest Regional Office. Comments may be submitted in writing to Gary Mechtly, Project Manager, Hazardous Sites Cleanup, Department of Environmental Protection, 230 Chestnut Street, Meadville, PA 16335. Further information may be obtained by contacting Gary Mechtly, (814) 332-6648. TDD users should contact the Department through the Pennsylvania Relay Services at (800) 645-5984.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and 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 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 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. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. 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.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports 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:

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Former Samuel Miller & Son, Inc. Site. City of Lancaster, **Lancaster County.** Alternative Environmental Solutions, Inc., 930 Pointview Avenue, Suite B, Ephrata, PA 17522, on behalf of David Selfon, 220 Centerville Road, Lancaster, PA 17601, submitted a Remedial Investigation Report concerning remediation of site soils and groundwater contaminated with chlorinated solvents and other organics. The report is intended to document remediation of the site to the Site-Specific Standard.

Snyder Fruit Farm, Warwick Township, **Lancaster County.** GemChem, Inc., 53 North Cedar Street, Lititz, PA 17543, on behalf of Carl B. Snyder, 5290B Kissel Hill Road, Lititz, PA 17543, submitted a Final Report concerning remediation of site soils contaminated with diesel fuel. The report was submitted within 90 days of a release and is intended to document remediation of the site to the Statewide Health Standard.

Kutztown University Maintenance Facility, Maxatawny Township, **Berks County.** Spotts, Stevens and McCoy, Inc., 1047 North Park Road, Reading, PA 19610-0307, on behalf of Kutztown University, Old Main 7, Kutztown, PA 19530, submitted a combined Remediation Investigation and Final Report concerning remediation of site soils and groundwater contaminated with no. 2 fuel oil. The report is intended to document remediation of the site to the Site-Specific and Statewide Health Standards.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of 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 before 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:

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Defense Distribution Depot Susquehanna PA, Former Aircraft Maintenance Shop, Fairview Town-

ship, **York County.** Defense Distribution Depot Susquehanna, 2001 Mission Drive, Suite 1, New Cumberland, PA 17070-5002, submitted a combined Remedial Investigation and Risk Assessment Report concerning remediation of site groundwater contaminated with solvents. The combined report was approved by the Department on April 6, 2004.

V & S Sandwich Shop, Wyomissing Borough, Berks County. Alternative Environmental Solutions, Inc., 930 Pointview Avenue, Ephrata, PA 17522, on behalf of David Mogel, 11 State Hill Road, Wyomissing, PA 19610, submitted a combination Remedial Investigation and Final Report concerning remediation of site soils and groundwater contaminated with leaded gasoline. The combined report did not demonstrate attainment of the Site-Specific Standard and was disapproved by the Department on April 12, 2004.

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

Caparo Steel Co. AOC-11, Cities of Farrell and Sharon, Mercer County. Paul Wojciak, P. E., Inv. Management Assoc. LLC, 10925 Perry Hwy., Suite 23, Wexford, PA 15090 (on behalf of Richard A. Herman, Caparo Steel Co., 15 Roemer Blvd., Farrell, PA 16121) has submitted a Final Report concerning the remediation of site soil contaminated with inorganics and lead. The report was approved. The Final Report demonstrated attainment of the Nonresidential Statewide Health Standards and was approved by the Department on April 4, 2004.

OMG Americas, Inc., Sugarcreek Borough, Venango County. Lawrence A. Drane, III, P. G., Civil & Environmental Consultants, Inc. (on behalf of OMG Americas, Inc. Two Mile Run Rd., Franklin, PA 16323) has submitted a Remedial Investigation Report concerning remediation of site soil, groundwater, surface water and sediment contaminated with lead, heavy metals, solvents, BTEX, PHCs and PAHs. The report is intended to document remediation of the site to meet the Site-Specific Standards.

Former Pittsburgh Metals Purifying Site, Clinton Township, Butler County. William G. Wier, P. G., Civil & Env. Consultants Inc., 333 Baldwin Rd., Pittsburgh, PA 15205 (on behalf of Ivy Wood Ind. Works, 161 Deer Creek Rd., Saxonsburg, PA 16056) has submitted a Clean-up Report concerning remediation of site soil contaminated with asbestos. The report is intended to document remediation of the site to meet the Site-Specific Standards.

Redevelopment Authority of the City of Meadville (Former Talon Plant 7 Site), City of Meadville, Crawford County. Mark B. Miller, P. G., Moody & Assoc., 11548 Cotton Rd., Meadville, PA 16335 (on behalf of Andy Walker, Director of Community Development, Redevelopment Authority of the City of Meadville) has submitted a Baseline Environmental Report concerning remediation of site soil contaminated with chlorinated solvents, inorganics and other organics and groundwater contaminated with chlorinated solvents, inorganics, lead and other organics. The report is intended to document remediation of the site to meet the Special Industrial Standards area requirements.

**OPERATE WASTE PROCESSING OR DISPOSAL
AREA OR SITE**

Permits Issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit No. 400593. America Ref-Fuel Company of Delaware Valley, L. P., 10 Highland Avenue, Chester, PA, City of Chester, **Delaware County**. This amended waste management permit is to bring the American Ref-Fuel Company of Delaware Valley, L. P. into compliance with the radiation protection action plan requirement. The permit was issued by the Southeast Regional Office on April 14, 2004.

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; Ronald Davis, New Source Review Chief, (717) 705-4702.

GP1-06-03084: County of Berks (633 Court Street, 16th Floor, Reading, PA 19601) on April 15, 2004, for small gas and no. 2 oil fired combustion units under GP1 in the City of Reading, **Berks County**.

GP1-38-03021: CHP Acquisition, LLC—College Hill Poultry (P. O. Box 10, North Pine Grove Street, Fredericksburg, PA 17026) on April 19, 2004, for small gas and no. 2 oil fired combustion units under GP1 in Bethel Township, **Lebanon County**.

GP3-28-03040: Valley Quarries, Inc. (P. O. Box J, Chambersburg, PA 17201) on April 13, 2004, for portable nonmetallic mineral processing plants under GP3 in Guilford Township, **Franklin County**.

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

GP3-56-00081: New Enterprise Stone and Lime Co., Inc. (P. O. Box 77, New Enterprise, PA 16664) on April 12, 2004, (BAQ-PGPA/GP-3) to operate a portable nonmetallic mineral processing plant with a crusher, screen and seven conveyors in the Town of New Enterprise, **Somerset County**.

Plan Approvals Issued under the Air Pollution Control Act and regulations in 25 Pa. Code Chapter 127, Subchapter B relating to construction, modification and reactivation of air contamination sources and associated air cleaning devices.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

15-0091: McAvoy Vitriified Brick Co. (75 McAvoy Lane, Phoenixville, PA 19460) on April 13, 2004, for operation of a brick kiln in Schuylkill Township, **Chester County**.

15-0078B: Centocor Inc. (90 Great Valley Parkway, Malvern, PA 19355) on April 14, 2004, for operation of two natural gas fired boilers in East Whiteland Township, **Chester County**.

09-0128A: East Coast Sign Ad (5058 Route 13 North, Bristol, PA 19007) on April 19, 2004, to operate a three paint spray booth in Bristol Township, **Bucks County**.

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

66-315-044: The Procter and Gamble Paper Products Co. (P. O. Box 32, Route 87 South, Mehoopany, PA 18629) on April 15, 2004, to modify the 1M paper machine hot air distribution system and converting line and the associated air cleaning device at their facility in Washington Township, **Wyoming County**.

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

06-05037E: McConway and Torley Corp. (109 48th Street, Pittsburgh, PA 15201) on April 13, 2004, to install a fabric filter control device at their Kutztown Foundry in Kutztown Borough, **Berks County**.

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

63-00014F: Reliant Resources, Inc.—Orion Power MidWest (121 Champion Way, Suite 200, Canonsburg, PA 15317) on April 9, 2004, authorized to use a selective noncatalytic reduction system on unit no. 4 at Elrama Power Plant in Union Township, **Washington County**.

65-00630A: Mine Safety Appliances Co. (P. O. Box 428, 3880 Meadowbrook Road, Pittsburgh, PA 15230) on April 20, 2004, to install ACH Manufacturing at their Murrysville Plant in Murrysville, **Westmoreland County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.

AMS 02212: Joseph P. Ryerson and Sons, Inc. (5200 Grays Ferry Avenue, Philadelphia, PA) to install a propane plasma flame cutting machine and 16 1.88 mmBtu/hr area heaters in Philadelphia, **Philadelphia County**.

AMS 04054: Brandenburg Industrial Services Co. (1905 East Fourth Street, Bethlehem, PA 18015) to install a portable concrete crusher at 3501 South Broad Street, Philadelphia, **Philadelphia County**.

AMS 04059: JPC Group Inc. (2034 South 13th Street, Philadelphia, PA 19148) to install one portable concrete crusher temporarily at Morris and 31st Street in Philadelphia, **Philadelphia County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.

46-0018C: Brown Printing Co. (668 Gravel Pike, East Greenville, PA 18041) on April 13, 2004, to operate a lithographic printing press in Upper Hanover Township, **Montgomery County**.

09-0087B: Air Products and Chemicals, Inc. (351 Philadelphia Avenue, Morrisville, PA 19067) on April 15, 2004, to operate a SiF4 process scrubber in Falls Township, **Bucks County**.

46-0031B: SmithKline Beecham d/b/a Glaxo SmithKline (1250 South Collegeville Road, Collegeville, PA 19426) on April 15, 2004, to operate a 2 mW no. 2 fuel oil-fired generators in Upper Providence Township, **Montgomery County**.

15-0060B: SECCRA LDFL (P. O. Box 221, Kennett Square, PA 19348) on April 15, 2004, to operate a landfill gas open flare in London Grove Township, **Chester County**.

23-0074: GS Roofing Product Co., Inc. (800 West Front Street, Chester, PA 19013) on April 15, 2004, to operate a thermal oxidizer in City of Chester, **Delaware County**.

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

60-399-002: Ritz-Craft Corporation (15 Industrial Park Road, Mifflinburg, PA 17844) on April 9, 2004, to operate two mobile/modular home assembly plants and a surface coating operation on a temporary basis, to August 7, 2004, in Mifflinburg Borough, **Union County**. The plan approval has been extended.

Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

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

16-00010: Owens-Brockway Glass Container, Inc.—Plant No. 17 (151 Grand Avenue, Clarion, PA 16214) on April 13, 2004, to reissue a Title V Permit to operate a glass containers manufacturing facility in Clarion Borough, **Clarion County**.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

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

06-05047: Bradley Specialties Corp. (P. O. Box 436, Feick Industrial Drive, Shartlesville, PA 19554) on April 13, 2004, to operate fiberglass fabricating and surface coating operations controlled by dry filters in Upper Bern Township, **Berks County**.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permit Actions

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

54773006C6. Reading Anthracite Company (P. O. Box 1200, Pottsville, PA 17901), correction to an existing anthracite surface mine operation to include biosolids as a soil amendment for mine reclamation in Cass, Foster and New Castle Townships, **Schuylkill County**, affecting 3,500.0 acres. Receiving streams: None. Application received January 28, 2002. Correction issued April 13, 2004.

49773204C2. Gilberton Coal Company (10 Gilberton Road, Gilberton, PA 17934), correction to an existing coal refuse reprocessing and anthracite surface mine operation to include biosolids as a soil amendment for mine reclamation in Mt. Carmel, Conyngham and Butler Townships, **Northumberland, Columbia and Schuylkill Counties**, affecting 958.0 acres. Receiving streams: None. Application received January 28, 2002. Correction issued April 13, 2004.

54030202. Michael Coal Company (P. O. Box 11, Tremont, PA 17981), commencement, operation and restoration of a coal refuse reprocessing operation in Reilly Township, **Schuylkill County**, affecting 70.6 acres. Receiving streams: None. Application received October 15, 2003. Permit issued April 14, 2004.

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

10743701. NPDES Permit No. PA0215635, Pristine Resources, Inc. (3250 Interstate Drive, Richfield, OH 44286), to transfer the permit for the Fawn Mine No. 91 CRD in Clinton Township, **Butler County**, from Beth Energy Mines, Inc. No additional discharges. Permit issued April 14, 2004.

30841312. NPDES Permit No. PA0013790, Consolidation Coal Company (1 Bridge Street, Monogah, WV 26554), to revise the permit for the Blacksville Mine No. 2 in Wayne Township, **Greene County**, to install 34 degasification boreholes. Surface Acres Proposed 17.0. No additional discharges. Permit issued April 14, 2004.

30810703. NPDES Permit No. PA0092894, Consol Pennsylvania Coal Company (1800 Washington Road, Pittsburgh, PA 15241-1421), to renew the permit the

Bailey Central Mine Complex Refuse Disposal Areas 1 and 2 in Richhill Township, **Greene County** and related NPDES permit. No additional discharges. Permit issued April 15, 2004.

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

56980103 and NPDES Permit No. PA0234699. Godin Brothers, Inc. (128 Colton Drive, Stoystown, PA 15563), permit revision to include auger mining in Jenner and Lincoln Townships, **Somerset County**, affecting 133.5 acres. Receiving streams: unnamed tributaries to Quemahoning Creek (CWF). The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Quemahoning Surface Water Intake. Application received November 12, 2003. Permit issued April 9, 2004.

56823033 and NPDES Permit No. PA0607541. Croner, Inc. (P. O. Box 260, Friedens, PA 15541), permit renewal for continued operation of a bituminous surface, auger and limestone removal mine in Brothersvalley Township, **Somerset County**, affecting 126.6 acres. Receiving streams: unnamed tributary to Bluelick Creek and Swamp Creek, Swamp Creek, Bluelick Creek (CWF). There are no potable water supply intakes within 10 miles downstream. Application received September 18, 2003. Permit issued April 14, 2004.

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

26990103 and NPDES Permit No. PA0202576. Amerikohl Mining, Inc. (P. O. Box 427, Acme, PA 15610), permit renewed for reclamation only of an existing bituminous surface mine in Springfield Township, **Fayette County**, affecting 58 acres. Receiving streams: unnamed tributary to Poplar Run and Poplar Run. Application received March 10, 2004. Reclamation only renewal issued April 12, 2004.

65030101 and NPDES Permit No. 0250368. Amerikohl Mining, Inc. (P. O. Box 427, Acme, PA 15610), permit issued for commencement, operation and reclamation of a bituminous surface mine in Ligonier Township, **Westmoreland County**, affecting 239.6 acres. Receiving streams: unnamed tributaries to Loyalhanna Creek. Application received March 19, 2003. Permit issued April 13, 2004.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17020116 and NPDES Permit No. PA0243400. Hepburnia Coal Company (P. O. Box I, Grampian, PA 16838), commencement, operation and restoration of a bituminous surface mine-auger permit in Bell Township, Mahaffey Borough, **Clearfield County**, affecting 67 acres. Receiving streams: Chest Creek and unnamed tributaries to Chest Creek. Application received October 24, 2002. Permit issued April 8, 2004.

Noncoal Permit Actions

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

58030831. Joseph J. Paolucci (R. R. 1 Box 87, New Milford, PA 18834), commencement, operation and restoration of a quarry operation in Harford Township, **Susquehanna County**, affecting 5.0 acres. Receiving streams: tributary to Leslie Creek. Application received December 1, 2003. Permit issued April 13, 2004.

ABANDONED MINE RECLAMATION

Cambria Office: 286 Industrial Park Road, Ebensburg, PA 15931-4119, (814) 472-1800.

Bond Forfeiture	BF 463-101.1
Contract Awarded	
Location	Chest Township, Clearfield County
Description	Abandoned Mine Land Reclamation Avery Coal Company, Inc.
Contractor	J & J Snyder, Inc. Mayport, PA
Amount	\$52,337.50
Date of Award	April 15, 2003
Bond Forfeiture	BF 484-102.1
Contract Awarded	
Location	Hempfield Township, Westmoreland County
Description	Abandoned Mine Land Reclamation
Contractor	Utilities Forestry Services, Inc. Clearfield, PA
Amount	\$180,745.50
Date of Award	April 19, 2004

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.

21044012. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Brook Meadow in Silver Spring Township, **Cumberland County**, with an expiration date of March 31, 2005. Permit issued April 6, 2004.

15044010. Explo-Craft, Inc. (P. O. Box 1332, West Chester, PA 19380), construction blasting at St. Basil Church Sanitary Sewer Line in East Pikeland Township, **Chester County**, with an expiration date of April 26, 2005. Permit issued April 6, 2004.

22044006. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Apple Creek Farms in Susquehanna Township, **Dauphin County**, with an expiration date of December 31, 2005. Permit issued April 6, 2004.

21044013. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Golden Triangle in Silver Springs Township, **Cumberland County**, with an expiration date of March 31, 2005. Permit issued April 6, 2004.

06044013. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Rockledge in Ontelaunee Township, **Berks County**, with an expiration date of December 31, 2005. Permit issued April 7, 2004.

36044025. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Running Park Business

Center in Hempfield Township, **Lancaster County**, with an expiration date of December 31, 2005. Permit issued April 7, 2004.

21044014. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Woods Drive Industrial Park in Silver Spring Township, **Cumberland County**, with an expiration date of March 31, 2005. Permit issued April 7, 2004.

36044027. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting at John Stoltzfus, 233 Peters Road in Earl Township, **Lancaster County**, with an expiration date of July 29, 2004. Permit issued April 7, 2004.

21044015. R & M Excavating (403 Hilltop Road, Newburg, PA 17240), construction blasting at Brian Franklin Basement in West Pennsboro Township, **Cumberland County**, with an expiration date of July 31, 2004. Permit issued April 7, 2004.

45044016. Austin Powder Company (P. O. Box 289, Northampton, PA 18067), construction blasting at Aventis Pasteur Parking Lot and Building Addition in Pocono Township, **Monroe County**, with an expiration date of May 1, 2005. Permit issued April 7, 2004.

45044017. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting at Alpine Lake in Pocono Township, **Monroe County**, with an expiration date of March 20, 2005. Permit issued April 7, 2004.

45044018. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting at Blue Mountain Lake—Marsh Road in Stroud Township, **Monroe County**, with an expiration date of March 22, 2005. Permit issued April 7, 2004.

21044016. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Rolling Green Memorial Garden in Lower Allen Township, **Cumberland County**, with an expiration date of April 30, 2006. Permit issued April 7, 2004.

52044003. Holbert Explosives, Inc. (237 Masthope Plank Road, Lackawaxen, PA 18435), construction blasting in Lackawaxen Township, **Pike County**, with an expiration date of November 7, 2004. Permit issued April 7, 2004.

67044016. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Ruters Store in Newberry Township, **York County**, with an expiration date of April 30, 2005. Permit issued April 7, 2004.

09044007. Eastern Blasting Company, Inc. (1292 Street Road, New Hope, PA 18938), construction blasting at Summerhill in Doylestown Township, **Bucks County**, with an expiration date of May 30, 2004. Permit issued April 8, 2004.

21044017. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting in North Middleton Township, **Cumberland County**, with an expiration date of April 30, 2005. Permit issued April 8, 2004.

45044019. Austin Powder Company (P. O. Box 289, Northampton, PA 18067), construction blasting at Sullivan Trail Junior High School in Tobyhanna Township, **Monroe County**, with an expiration date of May 6, 2005. Permit issued April 8, 2004.

35044004. Hayduk Enterprises (P. O. Box 554, Dalton, PA 18414), construction blasting at Stephen Hrobuchak Project in North Abington Township,

Lackawanna County, with an expiration date of March 25, 2005. Permit issued April 8, 2004.

67044017. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for sanitary sewer trenches and a pump station on East Springfield Road, Springfield Township, **York County**, with an expiration date of April 30, 2005. Permit issued April 8, 2004.

15044011. Allan A. Myers, Inc. (P. O. Box 98, Worcester, PA 19490), construction blasting for Town Square Plaza commercial site in North Coventry Township, **Chester County**, with an expiration date of April 5, 2005. Permit issued April 8, 2004.

15044012. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for the Schiffe Publishing Warehouse in Sadsbury Township, **Chester County**, with an expiration date of April 5, 2005. Permit issued April 8, 2004.

67044019. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting for the Summer Glenn Development in New Freedom Borough, **York County**, with an expiration date of April 30, 2005. Permit issued April 9, 2004.

67044018. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Stone Gate Commons Development in Conewago Township, **York County**, with an expiration date of April 30, 2005. Permit issued April 9, 2004.

28044014. Fayetteville Contractors, Inc. (P. O. Box FCI, Fayetteville, PA 17222), construction blasting at Hawkstone Development in Washington Township, **Franklin County**, with an expiration date of April 30, 2005. Permit issued April 9, 2004.

28044015. David H. Martin, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting at CCX Service Center in Antrim Township, **Franklin County**, with an expiration date of April 30, 2005. Permit issued April 9, 2004.

28044016. David H. Martin, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting at Route 11 South Corridor in the Borough of Chambersburg, **Franklin County**, with an expiration date of April 30, 2005. Permit issued April 9, 2004.

45044020. Explosive Services, Inc. (7 Pine Street, Bethany, PA 18431), construction blasting at Leisure Lands Development in Middle Smithfield Township, **Monroe County**, with an expiration date of March 29, 2005. Permit issued April 9, 2004.

22044008. Follmer Excavating, Inc. (6 Summer Drive, Dillsburg, PA 17019) and **John W. Gleim, Jr., Inc.** (625 Hamilton Street, Carlisle, PA 17013), construction blasting at Bradford Estates in West Hanover Township, **Dauphin County**, with an expiration date of November 7, 2004. Permit issued April 14, 2004.

67044020. Allan A. Myers, L. P. (P. O. Box 98, Worcester, PA 19490), construction blasting at West Shore Wastewater Treatment Plant in Fairview Township, **York County**, with an expiration date of April 30, 2005. Permit issued April 14, 2004.

21044018. Brubacher Excavating, Inc. (P. O. Box 528, 825 Reading Road, Bowmansville, PA 17507), construction blasting at Carlisle Regional Medical Center in South Middleton Township, **Cumberland County**, with an expiration date of April 30, 2005. Permit issued April 14, 2004.

44044001. Wampum Hardware Company (R. D. 1, Box 112C, Shelocta, PA 15774), construction blasting at Walsh Construction—Rt. 322 the Narrows in Derry and Fermanagh Townships, **Mifflin and Juniata Counties**, with an expiration date of April 30, 2009. Permit issued April 15, 2004.

23044002. Explo-Craft, Inc. (P. O. Box 1332, West Chester, PA 19380), construction blasting at Media Real Estate Office Building in Middletown Township, **Delaware County**, with an expiration date of May 7, 2005. Permit issued April 15, 2004.

22044007. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Winslett Development in West Hanover Township, **Dauphin County**, with an expiration date of May 7, 2005. Permit issued April 15, 2004.

39044004. MF Ronca & Sons (179 Mikron Road, Bethlehem, PA 18020) and **Bernard J. Hasara** (1125 East Mahanoy Avenue, Mahanoy City, PA 17948), construction blasting at Northampton Water Treatment Plant in North Whitehall Township, **Lehigh County**, with an expiration date of May 5, 2005. Permit issued April 15, 2004.

09044008. Allan A. Myers, L. P. (P. O. Box 98, Worcester, PA 19490), construction blasting at Ann's Choice Housing Development in Warminster Township, **Bucks County**, with an expiration date of May 12, 2005. Permit issued April 15, 2004.

39044001. Allan A. Myers, L. P. (P. O. Box 98, Worcester, PA 19490), construction blasting at Kia Motors Automobile Warehouse in Upper Macungie Township, **Lehigh County**, with an expiration date of May 13, 2005. Permit issued April 15, 2004.

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

29044001. P & W Excavating, Inc. (P. O. Box 712, McConnellsburg, PA 17233), blasting activity permit issued for housing development in Todd Township, **Fulton County**. Duration of blasting approximately 5 years. Permit issued April 12, 2004.

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

65044001. Penn Development Services LLP (P. O. Box 110, Uniontown, PA 15401), blasting for construction at C. Harper Development in Rostraver Township, **Westmoreland County**, with an expected duration of 1 year. Blasting permit issued April 13, 2004.

26044003. Penn Development Services LLP (P. O. Box 110, Uniontown, PA 15401), blasting for construction at Gus Palmer Development in North Union Township, **Fayette County**, with an expected duration of 1 year. Blasting permit issued April 13, 2004.

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 should 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 of 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 should 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 of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).

Permits, Environmental Assessments and 401 Water Quality Certifications Issued

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E39-427. Tiger Den Partners, LLC, 171 Route 173, Suite 201, Asbury, NJ 08802, City of Bethlehem, **Lehigh County**, Army Corps of Engineers Philadelphia District, Subbasin 2-C.

To construct and maintain an outfall structure in the floodway of a tributary to Monacacy Creek (HQ-CWF), consisting of a 36-inch diameter RCP with a concrete endwall and apron and a 75-foot long by 36-foot wide outfall channel lined with interlocking concrete pavers. The tributary receives intermittent flow. The project is immediately northwest of the SR 8024 (8th Street) and SR 0378 interchange (Catasauqua, PA Quadrangle N: 0.7 inch; W: 3.1 inches). The project proposes to directly affect 0.06 acre of floodway.

E64-238. Luke Wenk, R. R. 2, Box 2774, Mount Pleasant, PA 18439, Mount Pleasant Township, **Wayne County**, Army Corps of Engineers Philadelphia District.

To maintain fill that was placed in 0.20 acre of PFO wetlands in the drainage basin of Equinunk Creek for the purpose of expanding an existing wood shop. The permittee is required to provide 0.40 acre of replacement wetlands. The project is along the west side of SR 0247, approximately 1,000 feet south of the Preston Township/Mount Pleasant Township boundary (Lake Como, PA-NY Quadrangle N: 8.0 inches; W: 12.8 inches) (Subbasin: 1A).

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

E07-379: Hollidaysburg American Legion Post 516, 816 Allegheny Street, Hollidaysburg, PA 16648 in Hollidaysburg Borough, **Blair County**, ACOE Baltimore District.

To build a 72-foot by 60-foot pavilion with associated fill material for a concrete floor to match the elevation of the existing hearth chimneys found within the left floodway of the Beaverdam Branch (TSF) at the site of the former American Legion "Starroom" aside of Memorial Park within Hollidaysburg Borough, Blair County (Hollidaysburg, PA Quadrangle N: 10.3 inches, W: 4.3 inches).

E28-299: Dominion Transmission, Inc., 445 W. Main Street, Clarksburg, WV 26301 in Franklin and Washington Townships, **Franklin County**, ACOE Baltimore District.

To operate and maintain approximately 42 miles of an existing 30-inch natural gas pipeline starting near Concord Narrows (Blairs Mills, PA Quadrangle N: 1.7 inches; W: 10.6 inches) in Fannett Township, Franklin County and ends near Rocky Forge (Smithburg, PA Quadrangle N: 17.4 inches; W: 16.2 inches) in Washington Township, Franklin County. The existing pipeline crosses the following resources: Narrows Branch Tuscarora Creek (CWF), 5

unnamed tributaries to the Narrows Branch Tuscarora Creek (CWF), Burns Creek (CWF), Doylestown Stream (CWF), Dry Run (CWF, MF), 8 unnamed tributaries to Dry Run (CWF, MF), West Branch Conococheague Creek (CWF, MF), 5 unnamed tributaries to West Branch Conococheague Creek (CWF, MF), Conodoguinet Creek (HQ-CWF), 3 unnamed tributaries to the Conodoguinet Creek (HQ-CWF), 12 unnamed tributaries to Dennis Creek (CWF), Marshall Hollow (CWF), Wilson Run (TSF), Back Creek (TSF), 4 unnamed tributaries to Back Creek (TSF), Conococheague Creek (WWF), 6 unnamed tributaries to Conococheague Creek (WWF), Muddy Run (HQ-CWF), 2 unnamed tributaries to Muddy Run (HQ-CWF), Marsh Run (WWF), 4 unnamed tributaries to the West Branch Antietam Creek (CWF) and 3 wetland (palustrine forested) crossings in the Doylestown Stream, Dennis Creek and Wilson Run Watersheds.

E01-243: Department of Transportation, District 8-0, 2140 Herr Street, Harrisburg, PA 17103 in Bonneauville Borough and Mount Pleasant Township, **Adams County**, ACOE Baltimore District.

To remove the existing bridge and to construct and maintain a 13.45-foot by 4.33-foot box culvert on a 48° skew at the channel of Chicken Run (WWF) on SR 0116, Section 014, Segment 0330, Offset 0975, about 2.7 miles from its intersection with U. S. 15 (Gettysburg, PA Quadrangle N: 11.7 inches; W: 3.45 inches) in Bonneauville Borough and Mount Pleasant Township, Adams County.

E67-758: Department of Transportation, District 8-0, 2140 Herr Street, Harrisburg, PA 17103 in Chanceford Township, **York County**, ACOE Baltimore District.

To remove the existing three-span bridge and then to construct and maintain: (1) a single span bridge with a clear span of 57.6 feet on a 70 degree skew with a minimum underclearance of 7.48 feet across Otter Creek (CWF); (2) regrade and provide revetment for a length of 143 feet at the channel of an unnamed tributary to Otter Creek; (3) relocate a 100-foot long channel of the same unnamed tributary; (4) a 68-inch by 43-inch reinforced concrete squash pipe at the relocated channel; and (5) stream bank protection at the left bank of Otter Creek. All works are for the improvement of the alignment of SR 2041, Section 001, Segment 0080, Offset 1896 about 1.2 miles southwest of the Village of Shenks Ferry (Safe Harbor, PA Quadrangle N: 3.31 inches; W: 4.72 inches) in Chanceford Township, York County.

E07-380: Hollidaysburg Sewer Authority, 401 Blair Street, Hollidaysburg, PA 16648 in Hollidaysburg Borough and Blair and Allegheny Townships, **Blair County**, ACOE Baltimore District.

To construct and maintain: (1) a 68-foot by 24-inch sanitary sewer crossing of Beaverdam Branch (TSF) (Hollidaysburg, PA Quadrangle N: 9.1 inches; W: 2.7 inches); (2) an 85-foot by 24-inch sanitary sewer crossing of Beaverdam Branch (Hollidaysburg, PA Quadrangle N: 9.9 inches; W: 3.5 inches); (3) a 21-foot by 18-inch sanitary sewer crossing of an unnamed tributary to Beaverdam Branch (WWF) (Hollidaysburg, PA Quadrangle N: 10.3 inches; W: 3.9 inches); (4) a 30-foot by 18-inch sanitary sewer crossing of an unnamed tributary to Beaverdam Branch (Hollidaysburg, PA Quadrangle N: 10.7 inches; W: 4.3 inches); (5) a 4-foot by 18-inch sanitary sewer crossing of an unnamed tributary to Beaverdam Branch (Hollidaysburg, PA Quadrangle N: 10.8 inches; W: 4.9 inches); (6) a 45-foot by 18-inch sanitary sewer crossing of an unnamed tributary to

Beaverdam Branch (Hollidaysburg, PA Quadrangle N: 10.7 inches; W: 5.0 inches); (7) 0.28 acre of temporary PFO wetland impacts for four separate 20-foot wide sanitary sewer wetland crossings (Hollidaysburg, PA Quadrangle N: 10.2 inches; W: 3.8 inches, N: 10.4 inches; W: 4.0 inches, N: 10.8 inches; W: 4.9 inches, N: 10.8 inches; W: 4.5 inches); (8) a 15-inch storm sewer outfall with an 8-foot by 12-foot riprap apron in Beaverdam Branch (Hollidaysburg, PA Quadrangle N: 10.1 inches; W: 3.6 inches); and (9) 0.002 acre of permanent PFO wetland impact for a 15-inch outfall with an 8-foot by 12-foot riprap apron (Hollidaysburg, PA Quadrangle N: 10.4 inches; W: 3.8 inches) all for the purpose of upgrading the Legion Park Interceptor in Hollidaysburg Borough and Blair and Allegheny Townships, Blair County. The project proposes to directly impact 265 linear feet of stream channel, temporarily impact 0.28 acre of PFO wetlands and permanently impact 0.002 acre of PFO wetlands. The amount of permanent wetland impact is considered a de minimis impact and wetland mitigation is not required.

E36-776: Robert Navitski, P. E., Office of the County Engineer, 50 North Duke Street, 7th Floor, Lancaster, PA 17608 in Ephrata Township, **Lancaster County**, ACOE Baltimore District.

To remove a deteriorated single-span reinforced concrete through girder bridge and install and maintain a dual 32-foot span concrete arch bridge carrying Royer Road (T-648) over Cocalico Creek (WWF) at a point approximately 2,250 feet northwest of Rothsville Road (Ephrata, PA Quadrangle N: 8.0 inches; W: 13.0 inches) in Ephrata Township, Lancaster County.

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

E19-241. Mark B. Whalen, 1512 SR 239, Apt. 2, Stillwater, PA 17878. Culvert maintenance in Benton Township, **Columbia County**, ACOE Baltimore District (Stillwater, PA Quadrangle N: 18.22 inches; W: 9.55 inches).

To construct and maintain a 6-foot diameter by 30-foot long CMP private driveway culvert depressed 1 foot in the stream bottom of the West Branch Ash Creek (CWF) on the east side of County Line Road (T-806) about 3,000 feet north of the intersection of County Line Road (T-806) with T-711 in Benton Township, Columbia County. The project will not impact wetlands while impacting approximately 40 feet of waterway and 250 square feet of disturbed earth. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E59-451. Department of Conservation and Natural Resources, Rachel Carson State Office Building, P. O. Box 8451, Harrisburg, PA 17105. Mine Hole Road over Mine Hole Run in Morris Township, **Tioga County**, ACOE Baltimore District (Cedar Run, PA Quadrangle N: 10.1 inches; W: 11.5 inches).

To remove the existing steel I-beam bridge structure in its entirety and to construct, operate and maintain a precast reinforced concrete arch with a span of 24 feet and a rise of 8 feet with a length of 86 linear feet. The structure shall have a 10° bend in the alignment 20 feet downstream from the inlet to allow for the natural stream channel meander. The structure is intended to be placed 56 feet upstream of the existing structure's inlet. The permit also authorizes a 65 linear foot retaining wall. The retaining wall will extend from the inlet of the arch

along the left floodplain at the toe of existing slope. This permit authorizes .023 acre of temporary wetland impacts and .01 acre of permanent wetland impacts. The permit also authorizes two temporary stream crossings and one stream diversion during construction. Each temporary stream crossing will be constructed of three 36-inch diameter corrugated metal culvert pipes with clean rock fill for the working surface. Public travel is not authorized for these crossings. They are authorized as work only accesses. All temporary accesses are authorized to have class 4, type A geotextile placed beneath the wearing surface. The stream diversion will be constructed of precast concrete barriers and will allow the project to be constructed in the dry.

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

E02-1447. Department of Transportation, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017-2853. Steuben Street Connector Bridge in the City of Pittsburgh, **Allegheny County**, Pittsburgh ACOE District (Pittsburgh West, PA Quadrangle: Project begins at N: 12.5 inches; and W: 4.2 inches—Latitude: 40° 26' 38" and Longitude: 80° 1' 50"; Project ends at N: 12.0 inches; W: 4.5 inches—Latitude: 40° 26' 27" and Longitude: 80° 1' 56"). To remove the existing structures and to construct and maintain the new Steuben Street Connector Bridge, consisting of a single span beam bridge with a clear span of approximately 91 feet and a minimum underclearance of approximately 20.4 feet; to construct and maintain a replacement south Main Street Bridge, consisting of a single span beam bridge with a clear span of approximately 48 feet and a minimum underclearance of approximately 17.1 feet; to construct and maintain a retaining wall approximately 220 feet long along the right bank; to modify and maintain the existing Ramp A culvert consisting of a 70-foot long concrete arch culvert having a span of approximately 52 feet and an underclearance of 29 feet; to construct and maintain two temporary stream crossings; to construct and maintain various stormwater outfalls; and to operate and maintain the existing concrete arch culvert having a span of 35 feet and an underclearance of 22 feet for a distance of 425 feet, under West Carson Street. All of these structures are in, along or across Saw Mill Run (WWF). The work is part of the proposed West End Bridge and ends near the intersection of the West End By Pass and Shaler Street.

E04-301. Department of Transportation, Engineering District 11-0, 45 Thoms Run Road, Bridgeville, PA 15017-2853. SR 4003, Section B01 Bridge Replacement in Big Beaver Borough, **Beaver County**, Pittsburgh ACOE District (New Galilee, PA Quadrangle: N: 17.1 inches; W: 1.7 inches) (Latitude: 40° 50' 39" and Longitude: 80° 23' 14"). To replace the existing bridge with a 29-foot long, 18.0-foot by 5.0-foot precast concrete box culvert that is depressed 1 foot in Jordan Run (HQ-CWF). The project is 800 feet north of SR 351 on SR 4003 Section B01. The project will directly affect 60 feet of perennial stream.

E26-314. North Union Township, 7 South Evans Station Road, Lemont Furnace, PA 15401. Nell Street culvert in North Union Township, **Fayette County**, Pittsburgh ACOE District (Uniontown, PA Quadrangle N: 0.5 inch; W: 10.7 inches) (Latitude: 39° 52' 38" and Longitude: 79° 41' 59"). To remove the existing structure and to construct and maintain a 32-foot long aluminum box culvert having a waterway opening of 13 feet high. The culvert has a natural stream bottom. Bennington

Spring Run is classified as a WWF. The culvert is on T-993 (Nell Street) at a point approximately 400 feet east of SR 40.

SPECIAL NOTICES

Certified Emission Reduction Credits in the Commonwealth's ERC Registry

Emission reduction credits (ERCs) are surplus, permanent, quantified and Federally enforceable emission reductions used to offset emission increases of NOx, VOCs and the following criteria pollutants: CO, lead, SOx, PM, PM10 and PM10 precursors.

The Department of Environmental Protection (Department) maintains an ERC registry in accordance with the requirements of 25 Pa. Code § 127.209. The ERC registry system provides for the tracking of the creation, transfer and use of ERCs. Prior to registration of the credits, ERC registry applications are reviewed and approved by the Department to confirm that the ERCs meet the requirements of 25 Pa. Code §§ 127.206—127.208. Registration of the credits in the ERC registry system constitutes certification that the ERCs satisfy applicable requirements and that the credits are available for use. The following registered and certified ERCs in the ERC registry are currently available for use as follows:

(1) To satisfy new source review (NSR) emission offset ratio requirements.

(2) To "net-out" of NSR at ERC-generating facilities.

(3) To sell or trade the ERCs for use as emission offsets at new or modified facilities.

The following certified ERCs, expressed in tons per year (tpy), satisfy the applicable ERC requirements in 25 Pa. Code §§ 127.206—127.208. ERCs created from the curtailment or shutdown of a source or facility expires for use as offsets 10 years after the emission reduction occurs. ERCs generated by the overcontrol of emissions by an existing facility do not expire for use as offsets. However, credits in the registry that are not used in a plan approval will be discounted if new air quality requirements are adopted by the Department or the EPA.

For additional information concerning this listing of certified ERCs, contact Virendra Trivedi, Bureau of Air Quality, Division of Permits, Department of Environmental Protection, 12th Floor, Rachel Carson State Office Building, P. O. Box 8468, Harrisburg, PA 17105-8468, (717) 787-4325. This ERC registry report, ERC registry application and instructions are on the Department's website: www.dep.state.pa.us (select Subjects, Air Quality, Business, Permits).

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended Use of ERCs</i>
U. S. Naval Hospital County: Philadelphia Ozone Nonattainment Status: Severe Contact Person: Mark Donato, (215) 897-1809	NOx	30.50	3/31/2005	Trading
R. R. Donnelley & Sons Co. County: Lancaster Ozone Nonattainment Status: Moderate Contact Person: Frederick Shaak, Jr.	VOCs	54.00		Internal Use
R. R. Donnelley & Sons Co. County: Lancaster Ozone Nonattainment Status: Moderate Contact Person: Frederick Shaak, Jr.	VOCs	25.00	3/30/2011	Internal Use
Kurz Hastings Inc. County: Philadelphia Ozone Nonattainment Status: Severe Contact Person: George Gornick, (215) 632-2300	VOCs	137.45		Trading
Kurz Hastings Inc. County: Philadelphia Ozone Nonattainment Status: Severe Contact Person: George Gornick, (215) 632-2300	NOx VOCs	8.01 64.55	Varies from 3/28/2013 to 1/9/2014	Trading
ConAgra Grocery Products Company Source Location: Milton Borough County: Northumberland Ozone Nonattainment Status: Moderate Contact Person: Karl Henschel, (570) 742-6644	NOx VOCs	24.45 12.88	4/1/2006	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended Use of ERCs</i>
Metallized Paper Corporation of America Recipient/Holder: PNC Bank, National Association, assignee (by private lien foreclosure) from Metallized Paper Corp. Source Location: McKeesport County: Allegheny Ozone Nonattainment Status: Moderate Contact Person: Martin Mueller, (412) 762-5263	VOCs	41.70	6/30/2006	Trading
PPG Industries, Inc. Source Location: Springdale Complex County: Allegheny Ozone Nonattainment Status: Moderate Contact Person: Lori Burgess, (412) 274-3884	VOCs	171.82		Trading
York International Corporation Sources: Trichloroethylene Vapor Degreaser (151); Trichloroethylene Vapor Degreaser (152) Source Location: Spring Garden Township County: York Ozone Nonattainment Status: Moderate Contact Person: Garen Macdonald, (717) 771-7346	VOCs VOCs	12.20 2.70	6/1/2006 10/1/2005	Trading
REXAM DSI Source Location: Muhlenberg Township County: Berks Ozone Nonattainment Status: Moderate Contact Person: LeRoy H. Hinkle, (610) 916-4248	NOx	9.42	11/22/2005	Trading
Recipient/Holder of ERC: Coastal Aluminum Rolling Mills Inc. ERC-Generating Facility: Fasson Div. of Avery Dennison Corp. ERC-Generating Facility Location: Quakertown, Bucks County Ozone Nonattainment Status: Severe Contact Person: Jesse Hackenberg, (570) 323-4430	VOCs	3.62		Internal Use/Trading
Recipient/Holder of ERC: PG&E Energy Trading-Power, L. P. ERC-Generating Facility: Fasson Div. of Avery Dennison Corp. ERC-Generating Facility Location: Quakertown, Bucks County Ozone Nonattainment Status: Severe Contact Person: Mark Sheppard, (301) 280-6607	VOCs	39.84	8/1/2006	Trading
Baldwin Hardware Corporation Source Location: Reading County: Berks Ozone Nonattainment Status: Moderate Contact Person: D. David Hancock, Jr., (215) 777-7811	VOCs	18.00	7/28/2005	Trading
Magee Rieter Automotive Systems Source Location: Bloomsburg County: Columbia Ozone Nonattainment Status: Moderate Contact Person: Tim Bergerstock, (717) 784-4100	NOx VOCs	0.39 0.02	4/17/2006	Internal Use

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<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended Use of ERCs</i>
Congoleum Corporation Source Location: Marcus Hook County: Delaware Ozone Nonattainment Status: Severe Contact Person: Theresa C. Garrod, (609) 584-3000	NOx	5.20		Trading
Dominion Transmission, Inc. CNG Transmission Corporation Source Location: Leidy Township County: Clinton Ozone Nonattainment Status: Moderate Contact Person: Sean R. Sleigh, (304) 623-8462	NOx VOCs	15.28 0.55	10/27/2004	Internal Use and Trading
Bethlehem Structural Products Corp. Source Location: Bethlehem County: Northampton Ozone Nonattainment Status: Moderate Contact Person: Joseph E. Schindler, (610) 694-5104	NOx VOCs	1,054.00 473.80	Varies from 3/28/2008 to 6/19/2008	Trading
Morgan Adhesives Company (MActac) Source Location: Scranton County: Lackawanna Ozone Nonattainment Status: Moderate Contact Person: Tim Owens, (330) 688-1111	VOCs	75.00	6/30/2008	Trading
National Fuel Gas Supply Corporation Sources: Generators 1 and 2, Dehydrator 1 Source Location: Ellisburg Station County: Potter Ozone Nonattainment Status: Moderate Contact Person: Gary A. Young, (814) 871-8657	NOx VOCs	16.14 1.80	2/1/2009	Internal Use
General Electric Company Source Location: Lawrence Park County: Erie Ozone Nonattainment Status: Moderate Contact Person: Scott Gowdy, (814) 875-2427	VOCs	33.60 2.60 1.80	12/01/2004 12/31/2005 12/31/2006	Internal Use/Trading
Sun Company, Inc. Source: API Separator 10 and 1-F Source Location: Marcus Hook County: Delaware Ozone Nonattainment Status: Severe Contact Person: John A. Rossi	VOCs	2.37	9/30/2004	Internal Use
TYK America, Inc. Source Location: Irvona Facility County: Clearfield Ozone Nonattainment Status: Moderate Contact Person: David B. Orr, (412) 384-4259	NOx VOCs	0.30 0.02	11/6/2008	Trading
SmithKline Beechman Pharmaceuticals Sources: Two boilers and oxidizer Source Location: Spring Garden Street Facility County: Philadelphia Ozone Nonattainment Status: Severe Contact Person: Eileen Ackler, (610) 239-5239	NOx VOCs	5.72 0.10	12/31/2008	Trading
Recipient/Holder of ERC: PG&E Energy Trading-Power, L. P. ERC-Generating Facility: Global Packaging, Inc. ERC-Generating Facility Location: Oaks Plant, Montgomery County Ozone Nonattainment Status: Severe Contact Person: Sarah M. Barpoulis, (301) 280-6607	VOCs	7.70	9/1/2006	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended Use of ERCs</i>
<p>Recipient/Holder of ERC: PG&E Energy Trading-Power, L. P. ERC-Generating Facility: Global Packaging, Inc. ERC-Generating Facility Location: Oaks Plant, Montgomery County Ozone Nonattainment Status: Severe Contact Person: Sarah M. Barpoulis, (301) 280-6607</p>	VOCs	43.50		Trading
<p>The Procter & Gamble Paper Products Company Source Location: Mehoopany Plant County: Wyoming Ozone Nonattainment Status: Moderate Contact Person: Lars Lundin, (570) 833-3545</p>	NOx VOCs	136.00 237.67	5/3/2009	Internal Use/Trading
<p>Caparo Steel Company Source: EAF Furnace 2 and Ladle Preheater 2 Source Location: Farrell Plant County: Mercer County Ozone Nonattainment Status: Moderate Contact Person: Richard A. Herman, (724) 983-6464</p>	NOx VOCs	36.73 12.07	8/18/2007	Trading
<p>LTV Steel Company, Inc. Source Location: Pittsburgh Coke Plant County: Allegheny Ozone Nonattainment Status: Moderate Contact Person: William L. West, (216) 642-7178</p>	NOx VOCs	1,663.00 373.00	2/28/2008	Trading
<p>Newcomer Products Inc. Source Location: Latrobe County: Westmoreland Ozone Nonattainment Status: Moderate Contact Person: Edward M. Nemeth, (724) 694-8100</p>	VOCs	26.00	7/14/2010	Trading
<p>Smith-Steelite Plant: Emsworth Manufacturing Facility Ozone Nonattainment Status: Moderate Contact Person: Wm. K. Shadle, (412) 299-8167</p>	VOCs	7.32	6/7/2004	Trading
<p>Cyprus Cumberland Resources Corporation Source Location: Cumberland Mine, Whiteley Township County: Greene Ozone Nonattainment Status: Moderate Contact Person: Terry L. Dayton, (412) 627-2219</p>	NOx VOCs	64.00 15.00	6/30/2005	Trading
<p>Allegheny Ludlum Corp. Sources: Three electric arc furnaces Source Location: Washington Plant County: Washington Ozone Nonattainment Status: Moderate Contact Person: Deborah L. Calderazzo, (724) 226-5947</p>	NOx	7.78	7/31/2004	Trading
<p>Scranton-Altoona Terminals Corporation Source Location: Monroe Township County: Cumberland County Ozone Nonattainment Status: Moderate Contact Person: Thomas M. Carper, (717) 939-0466</p>	VOCs	4.84	9/30/2010	Trading

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<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended Use of ERCs</i>
Pennzoil Wax Partner Company Source Location: Rouseville County: Venango Ozone Nonattainment Status: Moderate Contact Person: David W. Dunn, (713) 546-6941	NOx VOCs	15.47 0.68	2/26/2010	Trading
Pennzoil Wax Partner Company Source Location: Rouseville County: Venango Ozone Nonattainment Status: Moderate Contact Person: David W. Dunn, (713) 546-6941	NOx VOCs	2.82 44.34	4/1/2010	Trading
INDSPEC Chemical Corp. Source: Boiler 8 Source Location: Petrolia County: Butler Ozone Nonattainment Status: Moderate Contact Person: Terry Melis, (412) 756-2376	NOx	158.68		Trading
Sun Company, Inc. Sources: Separators Source Location: Marcus Hook Borough County: Delaware Ozone Nonattainment Status: Severe Contact Person: Steve Martini, (610) 859-1000	VOCs	81.88	9/30/2004	Trading/ Internal Use
Sun Company, Inc. Source: Wastewater Conveyance System Source Location: Marcus Hook Borough County: Delaware Ozone Nonattainment Status: Severe Contact Person: Steve Martini, (610) 859-1000	VOCs	426.59		Trading/ Internal Use
Jefferson Smurfit Corporation Source Location: Upper Providence Township County: Montgomery Ozone Nonattainment Status: Severe Contact Person: Thomas Tutwiler, (610) 935-4119	VOCs	12.4	5/31/2004	Trading/ Internal Use
Columbia Gas Transmission Corporation Source Location: Kent Station County: Indiana Ozone Nonattainment Status: Moderate Contact Person: Gregory Lago, (304) 357-2079	NOx VOCs	44.36 2.66	5/31/2011	Trading
Columbia Gas Transmission Corporation Source Location: Homer Station County: Indiana Ozone Nonattainment Status: Moderate Contact Person: Gregory Lago, (304) 357-2079	NOx VOCs	45.89 3.79	5/31/2011	Trading
ISG Steelton, Inc. Source: Rail Heat Treating and Quenching Source Location: Steelton Plant County: Dauphin Ozone Nonattainment Status: Moderate Contact Person: James R. Hernjak, (717) 986-2042	NOx VOCs	7.00 43.00	11/9/2009	Trading
General Electric Transportation System Source: Boiler 2 Source Location: E. Lake Road County: Erie Ozone Nonattainment Status: Moderate Contact Person: Mark D. Restifo, (814) 875-5406	NOx VOCs	280.90 1.70	12/31/2010	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended Use of ERCs</i>
Hershey Foods Corporation Source Location: East Plant County: Dauphin Ozone Nonattainment Status: Moderate Contact Person: Shawn P. Greenwood, (610) 678-0552	NOx	189.00	10/4/2004	Trading
3M Minnesota Mining & Manufacturing Source Location: Bristol Plant County: Bucks Ozone Nonattainment Status: Severe Contact Person: Jeff Muffat, (651) 778-4450	VOCs VOCs	607.00 279.00	11/30/2011 12/17/2011	Trading
Kosmos Cement Company, Cemex Inc. Source Location: Neville Road, Pittsburgh County: Allegheny Ozone Nonattainment Status: Moderate Contact Person: Amarjit Gill, (713) 653-8554	NOx VOCs	910.00 26.00	4/24/2011	Trading
Edgewater Steel Ltd. Source Location: College Avenue, Oakmont County: Allegheny Ozone Nonattainment Status: Moderate Contact Person: Peter M. Guzanick, (412) 517-7217	NOx VOCs	17.05 1.87	8/6/2008	Trading
Transit America, Inc. Source Location: One Red Lion Road County: Philadelphia Ozone Nonattainment Status: Severe Contact Person: Timothy J. Bergere, Esq., (215) 772-7431	NOx	43.8	4/30/2004	Trading
JG Furniture Group, Inc. Source Location: Quakertown County: Bucks Ozone Nonattainment Status: Severe Contact Person: Donald Boisselle, (336) 410-7263	VOCs	24.4	9/1/2007	Trading
Recipient/Holder of ERC: Cypress Energy, Inc. ERC-Generating Facility: Laclede Steel Corporation Source Location: Fairless County: Bucks Ozone Nonattainment Status: Severe Contact Person: Gary Stephenson, (781) 993-3098	NOx VOCs	104.00 45.00	11/29/2011	Trading
Recipient/Holder of ERC: Natsource Emissions Brokers ERC-Generating Facility: Laclede Steel Corporation Source Location: Fairless County: Bucks Ozone Nonattainment Status: Severe Contact Person: David Oppenheimer, (212) 232-5305	NOx VOCs	0.27 1.50	11/29/2011	Trading
Trinity Industries, Inc. Source Location: Greenville County: Mercer County Ozone Nonattainment Status: Moderate Contact Person: Dennis Lencioni, (214) 589-8141	VOCs	61.65	10/31/2010	Trading
Rohm and Haas Company Source Location: Bristol Township County: Bristol Ozone Nonattainment Status: Severe Contact Person: Lloyd Davis, (215) 785-8871	VOCs VOCs	1.15 0.32	10/30/2010 1/30/2011	Trading

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<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended Use of ERCs</i>
The Worthington Steel Company Source Location: Malvern, East Whiteland County: Chester Ozone Nonattainment Status: Severe Contact Person: Gregory Sautter, (614) 438-3197	VOCs	113.00	1/31/2012	Trading
PPL Inc. Source Location: Holtwood Station County: Lancaster Ozone Nonattainment Status: Moderate Contact Person: Linda A. Boyer, (610) 774-5410	NOx VOCs	3,769.09 9.70	4/29/2009	Trading
North American Refractories Company Source Location: Womelsdorf County: Lebanon Ozone Nonattainment Status: Moderate Contact Person: Rhonda Vete, (412) 469-6122	NOx NOx VOCs	5.11 62.57 0.25	12/15/2010 9/30/2008 9/30/2008	Trading
The Quaker Oats Company Source Location: Shiremanstown Plant County: Cumberland Ozone Nonattainment Status: Moderate Contact Person: Richard C. Pitzer, (717) 731-3334	NOx VOCs	4.00 1.68	Varies from 4/3/2010 to 7/15/2011	Trading
Naval Surface Warfare Center Source Location: Philadelphia Naval Shipyard County: Philadelphia Ozone Nonattainment Status: Severe Contact Person: Mark Donato	VOCs	45.70	9/15/2005	Internal Use
Glasgow, Inc. Source Location: Plymouth Meeting County: Montgomery Ozone Nonattainment Status: Severe Contact Person: Brian Chabak, (215) 884-8800	NOx VOCs NOx VOCs	2.72 0.21 6.54 0.52	12/31/2010 12/31/2010 6/1/2010 6/1/2010	Trading
Scranton-Altoona Terminals Corporation Source Location: East Freedom Terminal County: Cumberland County Ozone Nonattainment Status: Moderate Contact Person: Thomas M. Carper, (717) 939-0466	VOCs	9.19	4/1/2009	Trading
SLI Lighting Inc. Source Location: Ellwood City County: Lawrence Ozone Nonattainment Status: Moderate Contact Person: Tim Haubach, (724) 752-6493	VOCs	5.70	6/3/2010	Trading
National Fuel Gas Supply Corp. Source Location: Van Compressor St., Cranberry Township County: Venango Ozone Nonattainment Status: Moderate Contact Person: Gary A. Young, (814) 871-8657	NOx VOCs	80.90 0.65	7/19/2006	Trading
Harvard Industries, Inc. Plant name: Pottstown Precision Casting Inc. Source Location: West Pottsgrove Township County: Montgomery Ozone Nonattainment Status: Severe Contact Person: Allan B. Currie, Jr., (517) 787-5181	NOx VOCs	28.25 8.70	11/12/2011	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended Use of ERCs</i>
Recipient/Holder of ERC: Morgan Stanley Capital Group Inc. ERC-Generating Facility: Occidental Chemical Corp. ERC-Generating Source Location: Pottsgrove Township County: Montgomery County Ozone Nonattainment Status: Severe Contact Person: Trevor Woods, (212) 761-8895	NOx	71.40	2/28/2007	Trading
Recipient/Holder of ERC: Kvaerner Philadelphia Shipyard, Inc. ERC-Generating Facility: Occidental Chemical Corp. ERC-Generating Source Location: Pottsgrove Township County: Montgomery County Ozone Nonattainment Status: Severe Contact Person: Michael Masington, (215) 875-2649	NOx	50.00	2/28/2007	Trading
Horsehead Resource Co., Inc. Source Location: East Plant (Waelz) County: Carbon Ozone Nonattainment Status: Moderate Contact Person: John M. Cigan, (610) 826-8719	NOx VOCs	30.80 53.80	5/31/2006	Trading
Lafarge Corporation Source Location: Whitehall Plant County: Lehigh Ozone Nonattainment Status: Moderate Contact Person: Edward F. Werkheiser, (610) 261-3424	NOx VOCs	298.10 3.70	10/15/2004	Trading
The Peoples Natural Gas Company Source Location: Laurel Ridge Station County: Cambria Ozone Nonattainment Status: Moderate Contact Person: Sheri Franz, (412) 497-6582	NOx VOCs	13.00 4.00	11/11/2004	Trading
Alcoa, Inc. Source Location: Lebanon Township County: Lebanon County Ozone Nonattainment Status: Moderate Contact Person: Kevin S. Barnett, (412) 553-2094	NOx VOCs	48.86 882.43	Varies from 9/29/2010 to 5/1/2012	Trading
Rohm and Haas Source Location: Richmond Street County: Philadelphia Ozone Nonattainment Status: Severe Contact Person: Frank Jackson, (215) 537-4000	NOx VOCs NOx	50.10 30.30 0.19	6/13/2005 12/31/2004	Trading
American Color Graphics, Inc. Formerly Flexi-Tech Graphics, Inc. Source Location: Barnhart Drive, Hanover County: York Ozone Nonattainment Status: Moderate Contact Person: Glenn Shaffer, (717) 792-8104	VOCs	9.60	1/15/2012	Trading
Allegro Microsystems, Inc. Source Location: Upper Moreland Township County: Montgomery Ozone Nonattainment Status: Severe Contact Person: Wendy Cooper, (610) 286-7434	VOCs	42.61	3/29/2012	Trading
National Fuel Gas Supply Corp. Source Location: Heath Station County: Jefferson County Ozone Nonattainment Status: Moderate Contact Person: Gary A. Young, (814) 871-8657	NOx VOCs	122.80 2.10	7/1/2005	Trading

<i>Facility information</i>	<i>Criteria Pollutant or Precursor</i>	<i>Certified ERCs Available (tpy)</i>	<i>Expiration Date</i>	<i>Intended Use of ERCs</i>
Williams Generation Company Source Location: Hazleton Co.—Gen. Facility County: Luzerne Ozone Nonattainment Status: Moderate Contact Person: Terrie Blackburn, (918) 573-9766	NOx	794.6	1/31/2007	Trading
Calumet Lubricants Company Source Location: Rouseville Plant County: Venango Ozone Nonattainment Status: Moderate Contact Person: Daniel R. Chapman, (814) 678-4602	NOx VOCs	89.80 2.38	5/21/2012	Trading
Avery Dennison Corporation Source Location: Dungan Road County: Philadelphia Ozone Nonattainment Status: Severe Contact Person: Frank J. Brandauer, (626) 398-2773	VOCs	3.13	6/30/2012	
Henry Miller Spring & Manufacturing Company Source Location: Sharpsburg County: Allegheny Ozone Nonattainment Status: Moderate Contact Person: David J. Jablonowski, (412) 782-7300	NOx VOCs	10.96 36.47	1/22/2010	Trading
Penco Products, Inc. Source Location: Lower Providence Township County: Montgomery Ozone Nonattainment Status: Severe Contact Person: Allan J. Goss, (610) 666-0500	NOx VOCs	3.11 29.48	10/1/2011	Trading
Norfolk Southern Railway Co. Source Location: Hollidaysburg Car Shop County: Blair Ozone Nonattainment Status: Moderate Contact Person: Carl Russo, (814) 949-1479	NOx VOCs	4.35 69.80	7/19/2012	Trading
World Kitchen Inc. Source Location: Charleroi Plant County: Washington Ozone Nonattainment Status: Moderate Contact Person: James Rowlett, (724) 489-2288	NOx	251.43		Trading
PPG Industries, Inc. Source Location: Greenwood Township County: Crawford Ozone Nonattainment Status: Moderate Contact Person: David J. Neal, (412) 492-5507	NOx	1,118.50		Trading
Sentry Paint Technologies, Inc. Source Location: Mill Street, Darby County: Delaware Ozone Nonattainment Status: Severe Contact Person: Benjamin Breskman, (610) 522-1900	VOCs	3.56	4/30/2013	Trading

**Recycling Grant Awards under the Municipal Waste Planning,
Recycling and Waste Reduction Act of 1988, Act 101**

The Department of Environmental Protection announces the following grants to municipalities for recycling programs under the Pennsylvania Municipal Waste Planning, Recycling and Waste Reduction Act of 1988, Act 101, P. L. 556, section 902.

Grant funds are used to develop and implement recycling programs. Municipalities and counties are eligible for up to 90% funding of approved recycling program costs. Municipalities considered financially distressed under the Financial Distressed Communities Act are eligible to receive funding for an additional 10% of approved costs. 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 Todd Pejack, Recycling Grants Coordinator, Department of Environmental Protection, Bureau of Land Recycling and Waste Management, Division of Waste Minimization and Planning, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472.

**Act 101, Section 902 Recycling Development and Implementation Grant Recommendations Applications
Submitted by the June 26, 2003, Deadline**

<i>Applicant</i>	<i>County</i>	<i>Amount</i>
Southeast Region		
1 Lower Makefield Township	Bucks	\$153,000
2 Milford Township	Bucks	\$1,800
3 Plumstead Township	Bucks	\$41,826
4 Warwick Township	Bucks	\$158,181
5 Central Chester Co. Rec. A.	Chester	\$5,632
6 London Grove Township	Chester	\$13,310
7 Schuylkill Township	Chester	\$123,179
8 SE Chester Co. Refuse Auth.	Chester	\$190,728
9 West Brandywine Township	Chester	\$75,651
10 West Caln Township	Chester	\$39,987
11 West Whiteland Township	Chester	\$15,869
12 Bethel Township	Delaware	\$42,331
13 Chester City	Delaware	\$3,500
14 Concord Township	Delaware	\$59,224
15 Darby Township	Delaware	\$9,420
16 Delaware County	Delaware	\$27,227
17 Edgmont Township	Delaware	\$3,850
18 Folcroft Borough	Delaware	\$13,592
19 Haverford Township	Delaware	\$48,114
20 Marple Township	Delaware	\$36,000
21 Media Borough	Delaware	\$26,100
22 Middletown Township	Delaware	\$16,366
23 Nether Providence Township	Delaware	\$27,500
24 Parkside Borough	Delaware	\$23,985
25 Radnor Township	Delaware	\$94,926
26 Ridley Park Borough	Delaware	\$25,308
27 Springfield Township	Delaware	\$215,907
28 Swarthmore Borough	Delaware	\$40,978
29 Upper Darby Township	Delaware	\$40,484
30 Yeadon Borough	Delaware	\$129,284
31 Cheltenham Township	Montgomery	\$82,393
32 Douglass Township	Montgomery	\$46,440
33 Hatfield Township	Montgomery	\$3,001
34 Lower Merion Township	Montgomery	\$589,500
35 Lower Salford Township	Montgomery	\$30,204
36 Plymouth Township	Montgomery	\$43,500
37 Springfield Township	Montgomery	\$288,370
38 Springfield Township	Montgomery	\$373,876
39 Upper Dublin Township	Montgomery	\$258,475
40 Upper Merion Township	Montgomery	\$216,000
41 Upper Moreland Township	Montgomery	\$90,164
42 Philadelphia City	Philadelphia	\$1,000,000
Northeast Region		
43 Carbon County	Carbon	\$260,118
44 Lehighon Borough	Carbon	\$27,873
45 Towamensing Township	Carbon	\$8,680
46 Carbondale City	Lackawanna	\$162,740
47 Covington Township	Lackawanna	\$103,669
48 Dunmore Borough	Lackawanna	\$31,950
49 Greenfield Township	Lackawanna	\$20,045
50 Jessup Borough	Lackawanna	\$9,911
51 Lackawanna County	Lackawanna	\$925,721
52 Madison Township	Lackawanna	\$46,234
53 Moosic Borough	Lackawanna	\$153,423
54 Moscow Borough	Lackawanna	\$41,899
55 Old Forge Borough	Lackawanna	\$34,596
56 Olyphant Borough	Lackawanna	\$19,206
57 Roaring Brook Township	Lackawanna	\$17,339
58 Scranton City	Lackawanna	\$95,940

<i>Applicant</i>	<i>County</i>	<i>Amount</i>
59 Allentown City	Lehigh	\$793,768
60 Fountain Hill Borough	Lehigh	\$15,786
61 Heidelberg Township	Lehigh	\$9,382
62 Lehigh County	Lehigh	\$250,322
63 Upper Macungie Township	Lehigh	\$173,238
64 Ashley Borough	Luzerne	\$46,889
65 Butler Township	Luzerne	\$67,300
66 Dallas Borough	Luzerne	\$5,737
67 Dorrance Township	Luzerne	\$221,990
68 Forty Fort Borough	Luzerne	\$37,419
69 Hanover Township	Luzerne	\$57,960
70 Hughestown Borough	Luzerne	\$5,344
71 Luzerne County	Luzerne	\$18,945
72 Pittston City	Luzerne	\$112,365
73 Sugar Notch Borough	Luzerne	\$151,515
74 West Hazleton Borough	Luzerne	\$149,561
75 Wilkes-Barre City	Luzerne	\$153,916
76 Chestnuthill Township	Monroe	\$231,083
77 East Stroudsburg Borough	Monroe	\$107,532
78 Hamilton Township	Monroe	\$2,750
79 Monroe Co. MWM Auth.	Monroe	\$345,307
80 Polk Township	Monroe	\$36,607
81 Stroud Township	Monroe	\$221,724
82 Allen Township	Northampton	\$1,000,000
83 Bangor Borough	Northampton	\$22,500
84 Bethlehem City	Northampton	\$242,030
85 East Allen Township	Northampton	\$21,126
86 Hanover Township	Northampton	\$7,398
87 Walnutport Borough	Northampton	\$55,746
88 Williams Township	Northampton	\$8,264
89 Pike County	Pike	\$210,310
90 Girardville Borough	Schuylkill	\$6,500
91 Pottsville City	Schuylkill	\$21,922
92 Schuylkill Haven Borough	Schuylkill	\$122,321
93 Shenandoah Borough	Schuylkill	\$6,970
94 Wayne County	Wayne	\$27,263

Southcentral Region

95 Adams County	Adams	\$101,569
96 Amity Township	Berks	\$7,685
97 Exeter Township	Berks	\$259,352
98 Kutztown Borough	Berks	\$7,463
99 Maiden creek Township	Berks	\$40,317
100 Reading City	Berks	\$85,199
101 Spring Township	Berks	\$224,514
102 Wyomissing Borough	Berks	\$36,147
103 Blair County	Blair	\$466,255
104 Carlisle Borough	Cumberland	\$88,473
105 Cumberland County	Cumberland	\$73,246
106 East Pennsboro Township	Cumberland	\$94,332
107 Hampden Township	Cumberland	\$242,730
108 Mechanicsburg Borough	Cumberland	\$55,454
109 Silver Spring Township	Cumberland	\$41,636
110 Dauphin County	Dauphin	\$198,380
111 Harrisburg City	Dauphin	\$90,670
112 Hummelstown Borough	Dauphin	\$61,497
113 Middletown Borough	Dauphin	\$48,646
114 Millersburg Borough	Dauphin	\$3,598
115 Chambersburg Borough	Franklin	\$31,797
116 Fannett Township	Franklin	\$54,455
117 Greene Township	Franklin	\$333,520
118 Montgomery Township	Franklin	\$127,950
119 Washington Township	Franklin	\$291,695
120 Columbia Borough	Lancaster	\$77,788
121 Lancaster County SWMA	Lancaster	\$161,021
122 Salisbury Township	Lancaster	\$143,063
123 West Earl Township	Lancaster	\$179,970

<i>Applicant</i>	<i>County</i>	<i>Amount</i>
124 Lebanon City	Lebanon	\$13,364
125 Lebanon County	Lebanon	\$244,933
126 North Cornwall Township	Lebanon	\$113,013
127 North Lebanon Township	Lebanon	\$214,680
128 North Londonderry Township	Lebanon	\$355,697
129 South Lebanon Township	Lebanon	\$3,000
130 Union Township	Lebanon	\$68,144
131 Newport Borough	Perry	\$14,366
132 Penn Township	Perry	\$11,548
133 Perry County	Perry	\$2,691
134 Dover Township	York	\$86,762
135 East Manchester Township	York	\$55,958
136 Fairview Township	York	\$445,950
137 Hanover Borough	York	\$24,075
138 Penn Township	York	\$97,406
139 Red Lion Borough	York	\$161,092
140 York City	York	\$23,243
Northcentral Region		
141 Northern Tier SWA	Bradford	\$387,118
142 Centre County SWA	Centre	\$825,000
143 College Township	Centre	\$110,599
144 Ferguson Township	Centre	\$133,579
145 Harris Township	Centre	\$19,615
146 Patton Township	Centre	\$17,841
147 Philipsburg Borough	Centre	\$56,765
148 State College Borough	Centre	\$213,293
149 Clearfield County	Clearfield	\$15,638
150 DuBois City	Clearfield	\$74,323
151 Lawrence Township	Clearfield	\$84,361
152 Clinton County SWA	Clinton	\$88,299
153 Lock Haven City	Clinton	\$60,083
154 Bloomsburg Town	Columbia	\$102,005
155 Catawissa Borough	Columbia	\$21,042
156 Hughesville Borough	Lycoming	\$15,115
157 Lycoming County	Lycoming	\$1,000,000
158 Ralpho Township	Northumberland	\$32,097
159 Sunbury City Munic. Auth.	Northumberland	\$69,750
160 Potter County SWA	Potter	\$48,060
161 Selinsgrove Borough	Snyder	\$76,440
162 Snyder County SWMA	Snyder	\$22,127
Southwest Region		
163 Allegheny County	Allegheny	\$234,830
164 Carnegie Borough	Allegheny	\$48,799
165 Clairton City	Allegheny	\$171,000
166 Dormont Borough	Allegheny	\$3,375
167 Forest Hills Borough	Allegheny	\$108,765
168 Harrison Township	Allegheny	\$169,500
169 Monroeville Borough	Allegheny	\$116,121
170 Mount Lebanon Township	Allegheny	\$112,339
171 Munhall Borough	Allegheny	\$116,752
172 North Fayette Township	Allegheny	\$38,475
173 O'Hara Township	Allegheny	\$85,859
174 Penn Hills Township	Allegheny	\$81,423
175 Pittsburgh City	Allegheny	\$700,000
176 Scott Township	Allegheny	\$31,417
177 South Fayette Township	Allegheny	\$24,365
178 Swissvale Borough	Allegheny	\$91,800
179 Upper St. Clair Township	Allegheny	\$368,167
180 West Mifflin Borough	Allegheny	\$31,269
181 White Oak Borough	Allegheny	\$124,353
182 Whitehall Borough	Allegheny	\$20,712
183 Wilkins Township	Allegheny	\$106,186
184 Armstrong County	Armstrong	\$196,805
185 Aliquippa City	Beaver	\$30,000

<i>Applicant</i>	<i>County</i>	<i>Amount</i>
186 Baden Borough	Beaver	\$27,340
187 Beaver Borough	Beaver	\$35,239
188 Beaver County	Beaver	\$447,690
189 Hanover Township	Beaver	\$21,059
190 Hopewell Township	Beaver	\$25,090
191 Independence Township	Beaver	\$30,729
192 Raccoon Township	Beaver	\$59,914
193 Vanport Township	Beaver	\$23,000
194 Cambria County SWA	Cambria	\$54,000
195 Cambria Township	Cambria	\$31,194
196 Johnstown City	Cambria	\$32,760
197 Richland Township	Cambria	\$101,765
198 Fairchance Borough	Fayette	\$38,069
199 Fayette County	Fayette	\$407,021
200 German Township	Fayette	\$179,946
201 North Union Township	Fayette	\$15,225
202 Point Marion Borough	Fayette	\$34,516
203 South Union Township	Fayette	\$153,276
204 Uniontown City	Fayette	\$22,500
205 Washington Township	Fayette	\$83,456
206 Greene County	Greene	\$444,318
207 Blairsville Borough	Indiana	\$45,747
208 Indiana County SWA	Indiana	\$424,407
209 Donora Borough	Washington	\$25,125
210 Peters Township	Washington	\$1,970
211 Ligonier Borough	Westmoreland	\$61,504
212 Mount Pleasant Borough	Westmoreland	\$66,903
213 North Belle Vernon Borough	Westmoreland	\$45,807
214 North Huntingdon Township	Westmoreland	\$8,105
215 Unity Township	Westmoreland	\$36,303

Northwest Region

216 Butler County	Butler	\$90,768
217 Middlesex Township	Butler	\$75,229
218 Penn Township	Butler	\$14,576
219 Crawford County SWA	Crawford	\$1,000,000
220 Elk County	Elk	\$40,526
221 Ridgway Borough	Elk	\$82,749
222 Erie City	Erie	\$239,384
223 Millcreek Township	Erie	\$420,373
224 North East Borough	Erie	\$117,530
225 Jefferson County SWA	Jefferson	\$57,443
226 Punxsutawney Borough	Jefferson	\$10,794
227 Shenango Township	Lawrence	\$83,520
228 Bradford City	McKean	\$393,050
229 Mercer County SWA	Mercer	\$507,517
230 Warren City	Warren	\$174,710

Total \$29,995,269

**Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Loads (TMDLs)
for the Getty Run Watershed in Westmoreland County**

Greensburg District Mining Office: Ron Horansky, Watershed Manager, Armbrust Professional Center, R. D.2 Box 603-C, Greensburg, PA.

The Department of Environmental Protection (Department) is holding a public meeting on May 5, 2004, at 7 p.m. at the Stonelodge Environmental Center, Keystone State Park, New Alexandria, PA to discuss and accept comments on a proposed TMDL, established in accordance with the requirements of section 303(d) of the Clean Water Act. Two stream segments in the Getty Run Watershed have been identified as impaired on the 1996, 1998 and 2002 Pennsylvania 303(d) lists due to metals and pH. The listed segments and miles degraded are as follows:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
43257 (Segment 990511-0840-ALF)	Getty Run	5.73
43257 (Segment 990511-1000-ALF)	Getty Run	4.0

The proposed plan provides calculations of the stream's total capacity to accept iron, aluminum, manganese and acidity and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion Value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum (Al)	0.75	Total Recoverable
Iron (Fe)	1.50	30-day average; Total Recoverable
Manganese (Mn)	1.00	Total Recoverable
pH	6.0—9.0	N/A

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal throughout the 20th century. The effects of this are still present. Mining continues in the watershed today. The report consists of both waste load allocations for permitted discharges and load allocations for nonpoint sources.

The TMDL was developed using Monte Carlo Simulation (MCS) to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a dataset based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected in 2002 and 2003.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet or direction to the meeting site, contact Ron Horansky, Armbrust Professional Center, R. D. 2 Box 603-C, Greensburg, PA 15601, (724) 925-5500, rhoransky@state.pa.us.

The TMDL can be viewed and printed by accessing the Department's website: www.dep.state.pa.us (DEP Keyword: TMDL).

Written comments will be accepted at the previous address and must be postmarked by July 1, 2004. Persons who plan to make a presentation at the public meeting should notify the Department by May 4, 2004. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval.

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Loads (TMDLs) for the McCune Run Watershed in Westmoreland County

Greensburg District Mining Office: Ron Horansky, Watershed Manager, Armbrust Professional Center, R. D. 2 Box 603-C, Greensburg, PA.

The Department is holding a public meeting on May 5, 2004, at 7 p.m. at the Stonelodge Environmental Center, Keystone State Park, New Alexandria, PA to discuss and accept comments on a proposed TMDL, established in accordance with the requirements of section 303(d) of the Clean Water Act. One stream segment in the McCune Run Watershed has been identified as impaired on the 1996, 1998 and 2002 Pennsylvania 303(d) lists due to metals, suspended solids and pH. The listed segments and miles degraded are as follows:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
43397 (Segment 990512-1415-ALF)	McCune Run	2.56

The proposed plan provides calculations of the stream's total capacity to accept iron, aluminum, manganese and acidity and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion Value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum (Al)	0.75	Total Recoverable
Iron (Fe)	1.50	30-day average; Total Recoverable
Manganese (Mn)	1.00	Total Recoverable
pH	6.0—9.0	N/A

The primary pollutant source for the watershed is abandoned mine workings. This watershed was heavily mined for coal in the late 19th century and throughout the 20th century. The effects of this are still present. All of the allocations made in the TMDL are load allocations (LA) that are made to nonpoint sources of pollution.

The TMDL was developed using MCS to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a dataset based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected in 2002 and 2003.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet or direction to the meeting site, contact Ron Horansky, Armbrust Professional Center, R. D. 2 Box 603-C, Greensburg, PA 15601, (724) 925-5500, rhoransky@state.pa.us.

The TMDL can be viewed and printed by accessing the Department's website: www.dep.state.pa.us (DEP Keyword: TMDL).

Written comments will be accepted at the previous address and must be postmarked by July 1, 2004. Persons who plan to make a presentation at the public meeting should notify the Department by May 4, 2004. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval.

Request for Comment and Notice of Public Meeting for the Proposed Total Maximum Daily Loads (TMDLs) for the Union Run Watershed in Westmoreland County

Greensburg District Mining Office: Ron Horansky, Watershed Manager, Armbrust Professional Center, R. D. 2 Box 603-C, Greensburg, PA.

The Department is holding a public meeting on May 5, 2004, at 7 p.m. at the Stonelodge Environmental Center, Keystone State Park, New Alexandria, PA to discuss and accept comments on a proposed TMDL, established in accordance with the requirements of section 303(d) of the Clean Water Act. One stream segment in the Union Run Watershed has been identified as impaired on the 1996, 1998 and 2002 Pennsylvania 303(d) lists due to metals, suspended solids and pH. The listed segments and miles degraded are as follows:

<i>Stream Code</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
43417 (Segment 990526-0845-ALF)	Union Run	11.8

The proposed plan provides calculations of the stream's total capacity to accept iron, aluminum, manganese and acidity and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion Value (mg/l)</i>	<i>Total Recoverable/Dissolved</i>
Aluminum (Al)	0.75	Total Recoverable
Iron (Fe)	1.50	30-day average; Total Recoverable
Manganese (Mn)	1.00	Total Recoverable
pH	6.0—9.0	N/A

The primary pollutant source for the watershed is abandoned mine workings. This watershed was mined for coal in the late 19th century and throughout the 20th century. The effects of this are still present. All of the allocations made in the TMDL are LA that are made to nonpoint sources of pollution.

The TMDL was developed using MCS to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a dataset based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the TMDL.

The TMDL sets allowable loading rates for metals and acidity at specified points in the watershed. The basis of information used in the establishment of this TMDL is field data collected in 2002 and 2003.

The data and all supporting information used to develop the proposed TMDL are available from the Department. To request a copy of the proposed TMDL and an information sheet or direction to the meeting site, contact Ron Horansky, Armbrust Professional Center, R. D. 2 Box 603-C, Greensburg, PA 15601, (724) 925-5500, rhoransky@state.pa.us.

The TMDL can be viewed and printed by accessing the Department's website: www.dep.state.pa.us (DEP Keyword: TMDL).

Written comments will be accepted at the previous address and must be postmarked by July 1, 2004. Persons who plan to make a presentation at the public meeting should notify the Department by May 4, 2004. The Department will consider all comments in developing the final TMDL, which will be submitted to the EPA for approval.

[Pa.B. Doc. No. 04-768. Filed for public inspection April 30, 2004, 9:00 a.m.]

Small Business Compliance Advisory Committee Meeting Change

The April 28, 2004, and July 28, 2004, meetings of the Small Business Compliance Advisory Committee have been rescheduled. These meetings are combined into one meeting that is scheduled for June 23, 2004, at 10 a.m. in the 12th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting should be directed to Jon Miller, (717) 787-7019. The agenda and meeting materials will be available through the Department of

Environmental Protection's (Department) website: www.dep.state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Jon Miller at (717) 787-7019 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-769. Filed for public inspection April 30, 2004, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Indiana Regional Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Indiana Regional Medical Center has requested an exception to the requirements of 28 Pa. Code § 107.62 (relating to oral orders).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care, (717) 783-8980, for speech and/or hearing impaired persons, V/TT: (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 04-770. Filed for public inspection April 30, 2004, 9:00 a.m.]

Application of Lancaster General Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Lancaster General Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards in the *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standard in this publication: 7.10.F2 (relating to patient toilet room).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and

require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care, (717) 783-8980, for speech and/or hearing impaired persons, V/TT: (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 04-771. Filed for public inspection April 30, 2004, 9:00 a.m.]

Application of Lewistown Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Lewistown Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards in the *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exception from the following standard in this publication: 7.10.G3 (relating to holding room).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care, (717) 783-8980, for speech and/or hearing impaired persons, V/TT: (717) 783-6154 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 04-772. Filed for public inspection April 30, 2004, 9:00 a.m.]

Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee; Public Meetings

The Statewide HIV Community Prevention Planning Committee, established by the Department of Health (Department) under sections 301(a) and 317(b) of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247(b)), will hold public meetings on Wednesday, May 19, 2004, and Thursday, May 20, 2004, from 9 a.m. to 3 p.m. at the Best Western Inn and Suites, 815 Eisenhower Boulevard, Middletown, PA, 17057.

The Department reserves the right to cancel a meeting without prior notice.

For additional information or persons with a disability who wish to attend the meetings and require an auxiliary

aid, service or other accommodation to do so, contact Thomas M. DeMelfi, Department of Health, Bureau of Communicable Diseases, P. O. Box 90, Room 1010, Health and Welfare Building, Harrisburg, PA 17108, (717) 783-0572, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 04-773. Filed for public inspection April 30, 2004, 9:00 a.m.]

Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.3 (relating to definitions):

Nottingham Village
Strawbridge Road, P. O. Box 32
Northumberland, PA 17857

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

HarmarVillage Care Center
715 Freeport Road
Cheswick, PA 15024

Mahoning Valley Nursing and Rehabilitation Center
397 Hemlock Drive
Lehigh, PA 18235-9640

Liberty Nursing and Rehabilitation Center
535 North 17th Street
Allentown, PA 18104

Old Orchard Health Care Center
4100 Freemansburg Avenue
Easton, PA 18045

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who wish to comment in an alternative format (for example, large print, audiotape or Braille) should contact the Division of Nursing Care Facilities at the address or phone number listed previously, for speech and/or hearing impaired persons, V/TT

(717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

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

[Pa.B. Doc. No. 04-774. Filed for public inspection April 30, 2004, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Additional Class of Disproportionate Share Payments to Hospitals

The purpose of this notice is to announce the Department of Public Welfare's (Department) intent to establish an additional class of inpatient disproportionate share payments to be distributed to hospitals in this Commonwealth accredited as trauma centers by the Pennsylvania Trauma System Foundation (Foundation).

The Department will distribute annually from funds appropriated for this purpose disproportionate share payments to Commonwealth hospitals with accredited trauma centers to provide financial assistance to improve access to readily available and coordinated trauma care for the citizens of this Commonwealth.

The Department will allocate 90% of the available funds to hospitals accredited as Level I and Level II trauma centers. Fifty percent of the total amount available for Level I and Level II trauma centers will be allocated equally among Level I and Level II trauma centers. Fifty percent of the total amount available for Level I and Level II centers will be allocated on the basis of each trauma center's percentage of Medical Assistance (MA) and uninsured trauma cases and patient days compared to the Statewide total number of MA and uninsured trauma cases and patient days for Level I and Level II trauma centers. The Department will calculate payment to each qualifying hospital accredited as a Level I or Level II trauma centers using data provided by the Foundation.

The Department will allocate the remaining 10% of the available funds to hospitals accredited as Level III trauma centers. Until data is available from the Foundation for Level III trauma centers, the available funds will be distributed equally to Level III trauma centers capped at the average payment made to Level II trauma centers. The Foundation will accredit Level III trauma centers in accordance with established standards, which are based upon the current guidelines for trauma centers as defined by the American College of Surgeons for Level III trauma centers. To qualify for these disproportionate share payments as a hospital with an accredited Level III trauma center, a hospital must: (1) provide comprehensive emergency services; (2) have, on an annual basis, at least 4,000 inpatient admissions from its emergency department; (3) be located in a county without an accredited Level I or Level II trauma center; and (4) not be located within 25 miles travel distance from a Level I or Level II trauma center. A hospital must apply for accreditation as a Level III trauma center to the Foundation to qualify for these disproportionate share payments.

Effective March 1, 2005, and annually thereafter, the Department will produce a report to the Public Health and Welfare Committee of the Senate and the Health and

Human Services Committee of the House of Representatives identifying the trauma centers receiving the disproportionate share payments, the amount of the disproportionate share payments, the number of individuals served by the trauma centers and any recommendations for improvements to further promote the availability of trauma services to the citizens of this Commonwealth.

Fiscal Impact

This change will result in expenditures of \$27.630 million in total funds (\$15.130 million in Federal funds, \$12.500 million in State funds) for FY 2003-04.

Public Comment

Interested persons are invited to submit written comments to this notice within 30 days of this publication. Comments should be sent 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. 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-388. (1) General Fund; (2) Implementing Year 2003-04 is \$12,500,000; (3) 1st Succeeding Year 2004-05 is \$12,500,000; 2nd Succeeding Year 2005-06 is \$12,500,000; 3rd Succeeding Year 2006-07 is \$12,500,000; 4th Succeeding Year 2007-08 is \$12,500,000; 5th Succeeding Year 2008-09 is \$12,500,000; (4) 2002-03 Program—\$N/A; 2001-02 Program—\$N/A; 2000-01 Program—\$N/A; (7) Trauma Centers; (8) recommends adoption. Funding for 2003-04, including \$15,130,000 in Federal funding, is included in Act 9-A of 2003. State and Federal funding for 2004-05 is recommended in the 2004-05 Executive Budget.

[Pa.B. Doc. No. 04-775. Filed for public inspection April 30, 2004, 9:00 a.m.]

**DEPARTMENT OF
REVENUE**

[Correction]

Pennsylvania Dough in a Row Instant Lottery Game

The Department of Revenue has discovered a typographical error in a document that appeared at 34 Pa.B. 2240 (April 24, 2004).

In the table which delineates the number and description of prizes and approximate odds, the approximate number of winners per 9,360,000 tickets for the Top Row should have been 624,000.

The correct version of that prize line is as follows:

Top Row	\$2	15	624,000
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[Pa.B. Doc. No. 04-699. Filed for public inspection April 23, 2004, 9:00 a.m.]

Pennsylvania 100 Grand Hand Instant Lottery Game

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

1. *Name:* The name of the game is Pennsylvania 100 Grand Hand.

2. *Price:* The price of a Pennsylvania 100 Grand Hand instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania 100 Grand Hand instant lottery game ticket will contain a "Dealer's Total" area and a "Your Hands" area. The "Your Hands" area will feature 10 "Hand" areas. Each "Hand" is played separately. The play symbols and their captions located in the "Dealer's Total" area are: 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN) and 20 (TWENT). The play symbols and their captions located in the "Your Hands" area are: 2 (TWO), 3 (THR), 4 (FOR), 5 (FIV), 6 (SIX), 7 (SVN), 8 (EGT), 9 (NIN), 10 (TEN), J (JCK), Q (QUN), K (KNG) and A (ACE). A = 11, J, Q and K = 10.

4. *Prize Play Symbols:* The prize play symbols and their captions located in the 10 prize areas are: \$5⁰⁰ (FIV DOL), \$7⁰⁰ (SVN DOL), \$10⁰⁰ (TEN DOL), \$14\$ (FORTN), \$21\$ (TWY ONE), \$52\$ (FTY TWO), \$100 (ONE HUN), \$400 (FOR HUN), \$2,100 (TWYONEHUN), \$50,000 (FTY THO) and \$100,000 (ONEHUNTHO).

5. *Prizes:* The prizes that can be won in this game are \$5, \$7, \$10, \$14, \$20, \$21, \$42, \$52, \$100, \$400, \$2,100, \$50,000 and \$100,000. The player can win up to 10 times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 4,200,000 tickets will be printed for the Pennsylvania 100 Grand Hand instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets where the sum of any "Hand" beats the "Dealer's Total," and a prize play symbol of \$100,000 (ONEHUNTHO) appears in the prize area under that "Hand," on a single ticket, shall be entitled to a prize of \$100,000.

(b) Holders of tickets where the sum of any "Hand" beats the "Dealer's Total," and a prize play symbol of \$50,000 (FTY THO) appears in the prize area under that "Hand," on a single ticket, shall be entitled to a prize of \$50,000.

(c) Holders of tickets where the sum of any "Hand" beats the "Dealer's Total," and a prize play symbol of \$2,100 (TWYONEHUN) appears in the prize area under that "Hand," on a single ticket, shall be entitled to a prize of \$2,100.

(d) Holders of tickets where the sum of any "Hand" beats the "Dealer's Total," and a prize play symbol of \$400 (FOR HUN) appears in the prize area under that "Hand," on a single ticket, shall be entitled to a prize of \$400.

(e) Holders of tickets where the sum of any "Hand" beats the "Dealer's Total," and a prize play symbol of \$100 (ONE HUN) appears in the prize area under that "Hand," on a single ticket, shall be entitled to a prize of \$100.

(f) Holders of tickets where the sum of any "Hand" beats the "Dealer's Total," and a prize play symbol of \$52\$ (FTY TWO) appears in the prize area under that "Hand," on a single ticket, shall be entitled to a prize of \$52.

(g) Holders of tickets where the sum of any "Hand" equals 21, and a prize play symbol of \$21\$ (TWY ONE) appears in the prize area under that "Hand," on a single ticket, shall be entitled to a prize of \$42.

(h) Holders of tickets where the sum of any "Hand" beats the "Dealer's Total," and a prize play symbol of \$21\$ (TWY ONE) appears in the prize area under that "Hand," on a single ticket, shall be entitled to a prize of \$21.

(i) Holders of tickets where the sum of any "Hand" equals 21, and a prize play symbol of \$10⁰⁰ (TEN DOL) appears in the prize area under that "Hand," on a single ticket, shall be entitled to a prize of \$20.

(j) Holders of tickets where the sum of any "Hand" beats the "Dealer's Total," and a prize play symbol of \$14\$ (FORTN) appears in the prize area under that "Hand," on a single ticket, shall be entitled to a prize of \$14.

(k) Holders of tickets where the sum of any "Hand" equals 21, and a prize play symbol of \$7⁰⁰ (SVN DOL) appears in the prize area under that "Hand," on a single ticket, shall be entitled to a prize of \$14.

(l) Holders of tickets where the sum of any "Hand" beats the "Dealer's Total," and a prize play symbol of \$10⁰⁰ (TEN DOL) appears in the prize area under that "Hand," on a single ticket, shall be entitled to a prize of \$10.

(m) Holders of tickets where the sum of any "Hand" equals 21, and a prize play symbol of \$5⁰⁰ (FIV DOL) appears in the prize area under that "Hand," on a single ticket, shall be entitled to a prize of \$10.

(n) Holders of tickets where the sum of any "Hand" beats the "Dealer's Total," and a prize play symbol of \$7⁰⁰ (SVN DOL) appears in the prize area under that "Hand," on a single ticket, shall be entitled to a prize of \$7.

(o) Holders of tickets where the sum of any "Hand" beats the "Dealer's Total," and a prize play symbol of \$5⁰⁰ (FIV DOL) appears in the prize area under that "Hand," on a single ticket, shall be entitled to a prize of \$5.

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

When the Sum of Any of Your Hands Beats the Dealer's Total, Win With Prize(s) of:

<i>When the Sum of Any of Your Hands Beats the Dealer's Total, Win With Prize(s) of:</i>	<i>Win:</i>
\$5	\$5
\$7	\$7
\$5 × 2	\$10
\$5 w/21	\$10
\$10	\$10
\$7 × 2	\$14
\$7 w/21	\$14
\$14	\$14
\$7 × 3	\$21
\$7 w/21 + \$7	\$21
\$21	\$21
\$5 × 9 + \$7	\$52
\$7 × 6 + \$5 × 2	\$52
\$14 × 3 + \$10	\$52
\$21 w/21 + \$10	\$52
\$52	\$52
\$10 × 10	\$100
\$10 w/21 + \$10 × 8	\$100
\$100	\$100
\$100 × 4	\$400
\$400	\$400
\$100 + \$400 × 5	\$2,100
\$2,100	\$2,100
\$50,000	\$50,000
\$100,000	\$100,000

<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 4,200,000 Tickets</i>
8.57	490,000
20	210,000
600	7,000
120	35,000
150	28,000
300	14,000
150	28,000
150	28,000
150	28,000
66.67	63,000
85.71	49,000
300	14,000
300	14,000
600	7,000
300	14,000
200	21,000
1,333	3,150
1,333	3,150
1,364	3,080
60,000	70
60,000	70
120,000	35
120,000	35
840,000	5
840,000	5

21 = Double the prize shown

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania 100 Grand Hand instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania 100 Grand Hand, prize money from winning Pennsylvania 100 Grand Hand instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania 100 Grand Hand instant lottery game,

the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

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

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be

disseminated through media used to advertise or promote Pennsylvania 100 Grand Hand or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 04-776. Filed for public inspection April 30, 2004, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Delegation of Authority to Certify Design Approval and to Make Findings

The Secretary of Transportation (Secretary) gives notice that, under the authority in section 213 of The Administrative Code of 1929 (71 P. S. § 73), Gary L. Hoffman, P. E., Deputy Secretary of Highway Administration, has been delegated the authority to certify Design Approval on the Secretary's behalf and to make, and cause to be published in the *Pennsylvania Bulletin*, written findings required by section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)). This notice supercedes the notice published at 34 Pa.B. 1524 (March 13, 2004).

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 04-777. Filed for public inspection April 30, 2004, 9:00 a.m.]

Finding

Armstrong and Clarion Counties

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Deputy Secretary for Highway Administration makes the following written finding:

The Federal Highway Administration (FHA) and the Department of Transportation are planning to replace the Foxburg Bridge, which carries SR 0058 over the Allegheny River between Hovey Township, Armstrong County, and Foxburg Borough, Clarion County. The project will also include roadway approach work necessary to tie into existing SR 0058 on both ends of the Foxburg Bridge.

The existing Foxburg Bridge is a contributing element to the Foxburg Historic District, which is eligible for listing in the National Register of Historic Places and is, therefore, a Section 2002/Section 4(f) resource. Removal of the existing Foxburg Bridge will constitute a use of the Section 2002/Section 4(f) resource through the loss of an element that contributes to the significance of the resource.

The subject project was evaluated as an Environmental Assessment (EA) for which a Finding of No Significant Impact was issued by the FHA on March 30, 2004.

Mitigation measures will be taken to minimize harm as stipulated in the EA, the Final Section 4(f) Evaluation and other supporting documentation listed in the EA. Several of the mitigation measures are as follows:

- Recordation of the existing Foxburg Bridge to Historic American Engineering Record standards.

- Consultation with the Historical and Museum Commission during final design to ensure the new structure will be compatible with the character of the Foxburg Historic District.

The environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 have been considered. It has been concluded that there is no feasible and prudent alternative to the use of the Section 2002/Section 4(f) resource and the project is planned to mitigate impacts to the Section 2002/Section 4(f) resource through the previously referenced mitigation measures.

GARY L. HOFFMAN, P. E.,
Deputy Secretary for Highway Administration

[Pa.B. Doc. No. 04-778. Filed for public inspection April 30, 2004, 9:00 a.m.]

Finding

Chester County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Deputy Secretary for Highway Administration makes the following written finding:

The Department of Transportation plans to replace the existing three-span concrete encased steel I beam bridge that carries Valley Road over Middle Branch White Clay Creek in London Grove Township, Chester County.

The environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929 have been considered. It has been concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize the effects. Chester County shall ensure that the datestone tablet shall be removed from the existing Chester County Bridge No. 248 and placed on the new bridge structure once construction is complete. Chester County shall ensure that Chester County Bridge No. 248 will be recorded to State Historic Preservation Officer (SHPO)/State level documentation standards. Once complete, this recordation documentation will be submitted to the SHPO for review and retained at the Pennsylvania State Archives. Chester County shall assemble a chapter on bridges in London Grove Township not to exceed 12 hours or \$1,200 in cost and submit this information to the London Grove Township Historical Commission (Commission) for publication. This chapter shall be assembled and given to the Commission by June 30, 2006.

An Erosion and Sedimentation Control Plan will be implemented to minimize water quality impacts and sedimentation into the Middle Branch White Clay Creek and its tributary during and after construction of the project. Measures to prevent contamination of the Middle Branch White Clay Creek during reconstruction activities by debris, paint chips, and the like, will be incorporated during and after construction to maintain the existing water quality of the stream. In-stream construction will be prohibited from March 1 to June 15 to protect trout stocked fisheries such as the Middle Branch White Clay Creek. Coordination will occur with local emergency services to inform them of the pending bridge closing and develop appropriate alternate routes.

The Deputy Secretary for Highway Administration has considered the environmental, economic, social and other

effects of the proposed project as enumerated in section 2002 of The Administrative Code 1929, and has concluded that there is no feasible and prudent alternative to the project as designed and all reasonable steps have been taken to minimize the effect.

GARY L. HOFFMAN, P. E.,
Deputy Secretary for Highway Administration

[Pa.B. Doc. No. 04-779. Filed for public inspection April 30, 2004, 9:00 a.m.]

to a disability who wish to attend the meetings should contact Cherie Elias, Health Care Cost Containment Council, 225 Market Street, Harrisburg, PA 17101, (717) 232-6787 at least 24 hours in advance so that arrangements can be made.

MARC P. VOLAVKA,
Executive Director

[Pa.B. Doc. No. 04-780. Filed for public inspection April 30, 2004, 9:00 a.m.]

HEALTH CARE COST CONTAINMENT COUNCIL

Meetings Scheduled

The Health Care Cost Containment Council has scheduled the following meetings: Wednesday, May 5, 2004, Data Systems Committee meeting—10 a.m.; Education Committee meeting—1 p.m.; Thursday, May 6, 2004, Council meeting—10 a.m. The meetings will be held in the conference room at the Council Office, 225 Market Street, Suite 400, Harrisburg, PA 17101. The public is invited to attend. Persons who need accommodation due

Special Reports and Requests for Data

The Health Care Cost Containment Council (Council), according to Act 89 as amended by Act 14, is required to publish a list of all special reports and data that have been prepared during the previous calendar year. The following represents a summary of the reports and requests for data generated by the Council in calendar year 2003. Questions should be addressed to Kristen S. Weitzel, Special Requests Unit, Health Care Cost Containment Council, 225 Market Street, Suite 400, Harrisburg, PA 17101, (717) 232-6786, www.phc4.org.

MARC P. VOLAVKA,
Executive Director

<i>Applicant</i>	<i>Project Description</i>
AmeriNet Central, Inc.	Standard Statewide 2002 inpatient discharge and ambulatory procedure data sets to be used in a commercial software product.
Andrew Epstein, The Wharton School	A standard Statewide 1996—2002 inpatient discharge data set and standard 1994, 1995 and 2000 CABG data sets to be used in econometric analyses associated with the client's doctoral dissertation titled "Responses to Mortality Report Cards for Cardiac Surgery."
Barnes-Kasson County Hospital	A custom 1999—2002 inpatient discharge report to be used to identify admission patterns within primary service area.
Bayhealth Medical Center	A custom 3rd and 4th quarters 1999—2001 and 1st and 2nd quarters 2002 inpatient discharge data set of Delaware residents to be used for internal strategic planning and market share studies.
BDC Advisors, LLC	A custom 1996—1998 inpatient discharge report and a custom 1995 through 2nd quarter 1996 inpatient discharge data set to be used to trend historical monthly discharge volume for the former AHERF hospitals within the Philadelphia PMSA.
Carlisle Area School District	A custom 2001, 2002 and 1st quarter 2003 inpatient discharge report to be used for an analysis of Carlisle Hospital since changing to for-profit status.
Center for the Evaluative Clinical Sciences	Custom 1997—2001 inpatient discharge and ambulatory procedure data sets by ICD-9 codes to be used for research to determine the number of hospital admissions and surgical procedures for a condition known as Slipped Capital Femoral Epiphysis.
Central Montgomery Medical Center	A custom 2002 inpatient discharge data set to be used for market share information to assess growth related to marketing.
Chambersburg Hospital	A custom 3rd quarter 1999 through 2nd quarter 2001 inpatient discharge data set to be used for internal purposes.
Chester County Hospital	A custom 2002 inpatient discharge data set to be used to conduct an analysis to better understand the geographic areas from which their patients are coming.
Collier Shannon Scott, PLLC	A custom 1990 through 2nd quarter 2002 inpatient discharge report and a 1996 through 2nd quarter 2002 ambulatory procedure report to be used to define demographic markets.
Community Health Systems	Standard Statewide 2002 inpatient discharge and ambulatory data sets to be used to create utilization rates and market share information for strategic and facilities planning for five hospitals in this Commonwealth.

<i>Applicant</i>	<i>Project Description</i>
Cooper Hospital/UMC	A standard regional 2001 inpatient discharge data set to be used for research and analysis of hospitals in this Commonwealth, specifically for analyzing utilization trends and making benchmark comparisons.
Cooper Hospital/UMC	A custom 2002 inpatient discharge report to be used for analysis of New Jersey, New York and Delaware patient migration to hospitals in this Commonwealth.
Cooper Hospital/UMC	A standard regional 2002 inpatient discharge data set to be used for market research.
Corry Memorial Hospital	A standard regional 2001 inpatient discharge data set to be used for market share analysis and strategic planning.
Crozer Keystone Health System	A custom 1999—2001 inpatient discharge report to be used to research the relationship among race, gender and rates of invasive diagnostic and therapeutic cardiac procedures and angioplasty across this Commonwealth.
DataBay Resources	Standard Statewide 1st quarter 2003 inpatient discharge and ambulatory procedure data sets to be used in a commercial software product.
Delaware County Memorial Hospital	A custom Fiscal Year 2000 inpatient discharge data set to be used for internal purposes.
DePaul Healthcare	A custom 1st and 2nd quarters 2002 inpatient discharge report to determine the feasibility of developing a 17-bed hospital licensed rehabilitation unit.
Dickie, McCamey & Chilcote, PC	A custom 1998—2002 inpatient discharge report to be used to demonstrate the rarity of a specific diagnosis.
Evan Wolarsky, MD	A standard facility 3rd quarter 2001 through 2nd quarter 2002 inpatient discharge data set for the University of Pennsylvania and Albert Einstein Medical Center to be used to research the relationship between hospital admissions and the distance patients are traveling for care.
Gift of Life Donor Program	Custom 2000, 2001 and 1st through 3rd quarters 2002 inpatient discharge and ambulatory procedure data sets to be used as part of accreditation with the Association for Organ Procurement Organizations.
Gnaden Huetten Memorial Hospital	Custom 2002 inpatient discharge and ambulatory procedure data sets to be used for market share analysis regarding patients that live in Carbon, Monroe, Schuylkill, Lehigh and Northampton Counties.
Good Shepard Rehabilitation Hospital	A standard facility 2002 inpatient discharge data set to be used for internal research to forecast market demand for their services.
Good Shepard Rehabilitation Hospital	A standard regional and facility 2002 inpatient discharge data set to be used for internal market share planning.
Hanover Hospital	A custom 1997—2002 inpatient discharge data set to be used for an internal market share study.
Harvard University	A 1993 CABG data set to be used as part of an academic research project on the impact of report cards on markets for medical services.
Health Promotion Council	A custom 2000 inpatient discharge data set by zip code to be used to calculate baseline rates of pediatric hospitalizations for asthma in the Philadelphia area.
Healthshare Technology, Inc.	A standard 1st and 2nd quarters 2002 inpatient discharge data set and revenue code detail data set to be used in a commercial software product.
Holy Spirit Hospital	A custom 4th quarter 2001 through 3rd quarter 2002 inpatient discharge report and a custom Calendar Year 2002 inpatient discharge data set to be utilized to analyze Holy Spirit Hospital's mortality rates and compare them to expected numbers.
Hospital & Healthsystem Association of Pennsylvania	A standard 2002 financial data set and the 2001 restated financial data set to be used to supplement financial and utilization data that HAP currently collects on a voluntary basis from member hospitals. It will be used to model potential effects of policy changes and to support representation and advocacy initiatives.
Hospital Executive Council	A custom 2001 and 1st and 2nd quarters 2002 inpatient discharge data set to analyze New York residents seeking cardiac surgery and catheterization in this Commonwealth.
Independence Blue Cross	A custom 2001 financial data set by case mix index for each acute care facility in regions 8 and 9 to be used to adjust utilization statistics by hospital.
Jefferson Regional Medical Center	Standard regional 1st and 2nd quarters 2002 inpatient discharge and ambulatory procedure data sets to be used for internal market share analysis.

<i>Applicant</i>	<i>Project Description</i>
Johns Hopkins University	A standard Statewide 1995—2003 inpatient discharge data set to be used along with other national data to examine the impact of Federal policy changes and health care market forces on the organizational and management strategies, financial viability and clinical performance of rural hospitals in the United States.
Lehigh Valley Hospital	Standard Statewide 2002 inpatient discharge and ambulatory procedure data sets to be used to develop strategic initiatives for the hospital, to measure progress against competition over time and to project clinical and utilization needs.
Mamsi Health Plan	A standard regional 2001 and 2002 inpatient discharge data set to be used internally to identify payor mix, hospital efficiency and membership draw by hospital.
MediQual Systems, Inc.	A standard Statewide 2002 inpatient discharge data set to be used in a commercial software product.
MediQual Systems, Inc.	A standard Statewide 2003 inpatient discharge data set to be used in a commercial software product.
Memorial Hospital of York	A custom 2002 inpatient discharge data set to be used in making a decision on whether or not to expand their practice.
Mercy Health Partners NE Region	A custom 2001 inpatient discharge, HPR-type report to be used for internal purposes.
Mercy Health System	A custom 1999—2001 inpatient discharge report for regions 8 and 9 to be used to improve mortality and readmission results for Mercy Health System.
Milliman USA	A standard Statewide 2001 inpatient discharge data set to be used to analyze hospital utilization and costs for inpatient treatment in support of the client's consulting activities in the health care field.
Moses Taylor Hospital	A custom 2002 inpatient discharge report to be used for market share analysis of the Mid-Valley area.
Navigant Consulting	A standard facility 2000 inpatient discharge data set for Chester County Hospital to be used for hospital utilization research.
New Solutions, Inc.	A custom 2002 inpatient discharge data set to be used for research purposes and to provide market share analysis to client hospitals.
New Solutions, Inc.	A custom 2001 inpatient discharge data set by county to be used in a commercial software product.
North Philadelphia Health System	A standard regional 2001 and 2002 inpatient discharge data set to be used to perform statistical analysis about the facility and other similar facilities.
Commission on Crime and Delinquency	Custom 1995—2002 inpatient discharge and ambulatory procedure data sets to be used for a presentation to the Commission on Crime and Delinquency Commissioners that will focus on crime indicators such as offenses, arrests, sentences, prison admissions and hospital discharges for stabbings.
Department of Health	Custom 2000—2002 inpatient discharge and ambulatory procedure report to be used to assist the Arthritis Stakeholders Workgroup in assessing the treatment of arthritis-related diseases in this Commonwealth, including disparities and financial burden associated with arthritis-related hospitalizations.
Department of Health	Custom 1994—2001 inpatient discharge and ambulatory procedure report to be used to assess the burden of cardiovascular disease in this Commonwealth and to examine cardiovascular risk factors.
Department of Health	Custom 2000—2002 inpatient discharge and ambulatory procedure report to be used for planning and evaluation occurring during an RWJF grant to establish oral health access issues and need for care, especially Early Childhood caries, as it relates to Hotline and special needs patients.
Department of Health	Permission to utilize previously received standard Statewide 2000 and 2001 inpatient discharge and ambulatory procedure data sets for a Crash Outcome Data Evaluation System (CODES) project to study rapid sequence intubation by prehospital personnel.
Department of Health	Custom Statewide 2002 through 2nd quarter 2003 inpatient discharge and ambulatory procedure data sets to be used to develop baseline levels for public health surveillance and to estimate the numbers of cases and of disease outbreaks.
Department of Health	A custom sampling, by hospital, of 2002 inpatient discharge and ambulatory procedure data to be used during hospital audits conducted by the Department of Health's Licensing and Quality Assurance surveyors.
Department of Health	Standard Statewide 1st quarter 2003 inpatient discharge and ambulatory procedure data sets to be used to profile patient discharge patterns, which will be used by the Department of Health, Division of Acute and Ambulatory Care to carry out quality assurance and licensing functions.

<i>Applicant</i>	<i>Project Description</i>
Department of Health	A custom sampling, by hospital, of 2003 inpatient discharge and ambulatory procedure data sets to be used during hospital audits conducted by the Department of Health's Licensing and Quality Assurance surveyors.
Department of Health	Custom 2002 and 2003 inpatient discharge data sets to be used for the following studies: The CODES, Evaluation of Trauma Triage Protocols, Evaluation of Pediatric Treatment Protocols and Evaluation of the Trauma Systems Plan. The data will be used to assess the effectiveness of this Commonwealth's EMS and trauma systems, to identify areas for improvements to patient care and system operations and for planning.
Department of Health	Custom 2002 inpatient discharge and ambulatory procedure data sets for children less than 24 months of age with a diagnosis of birth defects to assist in a pilot project to assess the feasibility of creating a birth defects registry.
Department of Health	Custom 2003 inpatient discharge and ambulatory procedure data sets for children less than 24 months of age with a diagnosis of birth defects to assist in a pilot project to assess the feasibility of creating a birth defects registry.
Department of Health	Custom 2001 inpatient discharge and ambulatory procedure data sets for children less than 24 months of age with a diagnosis of birth defects to assist in a pilot project to assess the feasibility of creating a birth defects registry.
Department of Health	A custom 2001 inpatient discharge data set for use in the Department of Health's Injury Program to assist and improve the ability of health officials and injury prevention practitioners to use injury morbidity data for planning and evaluation of programs and policies.
Department of Health	Custom 1999 through 2nd quarter 2002 inpatient discharge and ambulatory procedure data sets by specific Asthma ICD-9-CM codes to be used to prepare a plan to address asthma in this Commonwealth, provide data to district health offices to plan intervention programs, update the Department of Health website pertaining to asthma and to develop county profiles.
Department of Health	Custom 1999 through 3rd quarter 2002 (excluding 2000) inpatient discharge and ambulatory data sets of select ICD-9-CM codes for spinal fractures, hip fractures and osteoporosis to be used to assess trends in fractures related to osteoporosis and changes in those rates and to plan intervention programs in the counties of high risk, evaluate the effectiveness of public health interventions in decreasing hip fractures and to prepare fact sheets.
Department of Public Welfare	A custom 2002 inpatient discharge report to be used to study the Mental Health and Drug and Alcohol services that individuals 60 years of age and older receive from different funding sources.
Department of Public Welfare	A custom Fiscal Year 2002 financial data set for net patient revenue by payor and uncompensated care, broken down by bad debt expense and charity care costs, to be used to compute payments to hospitals for the Tobacco Settlement Act of 2002.
Department of Public Welfare	A custom Fiscal Year 2001 financial data set for net patient revenue by payor and uncompensated care, broken down by bad debt expense and charity care costs, to be used to compute payments to hospitals for the Tobacco Settlement Act of 2001.
House of Representatives	A custom 2001 inpatient discharge report of misadventures to patients during surgical and medical care.
Office of the Attorney General	A standard Statewide 2002 inpatient discharge data set and an inpatient discharge market share report to be used in analyzing hospital mergers under the Office of Attorney General's authority to enforce the antitrust laws on behalf of the Commonwealth and its citizens.
Office of the Auditor General	A standard facility inpatient discharge data set for Fiscal Year 2001 and a custom financial data set for Fiscal Years 1999—2001 to be used to audit hospitals receiving extraordinary expense payments as part of the Tobacco Settlement.
Pennsylvania State Data Center	A custom Fiscal Year 2001 financial report to be used in the 2003 Pennsylvania Abstract published annually by the Pennsylvania State Data Center.
Pennsylvania State University	Custom 1995—2000 inpatient discharge and ambulatory procedure reports by ICD-9 codes for asthma to be used to focus on correlations between asthma incidence/prevalence and asthma mortality due to air quality levels.
Pennsylvania State University	A custom 2001 inpatient discharge data set of children 0 to 19 years of age to be used to examine variation in potentially preventable hospitalizations for asthma and other conditions among children living in rural and urban areas of this Commonwealth.
<i>Philadelphia Inquirer</i>	A standard regional 2002 inpatient discharge data set for to be used for newspaper stories.

<i>Applicant</i>	<i>Project Description</i>
<i>Philadelphia Inquirer</i>	A custom 1997 through 2nd quarter 2002 inpatient discharge report for CABG and angioplasty-stent procedures for a newspaper story.
<i>Philadelphia Inquirer</i>	A standard 1997—2002 inpatient market share report to be used for a newspaper story.
Phoenix Health Care Consulting	A custom 2002 inpatient discharge report to be used for a legal case involving Tenet Health Care and uninsured patients.
Pittsburgh Regional Health Care Initiative	A custom 2001 financial report by payor mix to be used for the PRHI Patient Safety Initiative, which studies the effect of reporting systems on medication and nosocomial errors.
<i>Pittsburgh Tribune Review</i>	A standard regional 2000 inpatient discharge data set for to be used in newspaper stories.
Pricewaterhouse Coopers, LLP	Standard facility 2002 inpatient discharge and ambulatory procedure data sets for Geisinger Danville and Geisinger Wyoming Valley.
Rutgers University	Custom 1998 through 3rd quarter 2002 inpatient discharge and ambulatory procedure data sets of New Jersey residents who were hospitalized in this Commonwealth, to be used as part of an analysis to determine the impact of a recent hospital acquisition in Salem County, NJ.
Rutgers University	Custom 4th quarter 2002 inpatient discharge and ambulatory procedure data sets to be used as part of an analysis to determine the impact of a recent hospital acquisition in Salem County, NJ.
Service Employees International Union	A standard regional 3rd quarter 1999 through 2nd quarter 2002 inpatient discharge data set to be used to compare cost and utilization differences amongst hospitals and payors and to investigate market share by DRG and by payor source.
Solucient	Standard Statewide 2003 inpatient discharge and ambulatory procedure data sets to be used in a commercial software product.
Solucient	Standard Statewide 2002 inpatient discharge and ambulatory procedure data sets to be used in a commercial software product.
Susquehanna Valley Rural Health Partnership	A custom 2001 through 2nd quarter 2002 inpatient discharge and ambulatory procedure report to be used to ascertain migration of residents to health care facilities out of the service area.
Temple University Hospital	A custom 1990 through 2nd quarter 2002 inpatient discharge data set to be used to evaluate and establish management guidelines for subsequent pregnancy.
Temple University Pulmonary & Critical Care	A custom 1991—2000 inpatient discharge report to be used to examine the impact of environmental exposure on admissions.
The MEDSTAT Group/Inforum, Inc.	Standard Statewide 1st quarter 2003 inpatient discharge and ambulatory procedure data sets to be used in a commercial software product.
The MEDSTAT Group/Inforum, Inc.	Standard Statewide 2002 inpatient discharge and ambulatory data sets to be used in a commercial software product.
The Visiting Nurse Association of Greater Philadelphia	A custom 4th quarter 2001 through 3rd quarter 2002 inpatient discharge report by payor for Chestnut Hill Hospital to be used for market research.
The Wall Street Journal	A custom 2002 inpatient discharge data set to be used for news stories on medical outcomes.
The Wharton School	A custom 1994—1999 inpatient discharge report to be used to describe the changes in hospital admissions during the mid to late 1990s that might have been caused by financial problems in hospital and managed care systems.
The Wharton School	A custom 1994—1999 inpatient discharge report to be used to describe the changes in hospital admissions of selected cardiac procedures during the mid to late 1990s.
Thomas Jefferson University Hospital	Permission to reuse 1997—1999 inpatient discharge data for a study of cases with catheter-related blood stream infections versus those without.
United Network for Organ Sharing	A custom 1996—2002 inpatient discharge data set to be used to study the role of organ transplantation in decreasing patient morbidity and burden of disease for patients with end-stage organ failure, using inpatient and ICU hospitalizations as outcome measures.
University of Pennsylvania	A custom linkage of cancer registry data of this Commonwealth to previously purchased 1998—1999 inpatient discharge data to be used to construct risk-adjusted odds of death and failure to rescue for hospitalized cancer patients in this Commonwealth.

<i>Applicant</i>	<i>Project Description</i>
University of Pennsylvania	A standard Statewide 1995—2001 inpatient discharge data set to be used to examine the role that financial stress in hospitals plays on hospital admissions and treatment decisions.
University of Pennsylvania	A custom linkage of previously received 1995—2001 inpatient discharge data to death data of this Commonwealth to be used to determine if cuts in reimbursement to hospitals alter quality of care and if this effect may be mediated in part by the surrounding market environment.
University of Pennsylvania	Permission to use previously provided 1995—2001 inpatient discharge data for a study on how financial stress in hospitals affects quality of care and for examination of racial differences.
University of Pennsylvania School of Medicine	A custom 2nd quarter 2002 through 1st quarter 2003 inpatient discharge data set to study reducing medication errors among the elderly. This project is being conducted in cooperation with the Department of Aging, Pharmaceutical Assistance Contract for the Elderly.
University of Pennsylvania School of Medicine	Custom 1998 and 1999 inpatient discharge and ambulatory procedure data sets to be used in the Trauma Resource Allocation Model for Ambulances and Helicopters, a Federally-funded health services research project.
University of Pennsylvania, Firearm Injury Center	Custom 1995—2002 inpatient discharge and ambulatory procedure data sets to be used to improve the capacity of Federal, State and local PSN task force partners to understand and prevent firearm-related violent crime through data and evidence driven strategies.
University of Pittsburgh Center for Rural Health Practice	A standard regional 1990—2001 inpatient discharge data set and a standard regional 1996—2001 ambulatory procedure data set to be used to field test the use of Council data in conducting community public health assessments.
University of Pittsburgh School of Medicine	A custom 1994—2001 inpatient discharge data set to develop a population-based measure of chronic liver disease and demand for liver transplantation services.
University of Pittsburgh School of Medicine	A custom 1997—2001 inpatient discharge report to be used to determine the scope of thrombotic disease in hospital patients in this Commonwealth and to target potential prevention efforts to reduce morbidity, mortality and health care costs. The data will also be used as preliminary information to establish a thrombosis center and to work to develop a health care prevention message.
UPMC Horizon	A custom 3rd quarter 2001 through 2nd quarter 2002 ambulatory procedure report to be used to understand how much variation exists in lithotripsy charges.
Urban Health Institute	A custom 2001 inpatient discharge data set to study NJ residents seeking care in this Commonwealth for heart-related illnesses.
Verispan	Standard Statewide 2002 inpatient discharge and ambulatory procedure data sets to be used, along with other states' data, to estimate diagnoses and procedures at the hospital and National level.
Warren Hospital	A Fiscal Year 2002 financial data set as well as 2001 through 1st quarter 2003 inpatient discharge and ambulatory procedure market share reports, revenue code detail data sets and a custom report to be used to study financial due diligence and feasibility.
West Virginia Health Care Authority	A custom 2000 and 2001 inpatient discharge report to be used to assist in the analysis of health care needs and costs of West Virginia residents.
West Virginia Hospital Association	A custom 2000 inpatient discharge data set to be used to analyze the use of out-of-State hospitals by West Virginia residents for inpatient hospital services.
West Virginia University	A standard regional 2000 inpatient discharge data set to be used to construct morbidity estimates for counties in the Appalachian region.
Wyoming Valley Health Care System	A standard regional 2001 and 2002 ambulatory procedure data set to be used to perform market analysis for an internal project.
Wyoming Valley Health Care System	Standard 2002 inpatient discharge and ambulatory procedure data sets to be used internally to track volumes and for benchmarking against the other hospitals in the client's immediate area.

[Pa.B. Doc. No. 04-781. Filed for public inspection April 30, 2004, 9:00 a.m.]

INSURANCE DEPARTMENT

Edith A. Blankenbiller; Hearing

**Appeal of Edith A. Blankenbiller under 40 P. S.
§§ 991.2101—991.2193; Doc. No. HC04-04-008**

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and any other relevant procedure provisions of law.

A prehearing telephone conference initiated by the Administrative Hearings Office shall be conducted on May 27, 2004, at 2 p.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before April 30, 2004. The hearing shall occur on June 24, 2004, 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 June 10, 2004, 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 June 17, 2004.

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 Jeffrey Wallace, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-782. Filed for public inspection April 30, 2004, 9:00 a.m.]

**Blue Cross of Northeastern Pennsylvania; Basic
Blue Cross Community Rated Group Rate In-
crease; Rate Filing**

On April 16, 2004, the Insurance Department received from Blue Cross of Northeastern Pennsylvania filing no. 785-BCCR-10/1/2004 for a rate increase for Basic Blue Cross Community Rated Groups.

The company requests an overall 9.67% increase amounting to \$2.65 million annually, to be effective October 1, 2004. This will impact approximately 10,300 policyholders.

Unless formal administrative action is taken prior to July 14, 2004, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website: www.ins.state.pa.us. To access the filing, select "Consumer Information" on the left side. Under "General Information," click on "Notices." The PDF copy is at the "Filing.pdf" link following the name of the filing.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Insurance Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Bharat Patel, Insur-

ance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, bhpatel@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-783. Filed for public inspection April 30, 2004, 9:00 a.m.]

Stan Duda; Hearing

**Appeal of Stan Duda under the Storage Tank and
Spill Prevention Act; Underground Storage Tank
Indemnification Fund; USTIF File No. 03-059(F);
Doc. No. UT04-04-004**

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and any other relevant procedure provisions of law.

A prehearing telephone conference shall be held on May 26, 2004, at 2 p.m. A hearing shall occur on June 16, 2004, at 1:30 p.m. in the Administrative Hearings Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102. Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or notices of intervention, if any, must be filed with the Hearings Administrator at the previous address on or before June 2, 2004. Answers to petitions to intervene, if any, shall be filed on or before June 9, 2004.

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 Jeffrey Wallace, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-784. Filed for public inspection April 30, 2004, 9:00 a.m.]

Dunmore Oil Company, Inc.; Prehearing

**Appeal of Dunmore Oil Company, Inc. under the
Storage Tank and Spill Prevention Act;
Underground Storage Tank Indemnification Fund;
USTIF File No. 99-215(F); Doc. No. UT04-04-028**

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and any other relevant procedure provisions of law.

A prehearing telephone conference shall be held on June 2, 2004, at 1:30 p.m. Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or notices of intervention, if any, must be filed with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102 on or before May 25, 2004. Answers to petitions to intervene, if any, shall be filed on or before June 1, 2004.

A date for a hearing shall be determined, if necessary, at the prehearing/settlement telephone conference.

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 Jeffrey Wallace, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-785. Filed for public inspection April 30, 2004, 9:00 a.m.]

GE Life and Annuity Assurance Company; Requesting Authority to Increase Rates for Individual Standardized Medicare Supplement Plan D; Rate Filing

GE Life and Annuity Assurance Company has filed for approval increased rates for its individual standardized Medicare supplement Plan D, form no. HMSPD96 PA. The filing requests an increase of 20% for all ages. The rate increase will impact about 4,567 policyholders in this Commonwealth, and produce additional annual Commonwealth premium income of approximately \$1.2 million. The requested effective date is as soon as administratively possible following approval.

Unless formal administrative action is taken prior to July 1, 2004, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department's website: www.ins.state.pa.us. To access the filing, select "Consumer Information" on the left side. Under "General Information," click on "Notices." The PDF copy is at the "Filing.pdf" link following the name of the filing.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Insurance Department's regional offices in Harrisburg, Philadelphia and Pittsburgh.

Interested parties are invited to submit written comments, suggestions or objections to Michael Gurgiolo, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, mgurgiolo@state.pa.us within 15 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-786. Filed for public inspection April 30, 2004, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68), in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice

and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Philadelphia and Pittsburgh, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Philadelphia Regional Office, Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of William and Donata R. Devenney, Jr.; file no. 04-280-00965; AAA Mid-Atlantic Insurance Group; doc. no. PH04-04-006; June 17, 2004, 10 a.m.

Appeal of Dorothy A. Billings; file no. 04-265-01237; Erie Insurance Exchange; doc. no. PH04-04-011; June 17, 2004, 11 a.m.

Appeal of Jim L. Roberts; file no. 04-280-01085; AAA Mid-Atlantic Insurance Company; doc. no. PH04-04-023; June 17, 2004, 3 p.m.

The following hearings will be held in the Pittsburgh Regional Office, Room 304 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Tyrone Artemus; file no. 04-308-70515; GEICO Casualty Company; doc. no. PI04-04-007; July 15, 2004, 9 a.m.

Appeal of Michael E. and Robin E. Williams; file no. 04-303-70624; Erie Insurance Exchange; doc. no. PI04-04-009; July 15, 2004, 10 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-787. Filed for public inspection April 30, 2004, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' policies. The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg and Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Richard Whary; file no. 04-188-02177; Farmers Mutual Insurance Company; doc. no. P04-04-012; May 19, 2004, 1:30 p.m.

The following hearings will be held in the Philadelphia Regional Office, Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Michael and Janet Papaila; file no. 04-210-01144; Nationwide Mutual Fire Insurance Company; doc. no. PH04-04-005; June 17, 2004, 9 a.m.

Appeal of David and Amy Harris; file no. 04-267-01154; Amica Mutual Insurance Company; doc. no. PH04-04-022; June 17, 2004, 2 p.m.

Each party may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to offer support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-788. Filed for public inspection April 30, 2004, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board leases will expire:

Allegheny County, Wine & Spirits Shoppe #9203, 3 Quaker Village Shopping Center, Leetsdale, PA 15056-1194.

Lease Expiration Date: March 31, 2005

Lease retail commercial space to the Commonwealth.

Proposals are invited to provide the Liquor Control Board with approximately 3,000 to 3,500 net useable square feet of new or existing retail commercial space along Route 65 in Leetsdale.

Proposals due: May 21, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: George Danis, (412) 565-5130

Butler County, Wine & Spirits Shoppe #1006, 340 Greater Butler Mart, Butler, PA 16001-3259.

Lease Expiration Date: March 31, 2005

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space within 1/2 mile of the Route 8 and Litman Road intersection in Butler Township.

Proposals due: May 21, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Thomas Deal, (412) 565-5130

Cambria County, Wine & Spirits Shoppe #1104, 101 Park Avenue, Cresson, PA 16630-1166.

Lease Expiration Date: April 30, 2005

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,500 net useable square feet of new or existing retail commercial space serving the Cresson area.

Proposals due: May 21, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Thomas Deal, (412) 565-5130

Cambria County, Wine & Spirits Shoppe #1118, Geistown Shopping Ctr., 2451 Bedford Street, Johnstown, PA 15904-1438.

Lease Expiration Date: April 30, 2005

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,600 net useable square feet of new or existing retail commercial space serving the Geistown area.

Proposals due: May 21, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Thomas Deal, (412) 565-5130

Delaware County, Wine & Spirits Shoppe #2305, 8 East State Street, Media, PA 19063.

Lease Expiration Date: August 31, 2004

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 to 10,000 net useable square feet of new or existing retail commercial space within a

2-mile radius of Eight East State Street, Media.

Proposals due: May 21, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128
Contact: James M. Bradley, (215) 482-9671

Indiana County, Wine & Spirits Shoppe #3202, 575 Philadelphia Street, Indiana, PA 15701-3901.

Lease Expiration Date: February 28, 2005

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space located on or near Philadelphia Street within the central business district of Indiana. The space should have tractor-trailer loading facilities.

Proposals due: May 21, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, State Office Building, Room 408, 300 Liberty Avenue, Pittsburgh, PA 15222
Contact: Thomas Deal, (412) 565-5130

Luzerne County, Wine & Spirits Shoppe #4025, Valley Plaza, Conyngham, PA 18219.

Lease Expiration Date: May 31, 2005

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,500 to 4,500 net useable square feet of new or existing retail commercial space along State Route 93 in Sugarloaf Township.

Proposals due: May 21, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Ronald Hancher, Jr., (717) 657-4228

Philadelphia County, Wine & Spirits Shoppe #5187, 450 N. 60th Street, Philadelphia, PA 19151.

Lease Expiration Date: 90-day status since March 1, 2001

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space within a 1-mile radius of 450 N. 60th Street, Philadelphia.

Proposals due: May 21, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128
Contact: James M. Bradley, (215) 482-9671

Sullivan County, Wine & Spirits Shoppe #5701, 121 W. Main Street, Dushore, PA 18614.

Lease Expiration Date: May 31, 2005

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 1,300 to 2,400 net useable square feet of new or existing retail commercial space within Dushore Borough.

Proposals due: May 21, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Ronald Hancher, Jr., (717) 657-4228

The Liquor Control Board seeks the following new site:

Philadelphia County, Wine & Spirits Shoppe #5115, Philadelphia.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,500 net useable square feet of new or existing retail commercial space in a 1-mile radius of the intersection of Baltimore Avenue and 58th Street, Philadelphia.

Proposals due: May 21, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128
Contact: James M. Bradley, (215) 482-9671

JONATHAN H. NEWMAN,
Chairperson

[Pa.B. Doc. No. 04-789. Filed for public inspection April 30, 2004, 9:00 a.m.]

PENNSYLVANIA INFRASTRUCTURE INVESTMENT AUTHORITY

Meetings Scheduled

The Fiscal Year 2004-2005 regular meetings and application cut-off dates of the Pennsylvania Infrastructure Investment Authority (PENNVEST) have been scheduled. Meetings of the PENNVEST Board of Directors will begin at 10 a.m. at the Governor's Residence, 2035 North Front Street, Harrisburg, PA.

Application Cut-Off Dates Board Meeting Dates

May 5, 2004	July 7, 2004
September 15, 2004	November 17, 2004
January 12, 2005	March 16, 2005

Funding applications must be received by 5 p.m. on the stated cut-off dates at the PENNVEST Office, 22 South Third Street, Harrisburg, PA 17101.

Persons requiring ADA accommodations at a Board meeting should contact Elaine Keisling, (717) 783-4494, akeisling@state.pa.us.

PENNVEST and the Department of Environmental Protection have scheduled public meetings for 2 p.m. on July 7, 2004, November 17, 2004, and March 16, 2005, in the 2nd Floor Auditorium, Rachel Carson State Office Building, 400 Market Street, Harrisburg.

The meetings are scheduled for the purpose of advising the public regarding revisions to the FY 2003-2004 Clean Water State Revolving Fund (CWSRF) and Drinking Water State Revolving Fund (DWSRF) Project Priority List and Intended Use Plan and the impact of PENNVEST Board decisions on the funding of these projects for the July 7, 2004, meeting, FY 2003-04 Revised CWSRF and FY 2003-04 DWSRF for the November 17, 2004, meeting and FY 2003-2004 for the March 16, 2005, meeting.

Persons requiring ADA accommodations should contact Tony Maisano, (717) 787-6744, amaisano@state.pa.us.

PAUL K. MARCHETTI,
Executive Director

[Pa.B. Doc. No. 04-790. Filed for public inspection April 30, 2004, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Extension of the Fuel Cost Recovery Surcharge Special Permission 28207

Public Meeting held
April 15, 2004

Commissioners Present: Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzingrilli; Wendell F. Holland

*Extension of the Fuel Cost Recovery Surcharge Special
Permission 28207*

Order

By the Commission:

Tristate Household Goods Conference, Inc. (Tristate), a tariff publishing agency, represents approximately 275 PUC household good carriers. Tristate filed on March 15, 2004, to extend the current Fuel Cost Recovery Surcharge approved in a Public Meeting held April 17, 2003, for duration of 1 year unless changed, cancelled or extended. The current surcharge grants approval to temporarily increase the Tristate tariff to recover temporarily increased fuel costs when transporting household goods for moves more than 40 miles (weight and distance) and moves that are 40 miles or less (hourly) by the use of a Fuel Cost Recovery Surcharge.

In support of its proposed surcharge, Tristate has submitted data from the Department of Energy for the Central Atlantic Region. The March 2004 diesel prices are \$1.736 and remain 28% higher than the March 2002 diesel prices of \$1.355.

The United States Department of Transportation has responded to the escalating fuel costs for interstate transportation by approving a fuel surcharge on a similar sliding scale. The Federal Fuel Surcharge became effective May 15, 2000, and continues to be in effect.

Based on our review, it appears that the extension of the Fuel Cost Recovery Surcharge for transportation of household goods is an appropriate means to address this regulatory problem and will result in just and reasonable rates. To prevent financial hardship it is imperative that household goods carriers in this Commonwealth be afforded an opportunity to temporarily adjust rates to offset escalating fuel costs using the proposed extended Fuel Cost Recovery Surcharge and, accordingly, we shall allow the proposed extended surcharge to become effective for a period of 1 year unless changes, cancelled or further extended. *Therefore,*

It Is Ordered That:

1. Tristate members rendering service under authority of this Commission shall charge a Fuel Cost Recovery Surcharge on transportation provided for over 40 mile charges and for 40 miles or less hourly charge in

accordance with all other tariff rules of this Commission. The Fuel Recovery Surcharge is to be extended effective April 18, 2004.

2. The Extended Fuel Recovery Surcharge shall be in effect for 1 year to April 18, 2005, unless changed, cancelled or further extended by the Commission.

3. Copies of this order shall be served by the Secretary to the Office of Consumer Advocate and Office of Small Business Advocate. The Secretary shall forward this Order to the *Pennsylvania Bulletin* for publication.

4. Each carrier shall post a copy of this Extended Fuel Cost Recovery Surcharge along with the original Fuel Cost Recovery Surcharge dated April 17, 2003, in a conspicuous place. In addition, each carrier shall include the surcharge as a separate line item of the Estimate of Charges provided to prospective shippers.

5. The rates collected to the Extended Fuel Cost Recovery Surcharge are subject to refund in the event that any formal complaints are filed, within 30 days of the date of publication of this order, and are successful in challenging the surcharge.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-791. Filed for public inspection April 30, 2004, 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 May 24, 2004. 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-00120669. Mabel and Eli Herr, Jr., (974 Sensenig Road, Ephrata, Lancaster County, PA 17522)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, between points in the County of Lancaster, and those points in Chester County, located west of Route 10, and from points in said territory, to points in Pennsylvania, and return.

A-00120667. Kevin D. Morse t/d/b/a Touch of Class Limousine (R. R. 1, Box 287, Rome, Bradford County, PA 18837)—persons in limousine service, between points in the County of Bradford, and from points in said county, to points in Pennsylvania, and vice versa.

Application of the following for approval of the additional right and privilege of operating motor

vehicles as common carriers for transportation of persons by transfer of rights as described under the application.

A-00113582, F.3. Concord Limousine, Inc. t/d/b/a Concord Coach Taxi (2752 Mt. Carmel Ave., Glenside, Montgomery County, PA 19038), additional right—persons in airport transfer service: (1) from the Lehigh Valley International Airport in the Township of Hanover, Lehigh County, to points in Pennsylvania east of U. S. Highway Route 15, and vice versa, right 1 subject to the following condition: that no person shall be transported from points in the said territory to the Lehigh Valley International Airport who are farther than 35 air miles from the said airport; and (2) persons, who are passengers from diverted flights or who are stranded passengers, from the Lehigh Valley International Airport, in the Township of Hanover, Lehigh County, to any other airport located in Pennsylvania; which is to be a transfer of the rights authorized under the certificate issued at A-00116101, F.4 to Airport Taxi Limousine and Courier Service of Lehigh Valley, Inc., subject to the same limitations and conditions. *Attorney:* Jeffrey Killind, 42 South 15th Street, Suite 811, Philadelphia, PA 19102.

Applications of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of household goods as described under each application.

A-00120666. Twins Moving and Storage Co., Inc. (14 A 53 Road Street, Brooklyn, NY 11232), a corporation of the State of New York—household goods in use, between points in the Counties of Fulton, Blair, Huntingdon, Perry, Franklin, Adams, York and Bedford, and from points in said counties, to points in Pennsylvania, and vice versa.

A-00120654. S & S Moving & Storage, Inc. (4318 Dover Drive, Morrisville, Bucks County, PA 19067), a corporation of the Commonwealth—household goods in use, between points in the Counties of Delaware, Chester, Montgomery and Bucks, and the City and County of Philadelphia, and from points in said territory, to points in Pennsylvania, and vice versa.

Complaint

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Alvin R. Emerson, III, t/d/b/a Teg's Executive Car Service of Pa.; Doc. No. A-00116131C

COMPLAINT

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That Alvin R. Emerson, III, t/d/b/a Teg's Executive Car Service of Pa., respondent, maintains a principal place of business at 252 East Market Street, Suite 377, West Chester, PA 19382.

2. That respondent was issued a Certificate of Public Convenience by this Commission on June 8, 2000, at Application Docket No. A-00116131.

3. That respondent has failed to maintain evidence of bodily injury and property damage liability insurance on file with this Commission.

4. That respondent, by failing to maintain evidence of insurance on file with this Commission, violated 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).

WHEREFORE, unless respondent causes its insurer to file evidence of insurance with this Commission within twenty days of the date of service of this Complaint, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission issue an Order which (1) cancels the Certificate of Public Convenience held by respondent at Docket No. A-00116131, for failure to maintain evidence of current insurance on file with the Commission, (2) orders such other remedy as the Commission may deem to be appropriate, which may include a fine and the suspension of a vehicle registration and (3) imposes an additional fine on the respondent.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
Wendy J. Keezel

NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this complaint within twenty days of the date of service, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty. Pursuant to 66 Pa.C.S. § 3301(a), the penalty could include a fine of up to \$1,000 for each violation, the revocation of your Certificate of Public Convenience, Contract Carrier Permit, or Brokerage license, or any other remedy as may be appropriate. Each day you continue to violate any regulation, direction, requirement, determination or order of the Commission is a separate and distinct offense, subject to additional penalties.

C. You may elect not to contest this Complaint by causing your insurer to file proper evidence of current insurance in accordance with the Commission's regula-

tions within twenty days of the date of service of this Complaint. The proof of insurance must be filed with the Secretary of the Commission at the address set forth in Paragraph A. Upon receipt of the evidence of insurance from your insurer, the complaint proceeding shall be closed. ACORD CERTIFICATES OF INSURANCE ARE UNACCEPTABLE AS EVIDENCE OF INSURANCE.

D. If you file an answer which either admits or fails to deny the allegations of the complaint, the Bureau of Transportation and Safety will request that the Commission enter an Order imposing a penalty (see Paragraph B). Should the Commission cancel your Certificate of Public Convenience, it may also impose an additional fine of up to \$1,000.

E. If you file an answer which contests the complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision. The judge is not bound by the optional penalty set forth in Paragraph B.

F. Alternative formats of this material are available, for persons with disabilities, by contacting the Insurance/Filing Unit at (717) 783-5933.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-792. Filed for public inspection April 30, 2004, 9:00 a.m.]

Telecommunications

A-310183F7018. Frontier Communications of Breezewood, Inc. and Sprint Communications Company, L. P. Joint petition of Frontier Communications of Breezewood, Inc. and Sprint Communications Company, L. P. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Frontier Communications of Breezewood, Inc. and Sprint Communications Company, L. P., by its counsel, filed on April 12, 2004, 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 Frontier Communications of Breezewood, Inc. and Sprint Communications Company, L. P. 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. 04-793. Filed for public inspection April 30, 2004, 9:00 a.m.]

Telecommunications

A-310183F7019. Frontier Communications of Canton, Inc. and Sprint Communications Company, L. P. Joint petition of Frontier Communications of Can-

ton, Inc. and Sprint Communications Company, L. P. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Frontier Communications of Canton, Inc. and Sprint Communications Company, L. P., by its counsel, filed on April 12, 2004, 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 Frontier Communications of Canton, Inc. and Sprint Communications Company, L. P. 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. 04-794. Filed for public inspection April 30, 2004, 9:00 a.m.]

Telecommunications

A-310183F7021. Frontier Communications of Lakewood, Inc. and Sprint Communications Company, L. P. Joint petition of Frontier Communications of Lakewood, Inc. and Sprint Communications Company, L. P. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Frontier Communications of Lakewood, Inc. and Sprint Communications Company, L. P., by its counsel, filed on April 12, 2004, 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 Frontier Communications of Lakewood, Inc. and Sprint Communications Company, L. P. 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. 04-795. Filed for public inspection April 30, 2004, 9:00 a.m.]

Telecommunications

A-310183F7020. Frontier Communications of Oswayo River, Inc. and Sprint Communications Company, L. P. Joint petition of Frontier Communications of Oswayo River, Inc. and Sprint Communications

Company, L. P. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Frontier Communications of Oswayo River, Inc. and Sprint Communications Company, L. P., by its counsel, filed on April 12, 2004, 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 Frontier Communications of Oswayo River, Inc. and Sprint Communications Company, L. P. 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. 04-796. Filed for public inspection April 30, 2004, 9:00 a.m.]

Telecommunications

A-310183F7007. Frontier Communications of Pennsylvania, Inc. and Sprint Communications Company, L. P. Joint petition of Frontier Communications of Pennsylvania, Inc. and Sprint Communications Company, L. P. for approval of an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Frontier Communications of Pennsylvania, Inc. and Sprint Communications Company, L. P., by its counsel, filed on April 12, 2004, 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 Frontier Communications of Pennsylvania, Inc. and Sprint Communications Company, L. P. 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. 04-797. Filed for public inspection April 30, 2004, 9:00 a.m.]

[Correction]

Water Service

An error occurred in a notice which appeared at 34 Pa.B. 2145 (April 17, 2004). The number in the heading

was incorrect. The correct version of the heading is as follows, with ellipses referring to the existing text of the notice:

A-210104F0050. Aqua Pennsylvania, Inc.

* * * * *

[Pa.B. Doc. No. 04-680. Filed for public inspection April 16, 2004, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Bids

The Philadelphia Regional Port Authority (PRPA) will accept sealed bids for Project #03-251.1, Roofing Investigation and Repairs, PRPA Facilities, until 2 p.m. on Thursday, May 20, 2004. The bid documents can be obtained from the Director of Procurement, PRPA, 3460 N. Delaware Avenue, 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available May 4, 2004. Additional information and project listings can be found at www.philaport.com. The cost of the bid document is \$35 (includes 7% Pennsylvania sales tax). The cost is non-refundable. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal opportunity laws and regulations.

A mandatory prebid job site meeting will be held on May 13, 2004, at 10 a.m. at the Tioga Administration Building, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 04-798. Filed for public inspection April 30, 2004, 9:00 a.m.]

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

Hearings Scheduled

Hearings have been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of claimants' requests concerning the indicated accounts.

The hearings will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

May 26, 2004	Sharon P. Delp (Change of Option)	1 p.m.
	Grace A. Ehlers (Denial of Waiver of Adjustment)	2:30 p.m.

Persons with a disability who wish to attend the listed hearings and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Marilyn Fuller-Smith, Assistant to the Executive

Director, (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JEFFREY B. CLAY,
Executive Director

[Pa.B. Doc. No. 04-799. Filed for public inspection April 30, 2004, 9:00 a.m.]

STATE EMPLOYEES' RETIREMENT BOARD

Hearings Scheduled

Hearings have been scheduled, as authorized by 71 Pa.C.S. Part XXV (relating to State Employees' Retirement Code), in connection with the State Employees' Retirement System's denial of Claimants' requests concerning the indicated accounts. Under 1 Pa. Code § 35.30 (relating to notice and action on petitions to intervene), May 14, 2004, has been established as the last date to file a petition to intervene in these cases.

The hearings will be held before a hearing examiner at the State Employees' Retirement System, 30 North Third Street, Fifth Floor, Harrisburg, PA 17101:

June 9, 2004	Donna Stimeling (Disability Retirement Benefits)	1 p.m.
June 16, 2004	Daniel T. Worley (Purchase of Service Credit)	1 p.m.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective

positions. The hearings will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 4 Pa. Code § 250.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JOHN BROSIUS,
Secretary

[Pa.B. Doc. No. 04-800. Filed for public inspection April 30, 2004, 9:00 a.m.]

STATE REAL ESTATE COMMISSION

**Bureau of Professional and Occupational Affairs v.
Zion Ben-Ami; Doc. No. 1314-56-02**

On March 11, 2004, the State Real Estate Commission (Commission) suspended for a minimum of 1 year real estate licenses RM-04733-C, RM-047333-B, RM-047333-A, AB-047333-A and RS-136817-A of Zion Ben-Ami.

A copy of the adjudication may be obtained by writing to Judith Pachter Schulder, Board Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represents the final Commission decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Commission with a copy of the petition for review. The Commission contact for receiving service of appeals is the previously named Commission counsel.

JOSEPH J. MCGETTIGAN,
Chairperson

[Pa.B. Doc. No. 04-801. Filed for public inspection April 30, 2004, 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



26

Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

B-54137. Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department:	General Services			
Location:	Harrisburg, Pa.			
Duration:	12/1/93-12/30/93			
Contact:	Procurement Division			
	787-0000			

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:
 Vendor Services Section
 717-787-2199 or 717-787-4705

REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

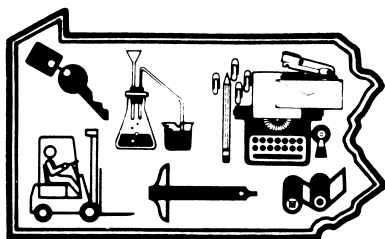
PA TREASURY BUSINESS OUTLET—PLUG INTO IT!

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

939722 Emissions Testing Card Reading Device. Readers are needed for 8 locations.

Department: Transportation

Location: Equipment Division, 17th Street and Arsenal Blvd., Harrisburg, PA 17120

Contact: Sherri Linen, (717) 787-3959

04036 KYDEX Protective Wallcovering or approved equal.

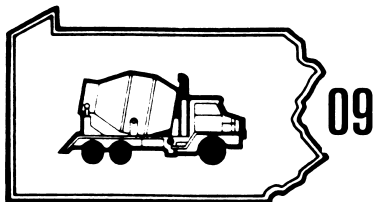
Department: Military Affairs

Location: PA Soldiers and Sailors Home, 560 East 3rd Street, P. O. Box 6239, Erie, PA 16512-6239

Duration: Notice to proceed ending June 30, 2004

Contact: Jenny Nowacinski, (814) 878-4930

SERVICES



Construction & Construction Maintenance

SU-2004-13 SU-2004/13: Old Main Exterior Painting. Shippensburg University of the State System of Higher Education invites General Contractors to request bid documents for this project. Work includes exterior painting the south elevation, west elevation, and mail room porch of Old Main. Prospective Bidders may obtain project plans by faxing request to Deborah K. Martin at 717-477-4004. Pre-Bid meeting with site visit immediately to follow will be held on May 5, 2004 at 10:00 AM in the Reed Operations Center Conference Room at Shippensburg University. Bids Due: May 19, 2004 at 4:00 PM, Old Main Room 300. Public Bid Opening: May 20, 2004 at 2:00 PM, Old Main Room 203A. Contracts, MBE/WBE apply. Non-Discrimination and Equal Opportunity are the policies of the Commonwealth and of the PA State System of Higher Education.

Department: State System of Higher Education

Location: Shippensburg University, Shippensburg, PA

Duration: 45 calendar days after receipt of Notice to Proceed

Contact: Deborah K. Martin, (717) 477-1121

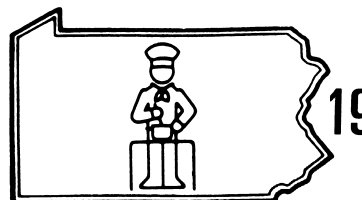
SU-2004.3 INVITATION TO BID - SHIPPENSBURG UNIVERSITY - SU-2004/3.2: Franklin Science Center New Fume Hood. Shippensburg University of the State System of Higher Education invites HVAC Contractors to request bid documents for this project. Work includes all HVAC, plumbing, piping, and electrical work to install two University furnished fume hoods. Prospective Bidders may obtain project plans for a non refundable fee of \$25.00, by contacting Joel Shumaker, P.E., at H.F. Lenz Co., 1407 Scalp Avenue, Johnstown, PA 15904; Telephone 814-269-9300 or FAX: 814-269-9301. Pre-Bid Meeting with site visit immediately to follow will be held on May 5, 2004 at 2:00 PM in Reed Operations Center Conference Room. Bids Due: May 19, 2004 at 4:00 P.M. Old Main Room 300. Public Bid Opening: May 20, 2004 at 2:00 P.M., Old Main Room 203A. Contracts, MBE/WBE and Prevailing Wages apply. Non-Discrimination and Equal Opportunity are the policies of the Commonwealth and of the PA State System of Higher Education.

Department: State System of Higher Education

Location: Shippensburg, PA

Duration: 45 calendar days after receipt of Notice to Proceed

Contact: Deborah K. Martin, (717) 477-1121



Food

CN00008492 Dairy Products.

Department: Public Welfare

Location: Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821

Duration: July 1, 2004 - December 31, 2004

Contact: Tina Robbins, (570) 271-4578

CN00008493 Miscellaneous Foods.

Department: Public Welfare
Location: Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821
Duration: July 1, 2004 - September 30, 2004
Contact: Tina Robbins, (570) 271-4578

CN00008494 Miscellaneous Meats.

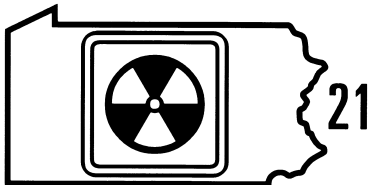
Department: Public Welfare
Location: Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821
Duration: July 1, 2004 - September 30, 2004
Contact: Tina Robbins, (570) 271-4578

CN00008495 Poultry.

Department: Public Welfare
Location: Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821
Duration: July 1, 2004 - September 30, 2004
Contact: Tina Robbins, (570) 271-4578

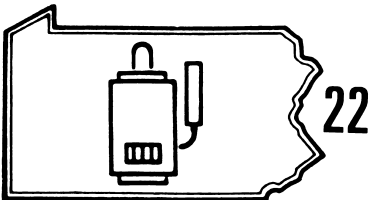
CN00008496 Frozen Vegetables.

Department: Public Welfare
Location: Danville State Hospital, 200 State Hospital Drive, Danville, PA 17821
Duration: July 1, 2004 - December 31, 2004
Contact: Tina Robbins, (570) 271-4578

**Hazardous Material Services**

SP1345041021 Vendor will remove and dispose all bio-waste in accordance with the Pa D.E.R. and all other applicable local, State, and Federal regulations on an "as needed" basis.

Department: Military Affairs
Location: Southeastern Veterans' Center, One Veterans' Drive, Spring City, PA 19475
Duration: July 1, 2004 through June 30, 2005
Contact: Patricia M. Urban, P.A. I, (610) 948-2448

**HVAC Services**

FM 8816 Provide emergency and routine repair work for the HVAC controls and Remote Monitoring System. Contractor to respond to call within four (4) hours of receipt, either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty of parts, where applicable, and further agree to guarantee workmanship and replacement parts provided by their firm for ninety (90) days. Materials and parts are to be billed at cost. Remarks: Bidding to be done on labor rate per hour for Mechanic and Helper plus travel. This is a controls only contract.

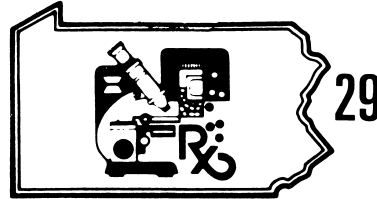
Department: State Police
Location: Pennsylvania State Police, Philadelphia Headquarters and Garage, 2201 Belmont Ave., Philadelphia, PA 19131-1698
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

FM 8818 Provide routine repair work for the heating, air conditioning, electrical, and plumbing systems. Contractor to respond to call within four (4) hours of receipt, either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty of parts, where applicable, and further agree to guarantee workmanship and replacement parts provided by their firm for ninety (90) days. Materials and parts are to be billed at cost. Remarks: Bidding to be done on labor rate per hour for Mechanic and Helper plus travel.

Department: State Police
Location: Pennsylvania State Police, Lancaster Headquarters and Garage, 2099 Lincoln Highway East, Lancaster, PA 17602-3384
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

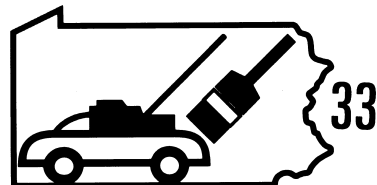
FM 8775 Provide emergency and routine repair work for the heating, air-conditioning, electrical, and plumbing system. Contractor to respond to call within four (4) hours of receipt, either directly or via a recording device. Replacement parts must be as originally installed or of equal quality and function. The contractor must agree to redeem manufacturer's warranty of parts, where applicable, and further agree to guarantee workmanship and replacement parts provided by their firm for ninety (90) days. Materials and parts are to be billed at cost. Remarks: Bidding to be done on labor rate per hour for Mechanic and Helper plus travel.

Department: State Police
Location: Pennsylvania State Police, Philadelphia Headquarters and Garage, 2201 Belmont Ave., Philadelphia, PA 19131-1698
Duration: July 1, 2004 through June 30, 2007
Contact: Helen Fuhrman, (717) 705-5952

**Medical Services**

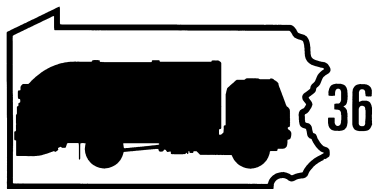
1345041022 Consultant vendor shall supply the services of fill-in Licensed Pharmacist(s) and/or Pharmacy Technician(s) on an as-needed basis. All agency staff members supplied will be familiar with the services provided by pharmacy staff in a long-term care facility. Services will be utilized to fill in during absences of the facility full time pharmacist(s) and/or technician(s) due to illness, vacation, and/or other unforeseen circumstances. Duties will include, but not be limited to, monthly drug regimen review, daily prescription filling and checking, and providing drug information as requested or required by other departments and/or staff members involved in the day-to-day care of our resident veterans. Bidding agencies must possess and maintain a current license to operate a professional licensed staffing agency. All bidders must have a vendor number with the Commonwealth of PA in SAP. Please visit www.state.pa.us and use keyword Imagine PA to register for a vendor number prior to requesting a bid packet. Bid opening date tentatively scheduled for May 24, 2004.

Department: Military Affairs
Location: Southeastern Veterans Center, One Veterans Drive, Spring City, PA 19475
Duration: Contract shall be written for a period of one (1) year. There will be an option to renew for one (1) year increments, with a maximum of four (4), one (1) year, renewal options available.
Contact: Joan A. Gutchen, MHS, PA3, (610) 948-2492

**Property Maintenance**

62-0076B West Chester University of Pennsylvania of the State System of Higher Education invites interested contractors to submit sealed proposals for: 62-0076B Killinger Hall Window Blinds. Sealed proposals will be received at Construction Procurement Office, West Chester University, 201 Carter Drive, Suite 200, West Chester, PA 19383. Bids must be time stamped no later than 11:00 a.m. on the date of bid opening. The Project consists of: Provide all labor, material, tools, equipment and supervision necessary to install window blinds in the windows of the student residence building, Killinger Hall, 115 W. Rosedale Ave., West Chester, PA 19383. Opening Date and Time: May 18, 2004 at 11:00 a.m. Cost Range: \$25,000.00 - \$35,000.00. Project Schedule: Installation of the window blinds shall take place from August 2, 2004 through August 13, 2004. Plans and specifications are available from the Construction Procurement Office at West Chester University. Please fax your written request on company letterhead to 610-436-2720. Identify your complete company name, address, phone number, fax number, contact person and e-mail. If you would like the bid package sent via Next Day Delivery service, please provide your UPS or Fed EX Account number. To arrange to pick up the bid package, please contact Barb Cooper at 610-436-2706 or via e-mail at bcooper2@wcupa.edu.

Department: State System of Higher Education
Location: West Chester, Pennsylvania
Duration: Installation of the window blinds shall take place from August 2, 2004 through August 13, 2004
Contact: Barbara A. Cooper, (610) 436-2706

**Sanitation**

SP1345041020 Vendor will remove and dispose all waste in accordance with the Pa D.E.R. and all other applicable local, state, and federal regulations on an "as needed" basis.

Department: Military Affairs

Location: Southeastern Veterans' Center, One Veterans' Drive, Spring City, PA 19475

Duration: July 1, 2004 through June 30, 2005

Contact: Patricia M. Urban, P.A. I, (610) 948-2448

[Pa.B. Doc. No. 04-802. Filed for public inspection April 30, 2004, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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DONALD T. CUNNINGHAM, Jr.
Secretary

RULES AND REGULATIONS

Title 7—AGRICULTURE

DEPARTMENT OF AGRICULTURE

[7 PA. CODE CHS. 138, 138e AND 138l]

Agricultural Area Security Program; Agricultural Conservation Easement Purchase Program; Agricultural Security Area Program

The Department of Agriculture (Department) deletes Chapter 138, amends Chapter 138e (relating to agricultural conservation easement purchase program) and adds Chapter 138l (relating to agricultural security area program) to read as set forth in Annex A.

Statutory Authority

The Agricultural Area Security Law (act) (3 P. S. §§ 901—915) provides the legal authority for this final-form rulemaking. Section 15 of the act (3 P. S. § 915) requires the Department to promulgate regulations necessary to promote the efficient, uniform and Statewide administration of the act.

Purpose

The final-form rulemaking accomplishes several regulatory objectives.

First, it replaces the outdated regulations in Chapter 138 with Chapter 138l that: (a) more accurately tracks with the act; (b) reflects the experience the Department has gained in administering Chapter 138 over many years; (c) implements the numerous amendments that have been made to the act over the years; and (d) provides the regulated community with a more user-friendly set of standards and procedures with respect to agricultural security areas (ASA).

Second, it revises Chapter 138e to: (a) reflect various amendments of the act—most recently by the act of May 30 2001 (P. L. 103, No. 14) (Act 14); and (b) reflect the experience the Department has gained in administering the Agricultural Conservation Easement Purchase Program and Chapter 138e since it was last amended.

Need for the Final-Form Rulemaking

The final-form rulemaking is clearly needed. As previously explained, it implements various revisions to the act that have occurred since the ASA and agricultural conservation easement regulations were last amended. In addition, it contains provisions intended to resolve questions and “gray areas” encountered by the Department in its administration of these regulations over the years. It also formally implements a number of effective informal procedures that have evolved over the years. The Department is satisfied of the need for the final-form rulemaking.

Comments

Notice of proposed rulemaking was published at 32 Pa.B. 775 (February 9, 2002) and provided for a 30-day public comment period.

Comments were received from the Independent Regulatory Review Commission (IRRC); Senator Mike Waugh, Chairperson of the Senate Agriculture and Rural Affairs Committee; Representative Raymond Bunt, Jr., Chairperson of the House Agriculture and Rural Affairs Committee during the legislative comment period; the Pennsylvania Association of Realtors (Association); the Farm and

Natural Lands Trust of York County; the Pennsylvania Farm Bureau (Bureau); Christopher Hartman, Esq., Chairperson of the Agricultural Law Committee of the Pennsylvania Bar Association; the Pennsylvania Farmland Preservation Association (PFPA); the Bradford County Agricultural Land Preservation Board (Bradford County Board); the Lancaster County Agricultural Preserve Board (Lancaster County Board); the Lehigh County Agricultural Land Preservation Board (Lehigh County Board); and the York County Agricultural Land Preservation Board (York County Board).

Comment 1: The Lancaster County Board expressed general concern regarding the “subdivision” of a farm subject to an agricultural conservation easement. The act does not define the term “subdivision,” although it prescribes a process by which an owner of farmland under agricultural conservation easement must obtain county board and State Agricultural Land Preservation Board (State Board) approval to subdivide the restricted land.

Section 138e.3 (relating to definitions) defined “subdivision” in much the same way it is defined in Pennsylvania Municipalities Planning Code (53 P. S. §§ 10101—11201). In simple terms, this definition describes the acquisition of a new legal right to sell something less than the entirety of a larger tract. For example, where the owner of a 50-acre tract seeks to acquire the legal right to divide the tract into 25 2-acre parcels and sell each of those parcels, he must go through the “subdivision” process.

The Lancaster County Board would prefer the term “subdivision” mean the transfer of anything less than all of the land described in a single deed of agricultural conservation easement.

The following illustrates the Lancaster County Board’s point: A landowner might combine a number of separately deeded tracts into a single application for the sale of an agricultural conservation easement. For illustrative purposes, assume a 5-acre tract, a 10-acre tract, a 50-acre tract and a 100-acre tract are combined on a single application seeking to sell an agricultural conservation easement with respect to the entire 165 acres. After the easement is sold, assume the landowner seeks to sell the 5-acre tract to a third party. The current definition of “subdivision” does not address this proposed sale, and the subdivision review described in the act would not be required. By contrast, if a single 165-acre tract was the subject of an agricultural conservation easement, the subdivision review described in the act would be required if the landowner sought to convey anything less than the entire 165-acre tract.

The Lancaster County Board’s point is that although the act uses the term “subdivision,” the term should be interpreted as meaning “the transfer of anything less than the entirety of the acreage described in a single deed of agricultural conservation easement.”

The commentator acknowledges that it might be necessary to address this situation by amending the act, rather than the regulations, and encourages the Department to do something to address this problem.

Response: The commentator’s point is well taken. The Department agrees the use of the undefined term “subdivision” in the act presents the potential problems described by the commentator, but believes a statutory amendment is the procedure by which this problem must be rectified. The Department has drafted proposed statu-

tory language to require advance county and State Board approval of any transaction which would result in the sale of anything less than the entirety of the acreage described in a single deed of agricultural conservation easement, and plans to pursue this revision.

Comment 2: Proposed § 138e.11(d) (relating to general requirements) would require a county agricultural land preservation program to contain provisions addressing the participation of a local government unit in the agricultural conservation easement purchase process. The York County Board recommended additional language be added to specify that any easement purchase in which a local government unit seeks to acquire the easement as a joint owner with a county or the Commonwealth be subject to the same eligibility and ranking standards that would apply if the local government unit was not involved in the transaction.

Response: Section 14.1(b.1)(4) of the act (3 P. S. § 914.1(b.1)(4)) requires that an agricultural conservation easement purchase involving local government unit participation be made under the same criteria applied by a county in all of its agricultural conservation easement purchase transactions. Since proposed § 138e.11(d)(4) referenced this statutory requirement, the Department does not believe the additional language recommended by the commentator is necessary.

Comment 3: The Lehigh County Board reviewed proposed § 138e.16 (relating to minimum criteria for applications), and asked whether it is correct in its interpretation that there is no authority for a county board to acquire an agricultural conservation easement with respect to a tract of farmland that straddles the line between the purchasing county and an adjoining county, with part of the land being within an ASA established within the purchasing county and part being of the land being within a different ASA organized in the adjoining county.

The Pennsylvania Farmland Protection Association offered essentially the same comment as the Lehigh County Board. Both commentators conceded that the language in proposed § 138e.16 derives from language added to the act by Act 14.

The Lehigh County Board offered a revision to proposed § 138e.16(a)(1)(i) to allow a tract with land located in "one or more" ASAs of 500 acres or more to be considered for easement purchase. The commentator offered a related comment with respect to proposed § 138e.61 (relating to application).

Response: The interpretation offered by the Lehigh County Board is correct. Act 14 revised section 14.1(b)(2)(i)(B) of the act to prescribe specific conditions under which an agricultural conservation easement can be purchased with respect to a tract of land that straddles county boundary lines, but only allows this type of purchase where the portion in one of the counties "is not within an agricultural security area." For this reason, the Department cannot implement the revision offered by the Lehigh County Board.

Comment 4: Representative Bunt suggested that proposed § 138e.16(a)(2) be revised to decrease the minimum number of contiguous acres necessary for a tract of land to be eligible for agricultural conservation easement purchase. The current provision requires at least 50 contiguous acres. Representative Bunt proposes this be reduced to 25 acres. In support of his proposal, Representative Bunt noted proposed § 138e.255(b)(3)(i)(B) (relating to State Board review of applications) would allow

the Department to reimburse a portion of the costs incurred by a land trust in the acquisition of an agricultural conservation easement on as few as 25 contiguous acres. The Representative also noted:

... there are a growing number of eligible counties receiving applications from productive farms which are less than 50 acres and are not adjacent to other preserved land. There are various situations and reasons why the farms remain productive on smaller areas of acreage, and why they will never qualify for state funding under the current regulations. . .

Response: The Department declines to implement the suggested decrease in the minimum amount of contiguous acreage necessary for a tract of land to be eligible for agricultural conservation easement purchase.

The Supplemental Agricultural Conservation Easement Purchase Program, in section 14.5(a)(3) of the act (3 P. S. § 914.5(a)(3)), dedicated up to \$500,000 "to reimburse land trusts for expenses incurred to acquire agricultural conservation easements," and limited this reimbursement to no more than \$5,000 per easement. The Department established the Land Trust Reimbursement Grant Program (Program) under this authority. Some time after the comment period for the proposed rulemaking expired, the Department amended the procedures and standards for the Program by deleting the requirement that an agricultural conservation easement acquired by a land trust be of any specific minimum acreage for the land trust to be eligible for reimbursement of a portion of its expenses under that Program. This revision was published at 33 Pa.B. 39 (January 4, 2003), and has been incorporated into the final-form rulemaking in § 138e.255(b)(3). This change does not substantively affect the Department's response to the comment.

The Department's basis for its position is as follows:

First: As a general rule, the larger the tract of land being considered for agricultural conservation easement purchase, the more likely that tract is to remain a viable, productive farm well into the future. The Department acknowledges there are exceptions to this general rule, but believes its role as a steward of the public funds available for agricultural conservation easement purchases under the act is best served by acquiring agricultural conservation easements on larger tracts of qualified land.

Second: The per-acre cost of preserving larger farms is, as a general principle, lower than the per-acre cost of preserving smaller farms. Smaller farms tend to be in areas facing the greatest development pressure, and this typically results in an increase in the appraised value (and purchase price) of an agricultural conservation easement.

Third: The typical agricultural conservation easement purchase transaction results in several thousand dollars of "incidental costs" (survey costs, appraisal costs, legal costs, filing fees, and the like). These costs are paid from the pool of money available for easement purchases. By way of illustration, the Department believes it would be better to incur incidental costs relating to a single 100-acre easement purchase than to incur four separate sets of incidental costs to preserve four 25-acre farms.

Fourth: Currently (and for the foreseeable future), the Agricultural Conservation Easement Purchase Program is a "buyer's market." There is a large backlog of owners of farms of 50 acres or more waiting for consideration of their applications to sell agricultural conservation easements. The Department believes that in the absence of a

shortage of applicants to sell agricultural conservation easements with respect to farms of 50 acres or more, it should not lower the 50-acre minimum standard. In fact, the current backlog of applications suggests it would not be unreasonable to increase the minimum acreage necessary for easement purchase to 75 or 100 acres. The Department is willing to revisit this issue if the day comes when there is a shortage of applications to sell agricultural conservation easements.

Fifth: The 25-acre-minimum standard referenced by the commentator has—since the close of the applicable comment period for the proposed rulemaking—been rescinded. The Program no longer requires that an agricultural conservation easement acquired by a land trust be of any particular minimum acreage for the land trust to be eligible for reimbursement of up to \$5,000 of the costs it incurred in acquiring the easement. The Department disagrees with the suggestion that the previous 25-acre minimum requirement (or the current absence of a minimum acreage requirement) under the Program should be equated with a determination by the Department that less than 50 acres is an acceptable minimum size for a farm being considered for agricultural conservation easement purchase. Under the Program, a land trust, rather than the Commonwealth or a county, is the holder of the easement. The purpose of the Program is to supplement the Commonwealth's agricultural conservation easement purchase effort by facilitating the acquisition of easements by private trusts on lands that might not ordinarily qualify for easement purchase under the act, but that enhance the overall agricultural conservation easement purchase effort. This is discussed in the response to Comment 5.

Comment 5: IRRC observed that proposed § 138e.16(a)(2)(i) references a 50-acre minimum standard for an agricultural conservation easement purchase, while proposed § 138e.255(b)(3)(i)(B) would require at least 25 acres of land be placed under agricultural conservation easement for a land trust to receive a donated easement to be eligible for reimbursement of part of its expenses in acquiring the easement. IRRC recommended the Department either “make both of these requirements 25 acres or explain why different standards are appropriate.”

Response: As described in the previous response, proposed § 138e.255(b)(3) has been revised by deleting the requirement that an agricultural conservation easement acquired by a land trust be of any particular minimum acreage for the land trust to be eligible for reimbursement under the Program. The reimbursement is for up to \$5,000 of the costs incurred by the land trust in acquiring the easement. This change does not substantively affect the Department's response to the comment.

A number of qualified land trusts recommended that the Program's minimum acreage requirements for grant eligibility be revised to include a broader range of agricultural conservation easements. This would include agricultural conservation easements that, although limiting the subject land to agricultural production in perpetuity, would not qualify for purchase by the Commonwealth, an eligible county or a local government unit (or some combination thereof) under the act. The Department heeded these suggestions and revised the minimum criteria for participation in the Program twice by: (1) reducing the original 50-acre minimum acreage to 25 acres; and (2) doing away with a minimum acreage requirement altogether. This approach allows eligible counties to coordinate with qualified land trusts in their farmland preservation activities and facilitate the acquisition of

agricultural conservation easements on tracts of land which—although not by themselves “economically viable for agricultural production” under the strict definition of that term—help create larger blocks of contiguous preserved farmland or otherwise further the eligible county's farmland preservation effort. The Department believes this approach is consistent with the statutory authority for the Program.

Comment 6: As part of its recommendation with respect to proposed § 138e.16, the Lehigh County Board recommended proposed § 138e.61 be revised to require the application for agricultural conservation easement sale to provide space for an applicant to designate whether the farm is located within more than one ASA.

Response: The Department cannot make the requested revision. There is only statutory authority for the purchase of an agricultural conservation easement on a tract of land that straddles county boundary lines where the portion in one of the counties is not within an ASA. This is discussed in the response to Comment 3. However, a county has the option to add additional information on the application for agricultural conservation easements to meet the needs and requirements of that particular county program. It is already permitted for additional space to be added for ASA designations. A county may request as much information as it deems necessary to evaluate an easement application.

Comment 7: Proposed § 138e.61(b)(2)(ii) would require a county board to provide a “breakdown of the acreage proposed for purchase in each local government unit and a breakdown of the number of acres of viable agricultural land in the acreage proposed for easement purchase in each local government unit” on an agricultural conservation easement purchase application. The Lancaster County Board questioned the relevance of this information and the purpose of the proposed requirement.

The commentator also asked whether the term “viable agricultural land” has been defined.

The commentator offered that the referenced language “appears to serve no valuable purpose and oddly enough the same has not been clearly specified in the following section addressing a farmland tract that is bisected by the dividing line between two or more counties.”

Response: The Department declines to revise the referenced subparagraphs. Proposed § 138e.61(b)(ii) and (iii) illustrates a distinction in the requirements that must be met with respect to a proposed agricultural conservation easement purchase on land that straddles the dividing line between two units of local government and an easement purchase on land that straddles the dividing line between two counties. Although the acreage information requested in proposed § 138e.61(b)(2)(ii) is necessary in the context of a proposed agricultural conservation easement purchase involving a tract that straddles lines between units of local government, it is not necessary in the context of a proposed easement purchase involving a tract that straddles county lines unless there is no mansion house on that tract.

Act 14 revised section 14.1(b)(2)(i)(B) of the act to allow for the purchase of agricultural conservation easements on land bisected by the dividing line between two units of local government where the portion of the land in one unit of local government is within an ASA and the portion within the other unit of local government is not. The “majority of the farm's viable agricultural land” must be located within the ASA for this purchase to proceed. The Department believes it is reasonable to require an appli-

cation for this type of easement purchase to specify the number of "acres of viable agricultural land" in each unit of local government in which the land is located. The transaction cannot proceed without the majority of the viable agricultural land being located within an ASA.

The Department differs with the commentator's assertion that proposed § 138e.61(b)(iii) does not clearly specify the circumstances under which the acreage and viable agricultural land information must be provided. This acreage information does not come into play unless there is no "mansion house" on the tract being considered for agricultural conservation easement purchase. For example, if a 100-acre tract straddles a county line, with 98 acres in county A and 2 acres in county B, and the mansion house is on that 2-acre portion, county B may purchase an easement on the entire 100-acre tract. The acreage of the viable agricultural land lying in county A and county B does not become important unless there is no mansion house. In a situation such as this, the majority of the viable agricultural land of the tract must be within the county that seeks to purchase the agricultural conservation easement. It is therefore reasonable for the Department to require a breakdown of these acreages in proposed § 138e.61(b)(ii)(C).

The commentator also asked whether the term "viable agricultural land" has been defined. The term is defined in section 3 of the act (3 P. S. § 903).

Comment 8: The Bradford County Board offered a comment with respect to proposed § 138e.65(b) (relating to easement value and purchase price). The proposed rulemaking deleted the \$10,000 per acre cap on the amount of State funds that can be used for the purchase of an agricultural conservation easement. The Bradford County Board believes this cap should remain in place, arguing the removal of the cap: (1) "severely challenges the cost-effectiveness of a program touted for the number of acres it preserves"; (2) is "contrary to addressing the pending backlog of applications" for sale of agricultural conservation easements; (3) appears to favor a minority of interests and locations; (4) facilitates the purchase of agricultural conservation easements in areas where agriculture and development are in competition, leading to higher easement prices and an increased potential for conflicts, easement violations and agriculture-related nuisance issues; (5) benefits eligible counties that already receive the greatest percentage of allocations and matching funds for agricultural conservation easement purchases; (6) creates a situation where "one (1) acre of farmland under extreme development pressure is being preserved at the expense of preserving seven to ten (7-10) acres elsewhere"; and (7) "decreases the ability to achieve an even distribution of agricultural conservation easements across the State."

Response: The commentator makes a number of valid points. The proposed amendment to § 138e.65(b) does nothing more than implement the statutory amendment in Act 14 that deleted the \$10,000 per acre purchase price cap from section 14.1(g) of the act. The Department has no discretion to establish through regulation a cap the General Assembly has rescinded through legislation. The county still has the ability to set a maximum per acre or a percentage cap if it is established in an approved county program.

Comment 9: The Department has, over the course of administering the Agricultural Conservation Easement Purchase Program effort, received suggestions that § 138e.68 (relating to title insurance) be revised to specify that the amount of title insurance coverage should

be at least equal to the appraised value of the agricultural conservation easement at the time of purchase.

Response: The Department has implemented this suggestion in the final-form rulemaking.

Comment 10: The York County Board, the Lancaster County Board, the Lehigh County Board, the Pennsylvania Farmland Protection Association, IRRC and Senator Waugh offered comments with respect to proposed § 138e.73 (relating to survey requirements).

The York County Board recommended the survey requirements proposed in § 138e.73 be reviewed by various survey firms to determine whether the firms have the technological ability to meet these standards and, if so, whether meeting these standards would require a significant increase in the cost of the survey.

The Lehigh County Board was also concerned with potential survey cost increases, and planned to run a "test case" with its surveyor to determine the extent of any increase. IRRC expanded on this cost issue, and asked the cost of a typical survey that would meet the requirements of the proposed rulemaking.

The Lehigh County Board, the York County Board and the Pennsylvania Farmland Protection Association expressed apprehension as to whether surveyors commonly have the global positioning gear necessary to provide the Geographic Information System information described in proposed § 138e.73, and as to the cost of acquiring this gear if they do not already have it. The Pennsylvania Farmland Protection Association requested clarification as to the type of global positioning equipment that would be necessary to obtain the +/- 2-meter horizontal accuracy for the two control points.

The York County Board also expressed agreement with the proposed language requiring surveys to be in compliance with standards published by the Pennsylvania Society of Land Surveyors, referring to these standards as efficient, cost-effective, uniform and user-friendly.

The Lehigh County Board related its general support for the proposed language requiring geo references (coordinates calculated using global positioning equipment) in boundary surveys and requiring more permanent monumentation for the two ground control points located along the boundary survey.

The Lehigh County Board, the Lancaster County Board and the Pennsylvania Farmland Protection Association expressed strong concerns relating to the cost of meeting the proposed survey requirements. The commentators also expressed concern regarding whether surveyors typically have the global positioning equipment that would be required for a survey to meet the proposed survey requirements.

The Pennsylvania Farmland Protection Association offered the suggestion the digital survey requirements be made optional, rather than mandatory.

Senator Waugh and Representative Bunt requested the Department carefully consider the various comments offered with respect to proposed § 138e.73.

Response: The Department gave careful consideration to the commentators' concerns and recommendations. As far as the requirements relating to global positioning equipment are concerned, the Department has deleted the specific requirement that global positioning system (GPS) coordinates be obtained, or that they be "accurate to within 2 meters horizontally." This deletion removes any potential significant cost increase with respect to the

collection of survey data. Coordinate values can be obtained by using relatively inexpensive GPS units, and these units are already in extensive use among surveyors.

The Department agrees with the Lehigh County Board concerning the need for more permanent monumentation for the two ground control points located along the boundary survey, and has revised proposed § 138e.73(c) to be more specific in this regard. These monumentation requirements are consistent with the current “Manual of Practice for Professional Land Surveyors in the Commonwealth of Pennsylvania,” (Manual).

The Department has also removed any reference to “unmovable” monumentation and the term “rebar.”

Comment 11: IRRC raised three questions with respect to proposed § 138e.73(a): (1) where the “standards published by the Pennsylvania Society of Land Surveyors” could be found; (2) how a person could determine whether these standards are the most current version of the standards; and (3) whether a survey conducted in accordance with these standards would be acceptable if—after the survey is conducted—the standards are revised so that the survey would not meet these revised standards.

Response: The Department is satisfied that land surveyors in this Commonwealth are quite familiar with the boundary survey measurement standards published by the Pennsylvania Society of Land Surveyors, 2040 Singleton Road, Suite 200, Harrisburg, PA 17110. The current standards are published in the Manual, which was adopted by the Pennsylvania Society of Land Surveyors on July 10, 1998. Proposed § 138e.73(a) has been revised to more specifically set forth this reference. Interested persons can obtain a copy of these standards through the Pennsylvania Society of Land Surveyors.

The Department expects surveying professionals to be familiar with the most recent version of these standards of practice. As an added precaution, however, it will notify administrators of county programs in the event it learns these standards are going to be or have been revised.

In the event the referenced standards change after the survey is completed and before the subject agricultural conservation easement is considered for approval by the State Board, the Department will consider the survey to be acceptable as long as—at the time the survey was done—it was completed in accordance with the standards that were in effect at that time.

Comment 12: IRRC reviewed proposed § 138e.73(c) and asked for clarification as to what would qualify as an “unmovable monument.” The commentator also recommended the phrase “reinforcing bar” be used in place of “rebar” in that subsection.

Response: The Department has removed both of these terms from the final-form rulemaking.

Comment 13: Proposed § 138e.91(1) (relating to recommendation for purchase) would require a county to submit 25 copies of a summary report to the Department. IRRC noted this creates a significant paper burden, and asked whether the need for this many copies is outdated and whether there is a practical means by which a county might provide this material electronically.

Response: Although the Department understands the desirability of reducing the amount of paperwork involved in an agricultural conservation easement purchase transaction, experience has shown these transactions are—of necessity—paperwork intensive. There are 17 members of the State Board, each of whom receives and reviews a copy of the documents described in proposed § 138e.91.

The additional eight copies are required for internal review by the Department (Bureau of Farmland Preservation administrators and staff, Deputy Secretaries and additional file copies).

There is not a practical means by which a county could provide the information described in proposed § 138e.91 electronically. The documents include maps, tables, appraisals, title insurance documents, IRS forms, letters, a conservation plan and, as required, a nutrient management plan. Although the Department will remain mindful of the need to reduce the paperwork burden on the regulated community wherever practicable, an agricultural conservation easement purchase transaction simply does not lend itself to an electronic filing format.

Comment 14: Proposed § 138e.91(8) would require that a copy of an approved conservation plan and a conservation plan agreement form be submitted to the Department as part of a county board’s recommendation of State Board approval of a particular agricultural conservation easement purchase. The York County Board, the Lancaster County Board, IRRC and Senator Waugh offered comments with respect to proposed § 138e.91(8).

The York County Board believes it is unreasonable to require this material prior to State Board review. Instead, the commentator proposes that a county board be required to submit a letter verifying that a conservation plan shall be completed and in place prior to settlement on the easement purchase transaction. The conservation plan and conservation plan agreement form could then be provided to the Department prior to settlement. The commentator believes this would help conservation and preservation officials prioritize their workloads. IRRC also made note of this comment, and requested an explanation of the need for a fully-executed conservation plan agreement at this point in the agricultural conservation easement purchase process.

The York County Board also believes the proposed requirements would result in some counties not being able to submit these required materials in time to meet year-end deadlines for the encumbrance of funds by the Department for agricultural conservation easement purchases.

The York County Board also notes that the type of conservation plan required in York County is the “Resource Management Plan,” and suggested the final-form rulemaking provide more detail as to what constitutes an acceptable conservation plan.

The Lancaster County Board questions the need for the proposed conservation plan agreement form, and whether the requirement would be legal. The commentator offered that “frequently it is the tenant farmer who is farming the ground and has the Conservation Plan for the subject property,” and suggested the conservation plan agreement form would be “another piece of paper that may or may not be useful.”

IRRC noted the proposed subsection would reference a “conservation plan agreement form as described in § 138e.222(a) . . .” and that § 138e.222(a) (relating to conservation plan) does not specifically mention this form. IRRC recommended these provisions be reconciled.

Senator Waugh and Representative Bunt requested the Department carefully consider the various comments offered with respect to proposed § 138e.91(8).

Response: The regulatory requirement that there be a written conservation plan, and that it be submitted along with the other materials in support of a county board’s

recommendation that the State Board approve a particular agricultural conservation easement purchase, exists under the current regulation and is not proposed as a new requirement. Although the Department has revised proposed § 138e.91(8) by deleting the requirement that a fully-executed conservation plan agreement form be part of the submittal described in the preceding sentence, it declines to revise the requirement that the conservation plan, itself, be part of the submittal. Given that the decision to purchase an agricultural conservation easement is largely premised upon the quality of the soil on the land that would be subject to the easement, the Department believes it makes good sense for it to have a conservation plan in-hand as part of the materials to be reviewed by the State Board in considering whether to purchase the easement in the first place. The implementation of the conservation plan on land that is subject to an agricultural conservation easement is perhaps the ultimate protection of the public's investment in that easement.

The final-form rulemaking still requires that a conservation plan agreement form be executed and recorded with respect to each agricultural conservation easement purchase transaction, but does not require this document until settlement. Proposed § 138e.93 (relating to postsettlement recording and reporting procedures) and § 138e.222 have been revised to implement this change.

The Department's experience has been that the most common violations of the terms of a deed of agricultural conservation easement relate to the failure of a landowner to fully-implement the conservation plan or required nutrient management practices. These violations are almost always unintentional oversights on the landowners' part, and are readily corrected. The number of these unintentional violations suggests that the regulation should attempt to place greater emphasis on the importance of fully-implementing conservation plans.

A typical conservation plan, which is prepared by the United States Department of Agriculture—Natural Resources Conservation Service (USDA-NRCS) and approved by the local conservation district, does not contain a formal written acknowledgment on the landowner's part that he will fully-implement all of the conservation measures recommended in the plan. The Department believes that by obtaining this formal written acknowledgment—the conservation plan agreement form described in proposed § 138e.222—the number of unintentional violations relating to failure to implement conservation plans will decrease and the owners of land subject to agricultural conservation easements will have a better understanding of their responsibilities. The Department is aware that several county programs (including Chester County) have taken a similar approach to that proposed by the Department, and that this approach has met with success in reaching the objectives described in the preceding sentence.

The Department understands that the Chester County Agricultural Land Preservation Program currently requires the recording of a conservation plan agreement form as part of the settlement on an agricultural conservation easement purchase transaction, and believes this is a good approach that should be implemented State-wide.

The Department also gave thought to whether the regulatory requirements with respect to conservation plans impose too great a burden and would cause counties to miss year-end deadlines for the encumbrance of funds available for agricultural conservation easement

purchases. As previously stated, the requirement of a conservation plan is not new. The USDA-NRCS and the local conservation district are the entities that, respectively, prepare and approve conservation plans. The Department conducted an informal survey among the USDA-NRCS field offices with the largest conservation planning workloads. It was the unanimous opinion of the USDA-NRCS district conservationists that the conservation plan can be completed in accordance with the requirements of the final-form rulemaking. The State resource conservationist for the USDA-NRCS concurred with this opinion. USDA-NRCS field personnel stressed that as soon as the application ranking process is complete and a county board prioritizes its planned agricultural conservation easement purchase recommendations, the USDA-NRCS should be notified and should begin preparation of the conservation plan. If this timetable is kept, the USDA-NRCS would typically have approximately 1 year within which to complete the conservation plan before the county board is ready to submit its easement purchase recommendation to the Department in accordance with proposed § 138e.91. Given this time period, the USDA-NRCS expressed confidence it can complete conservation plans within sufficient time to avoid delaying the progress of an agricultural conservation easement purchase application through the regulatory process.

As to the York County Board's suggestion that the final-form rulemaking contain more detail as to the contents of a conservation plan, the Department believes the definition of "conservation plan" in § 138e.3 and the references to conservation plans in § 138e.222 provide adequate detail and guidance in this regard.

The Lancaster County Board is correct when it notes that it is not uncommon for land that is subject to an agricultural conservation easement to be farmed by tenant farmers, rather than the landowners. Even when this is the case, the Department believes it is the landowner who is ultimately responsible for implementation of the conservation plan.

Comment 15: The Association expressed concern that smaller counties or rural counties might not have the administrative capacity to comply with the postsettlement recording and reporting procedures set forth in proposed § 138e.93.

Response: Although § 138e.93 is a new, it does not (with the exception of the conservation plan agreement form described in the response to Comment 14) impose requirements that are new or different. Eligible counties have been following these procedures since the inception of the Commonwealth's Agricultural Conservation Easement Purchase Program without raising a complaint concerning administrative or financial burdens. In addition, the postsettlement recordings are normally carried out by the settlement agent, placing no burden on the county staff.

Comment 16: The Lancaster County Board offered several comments with respect to proposed § 138e.93. IRRC joined in several of these comments.

First, the Lancaster County Board reviewed subsection (a) and asked what purpose is served by the proposed requirement that the county retain copies of various essential documents of the agricultural conservation easement purchase transaction. The commentator believes this might be a redundant or unnecessary requirement, and sought the Department's rationale for this provision.

Second, the Lancaster County Board recommended proposed subsection (d)(1)(iii) be revised to address the

possibility a settlement agent might not require a settlement sheet at the settlement on an agricultural conservation easement purchase transaction. The commentator offered language for the recommended revision. IRRC offered its agreement with the commentator on this point.

Third, the Lancaster County Board suggested proposed subsection (d)(1)(iv) be revised to address the possibility the actual title insurance policy—as opposed to a marked-up title insurance commitment—might be available immediately after settlement. IRRC offered its agreement with the commentator on this point.

Fourth, the Lancaster County Board questioned whether it is necessary for a county board to provide the Department certified copies of the recorded deed of agricultural conservation easement and other documents referenced in proposed subsection (e).

Response: The Department offers its response to the correspondingly-designated paragraphs of the comment:

First, the Department believes that the essential documents of the agricultural conservation easement purchase transaction should be retained for a subsequent audit (whether by county, State or Federal entities). In addition, these documents might comprise important evidence in the event the county must go to court to correct a violation of the terms of an agricultural conservation easement or address a title issue. The county board has primary enforcement authority with respect to these easements, and should retain the documents potentially necessary to its performance of that responsibility.

Second, the Department agrees that proposed § 138e.93(d)(1)(iii) should be revised to address the possibility a settlement agent might not require a formal settlement sheet at the settlement on an agricultural conservation easement purchase transaction. The referenced provision in the final-form rulemaking has been revised to implement the Lancaster County Board's suggested revision.

Third, the Department agrees proposed § 138e.93(d)(1)(iv) should be revised to address the possibility the title insurance policy might be available immediately after settlement. The suggestion has been implemented in the final-form rulemaking.

Fourth, the Department agrees with the commentator and has removed the word "certified" from the referenced subparagraph.

Comment 17: IRRC requested the Department explain what is intended by the use of the word "promptly" in proposed § 138e.93(b) and (c). The commentator also asked what happens if a local government unit fails to "promptly" record documents as required.

Response: The Department agrees to remove the term "promptly" from § 138e.93(b) and (c) in the final-form rulemaking.

Comment 18: The Lehigh County Board reviewed proposed § 138e.93(c). Subsection (e) would require a local governing body to promptly record the inclusion of land into an ASA if the land has been automatically incorporated into an ASA upon the purchase of an agricultural conservation easement, and report that recording to the county board. The commentator believes this provision will be difficult to enforce, since its experience has been that townships are frequently remiss in recording their ASAs in a timely fashion. The commentator asked what would happen to a township that failed to record an addition to its ASA. It also noted that some townships

might balk at having to pay for recording the addition of land located in another township or county in its ASA.

Response: The Department agrees, but notes that this recording is required under section 5(a.2)(2) of the act (3 P. S. § 905(a.2)(2)).

Comment 19: Proposed § 138e.102(h) (relating to allocation of funds to counties) would require an eligible county that seeks to purchase an agricultural conservation easement in its own name using State matching funds to provide a copy of the signed agreement of sale for the proposed transaction and a written certification from the county governing body confirming the availability of the specific amount of county matching funds necessary for the proposed purchase. Receipt of these two documents would result in the Department encumbering the State funds sought by the eligible county for the transaction.

The Lehigh County Board commented that the certification of available county matching funds for the transaction seems duplicative, since the county is already required to provide the Department an annual certification of the amount of county matching funds available for agricultural conservation easement purchases. This certification is described in § 138e.102.

The commentator suggested that if a second certification is necessary, it would be preferable if the certification could be issued by the county executive or chief fiscal officer. IRRC offered its agreement with the commentator on this point.

Response: The Department agrees with the commentator's suggestion and has deleted proposed § 138e.102(h) from the final-form rulemaking.

Comment 20: The Association reviewed proposed § 138e.104 (relating to installment sales). Section 5(a) of the act authorizes the Department to spend up to \$500,000 to acquire technical assistance to facilitate long-term installment purchases of agricultural conservation easements. The commentator asked whether the Department has a plan for the expenditure of this \$500,000 sum, and emphasized the sum should be used "solely for the purchase of easements and not for administrative purposes."

Response: The Department has used these funds to develop basic forms and a process for long-term installment purchases of agricultural conservation easements, but has declined to use any of these funds for its own administrative purposes. The entire \$500,000 sum has been spent or encumbered.

Comment 21: The Lehigh County Board suggested the first word of proposed § 138e.104(d)(5) should be "The" instead of "If." IRRC also recommended this provision be reworded for clarity.

Response: The Department agrees with the commentator and has implemented the suggestion in the final-form rulemaking.

Comment 22: The York County Board requested that language be added to proposed § 138e.201 (relating to responsibility) to clarify that the agricultural conservation easements for which a county board has inspection and enforcement responsibilities do not include easements purchased by private land trusts or local government units. The commentator suggested a county might elect to assume these responsibilities under a cooperative agreement detailing the conditions of inspection and enforcement.

Senator Waugh also requested the Department carefully consider the comments offered by the York County Board with respect to this section.

Response: The requested clarification has been added to § 138e.201(a)(1) of the final-form rulemaking.

Comment 23: IRRC reviewed proposed § 138e.202(a) (relating to inspections) and noted that where a tract of land is placed under agricultural conservation easement relatively late in the year it might be difficult for a county to comply with the proposed requirement that the initial inspection of the restricted land occur within sufficient time to be included in the annual report that must be submitted to the State Board by March 1 of the following year. IRRC asked whether the proposed inspection requirement would be practical under these circumstances.

Response: The Department agrees with the commentator and has revised the referenced provision accordingly.

Comment 24: Senator Waugh requested the Department consider revising proposed § 138e.204(a) (relating to enforcement) to address concerns raised informally by several county agricultural land preservation program directors outside of the formal comment process. These commentators recommended the subsection be revised to reflect that a county board might enter into agreements with local government units under which the county would enforce an agricultural conservation easement owned solely by the local government unit.

Response: The Department believes a county board is free to contract with a land trust to assume responsibility for enforcement of agricultural conservation easements acquired or owned by a land trust, but that this is properly the subject of contract between the county board and the land trust, rather than of this final-form rulemaking.

Comment 25: The Association considered proposed § 138e.222, and expressed concern over the long-term maintenance of agricultural conservation easements. The Association believes this provision "... does not specifically address remedies and/or penalties for violating a conservation plan agreement" and urged the Department to include these remedies and penalties in the final-form rulemaking.

Response: The Department believes § 138e.204 and § 138e.206 (relating to enforcement actions) adequately address the extent of the authority and procedure by which the terms of an agricultural conservation easement are to be enforced. The ultimate remedy for a violation of the terms of a Deed of Agricultural Conservation Easement or a conservation plan required under the terms of the easement sale is an action in the appropriate Court of Common Pleas seeking injunctive relief to abate the violation and restore the affected land. Primary enforcement responsibility lies with the County Agricultural Land Preservation Board. The act does not provide the Department authority to impose a monetary penalty on a landowner who violates the terms of a deed of agricultural conservation easement.

Comment 26: The Lancaster County Board offered comments with respect to the conservation plan and conservation plan agreement form referenced in proposed § 138e.91(8). Those comments are previously summarized and addressed. The commentator noted the referenced comments are also applicable to proposed § 138e.222.

Response: The Department has addressed this comment in response to Comment 14.

Comment 27: The Lehigh County Board considered proposed § 138e.222, and offered the following comment: "We feel the requirement for a signed conservation plan agreement and an approved conservation plan prior to State Board approval is a very good idea. We do need to make landowners more aware that good conservation will be a requirement for all land enrolled in the farmland preservation program!"

Response: The Department agrees with this comment, for the reasons stated in its response to Comment 14.

Comment 28: Senator Waugh and Representative Bunt requested the Department carefully consider the various comments offered previously with respect to proposed § 138e.222.

Response: The Department gave careful consideration to these requests from members of the Legislature, and has addressed this subject in its response to Comment 14.

Comment 29: Senator Waugh requested that the Department consider revising proposed § 138e.254(c) (relating to applying for a reimbursement grant) to address concerns raised informally by several county agricultural land preservation program directors outside of the formal comment process.

Response: The Department has deleted proposed § 138e.254(c)(4), which would have required that a soil report form accompany a reimbursement grant application. In addition, the Department has addressed the substance of these informal comments in responses to Comments 4 and 5.

Comment 30: Several comments were received with respect to proposed § 138e.255(b)(3)(i)(B).

At the time the comments were offered, the clause allowed a land trust to be reimbursed for up to \$5,000 of the expenses incidental to the acquisition of an agricultural conservation easement if the easement covered a tract of at least 25 acres. Although this minimum acreage figure had been 50 acres in previous guidelines for the Program, the guidelines were subsequently revised to lower this minimum acreage figure to 25 acres in the proposed rulemaking.

Some time after the comment period for the proposed rulemaking expired, the Department amended the procedures and standards for the Program by deleting the requirement that an agricultural conservation easement acquired by a land trust be of any specific minimum acreage for the land trust to be eligible for reimbursement of a portion of its expenses under the Program. This revision was published at 33 Pa.B. 39, and has been incorporated into the final-form rulemaking in § 138e.255(b)(3). This is explained in the responses to Comments 4 and 5. The final-form rulemaking would formalize this revision, and is expected to increase the number of easement purchases that qualify for reimbursement under the Program.

The Association commented that the Department should maintain the 50-acre minimum standards, and requested the Department's rationale for proposing to reduce the standard to 25 acres. As stated in the previous paragraph, the minimum acreage standard has since been eliminated altogether.

The Farm and Natural Lands Trust of York County supported the proposed 25-acre minimum standard. The commentator offered that many landowners "can not fully utilize the tax deduction created by a conservation easement due (to) the IRS code restriction on charitable deductions not exceeding 30% of adjusted gross income."

The commentator believes the proposed 25-acre standard would allow a landowner to realize the full extent of the favorable tax consequences that attend the donation of an agricultural conservation easement to a land trust by allowing for a series of smaller donations over several years.

The Pennsylvania Farmland Protection Association also registered its support for the proposed 25-acre minimum standard previously described, noting the preservation of "small farmland tracts can be very important in maintaining the agricultural integrity of areas targeted for farmland preservation."

Response: The Department has addressed this comment in its responses to Comments 4 and 5.

Comment 31: The Lehigh County Board expressed its general approval of proposed Chapter 138l, and offered several additional comments addressed.

Response: The Department accepts the comment.

Comment 32: Attorney Hartman offered the general comment that although the act and proposed Chapter 138l imply that an ASA is typically a single "unified area," in reality an ASA is "usually a smattering of properties throughout a municipality." The commentator believes this causes confusion in the interpretation of the act and the regulations.

Response: The commentator's observation is correct. An ASA need not be comprised of contiguous tracts, as long as any tract that is not contiguous to other tracts included in the ASA is comprised of at least 10 acres or has anticipated yearly gross income of \$2,000 from agricultural production. This is described in proposed § 138l.12 (relating to eligibility to propose the creation of an ASA). The Department is aware there has been confusion on this subject in the past, and expects the regulation will help reduce this confusion.

Comment 33: Attorney Hartman also offered the following general comment with respect to proposed Chapter 138l: "The term 'modification' is used in two respects with regard to ASAs. One is with respect to changes to ASA proposals; the other is with respect to changes to existing ASAs. This can be confusing. I would prefer 'modification' to refer only to proposals, and that the terms 'additions' or 'removals' would be used in the context of changes to existing ASAs."

Response: The Department believes the term "modification" adequately describes any change to an ASA, whether that change is an addition or removal of land. For this reason, the Department declines to implement the recommended change.

Comment 34: The Association raised several general questions regarding proposed Chapter 138l. First, the Association requested an explanation of what happens to an ASA when, through removal of parcels from the ASA, the total remaining acreage of the ASA is less than the required 250-acre minimum. Second, the Association asked how the Department determined there would be no fiscal cost involved in implementing the proposed rulemaking. Third, the Association asked: "What is the agricultural goal of Farmland Preservation?"

Response: In response to the first comment, an ASA is, by definition in section 3 of the act, a "unit of 250 or more acres." If an ASA loses acreage to the point it no longer contains 250 acres, it ceases being an ASA.

In response to the second comment, the Department determined there would be no new costs on the public,

the private sector, local government or State government as a result of the promulgation of proposed Chapter 138l because the proposed rulemaking does not require any of these entities to do any act or incur any expense it is not already required to incur under the act. To the extent there are costs associated with the creation and modification of an ASA, these costs are imposed by the act, rather than by regulation.

In response to the third comment, the Department assumes the question relates to the objective of the proposed rulemaking. The Department seeks to replace the long outdated and inadequate regulatory provisions regarding the creation, operation and termination of ASAs with a set of regulatory standards that tracks with statutory authority.

This Commonwealth leads the Nation in the number of acres preserved for agricultural production, and is looked to as a leader in this area. The Department seeks to retain this hard-earned status, and preserve as much quality farmland as resources allow.

The Department's priorities with respect to farmland preservation include the preservation of the best soils, including prime soils, soils of Statewide importance and soils in Land Capability Classes I—IV.

The Department also seeks to emphasize the importance of preserving blocks of farmland or clustering blocks of preserved farmland to sustain a stable agricultural economy in the farming community.

The Department also seeks to maintain this Commonwealth's ability to produce food, enhance production and the agricultural way of life.

It is not an objective of the Department's farmland preservation efforts to compete with development and growth.

Comment 35: Senator Waugh offered the suggestion that a new section be added to proposed Chapter 138l to explain the benefits a landowner might realize from having land within an ASA. The commentator noted the current § 138.3 describes these benefits, and that the Department proposes to rescind that provision without adding a similar provision to Chapter 138l. The commentator believes the referenced current regulatory language "is significant and imperative, and should be retained." The commentator also noted that the referenced current regulatory language is consistent with the protections afforded certain agricultural operations under the act of June 10, 1982 (P. L. 454, No. 133) (3 P. S. §§ 951—957). Senator Waugh offered proposed language through which the Department could implement his suggestion.

Response: The Department has implemented the commentator's suggestion in the final-form rulemaking by adding § 138l.4 (relating to benefits of having land within an ASA).

Comment 36: IRRC offered several comments with respect to proposed § 138l.1 (relating to definitions).

First, IRRC noted the section defines the terms "eligible counties," "planning commission" and "Secretary" in a manner that does not match the definition of these same terms in the act. The commentator requested the Department either justify its proposed language or revise these definitions to track with the act.

Second, the commentator recommended the definition of "economic viability of farmland for agricultural production" be reconfigured to include the reference to § 138e.16(a) at the beginning of the definition.

Third, the commentator noted the proposed definition of the term "interim review" contains the term itself, and suggested this be revised.

Response: In response to the first comment, the Department has revised the referenced definitions in the final-form rulemaking to read as they appear in the act.

In response to the second comment, the Department declines to revise the definition of "economic viability of farmland for agricultural production." This term is also defined in § 138e.3, is used extensively in the context of the Department's Agricultural Conservation Easement Purchase Program and has been adopted by most (if not all) eligible counties in their agricultural conservation easement purchase programs. On balance, the Department believes the recommended revision would not be so significant an improvement as to offset the problems and confusion that would be attendant to implementing this revision.

In response to the third comment, the definition has been revised as suggested by the commentator.

Comment 37: The Lehigh County Board reviewed proposed § 138l.13(a) (relating to ASA proposal form) and asked whether a governing body would have the right to designate open enrollment periods for additions to ASAs and refuse acceptance of applications at other times.

Response: The Department believes that although a local government unit might encourage applications to be submitted during particular periods, it may not require applications to be submitted during these periods. The act describes a timetable for review and action that begins when the governing body of a local government unit receives an application by certified mail with return receipt requested. This is found in section 5(a.1) of the act. The timetables for review and action on the application begin as of this official submission date. The Department does not believe that the act affords local government units the authority to refuse a properly-submitted application. A local government unit might, in the interest of keeping costs to a minimum or for administrative convenience, encourage applications to be filed during designated application periods.

Comment 38: Proposed § 138l.17(b)(2) (relating to local government unit action upon receipt of an ASA proposal) would require a local government unit to post notice of an ASA proposal in at least five conspicuous places within, adjacent to or near the proposed ASA. Attorney Hartman suggested the notice provision would be more effective if it required the notices be posted within, adjacent or near to the parcels being added to the ASA, and not within, adjacent or near to the existing portions of the ASA.

The commentator also described a situation where several noncontiguous parcels are being added to an existing ASA. In these instances, the commentator has advised his clients that a total of five notices must be posted, rather than five notices at each separate location of noncontiguous land to be included in the ASA. The commentator suggested this could be clarified in the final-form rulemaking.

Response: The Department is reluctant to revise the proposed rulemaking to specifically require that the referenced postings be made in proximity to the land being considered for inclusion in the ASA. The referenced regulatory language comes from section 5(b) of the act.

The Department believes the phrase "within, adjacent to or near the proposed ASA" in proposed § 138l.17(b)(2) provides adequate guidance as to the requirements for

posting the referenced notice, and declines to revise that language in the final-form rulemaking.

Comment 39: Attorney Hartman noted proposed § 138l.17(c)(3) would allow a person owning land within, adjacent to or near a proposed ASA or proposed ASA modification to offer a modification to the ASA proposal. The commentator believes the proposed language is more general than section 5(b)(3) of the act, and could be interpreted as allowing the referenced landowners to force the inclusion of another person's land in an ASA without the consent of the landowner. The commentator noted that if this were possible, then ASAs could be designed to look more like zoning districts, perhaps overlaying effective agricultural zoning districts.

Response: The Department believes the act and the regulations are sufficiently clear that a person cannot force the inclusion of another person's land in an ASA. Sections 5(a) of the act and 8(e) of the act (3 P. S. § 908(e)), respectively, make clear that "an owner or owners of land" may apply to include that land in an ASA and that participation in an ASA is available "on a voluntary basis to landowners . . ."

Comment 40: Attorney Hartman identified a typographical error in proposed § 138l.18(a)(1) (relating to public hearing by local government unit on ASA proposal).

Response: The Department has made the correction in the final-form rulemaking.

Comment 41: IRRC suggested that the term "person" in proposed § 138l.18(b)(ii)(A) be replaced with "landowner." IRRC noted this revision would make the final-form rulemaking more consistent with section 6(c) of the act (3 P. S. § 906(c)).

Response: The Department has implemented the suggested change in the final-form rulemaking.

Comment 42: IRRC reviewed the factors listed in proposed §§ 138l.19(b) (relating to decision of local government unit) and noted the list does not contain the reference to existing utilities found in the corresponding provision of the act (section 8(a)). IRRC recommended this reference be added to the final-form rulemaking.

Response: The Department has implemented the recommended change in the final-form rulemaking.

Comment 43: Attorney Hartman reviewed the factors listed in proposed § 138l.19(b) and § 138l.26(a) (relating to factors to be considered by the governing body of the local governing unit, the planning commission and the advisory committee) and asked why the factors are in two separate locations in the proposed rulemaking. The commentator suggested combining the referenced subsections.

Response: The Department believes it appropriate to maintain the two referenced subsections addressing review requirements. The factors identified in proposed § 138l.26(a) are factors to be considered by all reviewing entities, and are required by section 7(a) of the act (3 P. S. § 907(a)). The factors identified in § 138e.19(b) are factors to be considered by the local government unit, and include all of the factors listed in proposed § 138l.26(a), as well as the additional factors required by section 8(a) of the act.

Comment 44: Attorney Hartman reviewed proposed § 138l.20 (relating to notice of decision of the local government unit) and requested the Department more clearly identify the "affected" landowners to whom the notice described in § 138l.20 is to be provided.

Response: The Department believes the term “affected” is sufficiently specific in the context in which it is used in the proposed rulemaking. The Department is also apprehensive it could not craft a regulatory definition for this term that would be applicable in all instances. Although the typical person “affected” by a decision regarding an ASA proposal would be the person who submits it for consideration, there are circumstances where other landowners might have an interest in the decision. On balance, the Department is satisfied the term “affected” is as specific as the final-form rulemaking should be on this subject.

Comment 45: Attorney Hartman suggested the phrase “or as otherwise prescribed by the act” be deleted from proposed § 1381.21(b) (relating to effective date of the creation or modification of an ASA).

Response: The Department declines to implement this suggestion. The referenced phrase is intended to address the fact there would be lag time between an amendment of the act and a revision of the act’s attendant regulations. The referenced phrase is intended as a reminder that the language of the act shall prevail over the regulation.

Comment 46: The Lehigh County Board suggested proposed § 1381.22 (relating to filing of ASA description by governing body; recording of the ASA description) be revised to add the local farmland preservation office (if one exists) to the list of entities upon which a governing body is required to file an ASA description.

Senator Waugh requested the Department carefully consider the comments offered with respect to proposed § 1381.22.

Response: The Department has added language affording governing bodies of local government units the option to notify the office of the county board (if the county has a county board) of the creation or change in composition of an ASA. This language is added to § 1381.22(a)(4) of the final-form rulemaking.

Comment 47: Attorney Hartman noted that proposed § 1381.23 (relating to notification of secretary by governing body) makes reference to notices that are required upon termination of an ASA. The commentator suggested this subject be addressed later in the document, in Subchapter (D) or Subchapter (E) (relating to removing land from an existing ASA; and seven-year review and interim review) addressing termination of an ASA and removal of land from an ASA.

Response: Although the commentator’s point is well taken, the Department declines to implement the suggested change. The Department acknowledges there are repeated references to notification requirements throughout the proposed rulemaking. Given the importance of these requirements and the fact they have been frequently overlooked or ignored by governing bodies in the past, the Department believes it reasonable to repeat these requirements at every juncture in the proposed rulemaking where notification of the Department is necessary.

Comment 48: The Lehigh County Board suggested proposed §§ 1381.24 and 1381.25 (relating to planning commission action with respect to an ASA proposal; and advisory committee action with respect to an ASA proposal) and § 1381.26 should be renumbered as §§ 1381.18, 1381.19 and 1381.20, respectively. The commentator stated that this would “put the information in the sequence that the municipalities should follow after receiving an ASA proposal.”

Response: The Department understands the commentator’s point, but declines to rearrange the referenced sections. Subchapter B (relating to formation of an agricultural security area) groups the basic responsibilities of a local government unit in §§ 1381.18—1381.23 before addressing the responsibilities of the planning commission and the advisory committee. Although this format does not place the sections in strict chronological order, the Department believes this arrangement is clear and that any confusion can be resolved by reference to the list of sections in the subchapter.

Comment 49: Attorney Hartman identified a typographical error in proposed § 1381.24(b).

Response: The Department has made the correction in the final-form rulemaking.

Comment 50: Proposed § 1381.24(d)(2) requests an impact analysis from the noncounty planning commission, but not a recommendation. Attorney Hartman made note of this, and suggested “there should be a recommendation, as well as an impact analysis.” The commentator also acknowledged that the referenced provision follows the act.

Response: As the commentator acknowledges, the proposed regulatory language is consistent with section 5(d) of the act. Given this fact, the Department is reluctant to add a specific requirement that a recommendation accompany the impact analysis. The planning commission is free to include a recommendation as part of its impact analysis, but is not required under the act to do so.

Comment 51: Proposed § 1381.26(a)(3) requires that if land is subject to zoning restrictions it be “zoned so as to permit agricultural use.” Attorney Hartman asked whether land upon which a lawfully nonconforming agricultural use exists meets this requirement, and referenced the most recent amendments to the Pennsylvania Municipalities Planning Code.

Response: The Department believes land upon which a lawfully nonconforming agricultural use exists meets the referenced regulatory requirement. The Department notes that the regulation essentially restates section 7(a)(2) and (3) of the act.

Comment 52: Proposed § 1381.31(d) (relating to adding land to an existing ASA) provides that land being added to an existing ASA need not meet the same 250-acre minimum that would be required for the initial formation of an ASA. Attorney Hartman asked whether noncontiguous tracts of land being considered for inclusion into an existing ASA would have to meet the minimum acreage (10 acres) or minimum annual agricultural income (\$2,000) standards in proposed § 1381.12(4).

Response: The Department believes noncontiguous tracts of land being considered for inclusion into an existing ASA would have to meet the minimum acreage (10 acres) or minimum annual agricultural income (\$2,000) standards in proposed § 1381.12(4).

Comment 53: The Lehigh County Board requested proposed § 1381.32 (relating to automatic inclusion of certain parcels bisected by the dividing line between local government units) be revised by adding examples.

The commentator presented the following scenario, and asked whether it is accurate: “If a farm bisected by a township boundary has previously enrolled the majority of its viable agricultural land in Township A’s ASA, the farmland owner needs to apply to Township B to get the other portion of their farm into an ASA, if township B has an existing ASA. In a different scenario, where Township

B does not have an existing ASA, the landowner would apply to Township A to get their additional land into Township A's ASA."

Response: Act 14 revised section 5(a.2) of the act to allow for automatic inclusion of certain parcels bisected by the dividing line between local government units. The factual scenario presented by the commentator is accurate.

The Department believes the act and the regulations are sufficiently clear on this subject, and declines to insert examples into the final-form rulemaking. If subsequent experience demonstrates the need for examples, the Department is willing to revisit this final-form rulemaking.

Comment 54: The Lehigh County Board reviewed proposed § 1381.33 (relating to automatic inclusion of certain parcels bisected by the dividing line between local government units upon the purchase of an agricultural conservation easement by certain entities), and asked why that provision is not applicable to agricultural conservation easement purchases purchased solely by the Commonwealth.

Response: Act 14 revised the act to allow for the automatic incorporation of land into an ASA in the context of certain designated agricultural conservation easement purchase transactions. The language describing the types of agricultural conservation easement purchases where this automatic incorporation can occur, though, does not authorize this automatic incorporation in the context of an agricultural conservation easement purchase made solely by the Commonwealth. The relevant statutory language is in section 14.1(b)(2)(i)(A) and (B) of the act.

Comment 55: The Lehigh County Board and the PFPFA raised the same question as in the preceding comment with respect to proposed § 1381.34 (relating to automatic inclusion of portions of certain parcels bisected by the dividing line between counties upon the purchase of an agricultural conservation easement by certain parties). The PFPFA acknowledged that the act is specific in this regard, but expressed a desire to see the act revised.

Response: The Department offers the same response it offered with respect to Comment 54.

Comment 56: Attorney Hartman suggested proposed § 1381.34 is unnecessary, because "when a parcel is divided by a county line, it is also always divided by a municipal boundary," and that subject is addressed in proposed § 1381.33.

Response: The Department agrees that when a parcel is divided by a county line, it is also always divided by a municipal boundary line. The Department notes that the act treats farmland tracts that are divided by county lines differently than it treats tracts that are only divided by township lines. Since the distinction between whether a tract is bisected by a county line or a township line is a meaningful distinction under the act, the Department believes it important to preserve and clarify this distinction in the corresponding regulations. The act addresses the referenced distinctions in section 14.1(b)(2)(i)(B) and (C) of the act.

Comment 57: Several comments were received with respect to proposed §§ 1381.41 and 1381.42 (relating to removing land that has been in an ASA for 7 years or more; and removing land in the course of the 7-year review or an interim review).

Senator Waugh requested the Department carefully consider the various comments offered with respect to the referenced proposed sections.

Representative Bunt offered a detailed comment with respect to proposed §§ 1381.41 and 1381.42, noting it was "... the original (and continuing) intent for deletions of land from an ASA to occur only after at least seven years have passed since the land was included in the ASA and a proposal to delete land can only occur during and in accordance with..." the 7-year review process or the interim review process described in the act. Representative Bunt offered a detailed explanation of the evolution of the statutory language describing the circumstances under which land may be removed from an ASA. The statutory analysis concluded with the recommendation that proposed §§ 1381.41 and 1381.42 be revised to reflect that "... a proposal for deletion of land from an ASA must follow the same procedures as that of adding land, and shall only occur at the seven-year review period provided for in Section 9 of the act."

Proposed § 1381.41 would require land to remain in an ASA for at least 7 years before it can be removed by the landowner. The Bureau takes the position that a landowner can remove his land from an ASA at any time, and that the proposed provisions "contradict this long held interpretation of the law." The Bureau asked what would happen to a landowner who wishes to remove land from an ASA before it has been in the ASA for 7 years, and what the regulatory consequences for the farmer might be.

The Lancaster County Board expressed its belief that the act only allowed the withdrawal of land from an ASA at the 7-year review interval or at an interim review, and asked whether the language of proposed § 138e.41(a) was the product of an amendment of the act. If the act doesn't allow a landowner to remove land from an ASA at any time after it has been in the ASA for 7 years, the Lancaster County Board would recommend the proposed section be revised to clarify this. The commentator believes the proposed section "could cause substantial monitoring problems for townships, counties and the Commonwealth" and that the 7-year review or interim review standard is more equitable and easy to manage.

The Lehigh County Board expressed concern over the provision in proposed § 1381.41 that allows a landowner to remove his land from an ASA at any time after it has been in the ASA for 7 years or more, and asked whether this option is addressed in the act. The Lehigh County Board was apprehensive that owners of large tracts of land or land speculators might:

... use this provision in the regulations to effectively eliminate entire ASAs by pulling enough of their land out of an ASA to cause the termination of an ASA; thus penalizing other farmland owners who may rely on the farming protections afforded by their ASA. This could also be harmful and destabilizing to areas where agricultural conservation easements have been acquired.

Response: The section 8(e) of the act provides that "The deletion of land in the agricultural security area shall only occur after seven years or whenever the agricultural security area is subject to review by the governing body." The Department believes that, regardless of the legislative intent behind this provision, the plain grammatical meaning of this sentence is "The deletion of land in the agricultural security area shall only occur: (1) after seven years; or (2) whenever the agricultural security area is

subject to review by the governing body." Proposed §§ 1381.41 and 1381.42 were drafted in accordance with this reading of the statutory language.

Although the Department is ordinarily inclined to give great deference to comments offered by legislators with respect to the legislative intent behind particular statutes, in this instance it does not believe it can interpret the statutory language quoted in the preceding paragraph in any way other than it has done. The Department would be supportive of an amendment of the act to clarify the legislative intent on this subject one way or the other. In the absence of that clarification, though, the Department believes it must follow the guidance of 1 Pa.C.S. § 1921(b) (relating to legislative intent controls) that when "... the words of a statute are clear and free from all ambiguity, the letter of it is not to be disregarded under the pretext of pursuing its spirit."

Comment 58: Attorney Hartman noted proposed § 1381.41(d) would authorize postponement of the recording of the removal of land from an ASA until the next 7-year review, and suggested the provision be revised to reflect the removal may be recorded with other revisions resulting from an interim review (a review that does not occur at the 7-year intervals).

The commentator also suggested proposed §§ 1381.41 and 1381.42 be combined.

Response: The Department believes its response to the following comment addresses most of the commentator's concerns. With respect to the suggestion that proposed §§ 1381.41 and 1381.42 be combined, the Department prefers to keep these sections separate in the final-form rulemaking. Although a good bit of the material in each section repeats material found in the other, the Department believes the final-form rulemaking will be more readable and user-friendly if these two sections are kept separate.

Comment 59: The PFPA reviewed proposed § 1381.41(d), which would allow a governing body to wait until the next 7-year or interim review of an ASA to record deletions of land from that ASA. The commentator suggested the recording "should take place within 10 days of the deletion, as is required when land is added to an ASA." The commentator emphasized the need for county farmland preservation programs to have accurate and up-to-date information regarding whether land is or is not part of an ASA.

Response: The Department agrees with the commentator, and has revised proposed §§ 1381.41(d) and 1381.42(d) to require the recording of deletions of land from an ASA within 10 days of the deletion. As the commentator suggests, this 10-day deadline is consistent with the recording deadlines for a newly created ASA or modifications to an existing ASA in proposed § 1381.22(a). The comment also prompted a slight revision of proposed § 1381.22(a) to clarify the 10-day deadline is also applicable to modifications of an existing ASA.

Comment 60: The Pennsylvania Farmland Protection Association requested an explanation of the 210-day interval referenced in proposed § 1381.51 (relating to seven-year review).

Response: The Department reviewed the repeated references to the "210-day" interval, and agrees the proposed language is confusing. The 210-day figure is the sum of the 180-day period referenced in that section and the 30-day advance notice period referenced in section 9 of the act (3 P.S. § 909). The Department has revised proposed § 1381.51 to remove this confusing reference.

Fiscal Impact

Commonwealth: The final-form rulemaking will impose no costs and have no fiscal impact on the Commonwealth.

Political Subdivisions: The final-form rulemaking is not expected to impose appreciable costs upon political subdivisions. Although local government units are required to absorb the costs associated with the formation and recording of an ASA, this requirement is imposed by the act, rather than the regulations.

Private Sector: The final-form rulemaking will impose no costs and have no fiscal impact upon the private sector.

General Public: The final-form rulemaking will impose no costs and have no fiscal impact upon the general public.

Paperwork Requirements

The final-form rulemaking will not appreciably increase the paperwork burden of the Department, local government units, county agricultural land preservation programs or other affected entities.

Sunset Date

There is no sunset date for the final-form rulemaking. The Department will review the efficacy of this final-form rulemaking on an ongoing basis.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on January 29, 2002, the Department submitted a copy of the notice of proposed rulemaking, published at 32 Pa.B. 775, to IRRC and the Chairpersons of the House and Senate Standing Committees on Agriculture and Rural Affairs for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on February 19, 2004, the final-form rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on March 25, 2004, and approved the final-form rulemaking.

Contact Person

Further information is available by contacting the Department of Agriculture, Bureau of Farmland Preservation, 2301 North Cameron Street, Harrisburg, PA 17110-9408, Attention: Sandra Robison, (717) 783-3167.

Findings

The Department finds that:

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

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

(3) The modifications that were made to this final-form rulemaking in response to comments received do not enlarge the purpose of the proposed rulemaking published at 32 Pa.B. 775.

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

Order

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

(a) The regulations of the Department, 7 Pa. Code Chapters 138, 138e and 138l, are amended by deleting §§ 138.1—138.14 and Appendix A; by amending §§ 138e.3, 138e.11, 138e.16, 138e.41—138e.43, 138e.61, 138e.65—138e.68, 138e.71, 138e.91, 138e.103, 138e.104, 138e.201—138e.204 and 138e.222; and by adding §§ 138e.73, 138e.93, 138e.251—138e.256, 138l.1—138l.4, 138l.11—138l.26, 138l.31—138l.34, 138l.41, 138l.42, 138l.51 and 138l.52 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

(Editor's Note: The proposal to amend § 138e.102 has been withdrawn by the Department.)

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

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

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

DENNIS C WOLFF, Secretary

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 2027 (April 10, 2004).)

Fiscal Note: Fiscal Note 2-138 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 7. AGRICULTURE

PART V-C. FARMLAND AND FOREST LAND

CHAPTER 138. (Reserved)

§§ 138.1—138.14. (Reserved).

Appendix A. (Reserved).

CHAPTER 138e. AGRICULTURAL CONSERVATION EASEMENT PURCHASE PROGRAM

GENERAL

§ 138e.3. Definitions.

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

* * * * *

Agricultural conservation easement or easement—An interest in land, less than fee simple, which interest represents the right to prevent the development or improvement of a parcel for a purpose other than agricultural production. The easement may be granted by the owner of the fee simple to a third party or to the Commonwealth, to a county governing body or to a unit of local government. It shall be granted in perpetuity, as the equivalent of covenants running with the land. The exercise or failure to exercise any right granted by the easement will not be deemed to be management or

control of activities at the site for purposes of enforcement of the Hazardous Sites Cleanup Act (35 P. S. §§ 6020.101—6020.1305).

Agricultural production—The production for commercial purposes of crops, livestock and livestock products, including the processing or retail marketing of the crops, livestock or livestock products if more than 50% of the processed or merchandised products are produced by the farm operator. The term includes use of land which is devoted to and meets the requirements of and qualifications for payments or other compensation under a soil conservation program under an agreement with an agency of the Federal government.

* * * * *

County planning commission—A planning commission or agency which has been designated by the county governing body to establish and foster a comprehensive plan for land management and development within the county.

* * * * *

Local government unit—Any city, borough, township or town or any home rule municipality, optional plan municipality, optional charter municipality or similar general purpose unit of government which may be created or authorized by statute.

* * * * *

Mansion house—The primary residential structure located upon a parcel.

* * * * *

Parcel—A tract of land in its entirety which is assessed for tax purposes by one county, including any portion of that tract that may be located in a neighboring county. The county responsible for assessing an entire tract, on its own or in conjunction with the Commonwealth or a local government unit, or both, shall be eligible to purchase agricultural conservation easements covering the entire tract.

* * * * *

REQUIREMENTS FOR CERTIFICATION OF COUNTY PROGRAM

§ 138e.11. General requirements.

(a) A county program shall demonstrate that the county has fair, equitable, objective, nondiscriminatory procedures for determining easement purchase priorities.

(b) A county program shall contain written policies and procedures for determining easement purchase priorities and written procedures for purchasing easements. For example, a county program that would allow a farmland tract with a higher farmland ranking score (as described in § 138e.15 (relating to farmland ranking system)) to be bypassed in favor of making an offer to purchase an easement on a farmland tract with a relatively lower farmland ranking score shall set forth the priorities and procedures under which this determination is made.

(c) A county program shall address and meet the standards, criteria and requirements in §§ 138e.12—138e.21. A county program may propose additional standards, criteria and requirements for approval by the State Board. Additional provisions shall be designed to assure that selection of land for easement purchase is consistent with the purposes of the act.

(d) A county program shall contain provisions for the participation of local government units in the preserva-

tion of farmland through the purchase of agricultural conservation easements. These provisions shall address the following:

- (1) Local government unit recommendations for joint county-local government unit purchases.
- (2) Local government unit recommendations for joint Commonwealth-local government unit purchases.
- (3) Local government unit recommendations for joint Commonwealth-county-local government unit purchases.
- (4) Local government unit agricultural conservation easement purchases authorized under section 14.1(b.1)(4) of the act (3 P. S. § 914.1(b.1)(4)).

§ 138e.16. Minimum criteria for applications.

(a) The county program shall consider the quality of the farmland tract, including the USDA soil classification and productivity. The farmland tract shall:

- (1) Be one or more of the following:
 - (i) Located in an agricultural security area consisting of 500 acres or more.
 - (ii) Bisected by the dividing line between two local government units, having the majority of its viable agricultural land within an agricultural security area of 500 acres or more and the remainder in another local government unit outside of an agricultural security area.
 - (iii) Bisected by the dividing line between the purchasing county and an adjoining county, having the land located in the purchasing county within an agricultural security area of 500 acres or more and the remainder in another county outside of an agricultural security area, and with respect to which one of the following applies:
 - (A) A mansion house is on the tract and located within the purchasing county.
 - (B) When the mansion house on the tract is bisected by the dividing line between the two counties, the landowner has chosen the purchasing county as the situs of assessment for tax purposes.
 - (C) When there is no mansion house on the farmland tract, the majority of the tract's viable agricultural land is located within the purchasing county.

- (2) Be one or more of the following:
 - (i) Contiguous acreage of at least 50 acres in size.
 - (ii) Contiguous acreage of at least 10 acres in size and utilized for a crop unique to the area.
 - (iii) Contiguous acreage of at least 10 acres in size and contiguous to a property which has a perpetual conservation easement in place which is held by a "qualified conservation organization," as that term is defined in section 170(h)(3) of the Internal Revenue Code (26 U.S.C.A. § 170(h)(3)).

(b) The county program may contain additional criteria to evaluate farmland tracts if the criteria are fair, objective, equitable, nondiscriminatory and emphasize the preservation of viable agricultural land which will make a significant contribution to the agricultural economy, and are approved by the State Board. For example, a county program might require crop yields from a farmland tract to meet or exceed county crop yield averages, or might require the farmland tract to generate annual gross receipts of a particular sum, or might require that structures and their curtilages not occupy more than a certain percentage of the total acreage of the farmland tract.

STATE BOARD REVIEW OF COUNTY PROGRAM

§ 138e.41. Application for review of county program.

A county board seeking State Board review, certification and approval of its county program shall submit one copy of its county program and its bylaws to the State Board at the following address: Director, Bureau of Farmland Preservation, Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408.

§ 138e.42. Review, certification and approval of a county program.

- (a) The State Board will acknowledge receipt of the county program and may request additional information.
- (b) Within 60 days of receipt of a complete county program, the State Board will approve or disapprove the county program.

(1) The State Board will approve the county program if it finds that the standards, criteria and requirements in the act and §§ 138e.11—138e.21 (relating to requirements for certification of county program) have been satisfied, and will immediately notify the county board in writing that the county program has been approved.

(2) The State Board will disapprove the county program if it is not in accordance with the act and §§ 138e.11—138e.21 and will immediately notify the county board in writing of the reasons for the disapproval. The county board may submit a revised county program to the State Board. The revised county program shall be treated as a new request for certification and approval.

(3) The county board may withdraw its county program from the State Board prior to action by the State Board. The county board may resubmit the county program for review. The State Board has 60 days from resubmittal to act on the county program.

(c) A decision of the State Board to disapprove a county program shall be an adjudication subject to 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). An appeal from a decision of the State Board to disapprove a county program may be made by the county board to the Secretary and shall be filed in writing with the Secretary within 30 days of the State Board's action. An appeal from a decision of the State Board will be governed by 1 Pa. Code Part II (relating to general rules of administrative practice and procedure).

§ 138e.43. Revision of county program.

(a) Following initial approval by the State Board, a county program may be revised in accordance with this section.

(b) A county board seeking review of a proposed revision to its county program shall submit one copy of the proposed revision to the State Board at the following address: Director, Bureau of Farmland Preservation, Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408.

(c) A county board's request for review of a proposed revision to a county program shall set forth the following:

- (1) The text of the existing provisions of the county program to be revised.
- (2) The text of all proposed revisions to the county program.
- (3) A brief narrative explaining the reasons for, and the benefits from, the proposed revisions.

(4) Other supporting documentation or information deemed relevant by the county board or requested by the State Board.

(d) A proposed revision to the county program shall comply with the act and this chapter and may not conflict with another provision of the county program.

(e) The State Board will follow the procedures in § 138e.42 (relating to review, certification and approval of a county program) in reviewing a proposed revision to a county program.

PROCEDURE FOR PURCHASING AN EASEMENT

§ 138e.61. Application.

(a) A separate application shall be required for each farmland tract offered for easement purchase. The application shall consist of a completed application form, locational maps and a soils report form. A copy of a soils report form is in Appendix B (relating to Form C Soils Report). If the county program contains minimum criteria for easement purchase that vary from those in § 138e.16 (relating to minimum criteria for applications), the application shall also include documentation to demonstrate the farmland tract meets these minimum criteria.

(b) The county board shall develop and make available to a county resident an application form which requires the following information:

(1) The printed name, address, telephone number and signature of all owners of the farmland tract.

(2) One of the following, as applicable:

(i) If the farmland tract is eligible to be considered for easement purchase under § 138e.16(a)(1)(i), the county, local government unit and agricultural security area in which the farmland tract is located.

(ii) If the farmland tract is bisected by a dividing line between two units of local government and is eligible to be considered for easement purchase under § 138e.16(a)(1)(ii), the county and local government units in which the farmland tract is located, the agricultural security area in which a portion of that farmland tract is located, a breakdown of the acreage proposed for easement purchase in each local government unit and a breakdown of the number of acres of viable agricultural land in the acreage proposed for easement purchase in each local government unit.

(iii) If the farmland tract is bisected by the dividing line between two or more counties and is eligible to be considered for easement purchase under § 138e.16(a)(1)(iii), the counties and local government units in which the farmland tract is located, the agricultural security area in which a portion of that farmland tract is located, and one of the following:

(A) If there is a mansion house on the farmland tract, an acknowledgement of this fact and a designation of the county in which the mansion house is located.

(B) If there is a mansion house on the farmland tract, and the mansion house is bisected by the dividing line between two or more counties, an acknowledgement of this fact and a designation of the county the landowner has chosen as the situs of assessment for tax purposes.

(C) If there is no mansion house on the farmland tract, an acknowledgement of this fact and a breakdown of the acreage proposed for easement purchase in each county and a breakdown of the number of acres of viable agricultural land in the acreage proposed for easement purchase in each county.

(3) The total acreage of the farm as shown on the deed or instruments of record.

(4) The number of acres in the farmland tract proposed for easement purchase.

(5) The street address of the farm, and directions from the nearest State route.

(6) The most current deed reference-book, volume and page-or other reference to the place of record of the deed. In the case of multiple deeds, numbers for all the deeds shall be provided.

(7) County tax map numbers, including tax parcel number, or account number of each parcel.

(8) The date of the conservation plan, if any, which has been approved by the county conservation district or county board.

(9) The date of any nutrient management plan.

(10) The name, address and telephone number of the person to be contacted to view the farmland tract.

(c) The applicant or the county board shall provide both of the following locational maps with the application:

(1) A United States Geological Survey topographical map or a portion of the map showing the location of the farmland tract, with the farmland tract boundaries clearly and correctly delineated and showing the location of acreage being excepted from the easement.

(2) A tax map or official map used for tax assessment purposes showing the farmland tract with all tax parcel numbers clearly indicated.

(d) The applicant or the county board shall provide a soils report and a color-coded soils map for the farmland tract proposed for easement purchase. The soils report shall also contain a list of soil mapping unit names, symbols and land capability classes on the farmland tract. The soils map shall use as a base soil survey maps published by the USDA-NRCS. A county with a digital mapping database system for soils may provide the soils map in digital form in an appropriate scale acceptable to the Department. The soils map shall color code soil types as follows:

Land capability class I = Green

Land capability class II = Yellow

Land capability class III = Red

Land capability class IV = Blue

Land capability class V—VIII = Uncolored

Wetlands = Cross-hatch, or shown on a separate map

(e) If the county program requires crop yield data or gross annual receipts to determine whether a farmland tract meets the county program's minimum criteria for easement purchase, the applicant shall provide a production report for the farmland tract for the most recent crop year that comparable statistics are available from the Pennsylvania Agricultural Statistics Service (PASS).

§ 138e.65. Easement value and purchase price.

(a) *Easement value.* An easement shall be purchased in perpetuity. The maximum value of an easement for purposes of making an offer to purchase an easement under § 138e.66(b) (relating to offer of purchase by county board) shall be the difference between the market value and the farmland value contained in the county appraisal report.

(b) *Maximum purchase price.* The purchase price offered for the purchase of an easement under § 138e.66(b) may not exceed, but may be less than, the value of the easement.

§ 138e.66. Offer of purchase by county board.

(a) In determining whether to offer to purchase an easement following receipt of the county appraisal report, the county board shall consider the following:

(1) The farmland ranking score, as calculated in accordance with § 138e.15 (relating to farmland ranking system).

(2) The cost relative to total allocations and appropriations.

(3) The factors or considerations set forth in the county program as those factors or conditions under which an offer to purchase would be made in something other than descending order of farmland ranking score. An example of a factor or consideration under which a county program might provide for the making of an offer to purchase in something other than descending order of farmland ranking score would be the landowner being unable to obtain clear title to the farmland tract within a time specified in the county program.

(b) If the county board determines to offer to purchase an easement on the farmland tract, the county board, or a representative of the county board, shall meet with the applicant to review the county appraisal report. An offer to purchase an easement shall be submitted to the applicant in writing and be accompanied by the county appraisal report.

(c) Within 30 days of receipt of the written offer from the county board, an applicant may do one of the following:

(1) Accept the offer, in which case the county board and the applicant shall enter into an agreement of sale. The agreement of sale shall be conditioned upon the approval of the State Board and be subject to the ability of the applicant to provide good title to the premises, free of encumbrances such as liens, mortgages, options, rights of others in surface mineable coal, land use restrictions, adverse ownership interest and other encumbrances which would adversely impact the county and Commonwealth's interest in the farmland tract.

(2) Reject the offer and advise the county board that the application is withdrawn.

(3) Advise the county board that the applicant is retaining, at the applicant's expense, an independent State-certified general real estate appraiser to determine the easement value. The appraiser shall be qualified, and the appraisal shall be completed in accordance with the procedure in § 138e.64 (relating to appraisal). The appraisal shall be submitted to the county board within 120 days of receipt of the county board's offer to purchase. The county board may extend the time within which this appraisal shall be submitted. This extension shall be in writing and shall extend the 120-day deadline by no more than 60 days. Upon completion, three copies of the applicant's appraisal shall be submitted to the county board. The applicant's decision to obtain an independent appraisal under this paragraph does not constitute a rejection of the county board's offer. The county board's offer shall remain open unless increased by the county board under subparagraph (iv) or rejected by the applicant under subparagraph (v).

(i) If the applicant retains an independent appraiser, the easement value shall be the difference between the agricultural value and the nonagricultural value, determined as follows:

(A) The agricultural value shall equal the sum of:

(I) The farmland value determined by the applicant's appraiser.

(II) One-half of the difference between the farmland value determined by the county board's appraiser and the farmland value determined by the applicant's appraiser, if the farmland value determined by the county board's appraiser exceeds the farmland value determined by the applicant's appraiser.

(B) The nonagricultural value shall equal the sum of:

(I) The market value determined by the county board's appraiser.

(II) One-half of the difference between the market value determined by the applicant's appraiser and the market value determined by the county board's appraiser, if the market value determined by the applicant's appraiser exceeds the market value determined by the county board's appraiser.

(ii) If the easement value determined under subparagraph (i) is less than the easement value determined by the county appraiser, the county board may offer a purchase price equal to the county's offer under subsection (b).

(iii) Regardless of the easement value, the purchase price may not exceed any overall purchase price limits established by the county in its county program.

(iv) Within 30 days of receipt of the applicant's appraisal, the county board shall do one of the following:

(A) Submit a written offer to purchase in an amount in excess of the amount offered under subsection (b) to the applicant.

(B) Notify the applicant, in writing, that the offer made under subsection (b) remains open and will not be modified.

(v) The applicant shall, within 15 days of receipt of the county board's written offer under subparagraph (iv)(A) or receipt of the county board's written notice under subparagraph (iv)(B), notify the county board in writing that the applicant does one of the following:

(A) Accepts or rejects the offer made under subparagraph (iv)(A).

(B) Accepts or rejects the offer made under subsection (b).

(vi) The failure of the applicant to act as set forth in subparagraph (v) shall constitute a rejection of the county board's offer.

(vii) If the offer of purchase is accepted, the county board and the applicant shall enter into an agreement of sale containing the same requirements and subject to the same conditions in subsection (c)(1).

(4) The failure by the applicant to act within 30 days of receipt of a written offer under subsection (b) shall constitute rejection of the offer.

(d) An agreement of sale shall be in a form provided by the State Board.

§ 138e.67. Requirements of the agricultural conservation easement deed.

(a) The owners of the subject farmland tract shall execute a deed conveying the easement. This deed shall include the provisions of § 138e.241 (relating to deed clauses).

(b) The deed shall be in recordable form and contain:

(1) A legal description setting forth the metes and bounds of the farmland tract subject to the easement.

(2) At least one course and distance referencing affixed marker or monument of a type commonly placed in the field by a surveyor. Fixed markers may include iron pins, pk nails, spikes, concrete monuments or stones.

(c) The legal description may not contain a closure error greater than 1 foot per 200 linear feet in the survey.

(d) The farmland tract on which an easement is to be purchased shall be surveyed unless the legal description contained in the deed recorded in the land records of the county in which the farmland tract is located satisfies the requirements of subsections (b) and (c). A survey required by this subsection shall meet the requirements of § 138e.73 (relating to survey requirements).

(e) For purchases made entirely with State funds, the Commonwealth shall be the sole grantee.

(f) For purchases made using a combination of State and county funds, the grantees shall be the Commonwealth and the county providing the funds under joint ownership as defined in the act.

(g) For purchases made using a combination of State, county and local municipality funds, the grantees shall be the Commonwealth, the county and the local municipality providing the funds under joint ownership as defined in the act.

(h) For purchases made entirely with county funds, the county shall be the sole grantee.

(i) For purchases made entirely with local municipal funds, the municipality shall be the sole grantee.

(j) For purchases made entirely with State funds, the Commonwealth shall be the sole grantee.

§ 138e.68. Title insurance.

(a) The county board shall provide the following to the State Board upon submission of its recommendation for the purchase of an easement:

(1) A title insurance commitment.

(2) Copies of all recorded or unrecorded documents listed on the title insurance commitment as exceptions to the title insurance policy.

(b) At settlement, the county board shall provide a title insurance policy issued by a title insurance company authorized to conduct business in this Commonwealth by the Insurance Department. A marked up title commitment may serve as a policy until the final policy is issued. The amount of title insurance coverage shall equal or exceed the higher of the following amounts:

(1) The difference between the appraised market value and the appraised farmland value, as described in § 138e.65(a) (relating to easement value and purchase price).

(2) The difference between the agricultural value and the nonagricultural value, as described in § 138e.66(c)(3) (relating to offer of purchase by county board), if the values are used to calculate the easement value.

§ 138e.71. Notification of owners of land adjoining proposed easement purchase.

(a) *General.* A county board shall provide the owners of land adjoining a farmland tract with respect to which an easement purchase is proposed with notice of the proposed purchase and notice of an opportunity to be heard at the State Board meeting at which the easement purchase recommendation is to be considered. At a minimum, this notice shall identify the property being considered for easement purchase, reference the time and place of the State Board meeting at which the easement purchase recommendation is to be considered and reference the criteria in section 14.1(e)(1) of the act (3 P. S. § 914.1(e)(1)) upon which the State Board could disapprove a recommended easement purchase. Service of this notice may be accomplished by personal service or mail as described in subsections (b) and (c).

(b) *Personal service.* The notice described in subsection (a) may be accomplished by personal service upon the landowners entitled to notice. If service is accomplished by personal service, the county board shall submit verification of service to the State Board in advance of the State Board meeting at which the easement purchase recommendation is to be considered.

(c) *Certified mail.* The notice described in subsection (a) may be accomplished by certified mail, return receipt requested, addressed to the landowner entitled to the notice. If service is accomplished by certified mail, the county board shall submit verification of service, including a copy of the return receipt, to the State Board in advance of the State Board meeting at which the easement purchase recommendation is to be considered.

(d) *Correction of notice.* If the date or time of the meeting at which an easement purchase recommendation is to be considered changes after the adjoining landowners receive the notice described in this section, the county board shall provide these landowners a corrective notice, providing notice of the changes, in the manner described in subsection (b) or (c).

§ 138e.73. Survey requirements.

(a) *General requirement.* If a survey of land being considered for agricultural conservation easement purchase is required under § 138e.67(d) (relating to requirements of the agricultural conservation easement deed) or is otherwise required to determine metes and bounds of any right-of-way or other interests in the land, the survey shall indicate that it has a closure error of not greater than 1 foot per 10,000 linear feet in the survey, and shall otherwise comply with the boundary survey measurement standards published by the Pennsylvania Society of Land Surveyors in its "Manual of Practice for Professional Land Surveyors in the Commonwealth of Pennsylvania," adopted July 10, 1998, or its most current successor document.

(b) *Other requirements.* A survey described in subsection (a) shall also contain the following:

(1) A recordable legal description setting forth the metes, bounds, monumentation, exceptions, easements and rights-of-way with respect to the farmland tract or other subject of the survey.

(2) A copy of the final boundary survey in digital electronic format that complies with the conservation easement Geographic Information System (GIS) technical standards maintained in the guidebook prepared by the Department in accordance with section 14.1(a)(3)(xv) of the act (3 P. S. § 914.1(a)(3)(xv)). The digital format shall

show the bearings and distances between each monument and contain the northing and easting of each monument.

(3) Coordinates of at least two ground control points located sequentially along the boundary survey, with latitude and longitude expressed in decimal degrees with an accuracy of 6 recorded decimal places. These coordinates shall be based on the "North American Datum of 1983," or its most current successor document, and shall be obtained through field observation or verification of datum.

(4) A paper copy of the plotted final survey map from the digital file showing the course bearings and distances and other annotations and symbols as maintained in the guidebook prepared by the Department in accordance with section 14.1(a)(3)(xv) of the act.

(c) *Monumentation.* If a survey of land being considered for agricultural conservation easement purchase is required under § 138e.67(d) or is otherwise required to determine metes and bounds of any right-of-way or other interests in the land, the surveyor shall establish monumentation for at least the two ground control points required under subsection (b)(3). This monumentation shall consist of permanent, concrete markers of substantial length and width containing ferrous or other materials detectable by an electromagnetic locator. The identity of the surveyor who places a monument shall be affixed or marked upon the monument so that it can be ascertained by inspection of the monument in the field.

**STATE BOARD REVIEW OF A PURCHASE
RECOMMENDATION**

§ 138e.91. Recommendation for purchase.

A county board shall make its recommendation for purchase of an easement by submitting the following documents to the Director, Bureau of Farmland Preservation, Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408:

(1) Twenty-five copies of the summary report prepared in accordance with § 138e.70 (relating to summary report), including the following items:

- (i) A cover letter from the county (optional).
- (ii) A narrative summary.
- (iii) A current United States Geological Survey (USGS) topographical map that clearly and legibly shows the subject property location and boundaries, location of neighboring easements and exclusions withheld from the subject property.
- (iv) The Soil Report Form "C" (a form provided by the Department), both pages. See Appendix B (relating to Form C Soils Report).
- (v) The list of soil mapping unit names, symbols and land capability classes on the subject property.
- (vi) A legible, uncolored soil map of the subject property.
- (vii) A tax map showing the subject property location and boundaries, exclusions withheld from the subject property, utility rights-of-way and access road rights-of-way.
- (viii) A summary table showing the individual farmland ranking scores by category for applications selected for county appraisal, including an indication of the easement purchase status of higher-ranking applicants.

(ix) A copy of Exhibit B from the agreement of sale, modified to include interest, total acres and per acre easement cost.

(x) The 25 copies submitted shall be individually collated and three-hole punched, but not stapled.

(2) The appraisal reports.

(3) The signed agreement of sale, including the proposed legal description, a statement of cost, the proposed deed of agricultural conservation easement, a contractor integrity clause and a nondiscrimination clause.

(4) The title insurance report or commitment.

(5) A letter certifying that the adjoining landowners were provided with notice and opportunity to be heard in a manner consistent with administrative agency law with respect to the proposed easement purchase, including one copy of the notification letter required under § 138e.71 (relating to notification of owners of land adjoining proposed easement purchase) and a list of the adjoining landowners.

(6) A completed and signed IRS Form W-9, Request for Taxpayer Identification Number and Certification for individual grantors.

(7) A letter from the grantors stating the percent of ownership of each grantor for the purpose of issuing IRS Form 1099.

(8) A copy of the approved soil conservation plan that is required to be in place with respect to the land under § 138e.241(2) (relating to deed clauses).

(9) A copy of the nutrient management plan that has been developed, certified, reviewed and approved in accordance with the Nutrient Management Act (3 P. S. §§ 1701—1718), if the nutrient management plan is required under the Nutrient Management Act for any portion of the property that is the subject of the recommendation for purchase.

§ 138e.93. Postsettlement recording and reporting procedures.

(a) *Retaining copies of essential documents.* The county board shall make and retain photocopies of the following documents after settlement is held with respect to an agricultural conservation easement purchase, and prior to the recording of the deed of agricultural conservation easement in the appropriate recorder of deeds' office:

(1) The complete and fully-executed deed of agricultural conservation easement, including the complete legal description of the land subject to the agricultural conservation easement.

(2) A marked-up title insurance commitment document, reflecting that all listed title insurance exceptions have been addressed and resolved prior to the purchase of the agricultural conservation easement.

(3) Mortgage satisfaction pieces, subordination agreements and other documents to be recorded in connection with the agricultural conservation easement purchase.

(4) The complete and fully-executed conservation plan agreement form as described in § 138e.222 (a) (relating to conservation plan).

(b) *Recording of the deed of agricultural conservation easement and other documents.* The county board shall record the deed of agricultural conservation easement and any other documents (such as subordination documents, satisfaction pieces and releases, and the conservation plan agreement form) at the appropriate recorder of deeds' office after settlement is held with respect to the easement purchase.

(c) *Recording of agricultural security area; reporting to the State Board.* If the settlement triggers the automatic inclusion into an agricultural security area of some portion of the land subject to the agricultural conservation easement under section 14.1(b)(2)(i)(B) or (C) of the act (3 P. S. § 914.1(b)(2)(i)(B) or (C)), the governing body that created the agricultural security area into which the land is automatically included shall record the addition of this land into the agricultural security area in accordance with the filing, recording and notification procedures in section 8(d) and (g) of the act (3 P. S. § 914.8(d) and (g)). The governing body shall then transmit to the county board written confirmation that this recording, filing and notification has been accomplished. The county board shall mail or deliver a copy of that written confirmation to the State Board within 10 days of receipt.

(d) *Reporting the agricultural conservation easement purchase to the State Board.*

(1) *General.* The county board shall mail or deliver the following documents to the Department within 10 days following the date upon which settlement is held with respect to an agricultural conservation easement purchase:

(i) A complete notification of settlement, on a form available from the Department upon request, containing the following:

- (A) The name of the landowners.
- (B) The county in which the land is located.
- (C) The date of settlement.
- (D) A statement identifying any additional incidental costs.
- (E) An indication (by check-off or other designation) of the other documents the county board is submitting to the Department along with the Notification of Settlement Form.

(F) The signature of the administrator or chief executive of the county board.

(ii) Copies of all of the documents described in subsection (b).

(iii) A copy of the settlement sheet, if the execution of such a document is part of the settlement transaction.

(iv) A marked-up title insurance commitment document or a title insurance policy, reflecting that all listed title insurance exceptions have been addressed and resolved prior to the purchase of the agricultural conservation easement.

(v) A complete verification, executed by the settlement agent at settlement, on a form available from the Department upon request, containing the following:

(A) A statement reading substantively as follows:

As Settlement Agent for _____ County, I hereby verify that I have submitted (or will take responsibility for submitting) the appropriate IRS 1099-S form(s) for the agricultural conservation easement identified below in accordance with the Internal Revenue Code, section 6045. I further verify that I have reported (or will report) the gross proceeds in the case of a joint purchase by the Commonwealth and the county. If this verification is not submitted to the Commonwealth within 30 days of closing, I further verify that the 1099-S form(s) will be sent to the IRS and the transferor by the deadline established by the IRS.

(B) The name and Federal taxpayer I.D. number of each person who sold an interest in the agricultural conservation easement.

(vi) An invoice from the county for any additional incidental costs related to the agricultural conservation easement purchase, on a form available from the Department upon request, containing the following:

(A) The name, address and Federal taxpayer I.D. number of the county.

(B) The date of the application.

(C) The name, address and telephone number of the person designated by the county to act as a contact person if the Department requires further information.

(D) The name of the farm owner, address of the farm and the number of acres under agricultural conservation easement.

(E) A breakdown of the purposes for which reimbursement of additional incidental expenses is requested, and the amount of each expense.

(vii) A revised statement of costs, as described in § 138e.69 (relating to statement of costs), if the incidental costs are higher or lower than originally reported.

(2) *Exception for agricultural conservation easements purchased by a local government unit solely.* Paragraph (1) notwithstanding, if an agricultural conservation easement is purchased by a local government unit solely, the county board shall mail or deliver the following documents to the Department within 30 days after recording the deed of agricultural conservation easement:

(i) A copy of the complete and fully-executed deed of agricultural conservation easement, including the complete legal description of the land subject to the agricultural conservation easement.

(ii) A current United States Geological Survey (USGS) topographical map that clearly and legibly shows the subject property location and boundaries, location of neighboring easements and exclusions withheld from the subject property.

(iii) An invoice as described in paragraph (1)(vi).

(e) *Copies of filed documents.* The county board shall mail or deliver copies of the recorded documents described in subsection (b) to the Department within 30 days following the date upon which these documents are recorded at the appropriate recorder of deeds' office. The date and place of recording shall appear on each document.

(f) *Title insurance policy.* The title insurance policy should be mailed or delivered to the State Board within a reasonable time after settlement—preferably within 60 days of settlement.

ALLOCATION OF FUNDS

§ 138e.103. Expenditure of matching funds.

(a) State matching funds may be expended in a county only upon the recommendation of the county board.

(b) A county board that recommends the expenditure of State matching funds for the purchase of a specific easement shall state the amount of county matching funds that will be used for the purchase of the easement.

(c) County matching funds shall be expended within the periods specified in § 138e.102(e) (relating to allocation of funds to counties).

(d) An easement purchased using solely county funds will be considered an expenditure of county matching funds under section 14.1(h)(3), (4) and (5)(i) of the act (3 P. S. § 914.1(h)(3), (4) and (5)(i)) if:

(1) The easement document recorded in the land records of the county in which the farmland tract is located contains the provisions in § 138e.241 (relating to deed clauses) and any more restrictive provisions required under the county program.

(2) Upon settlement of the purchase of an easement, the county board submits the following to the State Board:

(i) A copy of the complete and fully-executed deed of agricultural conservation easement, including the complete legal description of the land subject to the agricultural conservation easement.

(ii) A copy of the production report with respect to the farmland tract, if the report is required under § 138e.61(e) (relating to application).

(iii) A statement describing the nature and scope of compliance with the conservation plan for the farmland tract.

(iv) The date of approval of the conservation plan, a copy of the conservation plan and a copy of the executed conservation plan agreement as described in § 138e.222 (relating to conservation plan).

(v) A completed Soil Report Form "C" (a form provided by the Department), both pages. See Appendix B (relating to Form C Soils Report).

(vi) A current United States Geological Survey (USGS) topographical map that clearly and legibly shows the subject property location and boundaries, location of neighboring easements and exclusions withheld from the subject property.

(vii) A statement of costs, as described in § 138e.69 (relating to statement of costs).

(viii) An invoice as described in § 138e.93(d)(1)(vi) (relating to postsettlement recording and reporting procedures).

(e) An easement purchased using solely county funds shall be considered an expenditure of county matching funds unless the State Board notifies the county board in writing within 60 days of receipt of the documentation required by subsection (d)(2) that the purchase will not be considered an expenditure of county matching funds and the reasons for the determination.

(f) If the State Board notifies the county board that the purchase will not be considered an expenditure of county matching funds, the county board shall have 60 days to resubmit documentation. Upon resubmittal of documentation, the State Board shall determine whether the purchase meets the requirements of subsection (d). The county board shall be notified of the State Board's determination within 60 days of the resubmittal.

§ 138e.104. Installment sales.

(a) *Options.* Payment for an agricultural conservation easement may be made in a lump sum, in installments or in another lawful manner of payment.

(b) *Installment sales with a payment period of 5 years or less.* Installment sales in which the final payment for the easement purchase is to be made no longer than 5 years from the date the contract of sale is fully executed are subject to the following requirements:

(1) Purchases may be made in the name of the Commonwealth, an eligible county or jointly by the Commonwealth and an eligible county.

(2) The Department will provide the agreement of sale for purchases made in the name of the Commonwealth solely or jointly by the Commonwealth and an eligible county.

(3) The installment payment terms, including the dates of payments, payment amounts and interest rate on the outstanding balance shall be negotiated between the landowner and the county board.

(4) The interest rate to be paid on the outstanding balance, shall be established by the county board, and shall be stated in the agreement of sale.

(c) *Installment sales with a payment period of more than 5 years.* Installment sales, other than those installment sales described in subsection (d), in which the final payment for the easement purchase is to be made more than 5 years from the date the contract of sale is fully executed are subject to the following provisions:

(1) Purchases may be made in the name of the Commonwealth, an eligible county or jointly by the Commonwealth and an eligible county.

(2) Notwithstanding the requirement of § 138e.66(d) (relating to offer of purchase by county board), the county board may, subject to approval by the Department, provide the agreement of sale for purchases made under this subsection.

(3) The agreement of sale and the deed of easement shall meet the same requirements and be subject to the same conditions as set forth in § 138e.66(c) and § 138e.67 (relating to requirements of the agricultural conservation easement deed).

(4) The installment payment terms, including the dates of payments, payment amounts and interest rate on the outstanding balance shall be negotiated between the landowner and the county board.

(5) The interest rate paid on the outstanding balance will be established by the county board and shall be stated in the agreement of sale.

(6) The State's share of the easement purchase price, exclusive of interest, shall be transferred to the county board for deposit into an irrevocable escrow account or deposit in another manner provided by law.

(7) Transfer of the Commonwealth's share of the easement purchase price, exclusive of interest, according to the terms of this paragraph shall relieve the Commonwealth of any obligation to pay or assure the payment of the easement purchase price and interest.

(d) *Installment sales deferring the payment of principal for up to 30 years.* Installment sales in which payment of principal is deferred to the end of a specific period of up to 30 years from the date the contract of sale is fully executed are subject to the following provisions:

(1) Purchases may be made in the name of the Commonwealth, an eligible county or jointly by the Commonwealth and an eligible county.

(2) Notwithstanding the requirement of § 138e.66(d), the county board may, subject to approval by the Department, provide the agreement of sale for purchases made under this subsection.

(3) The agreement of sale and the deed of easement shall meet the same requirements and be subject to the same conditions as set forth in §§ 138e.66(c) and 138e.67.

(4) The installment payment terms shall be negotiated between the landowner and the county board. These terms shall include the amount of cash (if any) to be received at closing, the interest rate, the period over which interest is to be paid and the point at which principal is to be paid.

(5) The landowner is responsible for the transaction costs associated with the type of purchase described in this subsection unless the county program provides otherwise.

PROCEDURE FOR INSPECTING AND ENFORCING AN EASEMENT

§ 138e.201. Responsibility.

(a) The county board shall have the primary responsibility for inspecting restricted land and enforcing the following:

(1) Agricultural conservation easements that were acquired under authority of the act and are located within the county.

(2) Agricultural conservation easements which were acquired under authority of section 14.1(b)(2)(i) of the act (3 P. S. § 914.1(b)(2)(i)), including any portion extending into an adjoining county.

(b) The State Board or its designee will have the right to inspect restricted land and enforce an easement on its own behalf or in conjunction with the county board.

§ 138e.202. Inspections.

(a) The county board shall inspect all restricted land within the county at least annually to determine compliance with the applicable deed of easement. The first inspection shall be completed within 1 year of the date of easement sale, and shall be included in the annual report described in § 138e.203 (relating to annual report) no later than the first annual report following that 1-year period.

(b) Written notice of an inspection to be conducted under subsection (a) shall be mailed by certified mail to the owner at least 10 days prior to the inspection.

(c) An inspection conducted under subsection (a) shall be performed between the hours of 8 a.m. and 5 p.m. on a weekday that is not a legal holiday recognized by the Commonwealth, or a date and time agreeable to the county and the landowner.

(d) Within 10 days of conducting an inspection under subsection (a), the county board shall prepare a written inspection report setting forth the following information:

- (1) The identification of the land inspected.
- (2) The name of the owner of the farmland at the time the easement was originally acquired and the name of the current owner of the land inspected.
- (3) A description of modifications in the number, type, location or use of any structures on the land since the date of the filing of the deed of easement.
- (4) A description of deviations from the conservation plan observed on the restricted land.
- (5) A statement of whether the provisions of the deed of easement are being observed.

(6) A statement indicating whether a structure permitted under section 14.1(c)(6)(iv) of the act (3 P. S. § 914.1(c)(6)(iv)) has been constructed on the restricted land and, if such a structure has been constructed, the

month and year construction was completed and a description of the structure and its location on the land.

(e) A copy of the inspection report shall be mailed by certified mail to the owner.

(f) The county board and the State Board may inspect the restricted land, jointly or severally, without prior notice if they have reasonable cause to believe that any provision of the easement has been or is being violated.

§ 138e.203. Annual report.

The county board shall file the following with the State Board by March 1 of each year:

(1) A copy of inspection reports for inspections conducted during the prior year.

(2) An annual report which summarizes the number of inspections, violations detected, violations resolved and the circumstances surrounding unresolved violations.

§ 138e.204. Enforcement.

(a) The county board shall enforce the terms of each easement purchased within the county under the act, whether it be a local government unit, county, State or joint purchase.

(b) The State Board may enforce the terms of State or jointly purchased easements.

(c) The right of the State Board to enforce the terms of an easement may be exercised either jointly with the county board or by the State Board acting on its own behalf.

RESPONSIBILITY OF OWNER

§ 138e.222. Conservation plan.

(a) The county board shall require the owner of land being considered for agricultural conservation easement purchase to do the following:

(1) Before the county board recommends approval of the easement purchase to the State Board, obtain a conservation plan approved by the county conservation district or the county board for the land that would be subject to the agricultural conservation easement.

(2) As part of the settlement documents described in § 138e.93 (relating to postsettlement recording and reporting procedures), execute a conservation plan agreement form containing the following:

- (i) The name, address and telephone number of the landowners.
- (ii) The location of the land.
- (iii) The acreage of the land.
- (iv) An acknowledgement that the deed of agricultural conservation easement requires that all agricultural production on the subject land be conducted in accordance with the conservation plan.

(v) An acknowledgement that a conservation plan exists with respect to the land, together with the following:

- (A) The source of the conservation plan (typically, the county conservation district).
- (B) An identifying number given the conservation plan.
- (C) The date of the conservation plan.

(vi) An acknowledgement that the landowners agree to comply with the conservation practices and implementation schedule in the conservation plan, and an acknowl-

edgement that failure to so comply would be a violation of the terms of the deed of agricultural conservation easement.

(vii) The signature of the landowners.

(b) In addition to the requirements established by the county conservation district or the county board, the conservation plan shall meet the definitional requirement of a conservation plan in § 138e.3 (relating to definitions) and also require that:

(1) The use of the land for agricultural production, such as growing sod, nursery stock, ornamental trees and shrubs does not remove excessive soil from the restricted land.

(2) The excavation of soil, sand, gravel, stone or other materials for use in agricultural production on the restricted land is conducted in a location and manner that preserves the economic viability of the restricted land for agricultural production.

(3) The mining of minerals is conducted only through the use of methods authorized in the act.

LAND TRUST REIMBURSEMENT GRANT PROGRAM

§ 138e.251. Program in general.

Section 14.5(a)(3) of the act (3 P.S. § 914.5(a)(3)) authorizes the expenditure of up to \$500,000 from the Supplemental Agricultural Conservation Easement Purchase Account to reimburse eligible land trusts for expenses incurred in the acquisition of agricultural conservation easements in this Commonwealth. Sections 138e.252—138e.256 describe the procedures and standards under which this reimbursement shall occur under the Land Trust Reimbursement Grant Program.

§ 138e.252. Eligibility of a land trust to register for reimbursement grants.

To be eligible to register with the State Board in accordance with § 138e.253 (relating to registration of eligible land trust) and to receive reimbursement grants under the Land Trust Reimbursement Grant Program, a land trust shall be a tax-exempt institution under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C.A. § 501(c)(3)) and include the acquisition of agricultural conservation easements or other conservation easements in its stated purpose.

§ 138e.253. Registration of eligible land trust.

(a) *Registration required.* An eligible land trust seeking reimbursement grants under the Land Trust Reimbursement Grant Program shall register with the State Board. Registration shall be accomplished by delivering a registration letter to the following address: Pennsylvania Department of Agriculture, ATTN: Bureau of Farmland Preservation, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408.

(b) *Contents of registration letter.* A registration letter shall:

(1) Set forth a request that the eligible land trust be registered with the State Board for the purpose of receiving reimbursement grants under the Land Trust Reimbursement Grant Program.

(2) Be signed by the president or other appropriate authorized officer of the eligible land trust.

(3) Have the following documentation enclosed:

(i) A copy of the section 501(c)(3) tax-exempt certification issued to the land trust by the Internal Revenue

Service, or any other documentation demonstrating the section 501(c)(3) tax-exempt status of the land trust.

(ii) Documentation, such as a certified copy of the corporate bylaws, demonstrating that the land trust has the acquisition of agricultural conservation easements or other conservation easements as its stated purpose.

(4) If the eligible land trust seeks to be registered to receive reimbursement grants with respect to agricultural conservation easements it acquires in a county that is an eligible county (as that term is defined in § 138e.3 (relating to definitions)), have enclosed a letter from either the director or the chairperson of the county board of the eligible county, verifying that the land trust coordinates its farmland preservation activities with the farmland preservation activities of the county.

(5) If an eligible land trust seeks to be registered to receive reimbursement grants with respect to agricultural conservation easements it acquires in a county that is not an eligible county (as that term is defined in § 138e.3), have enclosed a written explanation of the procedures it will follow to coordinate with the State Board on the easement acquisitions.

(c) *Acknowledgement of registration.* The Department will provide an eligible land trust that delivers a complete registration letter as described in subsection (b) with written confirmation that the eligible land trust is registered to receive reimbursement grants under the Land Trust Reimbursement Grant Program, together with an application for reimbursement grant form as described in § 138e.254 (relating to applying for a reimbursement grant).

§ 138e.254. Applying for a reimbursement grant.

(a) *Application for reimbursement grant; timing.* If an eligible land trust is registered in accordance with § 138e.253 (relating to registration of eligible land trust), and seeks a reimbursement grant with respect to the acquisition of an agricultural conservation easement, it shall do the following:

(1) Complete an application for reimbursement grant form as described in subsection (b).

(2) Deliver the completed application to the State Board, at the address in § 138e.253(a), within 60 days of closing on the acquisition of the agricultural conservation easement with respect to which the reimbursement grant is sought.

(b) *Obtaining an application for reimbursement grant form.* Reimbursement grant application forms may be downloaded from the Department's website address: www.pda.state.pa.us. The Department will also provide reimbursement grant application forms upon written request to the address in § 138e.253(a), or upon requests telephoned to the Department, at (717) 783-3167. The Department will also enclose a reimbursement grant application form with any acknowledgement of registration it issues under § 138e.253(c).

(c) *Content of a complete application for a reimbursement grant.* A complete application for a reimbursement grant shall contain the following:

(1) A request for reimbursement of costs incidental to the acquisition of an agricultural conservation easement.

(2) A statement of the costs (such as, costs of appraisals, legal services, title searches, document preparation, title insurance, closing fees and surveys) incidental to the acquisition of the agricultural conservation easement.

(3) A true and correct copy of the recorded deed of agricultural conservation easement.

§ 138e.255. State Board review of applications.

(a) *Department's responsibility.* The Department will stamp or otherwise identify every complete reimbursement grant application form to record the date it is received and the relative order in which these applications are received.

(b) *State Board review.* The State Board will consider reimbursement grant applications in the order in which the Department received them. The State Board will review any complete, timely application within 60 days of receipt. The State Board may not approve a reimbursement grant application unless all of the following criteria are met:

(1) The application meets the requirements of section 14.5(a)(3) of the act (3 P. S. § 914.5(a)(3)).

(2) The land use restrictions imposed under the deed of agricultural conservation easement are comparable to restrictions imposed under a deed of agricultural conservation easement acquired in accordance with the act, as described in § 138e.241 (relating to deed clauses).

(3) The land subject to the agricultural conservation easement is within an agricultural security area.

(4) There are sufficient unencumbered funds available to fund the reimbursement grant amount sought in the reimbursement grant application.

§ 138e.256. Decision of the State Board.

The State Board will, within 10 days of completing its review, mail a reimbursement grant applicant written notice as to whether the reimbursement grant application is approved. If the application is not approved, the written notice will specify the basis for disapproval.

CHAPTER 138I. AGRICULTURAL SECURITY AREA PROGRAM

Subchap.

- A. PRELIMINARY PROVISIONS
- B. FORMATION OF AN AGRICULTURAL SECURITY AREA
- C. ADDING LAND TO AN EXISTING ASA
- D. REMOVING LAND FROM AN EXISTING ASA
- E. SEVEN-YEAR REVIEW AND INTERIM REVIEW

Subchapter A. PRELIMINARY PROVISIONS

Sec.

- 138I.1. Definitions.
- 138I.2. Purpose.
- 138I.3. Contacting the Department.
- 138I.4. Benefits of having land within an ASA.

§ 138I.1. Definitions.

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

ALCAB—The Agricultural Lands Condemnation Approval Board of the Commonwealth.

ASA—*Agricultural security area*—A unit of 250 or more acres used for the agricultural production of crops, livestock or livestock products under the ownership of one or more persons and one of the following applies:

(i) The land has been designated as such by the procedures in the act.

(ii) The land has been designated as such under the act of January 19, 1968 (1967 P. L. 992, No. 442) (32 P. S. §§ 5001—5012), entitled "An act authorizing the Commonwealth of Pennsylvania and the counties thereof to preserve, acquire or hold land for open space uses," prior

to February 12, 1989, by the governing body of the county or governing body of the municipality in which the agricultural land is located on the basis of criteria and procedures which predate February 12, 1989, and which was not withdrawn from the ASA by August 10, 1989, by the owner providing written notice of withdrawal to the county governing body or governing body of the municipality in which the land is located.

ASA landowner—An owner of land located within an ASA.

ASA proposal form—A Proposal for the Creation or Modification of an Agricultural Security Area form created by the Department.

Act—The Agricultural Area Security Law (3 P. S. §§ 901—915).

Advisory committee—An agricultural security area advisory committee.

Agricultural conservation easement—An interest in land, less than fee simple, which interest represents the right to prevent the development or improvement of a parcel for any purpose other than agricultural production.

(i) The easement may be granted by the owner of the fee simple to any third party or to the Commonwealth, to a county governing body or a unit of local government.

(ii) It shall be granted in perpetuity as the equivalent of covenants running with the land.

(iii) The exercise or failure to exercise any right granted by the easement will not be deemed to be management or control of activities at the site for purposes of enforcement of the Hazardous Sites Cleanup Act (35 P. S. § 6020.101—6020.1305).

Agricultural production—

(i) The production for commercial purposes of crops, livestock and livestock products, including the processing or retail marketing of the crops, livestock or livestock products if more than 50% of the processed or merchandised products are produced by the farm operator.

(ii) The term includes use of land which is devoted to and meets the requirements of and qualifications for payments or other compensation under a soil conservation program under an agreement with an agency of the Federal government.

Applicant—A landowner proposing the establishment or modification of an ASA in accordance with the requirements of the act and this chapter.

Contiguous acreage—

(i) All portions of one operational unit as described in the deed whether or not the portions are divided by streams, public roads, bridges, and whether or not described as multiple tax parcels, tracts, purparts, or other property identifiers.

(ii) The term includes supportive lands such as unpaved field access roads, drainage areas, border strips, hedgerows, submerged lands, marshes, ponds and streams, or as otherwise defined in § 138e.3 (relating to definitions).

County board—The county agricultural land preservation board as appointed by the county governing body under the act.

County fiscal year—The period from January 1 through December 31 of a particular calendar year.

County governing body—The county board of commissioners or, under home rule charters, another designated council of representatives.

County planning commission—A planning commission or agency which has been designated by the county governing body to establish and foster a comprehensive plan for land management and development within the county.

Crops, livestock and livestock products—The term includes:

- (i) Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry-beans.
- (ii) Fruits, including apples, peaches, grapes, cherries and berries.
- (iii) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, onions and mushrooms.
- (iv) Horticultural specialties, including nursery stock and ornamental shrubs, ornamental trees and flowers.
- (v) Livestock and livestock products, including cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs and furs.
- (vi) Timber, wood and other wood products derived from trees.
- (vii) Aquatic plants and animals and their byproducts.

Curtilage—The area surrounding a residential structure used for a yard, driveway, onlot sewerage system or other nonagricultural purposes.

Department—The Department of Agriculture of the Commonwealth.

Description of the proposed area—A complete and accurate list of the names of the owners of each parcel of land to be included in the proposed ASA, the tax parcel number or account number of each parcel and the number or account number of acres (including partial acres, to the nearest thousandth) contained in each parcel. The description shall use county tax map references for determining boundaries of each parcel, and no survey of parcels shall be required, except that an individual parcel included in the ASA shall represent less than the entire amount of contiguous land contained in the property of an owner.

Economic viability of farmland for agricultural production—The capability of a particular tract of restricted land, other than a tract of 2 acres or less upon which construction and use of the landowner's principal residence or housing for seasonal or full-time farm employees is permitted under section 14.1(c)(6)(iv) of the act (3 P. S. § 914.1(c)(6)(iv)), to meet the criteria in § 138e.16(a) (relating to minimum criteria for applications).

Eligible counties—Counties whose easement purchase programs have been approved by the State Board. For the purpose of annual allocations, an eligible county must have its easement purchase approved by the State Agricultural Land Preservation Board by January 1 of the year in which the annual allocation is made. Counties of the first class are not eligible under any circumstances.

Farm—Land in this Commonwealth which is being used for agricultural production as defined in the act.

Farmland tract or tract—Land constituting all or part of a farm with respect to which easement purchase is proposed. A farmland tract may consist of multiple tracts

of land that are identifiable by separate tax parcel numbers, separate deeds or other methods of property identification.

Governing body—The governing body of a local government unit.

Grazing or pasture land—Land, other than land enrolled in the USDA Conservation Reserve Program, used primarily for the growing of grasses and legumes which are consumed by livestock in the field and at least 90% of which is clear of trees, shrubs, vines or other woody growth not consumed by livestock.

Harm the economic viability of the farmland for agricultural production—To cause a particular tract of restricted land to fail to meet the criteria in § 138e.16(a) or to create, through subdivision, a tract of restricted land, other than a tract of 2 acres or less upon which construction and use of the landowner's principal residence or housing for seasonal or full-time farm employees is permitted under section 14.1(c)(6)(iv) of the act, that would fail to meet the criteria in § 138e.16(a).

Harvested cropland—

(i) Land, other than land enrolled in the USDA Conservation Reserve Program, used for the commercial production of field crops, fruit crops, vegetables and horticultural specialties, such as Christmas trees, flowers, nursery stock, ornamentals, greenhouse products and sod.

(ii) The term does not include land devoted to production of timber and wood products.

Interim review—The review of an existing ASA in accordance with the requirements of section 9(b) of the act (3 P. S. § 909(b)).

Land Capability Class—A group of soils designated by either the county soil survey, as published by USDA-NRCS in cooperation with the Pennsylvania State University and the Department, or the *Soil and Water Conservation Technical Guide* maintained and updated by USDA-NRCS.

Landowner—The person holding legal title to a particular farmland tract.

Land which has been devoted primarily to agricultural use—

(i) Acreage which is a part of restricted land and is harvested cropland, grazing or pasture land, land used for the production of timber and wood products, land containing nonresidential structures used for agricultural production, or other acreage immediately available for agricultural production.

(ii) The term does not include: any acreage upon which immediate agricultural production is impracticable due to residential structures and their curtilages, wetlands, soil quality, topography or other natural or manmade features.

(iii) The term does not include: any tract of 2 acres or less designated as the site upon which the landowner's principal residence or housing for seasonal or full-time employees is permitted under section 14.1(c)(6)(iv) of the act.

Local government unit—A city, borough, township or town or any home rule municipality, optional plan municipality, optional charter municipality or similar general purpose unit of government which may be created or authorized by statute.

Mansion house—The primary residential structure located upon a parcel.

Nonprofit land conservation organization—A nonprofit organization dedicated to land conservation purposes recognized by the Internal Revenue Service as a tax-exempt organization under the Internal Revenue Code of 1986 (26 U.S.C.A. §§ 1—7872).

Normal farming operation—

(i) The customary and generally accepted activities, practices and procedures that farmers engage in year after year in the production and preparation for market of crops, livestock and livestock products and in the production and harvesting of agricultural, agronomic, horticultural, silvicultural, and aquacultural crops and commodities.

(ii) The term includes the storage and utilization of agricultural and food processing wastes for animal feed and the disposal of manure, other agricultural waste and food processing waste on land where the materials will improve the condition of the soil or the growth of crops or will aid in the restoration of the land for the same purposes.

Nutrient management plan—A written site-specific plan which incorporates best management practices to manage the use of plant nutrients for crop production and water quality protection consistent with the Nutrient Management Act (3 P. S. §§ 1701—1718).

Parcel—A tract of land in its entirety which is assessed for tax purposes by one county, including any portion of that tract that may be located in a neighboring county. The county responsible for assessing an entire tract, on its own or in conjunction with either the Commonwealth or a local government unit, or both, shall be eligible to purchase agricultural conservation easements covering the entire tract.

Pennsylvania Municipalities Planning Code—53 P. S. §§ 10101—11201.

Person—A corporation, partnership, business trust, other association, government entity (other than the Commonwealth), estate, trust, foundation or natural person.

Planning commission—A local government planning commission or agency which has been designated by the governing body of the local government unit to establish and foster a comprehensive plan for land management and development within the local government unit.

Restricted land—Land which is subject to the terms of an agricultural conservation easement acquired under the act.

Secretary—The Secretary of Agriculture of the Commonwealth.

7-year review—The periodic review of an existing ASA in accordance with section 9(a) of the act.

Soils available for agricultural production—Soils on land that is harvested cropland, pasture or grazing land, or land upon which no structure, easement, roadway, curtilage or natural or manmade feature would impede the use of that soil for agricultural production.

Soils report—A report which identifies and sets forth the amount of each land capability class found on a farm land tract.

State Board—The State Agricultural Land Preservation Board.

State-certified general real estate appraiser—A person who holds a current general appraiser's certificate issued under the Real Estate Appraisers Certification Act (63 P. S. §§ 457.1—457.19).

Subdivision—The division or redivision of a lot, tract or parcel of land by any means into two or more lots, tracts, parcels or other divisions of land including changes in existing lot lines for the purpose, whether immediate or future, of lease, partition by the court for distribution to heirs or devisees, transfer of ownership or building or lot development, or as otherwise defined in § 138e.3.

Title report—

(i) A report prepared by a person authorized by the Insurance Department to engage in the sale of title insurance or an attorney setting forth the existence of any liens, restrictions or other encumbrances on a farm-land tract.

(ii) The term does not include the title search, but does include the title binder or the title commitment, or both.

USDA—The United States Department of Agriculture.

USDA-NRCS—The Natural Resources Conservation Service of the USDA. This entity was formerly known as the Soil Conservation Service.

Viable agricultural land—Land suitable for agricultural production and which will continue to be economically feasible for that use if real estate taxes, farm use restrictions and speculative activities are limited to levels approximating those in commercial agricultural areas not influenced by the proximity of urban and related nonagricultural development.

§ 138l.2. Purpose.

This chapter provides regulatory guidance with respect to the benefits of having land in an ASA, the application and review process under which an ASA is formed, the procedures involved in recording an ASA, the addition of land to an existing ASA and the removal of land from an existing ASA, and to otherwise further the purposes of the act.

§ 138l.3. Contacting the Department.

(a) The forms referenced in this chapter may be obtained from the Department, by contacting the following: Director, Bureau of Farmland Preservation, Department of Agriculture, 2301 North Cameron Street, Harrisburg, Pennsylvania 17110-9408, (717) 783-3167.

(b) These forms shall also be available and may be downloaded from the Department's website, at the following internet website address: www.pda.state.pa.us.

§ 138l.4. Benefits of having land within an ASA.

The following are among the benefits and protections resulting from the inclusion of land within an ASA:

(1) Under section 11 of the act (3 P. S. § 911), local government units must encourage the ASA by not enacting laws or ordinances which would restrict farm structures or farm practices, unless the laws or ordinances bear a direct relationship to the public health or safety.

(2) Under section 11 of the act, a local law or ordinance defining or prohibiting a public nuisance must exclude from the definition of the nuisance any agricultural activity or operation conducted using normal farming operations within the ASA if the agricultural activity or operation does not bear a direct relationship to the public health and safety.

(3) Under section 12 of the act (3 P. S. § 912), Commonwealth agencies with programs that might negatively affect farmers must conduct their programs in a manner that will encourage the continuance of viable agriculture in the ASA.

(4) Under section 13 of the act (3 P. S. § 913), entities seeking to acquire land within an ASA by eminent domain (condemnation) must—under certain circumstances delineated in the act—obtain the advance approval of ALCAB before the taking can occur.

(5) Under section 14.1 of the act (3 P. S. § 914.1), the owner of land within an ASA comprised of 500 or more acres may be eligible to apply through the county board to sell an agricultural conservation easement to the Commonwealth, the county, a local government unit or some combination thereof.

Subchapter B. FORMATION OF AN AGRICULTURAL SECURITY AREA

- Sec.
- 138L.11. Agricultural security area advisory committee.
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- 138L.24. Planning commission action with respect to an ASA proposal.
- 138L.25. Advisory committee action with respect to an ASA proposal.
- 138L.26. Factors to be considered by the governing body of the local government unit, the planning commission and the advisory committee.

§ 138L.11. Agricultural security area advisory committee.

(a) *Time for formation of an advisory committee.* A governing body may establish an advisory committee at any time. When a proposal for the creation of an ASA is received by a governing body, though, the governing body shall establish an advisory committee if it has not already done so.

(b) *Appointment and composition of an advisory committee.* An advisory committee shall be appointed by the chairperson of the governing body of the local government unit in which the ASA is located, or is to be located. The members of the advisory committee shall serve at the pleasure of that chairperson. An advisory committee shall be composed of five members, as follows:

- (1) A member of the governing body of the local government unit, who shall be chairperson of the advisory committee.
- (2) One citizen residing within the local government unit.
- (3) Three active farmers, each representing a different private or corporate farm situated, at least in part, within the local government unit.

(c) *Functions of an advisory committee.* An advisory committee shall advise the governing body and work with the planning commission in relation to the proposed establishment, modification, review and termination of an ASA. An advisory committee shall render expert advice as to the nature and desirability of these actions, including advice as to the nature of farming and farm resources within the proposed or existing ASA and the relationship of farming in the ASA to the local government unit as a whole.

§ 138L.12. Eligibility to propose the creation of an ASA.

An owner or a group of owners of land are eligible to propose the creation of an ASA if the following conditions are met:

- (1) The land described in the proposal is used for agricultural production (although a reasonable amount of nonviable farm land and nonfarm land may be included if it is not feasible to exclude it).
- (2) Some portion of the land described in the proposal lies within the local government unit to which the proposal is submitted.
- (3) The total acreage described within the proposal comprises at least 250 acres of viable agricultural land.
- (4) If tax parcel numbers or accounts reflect that a parcel is not contiguous to other land included in the proposal, that tax parcel or account is at least one of the following:
 - (i) Comprised of 10 or more acres.
 - (ii) Has anticipated yearly gross income of at least \$2,000 from agricultural production.

§ 138L.13. ASA proposal form.

(a) *Governing body has discretion.* The governing body may prescribe the manner and form of the process under which it will receive and consider proposals for the formation of an ASA, to the extent the exercise of that discretion does not violate any provision of the act or this chapter. A governing body may require the use of its own ASA proposal form meeting the requirements of subsection (b), or may use the Department's ASA proposal form as described in subsection (c).

(b) *Minimum requirements for a proposal.* An ASA proposal shall, at a minimum, contain the following:

- (1) The name of the township, borough, city or other local government unit to which the ASA proposal is submitted.
- (2) The county of the local government unit to which the ASA proposal is submitted.
- (3) A description of the boundaries of the proposed ASA.
- (4) With respect to each farmland parcel listed on the ASA proposal:
 - (i) The printed name and address of each person owning land proposed for inclusion in the ASA.
 - (ii) The signature of each person described in subparagraph (i).
 - (iii) The county tax parcel number or account number identifying the parcel.
 - (iv) The acreage of the parcel.
- (5) Other information as might be reasonably required to establish the boundaries of the proposed ASA, the owners of the parcels of farmland described in the ASA and compliance with the act and this chapter.

(c) *ASA proposal form available from the Department.* The Department will provide any person or local government unit, upon request, copies of an ASA proposal form created by the Department. A request for an ASA proposal form may be directed to the Department in accordance with § 138L.3 (relating to contacting the Department) or the local government unit in which the ASA proposal form would be filed.

§ 1381.14. Fees.

(a) *General prohibition.* Except as provided in subsection (b), the governing body may not charge a landowner any fee for the filing of an ASA proposal or for any action the governing body is required to take under the act or this chapter.

(b) *Exception.* A governing body may, by resolution, impose reasonable filing fees for the administration and review of an ASA proposal if all of the following apply:

- (1) The proposal includes substantially the same lands as proposed in a previously-submitted application.
- (2) The governing body had rejected that previously-submitted application within 36 months preceding the date the proposal was submitted.
- (3) The previous rejection was based upon the recommendations of the advisory committee and the planning commission.

§ 1381.15. ASA located in more than one local government unit.

There are four ways in which an ASA may be created or modified to contain land located in more than one local government unit as follows:

(1) The ASA proposal may be directed to the governing bodies of each of the affected local government units and approved in accordance with the process described in § 1381.31(b) and (c) (relating to adding land to an existing ASA).

(2) A parcel of farmland that straddles the boundary line between two local government units shall be automatically included in the ASA of one of those local government units if the other local government unit has not approved an ASA and the majority of the parcel's viable agricultural land is within the local government unit seeking to create an ASA or add the parcel to an existing ASA, as described in § 1381.32 (relating to automatic inclusion of certain parcels bisected by the dividing line between local government units).

(3) A parcel of farmland that straddles the boundary line between two local government units shall be automatically included in the ASA if the majority of the parcel's viable agricultural land is already in the ASA and an agricultural conservation easement is purchased with respect to the parcel, as described in § 1381.33 (relating to automatic inclusion of certain parcels bisected by the dividing line between local government units upon purchase of an agricultural conservation easement by certain entities).

(4) A parcel of farmland that straddles the boundary line between two counties shall be automatically included in the ASA of one of those counties if an agricultural conservation easement is purchased with respect to the parcel, as described in § 1381.34 (relating to automatic inclusion of certain parcels bisected by the dividing line between counties upon the purchase of an agricultural conservation easement by certain entities).

§ 1381.16. Submitting an ASA proposal form to the local government unit.

(a) *Form submitted by certified mail, return receipt requested.* A person shall submit an ASA proposal form to the governing body of the local government unit in which the ASA is situated. The form shall only be submitted by certified mail, with return receipt requested.

(b) *Date of receipt.* The return receipt shall be official notice that the local government unit has received the

ASA proposal form, and the date reflected on that receipt shall constitute the official date of receipt for purposes of calculating the period within which review must occur.

§ 1381.17. Local government unit action upon receipt of an ASA proposal.

(a) *Acknowledgement of receipt.* If a local government unit receives an ASA proposal form by certified mail with return receipt requested, the governing body shall acknowledge receipt of the ASA proposal at its next regular or special meeting. The acknowledgement shall be reflected in the minutes of that meeting.

(b) *Providing notice.* Within 15 days of the date of receipt of an ASA proposal, the local government unit shall provide notice of the ASA proposal by doing both of the following:

(1) Publishing a notice that meets the requirements of subsection (c) in a newspaper having general circulation within the proposed ASA.

(2) Posting a notice that meets the requirements of subsection (c) in at least five conspicuous places within, adjacent to or near the proposed ASA.

(c) *Contents of notice.* The notices described in subsection (b) shall contain the following information:

(1) A statement that an ASA proposal has been filed with the governing body under the act.

(2) A statement that the ASA proposal will be on file for public inspection in the office of the local government unit.

(3) A statement that the following persons or entities may propose modifications of the proposed ASA:

(i) Any local government unit having land within or adjacent to the proposed ASA.

(ii) Any landowner who owns land proposed to be included within the ASA.

(iii) Any landowner with lands adjacent to or near the proposed ASA.

(4) A statement that objections to the proposed ASA or proposed modifications to the proposed ASA shall be filed with the governing body and the planning commission within 15 days of the date of publication of the notice, with an explanation of the filing procedure prescribed by the governing body.

(5) A statement that at the termination of the 15-day period described in paragraph (4), the ASA proposal and all proposed modifications will be submitted to the planning commission and the advisory committee, and that thereafter a public hearing will be held on the proposal, proposed modifications and the recommendations of the planning commission and advisory committee.

(d) *Window for receipt of objections or proposed modifications.* The governing body shall receive and consider any proposed modifications of a proposed ASA from the entities described in subsection (c)(3) until no more than 7 days prior to the advertisement of the public hearing described in § 1381.18 (relating to public hearing by local government unit on ASA proposal).

(e) *Submitting documents to the planning commission and the advisory committee.* Upon the termination of the 15-day period described in subsection (c)(4) and (5), the governing body shall submit the ASA proposal and all proposed modifications to the planning commission and the advisory committee for review. The governing body

shall retain a record of the date upon which the referenced materials are submitted to these reviewing bodies.

§ 1381.18. Public hearing by local government unit on ASA proposal.

(a) *Public hearing required.* The governing body shall hold a public hearing on an ASA proposal or proposed modification of an ASA. The public hearing shall be scheduled after the earlier of the following:

(1) Receipt of both the report of the planning commission, as described in § 1381.24 (relating to planning commission action with respect to an ASA proposal) and the report of the advisory committee, as described in § 1381.25 (relating to advisory committee action with respect to an ASA proposal).

(2) The expiration of the 45-day review periods afforded the planning commission under § 1381.24(b) and the advisory committee under § 1381.25(b).

(b) *Hearing notice required.* The governing body shall provide notice of the public hearing described in subsection (a) by doing the following:

(1) Publishing a hearing notice in a newspaper having general circulation in the proposed ASA.

(2) Providing a written hearing notice to the following:

(i) Any landowner who proposed a modification to the ASA.

(ii) Any person owning land included in the proposed modifications to an existing ASA.

(iii) Any person owning land included within the proposed ASA.

(3) Posting a written hearing notice in at least five conspicuous places within, adjacent to or near the proposed ASA or the proposed modifications.

(c) *Contents of hearing notice.* The hearing notice described in subsection (b) shall contain the following:

(1) A statement of the time, date and location of the public hearing.

(2) A description of the proposed ASA, and any proposed additions or deletions.

(3) A summary of the recommendations contained in the reports of the planning commission and the advisory committee. If the planning commission did not render its report within the 45-day period described in § 1381.24(b), or the advisory committee did not render its report within the 45-day period described in § 1381.25(b), the notice shall report this fact and indicate that the reviewing body is deemed to have given its approval to the proposed ASA or proposed modifications.

(4) A statement that the public hearing will be held concerning the following:

(i) The original ASA proposal.

(ii) Any written amendments proposed during the review period.

(iii) Any recommendations proposed by the planning commission or the advisory committee.

(d) *Location of public hearing.* The public hearing described in subsection (a) shall be held at a place either within the proposed ASA or at a location readily accessible to the proposed ASA—such as a nearby municipal building.

§ 1381.19. Decision of local government unit.

(a) *180-day deadline.* A governing body shall act to adopt or reject an ASA proposal, or any modification of a proposal, within 180 days of the official date of receipt of the ASA proposal, as this date is described in § 1381.16(b) (relating to submitting an ASA proposal form to the local government unit). If the governing body fails to act within this 180-day period, the ASA proposal shall be deemed adopted by the governing body, and any proposed modifications to the ASA proposal shall be deemed rejected by the governing body.

(b) *Factors to be considered in reaching decision.* The governing body shall consider the following in reaching its decision with respect to an ASA proposal or proposed modifications:

(1) The factors in § 1381.26(a) (relating to factors to be considered by the governing body of the local government unit, the planning commission and the advisory committee).

(2) The inclusion, to the extent feasible, of adjacent viable farmland where the landowner has applied to have the land included.

(3) The exclusion, to the extent feasible, of nonviable farmland and nonfarm land. It is not ordinarily feasible to require the exclusion or surveying-out of the incidental nonviable farm land and nonfarm land that is typically present on a parcel of viable agricultural land.

(i) This nonviable farm land or nonfarm land might include hedgerows, driveways and farm roads, lands containing soils in Land Capability Classes V—VIII, and land upon which farm buildings or residential structures and their curtilages are located.

(ii) The exclusion of nonviable farm land and nonfarm land becomes more feasible as the percentage of these types of land—as a proportion of a parcel's total acreage—increases and the percentage of viable agricultural land within the parcel decreases.

(4) The existence of utility facilities on land proposed for inclusion in an ASA will not prevent the inclusion of that land in an ASA.

§ 1381.20. Notice of decision of the local government unit.

(a) *Rejection or modification.* If a governing body rejects or modifies an ASA proposal, it shall provide each landowner affected by the rejection or modification with a written decision as described in subsection (c). This decision shall be provided by mail, and shall be mailed to each affected landowner within 10 days of the decision.

(b) *Approval.* If a governing body approves an ASA proposal, it shall provide each landowner affected by the approval with written notification of this approval and the effective date of the ASA or ASA modifications. This notification shall be provided by mail, and shall be mailed to each affected landowner within 10 days of the decision.

(c) *Contents of written decision.* The written decision described in subsection (a) shall contain the following:

(1) Findings of fact.

(2) A review of the evaluation criteria in § 1381.26 (relating to factors to be considered by the governing body of the local government unit, the planning commission and the advisory committee).

(3) A discussion of the reasons for rejection or modification of the proposal.

§ 1381.21. Effective date of the creation or modification of an ASA.

(a) *ASA proposal or modification covering land in a single local government unit.* If an ASA proposal or proposed modification involves land located entirely within a single local government unit, the ASA shall become effective upon the date the governing body of the local government unit approves the ASA. If proposed modifications to an ASA proposal are made, and the modifications involve land located entirely within the same single local government unit as the proposed ASA, the modifications shall become effective as of the date the governing body of the local government unit approves the modifications.

(b) *ASA proposal or modification covering land in more than one local government unit.* If an ASA proposal or proposed modification involves land located in more than one local government unit, the ASA shall become effective upon the date a local government unit, or a combination of local government units, approves a portion of the ASA proposal that meets the minimum acreage and other requirements for an ASA in § 1381.12 (relating to eligibility to propose the creation of an ASA), or as otherwise prescribed by the act. The remaining portions of the ASA proposal shall become effective upon the date of local government unit approval.

(c) *Deemed approval date.* If a governing body fails to approve, reject or modify an ASA proposal within 180-days of the official date of receipt of the ASA proposal, as described in §§ 1381.16(b) and 1381.19(a) (relating to submitting an ASA proposal form to the local government unit; and decision of local government unit), the ASA proposal shall be deemed to have been adopted without modification, and the ASA shall become effective as of the expiration of that 180-day period.

(d) *Automatic inclusion: certain parcels transected by the dividing line between local government units.* If a portion of a parcel is located within a local government unit that does not have an ASA established within its borders, that portion may—without the approval of the governing body of that local government unit—be included in the ASA of an adjoining local government unit in accordance with the procedure described in § 1381.32 (relating to automatic inclusion of certain parcels bisected by the dividing line between local government units). The ASA shall become effective upon the date the governing body of the adjoining local government unit approves the ASA.

(e) *Automatic inclusion: certain agricultural conservation easement purchases involving land in more than one local government unit.* If a portion of a parcel is not located within an ASA, but an agricultural conservation easement is purchased with respect to the parcel in accordance with § 1381.33 (relating to automatic inclusion of certain parcels bisected by the dividing line between local government units upon the purchase of an agricultural conservation easement by certain entities), the portion shall become part of an ASA upon the purchase of the agricultural conservation easement.

(f) *Automatic inclusion: cross-county agricultural conservation easement purchases.* If a portion of a parcel is not located within an ASA, but an agricultural conservation easement is purchased with respect to the parcel in accordance with § 1381.34 (relating to automatic inclusion of portions of certain parcels bisected by the dividing line between counties upon the purchase of an agricultural

conservation easement), the portion shall become part of an ASA upon the purchase of the agricultural conservation easement.

§ 1381.22. Filing of ASA description by governing body; recording of the ASA description.

(a) *Responsibility of governing body.* Within 10 days of the effective date of the creation or modification of an ASA, as described in § 1381.21 (relating to effective date of the creation or modification of an ASA), the governing body shall file a description of the ASA with the following:

- (1) The recorder of deeds of any county within which the ASA is located.
- (2) The county planning commission.
- (3) The planning commission of the local government unit.

(b) *Optional filing by governing body.* The governing body may file a description of the ASA with the office of the county board. This filing is encouraged, but not required.

(c) *Responsibility of the recorder.* A recorder of deeds receiving an ASA description from a governing body as described in subsection (a) shall record the description in a manner sufficient to give notice to all persons who have an interest in land within the ASA or in lands adjoining the ASA.

§ 1381.23. Notification of Secretary by governing body.

(a) *Responsibility of the governing body.* Within 10 days of the recording of the ASA, as described in § 1381.22 (relating to filing of ASA description by governing body; recording of the ASA description), the governing body shall notify the Secretary that the ASA has been approved, modified or terminated. This notification shall be accomplished by mailing written notification to the address in § 1381.3 (relating to contacting the Department).

(b) *Contents of notice.* The written notice described in subsection (a) shall include the following information:

- (1) The number of landowners whose land is in the ASA. The notification shall include only one landowner when land is under multiple ownership or is comprised of multiple parcels or accounts.
- (2) The total acreage of the ASA.
- (3) The effective date of the approval, modification or termination.

(4) The date upon which the approval, modification or termination was recorded in accordance with § 1381.22.

§ 1381.24. Planning commission action with respect to an ASA proposal.

(a) *Record of the date of receipt.* If a governing body submits an ASA proposal and all proposed modifications to a planning commission in accordance with § 1381.17(e) (relating to local government unit action upon receipt of an ASA proposal), the planning commission shall retain a record of the date upon which the referenced materials are received. This may be accomplished by time-stamping the documents, providing the governing body written confirmation of the date of receipt or other reasonable means of creating a record of the date upon which the documents were received.

(b) *45-day review period.* A planning commission shall have up to 45 days from receipt of an ASA proposal and any proposed modifications from the governing body within which to submit a report to that governing body. If

the planning commission fails to submit this report to the governing body within the 45-day review period, this failure to act shall be deemed to constitute the planning commission's approval of the ASA proposal. A report is considered "submitted" when it is delivered to the governing body.

(c) *Factors to be considered.* The planning commission shall consider the factors in § 1381.26 (relating to factors to be considered by the governing body of the local government unit, the planning commission and the advisory committee) in reaching its recommendation concerning the ASA proposal and proposed modifications.

(d) *Contents of report.*

(1) *Report by a county planning commission.* If the planning commission described in subsection (b) is a county planning commission, its report shall contain that body's recommendations concerning the proposal and proposed modifications.

(2) *Report by a planning commission that is not a county planning commission.* If the planning commission described in subsection (b) is not a county planning commission, its report shall relate the potential effect of the proposal and proposed modifications upon the local government's planning policies and objectives.

§ 1381.25. Advisory committee action with respect to an ASA proposal.

(a) *Record of the date of receipt.* If a governing body submits an ASA proposal and all proposed modifications to an advisory committee in accordance with § 1381.17(e) (relating to local government unit action upon receipt of an ASA proposal), the advisory committee shall retain a record of the date upon which the referenced materials are received. This may be accomplished by time-stamping the documents, providing the governing body written confirmation of the date of receipt or other reasonable means of creating a record of the date upon which the documents were received.

(b) *45-day review period.* An advisory committee shall have up to 45 days from receipt of an ASA proposal and any proposed modifications from the governing body within which to submit a report to that governing body. If the advisory committee fails to submit this report to the governing body within the 45-day review period, this failure to act shall be deemed to constitute the advisory committee's approval of the ASA proposal. A report is considered "submitted" when it is delivered to the governing body.

(c) *Factors to be considered.* The planning commission shall consider the factors in § 1381.26 (relating to factors to be considered by the governing body of the local government unit, the planning commission and the advisory committee) in reaching its recommendation concerning the ASA proposal and proposed modifications.

(d) *Contents of report.* The report of an advisory committee shall contain that body's recommendations concerning the proposal and proposed modifications.

§ 1381.26. Factors to be considered by the governing body of the local government unit, the planning commission and the advisory committee.

(a) *Factors.* The governing body of the local government unit, the planning commission and the advisory committee shall consider the following factors in their respective reviews of an ASA proposal and proposed modifications:

(1) *Soil quality.* Land proposed for inclusion in an ASA shall have soils which are conducive to agriculture. This

factor will have been satisfied without further consideration if the land to be included in the ASA meets one or more of the following standards:

(i) At least 50% of the land contains soils classified in Land Capability Classes I—IV.

(ii) At least 50% of the land falls within the Land Capability Class for "unique farmland."

(iii) At least 50% of the land contains soils that do not meet Land Capability Classes I—IV, but the land is in current active farm use and is being maintained in accordance with a soil erosion and sedimentation plan applicable to that land.

(2) *Consistency with comprehensive plans.* The use of land proposed for inclusion in an ASA shall be compatible with local government unit comprehensive plans.

(3) *Zoning.* If the land is subject to zoning requirements, it shall be zoned so as to permit agricultural use. The land need not be zoned to exclude other uses. A landowner may propose to include any land in an ASA, but the land must meet the zoning requirements of this paragraph.

(4) *Viable agricultural land.* Land proposed for inclusion in an ASA shall be viable agricultural land.

(5) *Extent and nature of farm improvements.* The extent and nature of farm improvements shall be considered.

(6) *Trends in agricultural economics.* Anticipated trends in agricultural conditions shall be considered.

(7) *Trends in agricultural technology.* Anticipated trends in agricultural technology shall be considered.

(8) *Other factors.* The governing body of the local government unit, the planning commission and the advisory committee may consider any other matter that may be relevant to its review and decision.

(b) *Resource materials.* The following are among the resource materials that may be used in reviewing an ASA proposal and proposed modifications:

(1) Soil surveys of the Pennsylvania State University.

(2) Soil surveys and other information provided by the National Cooperative Soil Survey.

(3) Soil survey maps prepared by USDA-NRCS.

(4) The United States census of agricultural categories of land use classes.

(5) Any other relevant published data, maps, charts, or results of soil or land use surveys made by any county, State or Federal agency.

Subchapter C. ADDING LAND TO AN EXISTING ASA

Sec.

1381.31. Adding land to an existing ASA.

1381.32. Automatic inclusion of certain parcels bisected by the dividing line between local government units.

1381.33. Automatic inclusion of certain parcels bisected by the dividing line between local government units upon the purchase of an agricultural conservation easement by certain entities.

1381.34. Automatic inclusion of portions of certain parcels bisected by the dividing line between counties upon the purchase of an agricultural conservation easement by certain parties.

§ 1381.31. Adding land to an existing ASA.

(a) *Adding land to an ASA located entirely within the same local government unit as the land proposed for inclusion.* If an ASA is entirely contained within a single local government unit, land that is located within that same local government unit may be added to the ASA at

any time, using the same process and procedure that is followed for the initial creation of an ASA, as set forth in this chapter.

(b) *Adding land to an ASA located within two or more local government units, where the land proposed for inclusion lies entirely within the local government units in which the existing ASA is located.* If an ASA is contained within two or more local government units, land that is located entirely within the local government units in which the ASA is located may be added to the ASA at any time, using the same process and procedure that is followed for the initial creation of an ASA, as set forth in this chapter.

(c) *Adding land to an ASA where the land proposed for inclusion lies entirely outside the local government units in which the ASA is located.* If an ASA is contained within one or more local government units, land that is located in a local government unit outside of a local government unit within which the ASA is located may be added to an ASA at any time, if the following apply:

(1) Prior to the submission of the proposal, the local government unit in which the land proposed for inclusion is located and each local government unit in which the existing ASA is located have adopted an ordinance or resolution allowing all of the land (including, at a minimum, both the land in the existing ASA and the land proposed for inclusion) to be part of a single ASA located within all of the local government units.

(2) The addition is made using the same process and procedure that is followed for the initial creation of an ASA, as set forth in this chapter.

(d) *Minimum acreage requirement is inapplicable.* Where land is proposed for inclusion into an existing ASA, it need not meet the minimum 250-acres-of-viable-agricultural-land requirement that is applicable to the initial formation of an ASA.

Example: Three parcels of farmland, totaling 120 acres of viable agricultural land, are proposed for inclusion into an existing ASA. The total acreage of the parcels proposed for inclusion does not have to meet the same 250-acres-of-viable-agricultural-land standard that was applicable to the initial formation of the ASA.

(e) *Effect of addition of land to an existing ASA on the required 7-year review of the ASA.* If land is added to an existing ASA, the added land shall be reviewed at the same time the original land undergoes its 7-year review as described in § 1381.51 (relating to 7-year review) or an interim review as described in § 1381.52 (relating to interim review).

§ 1381.32. Automatic inclusion of certain parcels bisected by the dividing line between local government units.

If a parcel of farmland is bisected by the dividing line between two local government units, the entire parcel shall be automatically included in an ASA—whether in the initial creation of the ASA or by modification of an existing ASA—if the following apply:

(1) The two local government units are in the same county.

(2) The parcel meets the eligibility requirements for inclusion in an ASA.

(3) A proposal for creation or modification of an ASA has been submitted to the governing body of one of the local government units in which the parcel is located, as set forth in this chapter, seeking the following:

(i) In the case of a proposal for the creation of an ASA: the inclusion of the entire parcel in the ASA.

(ii) In the case of a proposal for the modification of an existing ASA, where no portion of the parcel is within that existing ASA: the inclusion of the entire parcel within the ASA.

(iii) In the case of a proposal for the modification of an existing ASA, where a portion of the parcel is part of the existing ASA: the inclusion of the remainder of the parcel within the ASA.

(4) A majority of the parcel's viable agricultural land lies within the local government unit to which the proposal for creation or modification of an ASA has been submitted.

(5) The local government unit in which the minority of the parcel's viable agricultural land is located has not approved the creation of an ASA within its borders.

(6) The governing body of the local government unit adopts a proposal for creation or modification of an ASA that includes—at a minimum—that portion of the parcel located within that government unit.

§ 1381.33. Automatic inclusion of certain parcels bisected by the dividing line between local government units upon the purchase of an agricultural conservation easement by certain entities.

(a) *General.* If a parcel of farmland is bisected by the dividing line between two local government units, and the portion of the parcel in one local government unit is within an ASA and the portion of the parcel in the other local government unit is not, the portion of the parcel that is not within an ASA shall be automatically included in the ASA if the following apply:

(1) A majority of the parcel's viable agricultural land lies within the local government unit in which the ASA is located.

(2) An agricultural conservation easement is purchased by any of the following with respect to the parcel:

(i) The county.

(ii) The county and the Commonwealth, jointly.

(iii) The county and a local government unit, jointly.

(iv) The county, the Commonwealth and a local government unit, jointly.

Example: A 100-acre parcel of farmland is comprised of 80 acres in Township A and 20 acres in Township B. The 80-acre portion of the parcel is within an ASA established by Township A. The majority of the parcel's viable agricultural land is in Township A. The county purchases an agricultural conservation easement with respect to the parcel. Under these facts, as of the purchase of the agricultural conservation easement the 20-acre portion of the parcel located in Township B becomes part of the ASA covering the 80-acre portion of the parcel.

(b) *Exception.* Subsection (a) does not apply with respect to agricultural conservation easement purchases made solely by the Commonwealth.

§ 1381.34. Automatic inclusion of portions of certain parcels bisected by the dividing line between counties upon the purchase of an agricultural conservation easement by certain parties.

(a) *General.* If a parcel of farmland is bisected by the dividing line between two counties, and the portion of the

parcel in one county is within an ASA and the portion of the parcel in the other county is not, the portion of the parcel that is not within an ASA shall be automatically included in the ASA if the following apply:

(1) One of the following applies:

(i) There is a mansion house on the parcel of farmland, and it is located in the county within which the existing ASA is located.

(ii) There is a mansion house on the parcel of farmland, and the mansion house is bisected by the dividing line between the two counties. The landowner has designated the county within which the ASA is located as the situs of assessment for tax purposes.

(iii) There is no mansion house on the parcel of farmland, but the majority of the parcel's viable agricultural land lies within the existing ASA.

(2) An agricultural conservation easement is purchased by any of the following with respect to the parcel:

(i) The county.

(ii) The county and the Commonwealth, jointly.

(iii) The county and a local government unit, jointly.

(iv) The county, the Commonwealth and a local government unit, jointly.

Example 1: A parcel of farmland straddles the boundary line between County A and County B. The portion of the parcel in County A is in an ASA. There is no mansion house on the parcel. The majority of the parcel's viable agricultural land is in County A. County A purchases an agricultural conservation easement with respect to the entire parcel. Under these facts, as of the purchase of the agricultural conservation easement the portion of the parcel in County B becomes part of the ASA in which the remainder of the parcel is located.

Example 2: A parcel of farmland straddles the boundary line between County A and County B. There is a mansion house on the parcel, and it is located in County A. County A purchases an agricultural conservation easement with respect to the entire parcel. Under these facts, as of the purchase of the agricultural conservation easement the portion of the parcel in County B becomes part of the ASA in which the remainder of the parcel is located.

Example 3: A parcel of farmland straddles the boundary line between County A and County B. There is a mansion house on the parcel, and it straddles the dividing line between County A and County B. County A is the situs of the mansion house for tax purposes. County A purchases an agricultural conservation easement with respect to the entire parcel. Under these facts, as of the purchase of the agricultural conservation easement the portion of the parcel in County B becomes part of the ASA in which the remainder of the parcel is located.

(b) *Exception.* Subsection (a) does not apply with respect to agricultural conservation easement purchases made solely by the Commonwealth.

Subchapter D. REMOVING LAND FROM AN EXISTING ASA

Sec.

138L.41. Removing land that has been in an ASA for 7 years or more.

138L.42. Removing land in the course of the 7-year review or an interim review.

§ 138L.41. Removing land that has been in an ASA for 7 years or more.

(a) *Removal permitted.* If land has been in an ASA for 7 years or more, it may be removed from the ASA at the landowner's discretion, if both of the following apply:

(1) The landowner submits to the governing body of the local government unit in which the ASA is situated a written notification to have the land deleted from the ASA. The written notification shall contain information sufficient to identify the land to be removed, and shall include the acreage of the land to be removed.

(2) The written notification is submitted by certified mail, with return receipt requested.

(b) *Limitation on authority.* The governing body does not have the authority to deny a landowner's notification to remove land from an ASA.

(c) *Effective date of removal.* The removal of land from an ASA shall take effect upon receipt of this written notification by the governing body in accordance with subsection (a)(2).

(d) *Recording the removal of land from an ASA.* The governing body shall record the description of an ASA from which land has been removed within 10 days of the effective date of the removal. This recording shall be in accordance with § 138L.22 (relating to filing an ASA description by governing body; recording of the ASA description).

(e) *Failure of remaining land to meet ASA eligibility requirements.* If the removal of land from an ASA in response to a landowner's written notification causes the remaining lands of the ASA to fail to meet the minimum standards for an ASA, as set forth in § 138L.12 (relating to eligibility to propose the creation of an ASA), the ASA shall terminate. The governing body shall be responsible to record this termination with the offices or entities described in § 138L.22(a)(1)–(3).

§ 138L.42. Removing land in the course of the 7-year review or an interim review.

(a) *Removal permitted.* The landowner shall have the discretion to remove the land from the ASA in which it is located, if this removal is done in the course of the 7-year review process described in § 138L.51 (relating to 7-year review), or the interim review process described in § 138L.52 (relating to interim review), and the following apply:

(1) The landowner submits to the governing body of the local government unit in which the ASA is situated a written notification to have the land deleted from the ASA. The written notification shall contain information sufficient to identify the land to be removed, and shall include the acreage of the land to be removed.

(2) The written notification is submitted by certified mail, with return receipt requested.

(b) *Limitation on authority.* The governing body does not have the authority to deny a landowner's notification to remove land from an ASA.

(c) *Effective date of removal.* The removal of land from an ASA shall take effect upon receipt of this written notification by the governing body in accordance with subsection (a)(2).

(d) *Recording the removal of land from an ASA.* The governing body shall record the description of an ASA from which land has been removed within 10 days of the effective date of the removal. This recording shall be in accordance with § 138L.22 (relating to filing an ASA description by governing body; recording of the ASA description).

(e) *Failure of remaining land to meet ASA eligibility requirements.* If the removal of land from an ASA in response to a landowner's written notification causes the remaining lands of the ASA to fail to meet the minimum standards for an ASA, as set forth in § 138L.12 (relating to eligibility to propose the creation of an ASA), the ASA shall terminate. The governing body shall be responsible to record this termination with the offices or entities described in § 138L.22(a)(1)—(3) (relating to filing of ASA description by governing body; recording of the ASA description).

Subchapter E. SEVEN-YEAR REVIEW AND INTERIM REVIEW

Sec.
138L.51. Seven-year review.
138L.52. Interim review.

§ 138L.51. Seven-year review.

(a) *General.* The governing body of the local government unit shall review an ASA 7 years from the date of its creation and every 7 years thereafter, in accordance with the procedure in this section.

(b) *Advisory bodies to be consulted.* The governing body conducting a 7-year review shall request the recommendations of the planning commission, the county planning commission and the advisory committee with respect to the ASA that is being reviewed. The governing body shall seek and obtain these recommendations on its own timetable, but sufficiently in advance of the end of the 7th year to allow a summary of the recommendations of these advisory bodies to be included in the notice described in subsections (c)—(e).

(c) *Notice required 30 days or more before commencement of review.* The governing body conducting a 7-year review shall, at least 30 days prior to the commencement of a 7-year review, provide notice of the 7-year review of the ASA and the public hearing to be held as part of that review.

(d) *Notice procedure.* The notice described in subsection (c) shall be accomplished by doing the following:

(1) Publishing a hearing notice in a newspaper having general circulation in the area in which the ASA is located.

(2) Providing a written hearing notice to any person owning land within the ASA.

(3) Posting a written hearing notice in at least five conspicuous places within, adjacent to or near the ASA.

(e) *Contents of hearing notice.* The hearing notice described in subsection (d) shall contain the following:

(1) A statement of the time, date and location of the public hearing.

(2) A general description of the ASA being reviewed.

(3) A general description of the recommendations of the planning commission, the county planning commission and the advisory committee.

(4) Notification that interested persons may, within 30 days of the date of the notice, submit proposed modifications to the ASA to the governing body.

(f) *Public hearing required between 120 and 180 days before the end of the 7th year.* The governing body conducting a 7-year review shall, at least 120 days prior to the end of the 7th year and no more than 180 days prior to the end of the 7th year, conduct a public hearing to review the ASA.

(g) *Location of public hearing.* The public hearing described in subsection (e) shall be held at a place either within the ASA or at a location readily accessible to the ASA—such as a nearby municipal building.

(h) *Factors to be considered by governing body.* The governing body shall consider the factors in § 138L.19(b) (relating to decision of local government unit) in reaching its decision to approve the ASA without change, modify the ASA or terminate the ASA.

(i) *Decision of governing body.* The governing body conducting a 7-year review shall, following the public hearing, approve the ASA without change, modify the ASA or terminate the ASA.

(j) *Notice of decision.* The governing body conducting a 7-year review shall provide notice of its decision in accordance with § 138L.20 (relating to notice of decision of local government unit).

(k) *Failure to act is deemed to be approval of the ASA without modification.* If the governing body fails to complete the steps in subsections (a)—(i) prior to the end of the 7th year, or if a proposed modification to the ASA is rejected, the ASA shall be deemed to be readopted without modification for another 7 years.

(l) *Recording a modification of an ASA or a termination of an ASA.* If the governing body modifies an ASA or terminates an ASA it shall, within 10 days of its decision, file a notice of termination or modification with the following:

(1) The recorder of deeds of any county within which the ASA is located.

(2) The county planning commission.

(3) The planning commission of the local government unit.

(m) *Responsibility of the recorder.* A recorder of deeds receiving a notice of termination or modification of an ASA from a governing body as described in subsection (l) shall record the description in a manner sufficient to give notice to all persons who have an interest in land within the ASA or in lands adjoining the ASA.

§ 138L.52. Interim review.

(a) *Discretion.* If 10% or more of the land within an ASA is diverted to residential or nonagricultural commercial development at any time prior to a 7-year review of the ASA, the governing body may review the ASA and consider modifying or terminating the ASA, in accordance with the procedure in this section.

(b) *Advisory bodies to be consulted.* If the governing body elects to pursue the interim review described in subsection (a), it shall request, in writing, that the planning commission, the county planning commission and the advisory committee review the ASA and make recommendations with respect to modification or termination of the ASA within 30 days of receiving the written request.

(c) *Responsibility of advisory bodies.* The advisory bodies referenced in subsection (b) shall issue written recommendations within 30 days of receiving a request for recommendations from the governing body.

(d) *Public hearing requirements.* If the governing body elects to pursue the interim review described in subsection (a), it shall conduct a public hearing no sooner than 45 days after it submits its request for recommendations to the planning commission, the county planning commission and the advisory committee. The governing body shall provide the same notice for the public hearing as is described in § 1381.18(b) and (c) (relating to public hearing by local government unit on ASA proposal).

(e) *Location of public hearing.* The public hearing described in subsection (d) shall be held at a place either within the proposed ASA or at a location readily accessible to the proposed ASA—such as a nearby municipal building.

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