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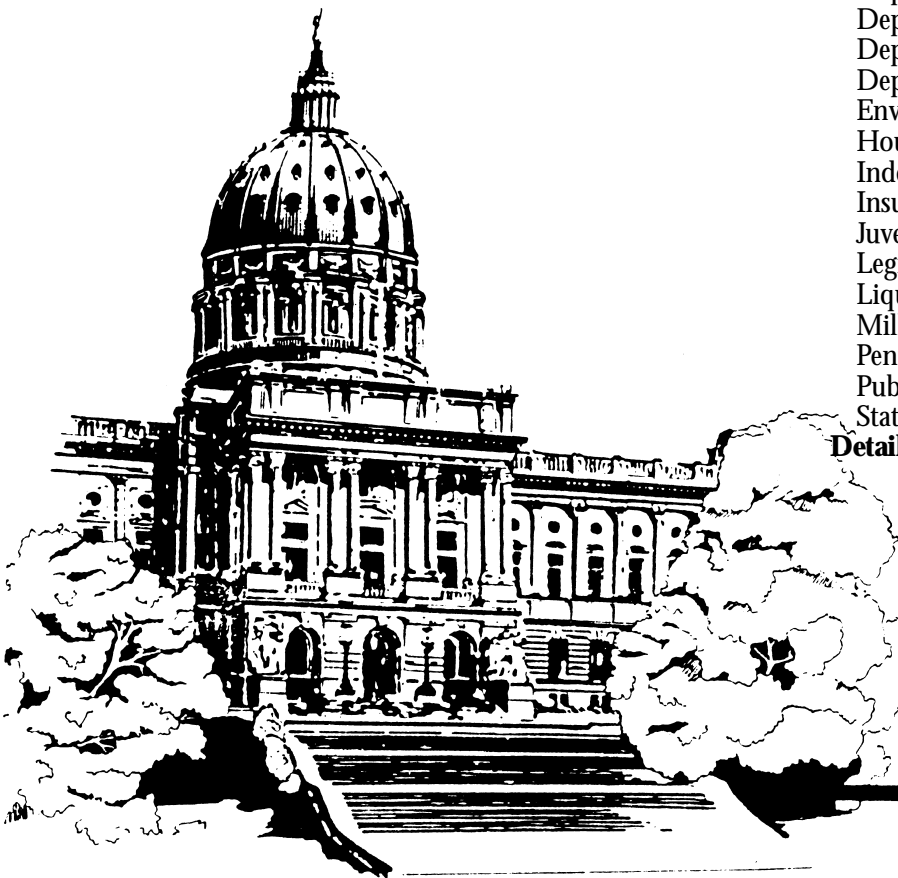
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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

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

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THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT [204 PA. CODE CHS. 81 AND 83]

Amendments to the Pennsylvania Rules of Professional Conduct and Pennsylvania Rules of Disciplinary Enforcement; No. 28 Disciplinary Doc. No. 1

Order

Per Curiam:

And Now, this 30th day of April, 2004, it is ordered, pursuant to Article V, Section 10, of the Constitution of Pennsylvania, that:

1. The Pennsylvania Rules of Professional Conduct are amended to read as set forth in Annex A hereto.
2. The Pennsylvania Rules of Disciplinary Enforcement are amended to read as set forth in Annex B hereto.
3. This Order shall be processed in accordance with Pa.R.J.A. 103(c). The amendments adopted hereby shall take effect upon publication of this Order in the *Pennsylvania Bulletin* and shall govern matters thereafter commenced and, in so far as just and practicable, matters then pending.

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

Subpart A. PROFESSIONAL RESPONSIBILITY

CHAPTER 81. RULES OF PROFESSIONAL CONDUCT

Subchapter A. RULES OF PROFESSIONAL CONDUCT

§ 81.4. Rules of Professional Conduct.

The following are the Rules of Professional Conduct:

LAW FIRMS AND ASSOCIATIONS

Rule 5.5. Unauthorized Practice of Law; **Multijurisdictional Practice Of Law.**

- (a) A lawyer shall not [:
- (a) aid a non-lawyer in the unauthorized practice of law; or
- (b)] practice law in a jurisdiction [where to do so would be] in violation of [regulations] the regulation of the legal profession in that jurisdiction, or assist another in doing so.
- (b) A lawyer who is not admitted to practice in this jurisdiction shall not:
- (1) except as authorized by these Rules or other law, establish an office or other systematic and continuous presence in this jurisdiction for the practice of law; or

(2) hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction.

(c) A lawyer admitted in another United States jurisdiction or in a foreign jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction that:

(1) are undertaken in association with a lawyer who is admitted to practice in this jurisdiction and who actively participates in the matter;

(2) are in or reasonably related to a pending or potential proceeding before a tribunal in this or another jurisdiction, if the lawyer, or a person the lawyer is assisting, is authorized by law or order to appear in such proceeding or reasonably expects to be so authorized;

(3) are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice and are not services for which the forum requires pro hac vice admission; or

(4) are not within paragraphs (c)(2) or (c)(3) and arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice.

(d) A lawyer admitted in another United States jurisdiction or a foreign jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services in this jurisdiction that:

(1) are provided to the lawyer's employer or its organizational affiliates and are not services for which the forum requires pro hac vice admission; or

(2) are services that the lawyer is authorized to provide by federal law or other law of this jurisdiction.

Comment

1. A lawyer may practice law only in a jurisdiction in which the lawyer is authorized to practice. A lawyer may be admitted to practice law in a jurisdiction on a regular basis or may be authorized by court rule or order or by law to practice for a limited purpose or on a restricted basis. Paragraph (a) applies to unauthorized practice of law by a lawyer, whether through the lawyer's direct action or by the lawyer assisting another person.

2. The definition of the practice of law is established by law and varies from one jurisdiction to another. Whatever the definition, limiting the practice of law to members of the bar protects the public against rendition of legal services by unqualified persons. [Paragraph (a)] This Rule does not prohibit a lawyer from employing the services of paraprofessionals and delegating functions to them, so long as the lawyer supervises the delegated work and retains responsibility for their work. See Rule 5.3.

3. [Likewise, it does not prohibit lawyers from providing] A lawyer may provide professional advice and instruction to nonlawyers whose employment requires knowledge of the law; for example, claims adjusters, employees of financial or commercial institutions, social workers, accountants and persons employed in government agencies. Lawyers also may assist independent nonlawyers, such as paraprofessionals, who are authorized by the law of a jurisdiction to provide particular law-related services. In addition, a lawyer may counsel nonlawyers who wish to proceed pro se.

[The definition of the practice of law is established by law and varies from one jurisdiction to another. Whatever the definition, limiting the practice of law to members of the bar protects the public against rendition of legal services by unqualified persons.

Code of Professional Responsibility Comparison

Rule 5.5 is the equivalent of present DR 3-101 of the Pa. C.P.R.]

4. Other than as authorized by law or this Rule, a lawyer who is not admitted to practice generally in this jurisdiction violates paragraph (b) if the lawyer establishes an office or other systematic and continuous presence in this jurisdiction for the practice of law. Presence may be systematic and continuous even if the lawyer is not physically present here. Such a lawyer must not hold out to the public or otherwise represent that the lawyer is admitted to practice law in this jurisdiction. See also Rules 7.1(a) and 7.5(b).

5. There are occasions in which lawyers admitted to practice in another foreign or United States jurisdiction, and not disbarred or suspended from practice in any jurisdiction, may provide legal services on a temporary basis in this jurisdiction under circumstances that do not create an unreasonable risk to the interests of their clients, the public or the courts. Paragraph (c) identifies four such circumstances. The fact that conduct is not so identified does not imply that the conduct is or is not authorized. With the exception of paragraphs (d)(1) and (d)(2), this Rule does not authorize a lawyer to establish an office or other systematic and continuous presence in this jurisdiction without being admitted to practice generally here.

6. There is no single test to determine whether a lawyer's services are provided on a "temporary basis" in this jurisdiction, and may therefore be permissible under paragraph (c). Services may be "temporary" even though the lawyer provides services in this jurisdiction on a recurring basis, or for an extended period of time, as when the lawyer is representing a client in a single lengthy negotiation or litigation.

7. Paragraphs (c) and (d) apply to lawyers who are admitted to practice law in any foreign or United States jurisdiction, which includes the District of Columbia and any state, territory or commonwealth of the United States. It is also intended to allow military lawyers to practice law on a pro bono basis for members of the military in civil matters. The word "admitted" in paragraph (c) contemplates that the lawyer is authorized to practice in the jurisdiction in which the lawyer is

admitted and excludes a lawyer who while technically admitted is not authorized to practice, because, for example, the lawyer is on inactive status.

8. Paragraph (c)(1) recognizes that the interests of clients and the public are protected if a lawyer admitted only in another jurisdiction associates with a lawyer licensed to practice in this jurisdiction. For this paragraph to apply, however, the lawyer admitted to practice in this jurisdiction must actively participate in and share responsibility for the representation of the client.

9. Lawyers not admitted to practice generally in a jurisdiction may be authorized by law or order of a tribunal or an administrative agency to appear before the tribunal or agency. This authority may be granted pursuant to formal rules governing admission pro hac vice or pursuant to informal practice of the tribunal or agency. Under paragraph (c)(2), a lawyer does not violate this Rule when the lawyer appears before a tribunal or agency pursuant to such authority. To the extent that a court rule or other law of this jurisdiction requires a lawyer who is not admitted to practice in this jurisdiction to obtain admission pro hac vice before appearing before a tribunal or administrative agency, this Rule requires the lawyer to obtain that authority.

10. Paragraph (c)(2) also provides that a lawyer rendering services in this jurisdiction on a temporary basis does not violate this Rule when the lawyer engages in conduct in anticipation of a proceeding or hearing in a jurisdiction in which the lawyer is authorized to practice law or in which the lawyer reasonably expects to be admitted pro hac vice. Examples of such conduct include meetings with the client, interviews of potential witnesses, and the review of documents. Similarly, a lawyer admitted only in another jurisdiction may engage in conduct temporarily in this jurisdiction in connection with pending litigation in another jurisdiction in which the lawyer is or reasonably expects to be authorized to appear, including taking depositions in this jurisdiction.

11. When a lawyer has been or reasonably expects to be admitted to appear before a court or administrative agency, paragraph (c)(2) also permits conduct by lawyers who are associated with that lawyer in the matter, but who do not expect to appear before the court or administrative agency. For example, subordinate lawyers may conduct research, review documents, and attend meetings with witnesses in support of the lawyer responsible for the litigation.

12. Paragraph (c)(3) permits a lawyer admitted to practice law in another jurisdiction to perform services on a temporary basis in this jurisdiction if those services are in or reasonably related to a pending or potential arbitration, mediation, or other alternative dispute resolution proceeding in this or another jurisdiction, if the services arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted to practice. The lawyer, however, must obtain admission pro hac vice in the case of a court-annexed arbitration or mediation or otherwise if court rules or law so require.

13. Paragraph (c)(4) permits a lawyer admitted in another jurisdiction to provide certain legal ser-

vices on a temporary basis in this jurisdiction that arise out of or are reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted but are not within paragraphs (c)(2) or (c)(3). These services include both legal services and services that non-lawyers may perform but that are considered the practice of law when performed by lawyers.

14. Paragraphs (c)(3) and (c)(4) require that the services arise out of or be reasonably related to the lawyer's practice in a jurisdiction in which the lawyer is admitted. A variety of factors evidence such a relationship. The lawyer's client may have been previously represented by the lawyer, or may be resident in or have substantial contacts with the jurisdiction in which the lawyer is admitted. The matter, although involving other jurisdictions, may have a significant connection with that jurisdiction. In other cases, significant aspects of the lawyer's work might be conducted in that jurisdiction or a significant aspect of the matter may involve the law of that jurisdiction. The necessary relationship might arise when the client's activities or the legal issues involve multiple jurisdictions, such as when the officers of a multinational corporation survey potential business sites and seek the services of their lawyer in assessing the relative merits of each. In addition, the services may draw on the lawyer's recognized expertise developed through the regular practice of law on behalf of clients in matters involving a particular body of federal, nationally-uniform, foreign, or international law.

15. Paragraph (d) identifies two circumstances in which a lawyer who is admitted to practice in another jurisdiction, and is not disbarred or suspended from practice in any jurisdiction, may establish an office or other systematic and continuous presence in this jurisdiction for the practice of law as well as provide legal services on a temporary basis. Except as provided in paragraphs (d)(1) and (d)(2), a lawyer who is admitted to practice law in another jurisdiction and who establishes an office or other systematic or continuous presence in this jurisdiction must become admitted to practice law generally in this jurisdiction.

16. Paragraph (d)(1) applies to a lawyer who is employed by a client to provide legal services to the client or its organizational affiliates, i.e., entities that control, are controlled by, or are under common control with the employer. This paragraph does not authorize the provision of personal legal services to the employer's officers or employees. The paragraph applies to in-house corporate lawyers, government lawyers and others who are employed to render legal services to the employer. The lawyer's ability to represent the employer outside the jurisdiction in which the lawyer is licensed generally serves the interests of the employer and does not create an unreasonable risk to the client and others because the employer is well situated to assess the lawyer's qualifications and the quality of the lawyer's work.

17. If an employed lawyer establishes an office or other systematic presence in this jurisdiction for the purpose of rendering legal services to the employer, the lawyer may be subject to registration or other requirements, including assessments for client protection funds and mandatory continuing legal education.

18. Paragraph (d)(2) recognizes that a lawyer may provide legal services in a jurisdiction in which the lawyer is not licensed when authorized to do so by federal or other law, which includes statute, court rule, executive regulation or judicial precedent.

19. A lawyer who practices law in this jurisdiction pursuant to paragraphs (c) or (d) or otherwise is subject to the disciplinary authority of this jurisdiction. See Rule 8.5(a).

20. In some circumstances, a lawyer who practices law in this jurisdiction pursuant to paragraphs (c) or (d) may have to inform the client that the lawyer is not licensed to practice law in this jurisdiction. For example, that may be required when the representation occurs primarily in this jurisdiction and requires knowledge of the law of this jurisdiction. See Rule 1.4(b).

21. Paragraphs (c) and (d) do not authorize communications advertising legal services to prospective clients in this jurisdiction by lawyers who are admitted to practice in other jurisdictions. Whether and how lawyers may communicate the availability of their services to prospective clients in this jurisdiction is governed by Rules 7.1 to 7.5.

MAINTAINING THE INTEGRITY OF THE PROFESSION

Rule 8.5. Disciplinary Authority; Choice of Law.

(a) *Disciplinary Authority.* A lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction, regardless of where the lawyer's conduct occurs. A lawyer not admitted in this jurisdiction is also subject to the disciplinary authority of this jurisdiction if the lawyer provides or offers to provide any legal services in this jurisdiction. A lawyer may be subject to the disciplinary authority of both this jurisdiction and another jurisdiction [where the lawyer is admitted] for the same conduct.

(b) *Choice of Law.* In any exercise of the disciplinary authority of this jurisdiction, the rules of professional conduct to be applied shall be as follows:

(1) for conduct in connection with a [proceeding in a court or agency] matter pending before [which a lawyer has been admitted to practice (either generally or for purposes of that proceeding)] a tribunal, the rules [to be applied shall be the rules] of the jurisdiction in which the [court or agency] tribunal sits shall be applied, unless the rules of the [court or agency] tribunal provide otherwise; and

(2) for any other conduct, the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in a different jurisdiction, the rules of that jurisdiction shall be applied to the conduct. A lawyer shall not be subject to discipline if the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect of the lawyer's conduct will occur.

[(i) if the lawyer is licensed to practice only in this jurisdiction, the rules to be applied shall be the rules of this jurisdiction, and

(ii) if the lawyer is licensed to practice in this and another jurisdiction, the rules to be applied

shall be the rules of the admitting jurisdiction in which the lawyer principally practices; provided, however, that if particular conduct clearly has its predominant effect in another jurisdiction in which the lawyer is licensed to practice, the rules of that jurisdiction shall be applied to that conduct.]

Comment

Disciplinary Authority

1. [Paragraph (a) restates] It is longstanding law that the conduct of a lawyer admitted to practice in this jurisdiction is subject to the disciplinary authority of this jurisdiction. Extension of the disciplinary authority of this jurisdiction to other lawyers who provide or offer to provide legal services in this jurisdiction is for the protection of the citizens of this jurisdiction. Reciprocal enforcement of a jurisdiction's disciplinary findings and sanctions will further advance the purposes of this Rule. See Pennsylvania Rules of Disciplinary Enforcement 201(a)(6) and 216(d). A lawyer who is subject to the disciplinary authority of this jurisdiction under Rule 8.5(a) appoints an official to be designated by this Court to receive service of process in this jurisdiction. The fact that the lawyer is subject to the disciplinary authority of this jurisdiction may be a factor in determining whether personal jurisdiction may be asserted over the lawyer for civil matters.

Choice of Law

2. A lawyer may be potentially subject to more than one set of rules of professional conduct which impose different obligations. The lawyer may be licensed to practice in more than one jurisdiction with differing rules, or may be admitted to practice before a particular court [or agency] with rules that differ from those of the jurisdiction or jurisdictions in which the lawyer is licensed to practice. [In the past, decisions have not developed clear or consistent guidance as to which rules apply in such circumstances.] Additionally, the lawyer's conduct may involve significant contacts with more than one jurisdiction.

3. Paragraph (b) seeks to resolve such potential conflicts. Its premise is that minimizing conflicts between rules, as well as uncertainty about which rules are applicable, is in the best interest of both clients and the profession (as well as the bodies having authority to regulate the profession). Accordingly, it takes the approach of (i) providing that any particular conduct of [an attorney] a lawyer shall be subject to only one set of rules of professional conduct, [and] (ii) making the determination of which set of rules applies to particular conduct as straightforward as possible, consistent with recognition of appropriate regulatory interests of relevant jurisdictions, and (iii) providing protection from discipline for lawyers who act reasonably in the face of uncertainty.

4. Paragraph (b)(1) provides that as to a lawyer's conduct relating to a proceeding [in a court or agency] pending before [which the lawyer is admitted to practice (either generally or pro hac vice)] a tribunal, the lawyer shall be subject only to the rules of [professional conduct of that court or agency] the jurisdiction in which the tribunal sits unless the rules of the tribunal, including its choice of law rule, provide otherwise. As to all other conduct, in-

cluding conduct in anticipation of a proceeding not yet pending before a tribunal, paragraph (b)(2) provides that a lawyer [licensed to practice only in this jurisdiction shall be subject only to the rules of professional conduct of this jurisdiction, and that a lawyer licensed in multiple jurisdictions shall be subject to the rules of the jurisdiction where he or she (as an individual, not his or her firm) principally practices, but with one exception: if particular conduct clearly has its predominant effect in another admitting jurisdiction, then only the rules of that jurisdiction shall apply. The intention is for the latter exception to be a narrow one. It would be appropriately applied, for example; to a situation in which a lawyer admitted in, and principally practicing in, State A, but also admitted in State B, handled an acquisition by a company whose headquarters and operations were in State B of another, similar such company. The exception would not appropriately be applied, on the other hand, if the lawyer handled an acquisition by a company whose headquarters and operations were in State A of a company whose headquarters and main operations were in State A, but which also had some operations in State B.] shall be subject to the rules of the jurisdiction in which the lawyer's conduct occurred, or, if the predominant effect of the conduct is in another jurisdiction, the rules of that jurisdiction shall be applied to the conduct. In the case of conduct in anticipation of a proceeding that is likely to be before a tribunal, the predominant effect of such conduct could be where the conduct occurred, where the tribunal sits or in another jurisdiction.

5. When a lawyer's conduct involves significant contacts with more than one jurisdiction, it may not be clear whether the predominant effect of the lawyer's conduct will occur in a jurisdiction other than the one in which the conduct occurred. So long as the lawyer's conduct conforms to the rules of a jurisdiction in which the lawyer reasonably believes the predominant effect will occur, the lawyer shall not be subject to discipline under this Rule.

6. If two admitting jurisdictions were to proceed against a lawyer for the same conduct, they should, applying this rule, identify the same governing ethics rules. They should take all appropriate steps to see that they do apply the same rule to the same conduct, and in all events should avoid proceeding against a lawyer on the basis of two inconsistent rules.

7. The choice of law provision [is not intended to apply to] applies to lawyers engaged in transnational practice, unless international law, treaties or other agreements between competent regulatory authorities in the affected jurisdictions provide otherwise. [Choice of law in this context should be the subject of agreements between jurisdictions or of appropriate international law.

Code of Professional Responsibility Comparison

There is no counterpart to this Rule in the Code.]

Annex B

Subpart B. DISCIPLINARY ENFORCEMENT
CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

Subchapter B. MISCONDUCT

Rule 201. Jurisdiction.

(a) The exclusive disciplinary jurisdiction of the Supreme Court and the Board under these rules extends to:

* * * * *

(6) Any attorney not admitted in this Commonwealth who practices law or renders or offers to render any legal services in this Commonwealth.

* * * * *

Rule 216. Reciprocal discipline.

* * * * *

(c) Upon the expiration of 30 days from service of the notice issued pursuant to the provisions of subdivision (a) of this rule, the Supreme Court may impose the identical or comparable discipline unless Disciplinary Counsel or the respondent-attorney demonstrates, or the Court finds that upon the face of the record upon which the discipline is predicated it clearly appears:

* * * * *

(2) there was such an infirmity of proof establishing the misconduct as to give rise to the clear conviction that the Court could not consistently with its duty accept as final the conclusion on that subject; or

(3) that the imposition of the same or comparable discipline would result in grave injustice, or be offensive to the public policy of this Commonwealth[; or].

[(4) that the misconduct established has been held to warrant substantially different discipline in this Commonwealth.]

* * * * *

(d) In all other respects, a final adjudication in another jurisdiction that an attorney, whether or not admitted in that jurisdiction, has been guilty of misconduct shall establish conclusively the misconduct for purposes of a disciplinary proceeding in this Commonwealth.

* * * * *

[Pa.B. Doc. No. 04-840. Filed for public inspection May 14, 2004, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 1]

Order Amending Rule 103; No. 308 Criminal Procedural Rules; Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining the April 30, 2004 amendment to Rule of Criminal Procedure 103 that includes a definition of "signature" that makes it clear that "signature," when used in reference to documents generated by the minor judiciary or court of common

pleas, includes a handwritten signature, a copy of a handwritten signature, a computer generated signature, or a signature created, transmitted, received, or stored by electronic means, by the signer or by someone with the signer's authorization, unless otherwise provided in these rules. The Final Report follows the Court's Order.

Order

Per Curiam:

Now, this 30th day of April, 2004, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been published before adoption at 33 Pa.B. 1048 (March 1, 2003), and in the Atlantic Reporter (Second Series Advance Sheets, Vol. 815), and a Final Report to be published with this Order:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule of Criminal Procedure 103 is amended in the following form.

This Order shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective July 1, 2004.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE
CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART A. Business of the Courts

Rule 103. Definitions.

The following words and phrases, when used in any Rule of Criminal Procedure, shall have the following meanings:

* * * * *

SIGNATURE, when used in reference to documents generated by the minor judiciary or court of common pleas, includes a handwritten signature, a copy of a handwritten signature, a computer generated signature, or a signature created, transmitted, received, or stored by electronic means, by the signer or by someone with the signer's authorization, unless otherwise provided in these rules.

* * * * *

Comment

* * * * *

Neither the definition of law enforcement officer nor the definition of police officer gives the power of arrest to any person who is not otherwise given that power by law.

The definition of signature was added in 2004 to make it clear when a rule requires a document generated by the minor judiciary or court of common pleas to include a signature or to be signed, that the signature may be in any of the forms provided in the definition. In addition, documents that institute proceedings or require the inclusion of an oath ordinarily are not documents generated by the minor courts or courts of common pleas and therefore any signature required on the document would not be included in this definition of signature; however, in the event such a document is generated by the minor courts or the courts of common pleas, the form of "signature" on this document is limited to handwritten, and the other forms of signature provided in the definition are not permitted.

* * * * *

Official Note: Previous Rules 3 and 212 adopted June 30, 1964, effective January 1, 1965, suspended **January 31, 1970**, effective May 1, 1970; present Rule 3 adopted January 31, 1970, effective May 1, 1970; amended June 8, 1973, effective July 1, 1973; amended February 15, 1974, effective immediately; amended June 30, 1977, effective September 1, 1977; amended January 4, 1979, effective January 9, 1979; amended July 12, 1985, effective January 1, 1986; January 1, 1986 effective date extended to July 1, 1986; amended August 12, 1993, effective September 1, 1993; amended February 27, 1995, effective July 1, 1995; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996; the April 1, 1996 effective date extended to July 1, 1996; renumbered Rule 103 and Comment revised March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002; **amended March 3, 2004, effective July 1, 2004; amended April 30, 2004, effective July 1, 2004.**

Committee Explanatory Reports:

* * * * *

Final Report explaining the April 30, 2004 amendments defining "signature" published with the Court's Order at 34 Pa.B. 2542 (May 15, 2004).

FINAL REPORT¹

Amendment to Pa.R.Crim.P. 103

Definition of Signature

On April 30, 2004, effective July 1, 2004, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Pa.R.Crim.P. 103 (Definitions) to include a definition of signature: "signature, when used in reference to documents generated by the minor judiciary or court of common pleas, includes a handwritten signature, a copy of a handwritten signature, a computer generated signature, or a signature created, transmitted, received, or stored by electronic means, by the signer or by someone with the signer's authorization, unless otherwise provided in these rules."

The Committee has been undertaking a review of the Criminal Rules as part of its continuing efforts to encourage and facilitate the use of advanced communication technology (ACT) in court proceedings,² conform the rules to the ACT changes adopted by the Supreme Court in 2002,³ and respond to issues raised by the Supreme Court's Common Pleas Court Management System (CPCMS) Project staff. One issue the CPCMS Project staff raised with the Committee was "whether the rules permit a judge, defendant, counsel, etc. to use an electronic signature to sign a form." The CPCMS Project staff pointed out that the Criminal Rules do not specifically permit electronic signatures on criminal case documents, and, because they are in the final stages of developing the CPCMS to automate the common pleas courts, they need to know whether to incorporate the capability of using electronic signatures into the system. The Committee's review of the rules revealed that without some specific reference to electronic signatures, there could be confusion whether this form of signature is permitted, especially in view of the Court's continuing efforts to integrate automation and ACT procedures into the Criminal Rules

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

² The Committee strongly believes the use of technology should be encouraged when feasible because this promotes the Court's goals of statewide uniformity in the practice of law, and the use of technology has been shown to result in a more efficient use of the court's limited resources.

³ See, e.g., the Court's May 10, 2002 Order published at 32 Pa.B. 2591 (May 25, 2002).

and the criminal trial process. The Committee considered various approaches to providing in the Criminal Rules this clarification. We concluded the best way to proceed is to define the term "signature" in the rules and make it clear the term "signature" includes electronic signatures on documents generated⁴ by the minor courts⁵ or courts of common pleas that are prepared and transmitted electronically.

During the Committee's discussion of the wording of a definition, several members expressed concerns about the scope of the definition and whether some controls over the use of forms of signatures other than a traditional signature handwritten by the signatory should be included. Concerning the scope of the definition, because the changes tie into the CPCMS which primarily is an automated court management system, the Committee agreed that, for the time being, the definition should be limited to court-generated documents and not documents coming into the court from counsel or defendants. In addition, the members thought this definition provides the best means of capturing a judge's signature so that when the judge authorizes a document, the signature of the judge can be generated or reproduced on the document in lieu of the judge physically handwriting his or her name. Finally, the members agreed that the definition should be broad enough to 1) encompass all the forms of signature, not only electronic, and be worded broadly so the definition would not have to be amended to accommodate new forms of technology as they are developed, and 2) accommodate not only the judge who authorizes his or her signature on a document be generated or reproduced electronically or by some other means, but also the judge who elects to physically handwrite his or her name.

Concerning placing some controls in the definition, the members particularly were concerned about signatures being placed on documents without the authorization of the individual purporting to have signed the document. We noted that the same situation arises with signatures that are not electronically generated, and that there probably is no procedural way to protect completely against unauthorized signatures. However, we agreed the definition should include a provision requiring that a signature must be affixed upon the document by the signer or by someone with the signer's authorization.

In view of the foregoing considerations, Rule 103 (Definitions) has been amended by including a definition of the term "signature" to make it clear that when used in reference to a minor court or common pleas court-generated document only, signature includes: 1) a handwritten signature; 2) a copy of a handwritten signature; 3) a computer generated signature, or 4) a signature created, transmitted, received, or stored by electronic means, and explain that the signature must be placed on the document by the signatory or by someone with the signatory's authorization. In addition, the Comment to Rule 103 has been revised to include an explanation that if the minor court or court of common pleas ever generate a document that institute proceedings or require the

⁴ The members while working on this definition were aware that the term "electronic signature" can mean either a signature that is generated or created or produced or reproduced by a system when the appropriate buttons are entered (i.e., as in a PIN), or a signature that is "written" or "entered" on an electronic pad, captured as a signature, and "remembered" by that system so that it can be reproduced when necessary, and that all these forms of electronic signatures needed to be included in the definition of "signature."

⁵ The Committee published our proposal at 33 Pa.B. 1048 (March 1, 2003), and included in the proposed definition the language "court generated document." In view of correspondence we received following the publication of our proposal, the Committee agreed to modify the definition to make it clear that the definition includes signatures on documents generated by the minor courts and does not include signatures on documents that come into the court from counsel or the defendant. Accordingly, we agreed to replace in the definition the language "court generated document" with "documents generated by the minor judiciary or court of common pleas."

inclusion of an oath, the form of signature on the document is limited to the original handwritten signature of the district justice or judge, and the other forms of signature provided in the definition are prohibited.

[Pa.B. Doc. No. 04-841. Filed for public inspection May 14, 2004, 9:00 a.m.]

[234 PA. CODE CH. 5]

Order Approving the Revision of the Comment to Rule 560; No. 307 Criminal Procedural Rules; Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining the April 23, 2004 changes to Rule of Criminal Procedure 560 clarifying that the attorney for the Commonwealth may electronically prepare, sign, and transmit the information for filing. The Final Report follows the Court's Order.

Order

Per Curiam:

Now, this 23d day of April, 2004, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3) in the interests of justice and efficient administration, and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that the revision of the Comment to Rule of Criminal Procedure 560 is approved in the following form.

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

Annex A

**TITLE 234. RULES OF CRIMINAL PROCEDURE
CHAPTER 5. PRETRIAL PROCEDURES IN COURT CASES**

PART E. Informations

Rule 560. Information: Filing, Contents, Function.

* * * * *

Comment

The attorney for the Commonwealth may electronically prepare, sign, and transmit the information for filing.

Before an information is filed, the attorney for the Commonwealth may withdraw one or more of the charges by filing a notice of withdrawal with the clerk of courts. See Rule 561(A). Upon the filing of an information, any charge not listed on the information will be deemed withdrawn by the attorney for the Commonwealth. See Rule 561(B). After the information is filed, court approval is required before a nolle prosequi may be entered on a charge listed therein. See Rule 585.

* * * * *

Official Note: Rule 225 adopted February 15, 1974, effective immediately; Comment revised January 28, 1983, effective July 1, 1983; amended August 14, 1995, effective January 1, 1996; renumbered Rule 560 and amended March 1, 2000, effective April 1, 2001; **Comment revised April 23, 2004, effective immediately.**

Committee Explanatory Reports:

* * * * *

Final Report explaining the April 23, 2004 Comment revision published with the Court's Order at 34 Pa.B. 2543 (May 15, 2004).

FINAL REPORT¹

Revision of the Comment to Pa.R.Crim.P. 560

Electronic Preparation, Signature, and Transmission for Filing of Informations

On April 23, 2004, effective immediately, upon the recommendation of the Criminal Procedural Rules Committee, the Court approved the revision of the Comment to Rule 560 (Information: Filing, Contents, Function) to clarify that the attorney for the Commonwealth may electronically prepare, sign, and transmit the information for filing.

The Committee received an inquiry from the Common Pleas Case Management System (CPCMS)² staff asking whether under present Rule 560 an information may be prepared, signed, and transmitted electronically. They informed us that they have developed a "DA link" through the Internet to the CPCMS that is capable of transferring an information to the clerk of courts for filing and docketing, and expressed concern that because Rule 560 does not specifically permit the attorney for the Commonwealth to electronically prepare, sign, and transmit an information to the clerk of courts this form of automation would not be permitted.

The Committee reviewed Rule 560, which provides the procedures for the attorney for the Commonwealth to prepare and file an information, as well as the recent rule changes permitting the electronic preparation and transmission of citations, and concluded there is no reason not to include a comparable provision in Rule 560. Furthermore, even with the technology in place, the absence of a provision specifically permitting this could result in confusion and inhibit some attorneys for the Commonwealth from using the CPCMS DA link. Therefore, a provision acknowledging that Rule 560 permits an attorney for the Commonwealth to complete the Rule 560 information procedures electronically is necessary and will be helpful to the attorneys for the Commonwealth, members of the bench and bar, and other participants in the judicial system such as the clerks of courts. Accordingly, the language "The attorney for the Commonwealth may electronically prepare, sign, and transmit the information for filing" has been added as a new first paragraph to the Rule 560 Comment.

[Pa.B. Doc. No. 04-842. Filed for public inspection May 14, 2004, 9:00 a.m.]

[234 PA. CODE CH. 6]

Jury Deliberations: Written Jury Instructions

The Criminal Procedural Rules Committee is considering proposing to the Supreme Court of Pennsylvania that the Justices reconsider the current Rule 646 (Material

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

² The Supreme Court has been developing the CPCMS, a statewide automated case management system for the criminal divisions of the courts of common pleas, and the Court anticipates the new system will be functioning fully within the next year and will promote the Court's goal of statewide uniformity. As part of the development of the CPCMS, the Committee has been working with the system staff to ensure conformity and consistency with the Criminal Rules.

Permitted in Possession of the Jury) provision that provides during deliberations the jury shall not be permitted to have written jury instructions, and amend the rule. The proposed amendments to Rule 646 the Committee is considering would provide the procedures for the trial judge in his or her discretion to permit the jury to have written jury instructions for use during deliberations. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

The following explanatory Report highlights the Committee's considerations in formulating this proposal. Please note that the Committee's Report should not be confused with the official Committee Comments to the rules. Also note that the Supreme Court does not adopt the Committee's Comments or the contents of the explanatory Reports.

The text of the proposed amendments to Rule 646 precedes the Report. Additions are shown in bold; deletions are in bold and brackets.

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

Anne T. Panfil, Chief Staff Counsel
Supreme Court of Pennsylvania
Criminal Procedural Rules Committee
5035 Ritter Road, Suite 100
Mechanicsburg, PA 17055
fax: (717) 795-2106
e-mail: criminal.rules@pacourts.us

no later than Friday, June 18, 2004.

By the Criminal Procedural Rules Committee

JOHN J. DRISCOLL,
Chair

Annex A

**TITLE 234. RULES OF CRIMINAL PROCEDURE
CHAPTER 6. TRIAL PROCEDURES IN COURT
CASES**

PART C(2). Conduct of Jury Trial

Rule 646. Material Permitted in Possession of the Jury.

(A) Upon retiring, the jury may take with it such exhibits as the trial judge deems proper[, **except as provided in paragraph (B)]**.

(B) Within the discretion of the trial judge, the jury may be permitted to have written jury instructions for use during deliberations.

(C) During deliberations, the jury shall not be permitted to have:

* * * * *

(3) a copy of the information[;].

[(4) written jury instructions.]

Comment

* * * * *

[The 1999 amendment to paragraph (B) makes it clear that the trial court is prohibited from sending written jury instructions with a jury for use during deliberations. See *Commonwealth v. Karaffa*, 709 A.2d 887 (Pa. 1998), in which the Court held it was reversible error to submit written jury instructions to the jury.]

Written jury instructions may include all preliminary instructions, instructions provided during the trial, and the instructions given at the end of the case. When written jury instructions are not available, a transcript or an audio or audio-video recording would be satisfactory under this rule.

* * * * *

Official Note: Rule 1114 adopted January 24, 1968, effective August 1, 1968; amended June 28, 1974, effective September 1, 1974; Comment revised August 12, 1993, effective September 1, 1993; amended January 16, 1996, effective July 1, 1996; amended November 18, 1999, effective January 1, 2000; renumbered Rule 646 March 1, 2000, effective April 1, 2001; **amended _____, effective _____.**

Committee Explanatory Reports:

* * * * *

Report explaining the proposed amendment concerning written jury instructions published at 34 Pa.B. 2544 (May 15, 2004).

REPORT

Amendments to Pa.R.Crim.P. 646

Jury Deliberations: Written Jury Instructions

INTRODUCTION

The Criminal Procedural Rules Committee is considering recommending that the Court reconsider the long standing ban on juries having access to written jury instructions for consideration during deliberations and amend Rule 646 (Material Permitted in Possession of the Jury) to provide in the discretion of the trial judge for the jury to be permitted to have written jury instructions for use during deliberations. These changes are intended to facilitate jury trial procedures, aid jurors in better comprehending the instructions, and align the Pennsylvania rule concerning written jury instructions with the procedures in a number of other state and federal jurisdictions.¹

For a number of years, the Committee has visited and revisited the concept of jury trial innovations generally,² and in recent months we have considered the specific issue of permitting the jury to have written jury instructions for use during deliberations.³ The Committee recognizes the interest among members of the bench and bar in having the jury receive the written jury instructions applicable to the case the jurors are deciding. We concluded, from the information we received from contacts in other states that permit the jury to have written jury instructions, and after reviewing literature discussing studies concerning the impact of written jury instructions on the judicial system,⁴ which found that in fact the fears concerning the possible prejudice to a defendant from providing written instructions to a jury, or that the jury

¹ From our research, it appears that Pennsylvania is the only jurisdiction that specifically provides the jury shall not be permitted to have written jury instructions for use during deliberations. Most jurisdictions permit the jurors to have written jury instructions; a few jurisdictions, however, remain silent on this issue.

² For example, in the mid-1980s, the Committee explored areas of jury trial innovations including note taking by jurors and improvements in jury instructions, and in 1985, the Court adopted changes to then-Rule 1119 (current Rule 647) that required the trial judge to rule on requests for instructions before closing arguments and encouraged the judge to provide instructions on substantive matters to the jurors before and during the trial. See 15 Pa.B. 1733 (May 15, 1985).

³ Another area the Committee recently considered involves note taking by jurors. See 33 Pa.B. 2166 (May 3, 2003) for the Committee's Report explaining the proposal.

⁴ See, e.g., G. Thomas Munsterman, Paula L. Hannaford, and G. Marc Whitehead, *Jury Trial Innovations* at pp. 174-176 (1997), Leonard B. Sand and Steven Alan Reiss, *A Report on Seven Experiments Conducted by District Court Judges in the Second Circuit*, 60 NYU L.Rev. 423 at 453-458 (1985), and Justice Castille's dissent in *Commonwealth v. Karaffa*, 709 A.2d 887 (Pa. 1998) (the most recent Supreme Court decision addressing this issue).

would assess undue weight to the points of law in written instructions or misinterpret or misapply the law generally are unfounded, that providing the written instructions to the jury aids their comprehension without negative consequences, and often results in fewer questions from the jury about the instructions, which promotes judicial economy. In view of the positive findings in the recent studies of this issue, and the positive experience of the Committee members who practice in other jurisdictions, including the Federal Courts, that permit the jurors to have written jury instructions for use during deliberations, the Committee agreed it is time to reexamine Pennsylvania's prohibition on jurors having written jury instructions during deliberations and that the Criminal Rules should be amended to permit this practice.

DISCUSSION OF PROPOSED AMENDMENT TO RULE 646

After the Committee agreed that juries should be provided written jury instructions for use during deliberations, we encountered a challenge in determining how to incorporate this change into Rule 646. We reviewed the history of Rule 646, and found that although the paragraph (B)(4) language "During deliberations the jury shall not be permitted to have written jury instructions" only has been in the rules since 1999,⁵ historically the practice in Pennsylvania specifically has been discouraged since the Court first addressed the issue in *Commonwealth v. Baker*, 353 A.2d 406 (Pa. 1976) (plurality opinion).⁶ In addition, the Committee recognized that recent developments in trial practice generally have emphasized the necessity of developing procedures to improve the jurors' comprehension of the case they are hearing. We also recognized that there continues to be some resistance to a complete "about-face" change that would permit written jury instructions to be provided to the jury for use during deliberations. Taking into consideration the concerns of the opponents, the Committee identified several issues that require consideration in order to progress with this change.

The Committee first discussed whether written jury instructions should be provided to the jury in all cases, or only when counsel agree, or when the trial judge permits it. The Committee majority agreed that mandating this upon the trial judges was not necessary, although there was concern by some members that if not a mandated procedure, some judges would never permit this practice. The Committee also agreed that providing the written jury instructions to the jury when counsel agree was not a feasible option because often, especially in the more serious cases, opposing counsel are contentious and unable to agree on much, if anything, and this would result in additional appeals issues. Having fully considered and debated the merits of mandating the trial judges to provide in all cases written jury instructions for use during deliberations, or requiring the agreement of counsel, the Committee ultimately settled on leaving the

question of whether to send written jury instructions with the jury for their use during deliberations within the discretion of the trial judge.

The Committee also discussed what the term "written jury instructions" encompasses. First, the Committee determined that written jury instructions may include all preliminary instructions, instructions provided during the trial, and the instructions given to the jury at the end of a case, and that what constitutes the written jury instructions that will go with the jury for deliberations would be left to the discretion of the trial judge. The Committee next considered whether there would be any legitimate substitutes for "written jury instructions." Some members raised the concern that there may be instances when, for example, the trial judge has written jury instructions from which he or she reads, but deviates from the instructions, or the trial judge derives the instructions from various sources, or the particular court is unable to reduce the instructions into writing in a timely fashion, and therefore, the "written jury instructions" are unavailable. We agreed that, under these types of circumstances, a transcript or an audio or audio-video recording would be an appropriate substitute for the written jury instructions.

In view of these considerations, the Committee is proposing that paragraph (B)(4) be deleted, and a new paragraph (B), that would provide "Within the discretion of the trial judge, the jury may be permitted to have written jury instructions for use during deliberations,"⁷ be added to Rule 646. The Comment also would be revised to explain that 1) written jury instructions may include all preliminary instructions, instructions provided during the trial, and the instructions given at the end of the case, and 2) when written jury instructions are not available, a transcript or an audio or audio-video recording would be satisfactory under this rule.

[Pa.B. Doc. No. 04-843. Filed for public inspection May 14, 2004, 9:00 a.m.]

Title 255—LOCAL COURT RULES

BEAVER COUNTY

Local Rules of Criminal Procedure; No. 286 Misc., 2004

Order

On this 23rd day of April, 2004, the Local Rules of Criminal Procedure, Numbered 100 through 705.1, are adopted effective 30 days after publication in the *Pennsylvania Bulletin*.

The Clerk of Courts of Beaver County shall file or submit certified copies of this order and the Local Rules of Criminal Procedure as follows:

- A. Seven (7) copies with the Administrative Office of Pennsylvania Courts;
- B. Two (2) copies to the Legislative Reference Bureau; for publication in the *Pennsylvania Bulletin*;
- C. One (1) copy with the Criminal Procedural Rules Committee of the Pennsylvania Supreme Court; and

⁷ Present paragraph (B) would become new paragraph (C).

⁵ This language was added following *Commonwealth v. Karaffa*, 709 A.2d 887 (Pa. 1998), in which the Court held it was reversible error to submit written jury instructions to the jury.

⁶ In *Baker*, the Court opined "the inherent dangers" in sending written jury instructions with the jury for use during deliberations "outweigh the possible benefit to be derived therefrom"—the jurors may overemphasize the importance of the matters touched upon and ignore the totality of the oral charge—and stated this practice should not be followed. See also *Commonwealth v. Olevnik*, 568 A.2d 1238 (Pa. 1990) (it is reversible error to submit written jury instructions to the jury for use during deliberations because the possible prejudice to a defendant from providing written instructions to a jury universally outweighs any benefit such instruction might provide because a jury likely would assess undue weight to the points of law in written instructions and possibly misinterpret or misapply the law and that the undue emphasis on portions of the charge potentially undermines the integrity of the deliberative process), *Commonwealth v. Karaffa*, 709 A.2d 887 (Pa. 1998) (emphasizing holding and rationale expressed in *Olevnik*), and *Commonwealth v. Byrd*, 598 A.2d 1011 (Pa. Super. 1991).

D. One (1) copy shall be kept continuously available for public inspection and copying at the Clerk of Courts office.

By the Court

ROBERT E. KUNSELMAN,
President Judge

LOCAL RULES OF CRIMINAL PROCEDURE

L. R. 100 Scope of Local Rules:

These local rules of Criminal Procedure are adopted to be applicable to the Criminal Division of the Court of Common Pleas of Beaver County, Pennsylvania as long as they are consistent with the Pennsylvania Rules of Criminal Procedure, 42 Pa.C.S.A. 100 et-seq.

L. R. 102 Citing the Local Rules of Criminal Procedure:

All local rules of criminal procedure shall be known as the Beaver County Local Rules of Criminal Procedure and shall be cited as "L. R. Crim. P. No. _____."

L. R. 103 Definitions:

The words and phrases, when used in any Local Rules of Criminal Procedure, shall have the same meaning ascribed to it in the Pennsylvania Rules of Criminal Procedure, unless specifically defined herein or in a Local Rule of Criminal Procedure.

L. R. 104 Design of Forms:

The Court Administrator of Beaver County, Pennsylvania, in consultation with the Beaver County Local Rules of Criminal Procedure Committee, shall design and publish those forms necessary to implement these rules.

L. R. 106 Continuances of Trials:

A Motion to continue trial shall be presented to the assigned Judge, or, if not assigned, to the Criminal Administrative Judge, or his or her designee.

L. R. 115 Transcribing Court Proceedings and Payment:

(I) the court may, on its own motion, order an original or a copy of a transcript of a record or a portion thereof for its own use.

(ii) Any defendant for whom counsel has been appointed or the court has authorized to proceed in forma pauperis, may petition the trial court to transcribe the record or portions thereof with the reasons therefor. Counsel for the Commonwealth shall be notified of such motion and may then request in writing transcription of additional portions of the record stating reasons therefor. The court shall enter an appropriate order which will be filed of record and which order shall be served by the Clerk of Courts upon the Court reporter.

(iii) Expenses of all transcripts ordered under paragraph (I) and (ii) of this rule shall be paid by Beaver County at the rates provided in Pa. R.J.A. No: 5000.7 and shall be assessed as part of the record cost.

(iv) Any defendant, with private counsel and who is not entitled to proceed in forma pauperis who desires a transcript of a record shall file a written request with the Clerk of Courts setting forth the specific portions of the record to be transcribed and shall serve copies of said request upon the Trial Court, Court Administrator, Counsel for the Commonwealth and the Court Reporter. Counsel for the Commonwealth may request in writing that additional portions of the record be transcribed within

seven (7) days. Said request must be filed with the Clerk of Courts, opposing counsel, Court Reporter and Trial Court.

Any transcripts ordered under paragraph 115(iv) shall require a deposit of one half the estimated charge for the transcript prior to its preparation. Defendant or counsel for the defendant shall be informed by the Court Reporter of the amount of the deposit required. Such amount shall be paid to the Clerk of Courts, who shall issue a receipt to the defendant and a copy of same shall be delivered to the Court Reporter. Upon receiving the receipt, the Court Reporter shall prepare the transcript. Upon completion of the transcript, the court reporter shall notify the defendant of the balance due for the transcript. The transcript shall be filed with the Clerk of Courts and shall not be released until the full amount due is paid to the Clerk of Courts.

L. R. 122 Assignment of Counsel-Public Defenders Office

The Court hereby designates and appoints the Public Defender's Office of Beaver County (See 16 P. S. § 9960 et. seq.) as initial counsel for all defendants required to be assigned counsel under Pa. R.Crim. P. No. 122.

L. R. 123 Public Defenders Office Prohibition

The Public Defender and all full-time and part-time attorneys appointed to and employed in that office, together with all their partners, associates, employees and employers, are prohibited from representing on a private basis:

(a) any defendant in any criminal proceeding who has at anytime during the pendency of the case made application for representation by the Public Defender's Office or in which proceeding any co-defendant has made such application; and

(b) any defendant then being represented on any other proceeding through the Public Defender's Office.

This prohibition shall not apply where the defendant initially made application to and retained said attorney or his partner, associate, employee or employer, on a private basis prior to application with the Public Defender's Office.

(ii) In all court cases counsel shall be assigned by the Public Defender's Office to those types of cases identified at 16 P. S. § 9960.6 as well as summary appeals where there is a likelihood that imprisonment might be imposed.

(iii) In cases of conflict in the Public Defender's Office, the Court Administrator, upon Court Order, shall assign counsel to represent defendant from those attorneys appointed to handle all conflicts cases (See 16 P. S. § 9960.7).

L. R. 131 Location of Preliminary Hearing/Central Court:

Pursuant to the authority contained in Pa. R.Crim P. Rule 131, (B), the President Judge of the Court of Common Pleas of Beaver County, Pennsylvania, has determined that local conditions require the establishment of procedures whereby preliminary hearings in all criminal cases, filed in all magisterial districts, shall be held at the Beaver County Courthouse on dates and times assigned by the Court Administrator of Beaver County. Said Court shall hereinafter be referred to as Central Court.

L. R. 310 Motion For Accelerated Rehabilitation Disposition:

After recommendation by the Commonwealth that a defendant be placed on the ARD program, the defendant

shall be scheduled for an ARD hearing before the Court of Common Pleas for consideration for ARD. The ARD hearing shall be in accordance with the provisions contained in Pa. R.Crim.P. Nos. 311, 312, and 313.

(a) At the ARD hearing the defendant shall enter on the record a duly executed ARD colloquy form.

(b) Each defendant charged under 75 Pa.C.S.A. § 3731 and/or 75 Pa.C.S.A. § 3801 et. seq. (relating to Driving Under the Influence) shall, prior to the ARD hearing be evaluated by an interviewer certified under the Court Reporting Network. Any statement made by the defendant during a Court Reporting Network evaluation and screening shall be made available to the court for the limited purpose of aiding the court to consider and rule upon a motion for Nolle Pros, ARD, plea and sentencing. Such statements obtained from the defendant shall be otherwise confidential and shall not be admissible for any other purposes in any criminal proceeding.

(c) If a defendant fails to obtain a CRN evaluation prior to the ARD hearing, his/her case may be removed from the scheduled ARD hearing list by the Court.

L. R. 506 Procedure for Filing Private Complaint

When an affiant, who is not a law enforcement officer, desires to file a criminal complaint, for other than a summary offense, he/she must appear before the District Justice of the Magisterial District where the offense is committed and request preparation of a complaint. The office of the District Justice will prepare a criminal complaint on the form prescribed by The Administrative Office of Pennsylvania Courts (AOPC) containing the information as required by Pa.R.Crim.P.No. 504.

Affiant shall submit the complaint to the attorney for the Commonwealth, who shall approve or disapprove it without unreasonable delay.

(a) If the complaint is disapproved, the affiant, may petition the Court of Common Pleas for review.

L. R. 511.1 Scheduling Conference in Summons Cases

When criminal charges proceed by summons:

(a) The Defendant shall be sent, via first class mail, a Notice of Scheduling Conference, to be held on a specific date and time at the office of the District Justice where the charges are filed.

At that Scheduling Conference, the staff shall provide the Defendant with a copy of the complaint; the date of his or her preliminary hearing, set four weeks from the date of the Scheduling Conference; instructions to appear at the Beaver County Courthouse at a particular date and time and the right to counsel. The Defendant shall sign a form indicating that he or she has received the summons and instructions.

The Defendant shall also be sent a copy of the summons, complaint and Notice of Preliminary Hearing, via certified mail, in compliance with Pa. R. Crim. P. 510 unless the Plaintiff has waived the requirement for certified mail at the time of signing the form at the Scheduling Conference.

If the defendant does not appear for the Scheduling Conference, no warrant shall be issued, but the Defendant shall be sent a summons, a copy of the complaint and a Notice of Preliminary Hearing, via certified mail, return receipt requested. The Preliminary Hearing is to be set four weeks from the mail date of the summons.

L. R. 524 Release on R. O. R. or Nominal Bail

For the administrative purposes of the Beaver County Pre-Trial Services Agency, any release of a defendant on his or her own recognizance shall be considered as release on nominal bail. Where a defendant is released on his or her own recognizance or on nominal bail, the court or issuing authority may designate the Beaver County Pre-Trial Services Agency as surety for the defendant and the defendant shall then become subject to the rules and regulations of that agency.

L. R. 528 Percentage Cash Bail System

A defendant, for whom bail has been set with the approval of the Court or the issuing authority or on the recommendation of the Beaver County Pre-Trial Services Agency, shall execute the bail bond and deposit, or cause to be deposited by a private third party surety with the issuing authority or the Clerk of Courts a sum of money equal to ten (10%) percent of the amount of bail set, but in no event less than twenty-five (\$25.00) dollars. Corporate sureties or professional bail bondsman or agents thereof are expressly prohibited from posting the deposit for bail as provided in this rule.

L. R. 530 Designation of Local Bail Agency

The Court hereby designates and appoints the Beaver County Pre-Trial Services Agency to have the exclusive duties and powers of a bail agency for the 36th Judicial District of Beaver County, as provided for the Pa.R.Crim. P.No. 530. Whenever a defendant has failed to comply with the rules and regulations of the bail bond or of the bail agency or any additional conditions of his release, he may be brought before the Court to determine if additional bail shall be set in his case or bail revoked.

L. R. 540.1 Preliminary Hearing Scheduling

At the preliminary arraignment or at the time of issuance of summons, whether at the Scheduling Conference or by certified mail, the issuing authority shall schedule the preliminary hearing on a date and time assigned by the Court Administrator. The issuing authority shall give notice to defendant and the counsel for the defendant, if any, of the date and time selected. The issuing authority shall promptly transfer all papers to the Court Administrator.

L. R. 542 Preliminary Hearing; Preliminary Hearing Memorandum: Arraignment

(a) Whenever a criminal defendant waives a preliminary hearing or when the District Justice finds that the Commonwealth has established a prima facie case, the case shall be scheduled for a non judicial pre-trial conference on a date, time and place assigned by the Court Administrator as well as a date, time and place the case is to be called for trial. The Defendant shall sign the Preliminary Hearing Memorandum containing the Notice of the non judicial pre-trial conference date and trial date.

(b) If the parties reach a plea agreement at or before the preliminary hearing, the defendant shall waive the preliminary hearing and the parties shall sign the preliminary hearing memorandum which shall contain a detailed plea agreement with the terms, conditions and recommendation of said plea agreement. Copies of the memorandum shall be delivered to the defendant and counsel for the defendant. The preliminary hearing memorandum shall contain notice of the expedited ARD, Plea and sentencing times and dates. It shall also contain notice of the date of the non judicial pre-trial conference and date of trial. The issuing authority shall transmit a copy of the preliminary hearing memorandum to the Court Administrator.

(c) When a defendant appears for his or her preliminary hearing, and if the case is waived, bound over or a plea agreement is reached, the defendant shall have bond set and be given a booking order to appear at the RBC within 5 days. The requirement to appear at the RBC shall be made a condition of bond, pursuant to Pennsylvania Rule of Criminal Procedure Rule 527. A copy of the Booking Order shall be faxed to the RBC by the Central Court clerical staff. RBC Staff will then review all non-judicial pre-trial lists and plea/ARD lists to check if the defendant has complied with the condition of bond. If a Defendant has not complied then a warrant shall be issued for the Defendant's arrest.

(d) If the case is continued, no bond is set nor is a booking order issued.

(e) If bond is set in an amount other than a nominal amount, the defendant will have to post that amount in the office of the district justice presiding at Central Court.

(f) If the defendant fails to appear for the preliminary hearing at the scheduled date and time, an arrest warrant shall be issued. The arrest warrant shall be given to the Beaver County Sheriff's Department if an arrest warrant is issued, when it is executed, the defendant shall be arraigned, bond set and a preliminary hearing date shall be set within 3-10 days.

L. R. 546 Return of Deposits and Charges

Upon full and final disposition of the case, the issuing authority or the Clerk of Courts shall retain thirty (30%) percent of the amount deposited, but in no event less than (\$10.00) dollars as administrative costs for the percentage cash bail program. The balance shall be returned to the defendant or the third party surety. Any money not claimed within one hundred eighty (180) days from the time of full and final disposition of the case shall be deemed as fees and shall be forfeited to the use of the County of Beaver.

L. R. 550 Pleas of Guilty Before District Justice In Court Cases:

An issuing authority may accept a plea in any case authorized by statute, (42 Pa.C.S.A. § 1515(a)(6)(I)) but may not sentence without a pre-sentence investigation report. If the parties and the issuing authority agree to dispense with a pre-sentence investigation report, the defendant shall be sentenced in accordance with the procedure provided by Pa.R.Crim.P. 704. The issuing authority shall note the sentence on the transcript and transmit it to the Clerk of Courts.

L. R. 552 Administrative Processing And Identification

(A) In all cases in which a defendant has been charged with an offense of a third degree misdemeanor or greater, the defendant shall be required to appear at the Beaver County Regional Booking Center (RBC) located in the Beaver County Jail, 6000 Woodlawn Boulevard, Aliquippa, PA, 15001.

(B) Pursuant to 18 Pa.C.S. 9112, an arresting authority shall be responsible for taking the fingerprints of persons arrested for misdemeanors, felonies or summary offenses which become misdemeanors on a second arrest after conviction of a summary offense. The Regional Booking Center shall serve as the designated fingerprinting site for all arresting authorities in Beaver County.

(C)(1) In cases in which a defendant has been arraigned at the District Justice office and fails to post

bond, the defendant shall be fingerprinted and photographed at the RBC subsequent to his or her commitment at the Beaver County Jail.

(2) In cases in which a defendant has been arrested during night, weekend or holiday hours, unless the charges proceed by summons, the defendant shall be taken directly to the RBC for a video arraignment and booking procedure before being committed to the Beaver County Jail or being released on bond.

(3) In cases of private prosecutions, the defendant may only be fingerprinted and photographed after conviction of the alleged offense. An order shall be issued from the Court of Common Pleas after such conviction directing the Defendant to report to the RBC to be fingerprinted and photographed.

(4) In cases which proceed by issuance of a summons, the District Justice presiding at Central Court at the scheduled Preliminary Hearing, shall order the defendant to submit to the Regional Booking Center within five (5) days following the date of issuance of such order.

(D) A booking fee of fifty dollars (\$50.00) shall be assessed and collected by the Beaver County Clerk of Courts after sentencing upon conviction of or plea to a misdemeanor or felony offense or acceptance into the Accelerated Rehabilitation Program. This fee will not apply to those Defendants whose cases are dismissed by the District Justice, withdrawn or nolle prossed by the Commonwealth or who enter a guilty plea to a summary offense at the time of the preliminary hearing.

L. R. 570 Pre-Trial Conference

At the non-judicial pre-trial conference, the parties shall attempt to reach a plea agreement. If the parties enter into a plea agreement, the case shall be placed on an expedited hearing date assigned by the Court Administrator.

L. R. 570.1 Judicial Pre-trial Conference

If after the non-judicial pre-trial conference the case is not resolved the court may conduct a judicial pre-trial conference at which counsel for the parties shall appear to resolve all pre-trial issues in accordance with the provisions contained in Pa.R.Crim. P No 570.

L. R. 574. Motions

(a) Except as provided in these rules no motion or petition shall be presented and the court shall not act on any motion or petition unless opposing counsel has been notified in writing within three (3) business days of the intention to present the Motion or has consented thereto.

(b) A Motion or Petition may be presented to the court after oral notice to the opposing Counsel only in an emergency situation. Ex-parte motions or petitions will not be received or considered by the Court. A Motion or Petition containing a request for issuance of a rule to show cause may be considered by the Court ex-parte.

(c) All pre-trial motions shall be in writing and shall meet the requirements contained in Pa.R.Crim.P. No: 574.

(d) All motions shall be presented to the assigned Judge, or, if not assigned, to the Criminal Administrative Judge, or his or her designee.

L. R. 578 Omnibus Pre-Trial Motions For Relief

Omnibus pre-trial motions for relief must be filed not less than ten (10) days prior to the scheduled date of Suppression Hearings, as published on the Court Calendar. The Court may, upon cause shown, accept an omnibus pre-trial motion filed less than ten (10) days prior to the

scheduled date of Suppression Hearings, but only if the attorney for the Commonwealth stipulates and consents to the late filing. Any omnibus pre-trial motion filed after ten (10) days prior to the scheduled date of Suppression Hearings must be accompanied by a separate Motion requesting continuance of the case to the next trial term waiving the provisions of Pa. Rule of Criminal Procedure 600.

L. R. 600. Trial List and Notice

(a) In all cases which are not resolved at the preliminary hearing, non-judicial pre-trial conference or judicial pre-trial conference, the Court Administrator shall promptly prepare a list of trial cases for each trial term.

The Notice for trial shall contain the caption, date and time of trial. Notice shall also state that the defendant's appearance is mandatory (See Pennsylvania Rule of Criminal Procedure 602). Notice shall be served in accordance with the provisions of Pa.R.Crim.P. Nos: 577 by Clerk of Courts to:

- (a) Defendant and his/her counsel
- (b) Professional Bondsman, Surety or Bail Agency, and
- (c) Counsel for the Commonwealth, who shall be responsible to notify the Police agency, the victim and all other witnesses.

L. R. 631 Presence of Court During Jury Selection

Defendant, counsel for defendant and counsel for the Commonwealth may, if each so desires, and with the consent of the Trial Judge, waive on the record the presence of the presiding Judge during jury selection.

L. R. 705.1 JUDICIAL STANDARDS—INTERMEDIATE PUNISHMENT PROGRAM

Standard 1.1 The following standards of the Intermediate Punishment Program are approved and will be accepted as Local Rules of Criminal Procedure.

The Adult Probation and Parole Department has, under authority of 42 Pa.C.S.A., Subsections 9721, 9763 and 9801 et seq., and in compliance with the guidelines and recommendations of the Pennsylvania Commission on Crime and Delinquency, created and will operate an intermediate punishment program consisting of house arrest with electronic monitoring, day reporting centers, and intensive supervision all of which may include drug testing, community service and rehabilitation.

Standard 1.2 Eligibility—Except for those individuals mentioned in Paragraph 1.3, all persons sentenced to a period of incarceration in the Beaver County Jail shall be eligible for a sentence under this program. Pursuant to the sentencing guidelines, individuals may be sentenced directly into the program or be ordered to serve a period of incarceration. Individuals must not demonstrate a pattern of present or past violent behavior and must be amenable to supervision.

Standard 1.3 Ineligibility—The following persons shall be ineligible for sentence under this program.

- A. Persons with present convictions of offenses listed in 42 Pa.C.S.A. 9807
- B. Persons sentenced to a maximum term of incarceration by a District Justice.
- C. Persons sentenced to a maximum term of two years or longer or where the balance of a maximum term is imposed for a violation.
- D. Persons deemed inappropriate for sentence under this program by the supervising staff.

E. Any person sentenced by this court who resides in another jurisdiction where intermediate punishment does not exist or the receiving jurisdiction does not accept supervision.

Standard 1.4 Individuals who are eligible under the sentencing guidelines may be placed directly into the program provided they meet all other criteria as outlined in Standards 1.2 and 1.3. Individuals sentenced to the Beaver County Jail will not be placed into the program until they serve at least 1/4 of the minimum sentence shall be defined as the total of all the minimums imposed.

Standard 1.5 All individuals sentenced directly to intermediate punishment shall be ordered to serve a specific period of time in the program.

Standard 1.6 Upon a preliminary finding of a violation of any condition of the program by the intermediate punishment staff, the individual may be detained pending a petition for violation and administrative hearing thereon. At the administrative hearing, the individual may consent to a disposition order, including revocation of the sentence of intermediate punishment.

Gagnon II In the event the individual does not consent to a disposition order, a hearing shall be scheduled before the court. The court may revoke a sentence of intermediate punishment upon proof of a violation of any condition of the sentence.

Section 2 Intensive Supervision

Standard 2.1 Individual's eligibility for the intensive supervision program shall be determined by the administrative staff.

After investigation by the intermediate punishment staff an individual may be placed into the intensive supervision program. In addition an individual may be placed in intensive supervision after exemplary compliance with a more stringent intermediate punishment program.

Standard 2.2 As a part of the intermediate punishment program, intensive supervision will be the least restrictive. However, the level of supervision provided shall be greater than the levels of supervision provided under traditional probation and parole.

Individual and collateral contacts shall include a minimum of 16 contacts per month. These contacts shall include two client face-to-face contacts per week. Contacts shall be conducted on a random basis at all hours of the day, seven days a week.

Standard 2.3 Participants shall be required to participate in treatment programs as directed by The court or the administrative staff.

A specialized treatment regimen will be developed for each individual and will include, but may not be limited to, psychiatric, psychological and medical services, education vocational training, drug and alcohol screening and counseling and individual and family counseling.

Standard 2.4 Upon successful completion of the requirements of intensive supervision and upon completion of the time specified by the court, an individual will be transferred to the traditional probation and parole program.

Section 3—DAY REPORTING CENTER

Standard 3.1 Day reporting centers as an intermediate punishment program shall encompass the level of intensive supervision and in addition daily reporting to a day reporting center.

Individuals in this program shall receive strict supervision at a community based facility. These individuals would be considered at risk and would otherwise be serving a sentence of incarceration. Individuals shall report to a designated facility on a daily basis and must call the center during the remainder of the day as directed. Individuals are to submit a schedule of planned activities each day they are in the program. In addition, they will participate in recommended treatment and educational programs, perform services and activities as directed. The individual can expect calls from the center throughout the day at home, place of employment or designated treatment facility. In addition, random phone calls will be made after curfew hours to ensure compliance with the curfew. Written documentation of attempts at gainful employment will be mandated if the individual is unemployed.

Standard 3.2 An individual's eligibility for acceptance into the Day Reporting Center program shall be determined by the I.P. administrative staff.

After investigation by the intermediate punishment staff an individual may be placed into the Day Reporting Program. In addition, an individual may be placed in intensive supervision after exemplary compliance with a more stringent Intermediate punishment program.

Standard 3.3 All individuals shall be subjected to daily and random drug and alcohol testing and random unannounced home visits.

Random testing and home visits may be done at any time, day or night, seven days a week, 365 days per year.

Standard 3.4 Upon successful completion of the requirements of day reporting and upon completion of the time specified by the court, an individual will be transferred to the traditional probation and parole program.

SECTION 4 HOUSE ARREST INVOLVING ELECTRONIC MONITORING

Standard 4.1 Individuals eligible for house arrest involving electronic monitoring shall be determined by the administrative staff.

After investigation by the intermediate punishment staff an individual may be placed on house arrest. Priority of placement will be given to offenders convicted under 75 Pa.C.S.A. § 3731 or 75 Pa.C.S.A. § 6308 (Relating to driving under the influence of alcohol or controlled substances). These individuals who become eligible for intermediate punishment may only be sentenced to a residential inpatient program or the house arrest program involving electronic monitoring, combined with drug and alcohol treatment. Individuals convicted and sentenced under this statute to the minimum 48 consecutive hours of incarceration will not be eligible for the house arrest involving electronic monitoring.

Standard 4.2 House arrest involving electronic monitoring as an intermediate punishment shall be considered more punitive than the intensive supervision and day reporting center programs.

In house arrest, the focus is on confinement, and the offenders will only leave their homes for employment, therapeutic, medical or other pre-approved reasons. The intermediate punishment staff will make a minimum of one personal and one collateral contact per week for each

offender. There will be an officer on call 24 hours a day, 7 days a week should any violations of this program need to be addressed.

Standard 4.3 Offenders placed in the house arrest program shall wear an electronic wrist or ankle bracelet.

These devices transmit coded signals to a receiver/dialer that is placed in the offender's home. Intermediate punishment staff will employ a 24 hour per day response to any violation which the central computer reports on the offender's daily activity schedule. The cost of this program will be supported by assessing the offender a per diem rate.

Standard 4.4 Requirements for offenders within the house arrest program involving electronic monitoring shall be determined by the administrative staff.

All individuals will be subjected to daily and random drug and alcohol testing and random unannounced home visits. Individuals will maintain fixed residences and actively seek employment if not otherwise employed. Enrollment in educational/vocational training or participation in community service will be established upon directive of the intermediate punishment staff.

Standard 4.5 Upon successful completion of the requirements of house arrest and upon completion of the time specified by the court, an individual will be transferred to the traditional probation and parole program.

SECTION 5 COMMUNITY SERVICE—INTERMEDIATE PUNISHMENT PROGRAM

Standard 5.1 Individual's eligibility for the Community Service Program shall be determined by the administrative staff.

All individuals within the Intensive Probation, Day Reporting Centers and House Arrest involving electronic monitoring programs shall be considered for the community service program as a supplement to their individual requirements of each specific program, unless there are extenuating circumstances. Individuals will perform at least eight hours of community service for every thirty days on Intermediate Punishment.

Standard 5.2 Community Service as Intermediate Punishment shall provide a means of reparation to the community in addition to providing punishment for the offender.

Community service will enable indigent offenders to pay fines and costs while donating services to public and non-profit agencies. This program will instill a sense of work ethic and act as a developmental tool in the building of self-esteem and confidence levels for the offender.

Standard 5.3 The Intermediate Punishment staff shall designate a work site where the community service is to be performed.

Through networking with various government, non-profit and community based organizations, the Intermediate Punishment staff will choose a work site where offenders will perform community service equivalent to one day per month. Intermediate Punishment staff will provide on-site supervision of each offender performing community service.

Standard 5.4 Types of services which offenders will perform are dependent on the needs of the designated service agency.

Cleaning of public streets and parks; painting; cutting grass and assisting in events sponsored within the community etc., will be given consideration as approved Community Service work.

Standard 5.5 Successful completion of the hours required for community service will be performed before an individual can be transferred to the traditional probation and parole program.

[Pa.B. Doc. No. 04-844. Filed for public inspection May 14, 2004, 9:00 a.m.]

CHESTER COUNTY

Adoption of Local Rules of Civil Procedure; No. 4

And Now, this 27th day of April, 2004, the Court approves and adopts the following Chester County Local Rules of Civil Procedure. These Rules shall become effective thirty (30) days from the date of publication in the *Pennsylvania Bulletin*.

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

By the Court

HOWARD F. RILEY, Jr.,
President Judge

Rule 1901.2.A. Scheduling

(a)(1) Pro Se Petitioners seeking clerical assistance may file Protection from Abuse Petitions between the hours of 8:30 a.m.—3:30 p.m., Mondays through Fridays. The Court shall be deemed unavailable after 3:30 p.m. during which time a Petition for Temporary Protection from Abuse may be filed before any District Justice within the county who may grant relief in accordance with 23 Pa.C.S.A. § 6110.

(2) Petitioners not requiring clerical assistance may file Protection from Abuse Petitions between the hours of 8:30 a.m. and 4:15 p.m., Mondays through Fridays. The Court shall be deemed unavailable after 4:15 p.m. during which time a Petition for Temporary Protection from Abuse may be filed before any District Justice within the county who may grant relief in accordance with 23 Pa.C.S.A. § 6110.

(b)(1) The Court deems itself unavailable for the filing of Protection from Abuse Petitions on those days the Court is closed for any reason including Court holidays as published on the official holiday schedule including those days designated as Floating Holidays and those days during which the Court's Winter and Summer conference is scheduled.

(2) In addition to the times set forth, above, the Court may issue an Administrative Regulation indicating the date(s) and time(s) the Court deems itself unavailable to sign Temporary Protection from Abuse Orders. District Justices are authorized to issue Temporary Emergency PFA Orders when the Court has deemed itself unavailable to do so. The Administrative Regulation shall be distributed by the Court Administrator to all Common Pleas Court Judges, all District Judges, Emergency Services and all interested Court personnel.

(3) At those times the Court is deemed unavailable for the filing of Protection from Abuse Petitions, a Petition for Temporary Protection from Abuse may be filed before any District Justice within the county who may grant relief in accordance with 23 Pa.C.S.A. § 6110.

Note: The hours listed for the preparation and filing of a PFA are due to amount of time necessary to complete the intake process.

Rule 1902.A. 1901.3A. Commencement of Action.

(1)(a) The notice of hearing and order, petition and temporary Protection from Abuse order shall be substantially in the form required by Pa.R.C.P. 1905(a), (b) & (c), shall be available, in English and Spanish, from the Family Court Administrator. with such modifications as may be required:

(2) Upon affidavit that petitioner does not have funds available to pay the costs, the petition shall be filed by the Prothonotary and served by the Sheriff without prepayment.

(b) All private counsel petitions for Protection from Abuse shall be reviewed and scheduled by the Family Court Administrator and filed with the Office of the Prothonotary prior to submission to the Family Court signing Judge for entry of a Temporary Ex Parte Protection Order.

Note: Chester County currently uses the Protection From Abuse Database (PFAD) for the preparation of petitions and orders online. Hardcopies of these forms are available to those individuals who do not have access to the PFAD system.

Rule 1902.B. Temporary Emergency Orders.

(1) Pursuant to the Protection From Abuse Act, the court may issue ex parte emergency orders upon petition and finding of immediate and present danger of abuse:

(2) An approved form of Temporary Order is available from the Family Court Administrator:

(3) A hearing date shall be obtained from the Family Court Administrator before presenting the petition to the Family Court Signing Judge:

(4) Petitions may be presented to the Family Court Signing Judge in Chambers before court or whenever he is not on the bench or otherwise occupied with court business:

Rule 1902.C. Final Order:

The final order shall be substantially in the form available from the Family Court Administrator and may include any remedy provided by the Protection From Abuse Act:

Rule 1902.D. Filing Orders: 1901.4.A. Service and Registration of Order.

(1) Plaintiff shall file a certified copy of the any Temporary or Final Protection from Abuse order with the appropriate police departments and the Chester County Police Radio Room. The expiration date of the order shall be included in the order. A photocopy of a certified order shall be considered a duplicate original and sufficient to constitute the court's original authorization for enforcement. A cover sheet shall be attached on the copy of the orders sent to the police and the Chester County Police Radio Room substantially in the following form required by C.C.R.C.P. 1905.A.(a).

See Form on Page 155

Rule 1903.5. Probable Cause Arrest. 1901.5.A. Enforcement. Bail. Arraignment. Notice. Prosecution.

(a) A police officer may arrest a defendant for violation of a protection order upon probable cause which shall be supplied by the victim, officer, other witnesses or combination thereof. If necessary, the officer may verify the existence of said order by phone or radio with the appropriate police, Chester County Radio Room or court. The complaint for indirect criminal contempt shall be in the form prescribed in C.C.R.C.P. ~~1903.11.~~ 1905.A.(c). The probable cause affidavit shall be in the form prescribed in C.C.R.C.P. ~~1903.10.~~ 1905.A.(b).

Rule 1903.6. Bail.

(b) Upon arrest, the defendant shall be taken into custody and taken to the district justice in whose district the violation occurred, or other assigned district justice, for arraignment and the setting of bail. The arresting officer shall not release the defendant from custody without taking him or her before the proper district justice. The district justice shall have exclusive jurisdiction for all arraignments for the offense of indirect criminal contempt for violation of protection from abuse orders. All applications for an increase or decrease in bail shall be heard by the Court of Common Pleas, ~~Family Court.~~

Editor's note: Amended July 15, 1994, effective October 1, 1994

Rule 1903.7. Arraignment. Hearing Date. Notice.

(1)(c) Arraignment—The arraignment shall be held in the same manner as required under Pa. R.Crim.P. 303.540 except that no preliminary hearing will be scheduled. The defendant shall be notified that:

(a)(1) He or she is being charged with indirect criminal contempt for violation of a protection from abuse order;

(b)(2) He or she has the right to be represented by counsel and if unable to afford private counsel and otherwise qualifies, counsel will be appointed by the court; and

(c)(3) A hearing will be held in the Court of Common Pleas of Chester County on the next available date for such hearings pursuant to subsection (2)(d).

(2)(d) Hearings—All hearings for indirect criminal contempt for violation of protection from abuse orders shall be heard by the family court and, if possible, by the Judge who issued the original order. The hearings shall be held each Friday that the court is in session at 10 a.m., for all defendants arraigned before midnight of the preceding Tuesday, at such times and manner as directed by the Court. In no case shall the hearing take place more than ten (10) days from the date of arraignment.

(3)(e) Notice—At the conclusion of the arraignment, the defendant or counsel of record for the defendant, if present, shall be given a written notice of the hearing in the form prescribed by C.C.R.C.P. ~~1903.12(a)~~ 1905.A.(d). A copy of the complaint and notice of hearing in the form prescribed by C.C.R.C.P. ~~1903.12(b)~~ 1905.A.(e) shall be given or mailed by regular and certified mail to the plaintiff at the address shown on the complaint, and by regular mail to the arresting officer and the District Attorney of Chester County.

Editor's note: Amended July 15, 1994, effective October 1, 1994

Rule 1903.8. Notice to Family Court.

(1)(f) Following arraignment, the District Justice shall telephone the deputy court administrator, Family cCourt

Administrator and submit the names, common pleas court docket number and assigned hearing dates of all defendants who have been arraigned the previous day and night.

(2)(g) Following arraignment, the office of the District Justice shall deliver the original of all papers to the Prothonotary Clerk of Court of Chester County. The office of the District Justice shall deliver copies of all papers to the deputy court administrator, fFamily cCourt Administrator, the District Attorney of Chester County, and the Public Defender of Chester County.

(3)(h) The deputy court administrator, fFamily cCourt Administrator shall notify the Sheriff of Chester County of the names of any incarcerated defendants scheduled for hearing for transport to the courthouse.

Editor's note: Adopted July 15, 1994, effective October 1, 1994

Rule 1903.9. Prosecution.

(i) The District Attorney of Chester County or his designee shall prosecute all charges of indirect criminal contempt for violation of protection from abuse orders. Any designation of another to prosecute shall be in writing.

Editor's note: Adopted July 15, 1994, effective October 1, 1994

Rule 1903.10. Probable Cause Affidavit.

See Form on Page 156

Editor's note: Adopted July 15, 1994, effective October 1, 1994

Rule 1903.11. Complaint Form;

See Form on Page 157

Editor's note: Adopted July 15, 1994, effective October 1, 1994

Rule 1903.12. Notice of Hearing Form.

See Form on Page 159

Editor's note: Adopted July 15, 1994, effective October 1, 1994

Note: Rescinded rules 1903.10—1903.12 have been replaced by new rule 1905.A.—Forms for Use in PFA Actions.

Rule 1901.7.A. Decision. No Post-Trial Relief. Expungement. Return of Seized Weapons

(a) Petitions requesting the expungement of a dismissed Protection from Abuse proceeding or the return of seized weapons shall be in accordance with C.C.R.C.P. 206.1(a), et. seq.

(b)(1) Copies of the petition requesting expungement and any final order granting expungement shall be served upon the original Petitioner in the Protection from Abuse proceeding, the Chester County Family Court Administrator, the Sheriff of Chester County and any deputized Sheriff's department, the District Attorney of Chester County, the Chester County Police Radio Room and any state and/or local police department initially served.

(2) Copies of the petition for return of seized weapons shall be served upon the original Petitioner in the Protection from Abuse proceeding, the Sheriff of Chester County and the District Attorney of Chester County. All petitions shall include a copy the itemized list of seized weapons provided to the Petitioner by the Sheriff at the time the original seizure was ordered.

(c) Upon receipt of a final order expunging a protection from abuse proceeding, the recipient shall immediately delete from their records any information pertaining to the underlying petition for Protection from Abuse. No proof of compliance shall be required.

Note: For further discussion relating to expungement of Protection from Abuse records, see *Carlacci v. Mazaleski*, 798 A2d 186 (2002).

Rule 1905.A. Forms for Use in Protection from Abuse Actions. Notices. Probable Cause Affidavit. Indirect Criminal Contempt Complaint. Continuance.

(a) The form required by C.C.R.C.P. 1901.4.A. shall be substantially in the following form:

Plaintiff : IN THE COURT OF COMMON PLEAS
: CHESTER COUNTY, PENNSYLVANIA
vs : NO.
: CIVIL ACTION—LAW
Defendant : PROTECTION FROM ABUSE

TO THE POLICE

Under the Pennsylvania Protection from Abuse Act, 23 P.S. § 6101, et seq. you are authorized to arrest the Defendant for a violation of the order, without warrant, upon probable cause, whether or not the violation was committed in your presence. The defendant is to be taken forthwith before a District Justice for preliminary arraignment. The Defendant can be found at the following address:

during the hours of ___ a.m./p.m. to ___ a.m./p.m.

Order effective from ____, 20__ to ____, 20__.

(b) The form required by C.C.R.C.P. 1901.5.A.(a)—Probable Cause Affidavit shall be substantially in the following form:

PROTECTION FROM ABUSE INDIRECT CRIMINAL CONTEMPT AFFIDAVIT

On ____, 20__, (Name of Defendant)

did commit the following in violation of a protection from abuse order entered by a Judge of the Court of Common Pleas of Chester County, Pennsylvania on ____, 20__, No. _____.

The acts committed were:

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

Witness Affiant

Date: _____ Name: _____

Address: _____

(c) The form required by C.C.R.C.P. 1901.5.A.(a) Complaint for Indirect Criminal Contempt shall be substantially in the following form:

IN THE COURT OF COMMON PLEAS OF CHESTER COUNTY, PENNSYLVANIA

Plaintiff : No.
:
v. : Civil Action
: Indirect Criminal Contempt
Defendant : for Violation of Protection From Abuse Order

COMPLAINT

I, the undersigned, do hereby state under oath:

1. My name is _____ and I live/work at _____;

2. I accuse _____, who lives at _____, with violating a protection from abuse order entered by Judge _____ on the _____ day of _____, 20____. (attach copy of order if available);

3. The date (and day of the week) when the accused committed the offense was on or about _____.

4. The place where the offense was committed was in the County of Chester;

5. The acts committed by the accused were: (place an X before the appropriate statement(s))

_____ attempting to cause or intentionally, knowingly or recklessly causing bodily injury to _____,

-or-

_____ using physical menace to put _____ in fear of imminent serious bodily injury,

all of which were in violation of the protection from abuse order entered in accordance with the Protection from Abuse Act, 23 Pa.C.S. § 6101 et seq.;

6. If the defendant has not already been arrested, I ask that a warrant of arrest be issued and that the accused be required to answer the charges I have made.

I verify that the statements made in the complaint are true and correct to the best of my knowledge, information and belief. I further understand that any false statements made herein are subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date _____ Signature of Affiant

The above subscribed affiant personally appeared before me on this date, signed the complaint in my presence and asserted that the facts therein are true and correct; and wherefore it appears that there is probable cause for the issuance of process.

Date _____ (SEAL) Issuing Authority

(d) The form required by C.C.R.C.P. 1901.5.A.(e) Notice of Hearing to Defendant shall be substantially in the following form:

NOTICE OF HEARING TO DEFENDANT

(Name of Defendant)

You have been charged with Indirect Criminal Contempt for an alleged Violation of a Protection From Abuse Order. A hearing has been scheduled in the Chester County Courthouse, High and Market Streets, West Chester, Pennsylvania, on the _____ day of _____, 20____. The hearing will be held in Courtroom No. ____ at

10:00 9:30 a.m. FAILURE TO APPEAR AT THIS HEARING WILL RESULT IN THE ISSUANCE OF A WARRANT FOR YOUR ARREST.

If you are found guilty of Indirect Criminal Contempt, you may be sentenced to prison for up to six (6) months and fined up to \$1,000.00 for each offense. You should be represented by a lawyer at this hearing. If you do not have a lawyer you may call the Chester County Public Defender's Office at 17 N. Church Street, Courthouse Annex, 3rd Floor, West Chester, Pennsylvania, (610) 344-6940, any business day between 8:30 a.m. and 4:30 p.m.

IF YOU WANT A PUBLIC DEFENDER, APPLY IMMEDIATELY UPON RECEIPT OF THIS NOTICE.

VERIFICATION

I, _____, of _____,
(Dist. Ct./Police/other)

do hereby verify that the above notice was served upon _____
(defendant)

on the _____ of _____, 20____, at _____
(a.m./p.m.). This service was made at _____
(location of service)

(Signature and Title of Server)

(e) The form required by C.C.R.C.P. 1901.5.A.(e) Notice of Hearing to Plaintiff shall be substantially in the following form:

NOTICE OF HEARING TO PLAINTIFF

(Name of Plaintiff)

(Name of Defendant)

has been charged with Indirect Criminal Contempt for an alleged violation of a Protection From Abuse Order wherein you are the Plaintiff. A hearing has been scheduled in the Chester County Courthouse, High and Market Streets, West Chester, Pennsylvania, on the _____ day of _____, 20____.

The hearing will be held in Courtroom No. _____, at ~~10:00~~ 9:30 a.m.

You will be represented by the Chester County District Attorney's Office at this hearing. You may contact that office at (610) 344-6801 for information as to which Assistant District Attorney will be representing you at the hearing. It is not required, but would be helpful, if you would list your present address and telephone number in the space provided so the District Attorney may contact you.

If you do not appear at the hearing, the charges may be dismissed.

Name: _____

Address: _____

Phone Number: _____

VERIFICATION

I, _____, of _____,
(Dist. Ct./Police/other)

do hereby verify that the above notice was served upon _____
(plaintiff)

on the _____ of _____, 20____, at _____
(a.m./p.m.).

This service was made at _____

(location of service)

(Signature and Title of Server)

(f) The format for requesting a continuance shall be substantially in the following form:

Plaintiff : IN THE COURT OF COMMON PLEAS
 : CHESTER COUNTY, PENNSYLVANIA
 : NO.
 :

Defendant : PROTECTION FROM ABUSE

TEMPORARY ORDER AND ORDER FOR CONTINUANCE

AND NOW, this _____ day of _____, 20____, upon motion of _____, it is hereby ORDERED and DECREED that the hearing scheduled for this date concerning Protection from Abuse is hereby continued and rescheduled to the _____ day of _____, 200____ at _____m. in Courtroom NO. _____, Chester County Courthouse, West Chester, Pennsylvania.

Reason for Continuance: _____

The Temporary Order for Protection from Abused dated _____, shall remain in full force and effect until further Order of this Court.

Failure of the Plaintiff to appear for hearing may result in dismissal of the Protection From Abuse Petition and the entry of an Order requiring the costs of the proceeding to be paid by the Plaintiff.

Failure of the Defendant to appear for hearing may result in the issuance of a final Protection From Abuse Order and an Order to pay costs.

BY THE COURT:

J.

Rule 1910.1.A. Definitions

As used in this chapter, unless the context of a rule indicates otherwise, the following term shall have the following meaning:

"private pay order"—An order for support payable directly to the obligee and not made payable through the Pennsylvania State Collection and Disbursement Unit (PA SCDU).

Rule 1910.4.A. Commencement of Action. Entry of Appearance.

(a) Any attorney who appears on behalf of a client at any stage of the proceedings shall be deemed to have entered his or her appearance. The attorney shall be required to continue such representation until a final order is entered that resolves all outstanding issues in that case. Any attorney who wishes to withdraw his or her appearance after entry of a final order shall file a Praecipe to Withdraw as Counsel as well as a Praecipe for Entry of Appearance by the new attorney. If the new attorney is to be Staff Counsel employed by Domestic Relations, Staff Counsel must sign the Praecipe for Entry of Appearance.

(b) This rule shall not preclude any attorney from filing, at any stage of the proceedings, a Petition to Withdraw as Counsel pursuant to Pa. R.C.P. 1012.

Rule 1910.5.A. Complaint

All complaints shall be accompanied by a completed Domestic Relations Office Standard Intake Form.

Comment: This form is available on the Domestic Relations Office's website @ www.chesco.org/domestic.html.

Rule 1910.7.A. Preliminary Objections. Rule to Show Cause: Question of Jurisdiction or Venue

All Preliminary Objections to jurisdiction or venue; in support, shall be accompanied by a Rule to Show Cause stating separate Rule Returnable and Hearing dates.

Editor's note: Adopted July 15, 1994, effective October 1, 1994.

Rule 1910.10.A. Hearing Procedure. Hearing Officers: Alternative Hearing Procedures

(1)(a) This court chooses to use the procedures set forth in Pa.R.C.P 1910.12, except for those cases in which a motion for a separate listing pursuant to Pa.R.C.P 1910.12(c)(1) has been granted. Cases separately listed pursuant to Pa.R.C.P. 1910.12(c)(1) shall be scheduled for hearing before the Court pursuant to Pa.R.C.P. 1910.11.

Editor's note: Notice To The Bar—Effective December 1, 1996, protracted support matters are to be listed before the Court pursuant to Pa.R.C.P 1910.12(c) and C.C.R.C.R 1910.10.A, as amended. All matters involving complex issues of law or fact or any case requiring more than two hours for hearing shall be placed on the long-day list. Cases inappropriately placed on either the Hearing Officer's regular support list or the Court's long-day list will be rescheduled, in the normal course of business, on the proper list. Any request for continuance or settlements of matters properly scheduled on the long-day list shall be in writing and submitted no less than 72 hours prior to the scheduled date. Failure to do so within the appropriate time frame will necessitate an appearance of all parties at the hearing.

The following form motion shall be used when requesting a long day listing:

See Form on Page 161

Comment: For the form of Motion for Separate Listing and information on the conduct of long day hearings, see C.C.R.C.P. 1910.12.A(i), et seq.

(2) Hearings officers shall be appointed by the president judge. The officers shall be appointed from among those attorneys admitted to practice before the Supreme Court of Pennsylvania who are actively engaged in the practice of law primarily in Chester County and who are deemed by the court to be qualified to serve as hearing officers. No hearing officer or any member of a hearing officer's firm shall appear in any action which requires reference to a hearing officer. The president judge may remove any hearing officer at will on sixty (60) days notice.

Editor's note: Adopted July 15, 1994, effective October 1, 1994, amended November 27, 1996, effective December 1, 1996.

1910.11.A. Office Conference. Subsequent Proceedings. Order.

(a) If entitlement is challenged at the Office Conference, a Temporary Order of Support shall issue if the

parties are subject to a pending Chester County Divorce proceeding in which a claim for Equitable Distribution has been raised.

Comment: The requirement that a Chester County Divorce proceeding be pending is to permit an adjustment from equitable distribution proceeds should it be determined the bar to entitlement claim is meritorious.

Rule 1910.12.A. Office Conferences and Hearings. Record. Exceptions. Order

(a) Whenever possible, all matters dealing with the same parties shall be scheduled for office conference/hearing at the same time.

(1)(b) Continuances of office conferences and matters before Hearing Officers may be granted by agreement of all counsel or counsel and unrepresented parties. All other continuances shall be governed by Pa.R.C.P. 216 and C.C.R.C.P 216.1.

(2) If either party does not appear at a domestic relations office conference, such party may be served with notice of the hearing officer's hearing by any of the means of service permitted for original complaints or by first class mail. The hearing may, however, proceed in the absence of the party so notified.

(c)(1) Should a petitioner fail to appear at the office conference or hearing, as scheduled, the petition may be dismissed.

(2) Should a respondent fail to appear at the office conference or hearing, as scheduled, an order may be entered in his/her absence or a bench warrant for his/her appearance may issue.

(3)(d) Recommendations on the matters set forth in Pa.R.C.P 1910.12(c)(1) 11(d) and 1910.19 shall be made initially by the conference officer.

(4)(e) At the domestic relations office conference the plaintiff may request the entry of a temporary order in all cases in which there has been filed:

(a)(1) A complaint for the support of minor children;

(b)(2) A complaint for the support of spouse and entitlement is not challenged;

(c)(3) A petition for alimony pendente lite; or

(d)(4) A complaint for the support of spouse and minor children and entitlement is not challenged as to spouse. If entitlement is challenged, a temporary order may be requested for the minor children only and a spouse who is a party to a Chester County divorce proceeding pursuant to C.C.R.C.P. 1910.11.A.

(5)(f) When a temporary order is requested at a domestic relations office conference, as above, the domestic relations office shall submit a recommendation to the court as to the amount of the requested order. The recommendation shall be based on the Pennsylvania Support Guidelines in accordance with Pa.R.C.P. 1910.16-2.

(6) For purposes of application of the approved guidelines, the domestic relations office shall use the monthly net income of defendant as reported by his or her employer in the subpoenaed earnings report. If the earnings report is not available, net income shall be computed from defendant's most recent federal income tax return by subtracting all income taxes and FICA actually paid from gross income from all sources.

(7) To determine the monthly net income of the dependent spouse, the same information may be used in the

same order: (g) If the dependent spouse is not employed, no earning capacity will be assigned to him/her for the purpose of entering the temporary order. The parties shall be informed by the domestic relations conference officer that earning capacity will be taken into consideration at the hearing before the Hearing Officer.

~~(8) The recommendation of the domestic relations conference officer shall be written on a standard form on which there shall be space sufficient for the inclusion of statements by both parties or counsel. The written recommendations shall be submitted to the court as soon as possible after the conference.~~

~~Comment. In reference to subsection 4(d) APL is determined by different standards than support.~~

~~(h) When a complaint or petition is scheduled for hearing before a Domestic Relations Hearing Officer and the parties reach an agreement that resolves the outstanding issues prior to the scheduled hearing, the parties shall immediately notify the Domestic Relations Office in writing and within thirty (30) days after the date set for hearing:~~

~~(1)~~

~~(i) File a stipulation and order outlining the terms of their agreement, or~~

~~(ii) File a written statement detailing the current status of the case. Domestic Relations shall automatically review the case every thirty (30) days and submit a report to Family Court regarding any case which has not been resolved within sixty (60) days after the scheduled hearing date. The Court may, sua sponte, direct the parties to file a stipulation and order within a reasonable time or direct the Domestic Relations Office to schedule a new hearing date.~~

~~(2) If the parties fail to comply with the terms set forth in part (1) of this rule, the Court may, sua sponte, dismiss the outstanding complaint or petition without prejudice.~~

~~(i) Separate Listings~~

~~(1) The request for a long day listing shall be in the following form:~~

Plaintiff : IN THE COURT OF COMMON PLEAS
 : CHESTER COUNTY, PENNSYLVANIA
 vs : NO.
 : CIVIL ACTION—LAW
 Defendant : IN SUPPORT

MOTION FOR A SEPARATE LISTING

AND NOW, this _____ day of _____, 20____, Plaintiff/Defendant moves the Court for a separate listing and in support thereof avers the following:

(1) The hearing will be protracted in nature and requires more than two (2) hours for hearing; or

(2) There are complex questions of law, fact or both.

(3) Issues for resolution: (state if case entails a determination of income or if incomes exceed the guidelines, whether or not it is a self-employment case, whether or not valuations are at issue)

(4) Estimated duration of hearing:

(5) Number of witnesses: (state whether or not witnesses are experts).

Respectfully submitted,

 Counsel for

cc: _____, Esquire—Attorney for

N.B. Failure to complete this form in its entirety will result in its rejection by the Family Court Administrator and the case will not be placed on the Long Day Hearing List.

(2)

(i) Requests for separate listings shall be filed no later than five (5) business days prior to the scheduled hearing before the Support Hearing Officer.

(ii) Objections to requests for separate listings shall be filed within ten (10) days of the filing of the request for separate listing.

Comment: Objections shall be brought pursuant to C.C.R.C.P. 206.1.(a).

(3) In all matters where a motion for a separate listing has been filed each party shall submit to the Court and opposing counsel at least 5 days before the scheduled hearing date a Pre-Trial Statement not exceeding 3 pages setting forth:

(i) a brief statement of the claim(s) being made by the moving party or the defense(s) being made by the responding party;

(ii) a concise statement of the facts;

(iii) a concise statement of the factual or legal issues involved including citations to the applicable statutes or case law, if any;

(iv) a list showing the names and addresses of all witnesses each party intends to call at trial;

(v) copies of all exhibits to be offered at trial intended to be admitted during your case in chief.

Any and all reports of any experts intended to be called and a form of proposed Order setting forth the requested disposition and supporting calculations shall be attached to the Pre-Trial statement.

Rule 1910.12.B. Exceptions:

(j) Exceptions

(1) Dismissal—Exceptions shall be dismissed in any case in which the notes or tape recording of testimony have not been ordered, and paid for it required, within five (5) days of the filing of exceptions.

(2) Briefs:

(a)(i) Within two (2) weeks of the filing of exceptions, the excepting party shall file a brief with the Domestic Relations Office, serve copies of the brief upon all counsel and unrepresented parties and shall file a Certification of Service.

(b)(ii) Within four (4) weeks of the filing of exceptions, the responding party shall file a brief and Certification of Service in the manner prescribed above.

(c)(iii) Upon the expiration of the time for the filing of all briefs and oral argument, if any, the exceptions shall be submitted to the assigned judge. for determination without oral argument, unless the assigned judge specifically requests oral argument or oral argument is timely requested on behalf of a party. Requests for oral argument must be in writing, must be filed no later than the due date for the brief of the responding party and must be accompanied by a waiver of the forty-five (45) limit set forth in Pa.R.C.P. 1910.12(g).

(d) If an excepting party fails to file a brief within the time prescribed by these rules, or within the time as extended, a non-excepting party may, without filing a brief, move for the dismissal of the exceptions. Such

motions shall be in writing and the excepting party shall have a reasonable time to respond thereto. If a non-excepting party fails to file a brief within the time prescribed by these rules, or within the time as extended, his brief may not be considered and he will not be heard at oral argument except by permission of the court.

(3) Oral Argument

(a)(i) Oral argument must be requested in writing at the time the filing of a party's brief is due. The court may, in its discretion, refuse to hear argument upon issues which have not been satisfactorily discussed in a party's brief. shall be scheduled unless both parties or counsel of record execute and return to the Domestic Relations Office a written waiver.

(ii) The form of waiver of oral argument shall be substantially in the following form:

Plaintiff : IN THE COURT OF COMMON PLEAS
 : CHESTER COUNTY, PENNSYLVANIA
 vs : NO.
 : CIVIL ACTION—LAW
 Defendant : IN SUPPORT

WAIVER OF ORAL ARGUMENT ON EXCEPTIONS

Oral argument on Plaintiff's/Defendant's exceptions to the findings and recommendations of the Hearing Officer in Support dated _____, 20 ____, has been scheduled before the Court on _____, 20 ____, at _____m in Courtroom No. ____.

NOTE:

IF BOTH PARTIES, OR THEIR COUNSEL, AGREE IN WRITING TO WAIVE ORAL ARGUMENT, THE EXCEPTIONS WILL BE SUBMITTED TO THE COURT FOR CONSIDERATION IMMEDIATELY UPON RECEIPT OF THE PARTIES' BRIEFS.

IF EITHER PARTY, OR HIS/HER COUNSEL, CHOOSES NOT TO WAIVE ORAL ARGUMENT, BOTH PARTIES MUST APPEAR AT THE DATE AND TIME LISTED ABOVE AND ON THE ATTACHED NOTICE.

IF YOU AGREE TO WAIVE ORAL ARGUMENT, SIGN BELOW AND RETURN THIS PAGE WITHIN THE NEXT SEVEN (7) DAYS TO:

Chester County Domestic Relations
 Attention: Scheduling, Master Hearing Unit
 117 West Gay Street
 P. O. Box 2748
 West Chester, PA 19380-0991

I, _____, Plaintiff/Defendant or Counsel for Plaintiff/ Defendant (circle one) hereby waive oral argument on the exceptions filed to the findings and recommendations of the Hearing Officer in Support dated _____, 200_. I understand that the exceptions will be submitted to the Judge for consideration immediately and that I will receive a written decision by U. S. Mail.

 Plaintiff/Defendant or Counsel

(b)(iii) Argument before the court shall be made only on the basis of the record made before the Hearing Officer. The parties may, by agreement, supplement the record by depositions or stipulations prior to argument, but no live testimony will be heard by the court, unless the court shall permit same for cause shown.

Comment. These Any motions to dismiss may be made at any time prior to commencement of oral argument and are is not subject to the requirements of C.C.R.C.R 206.1.

Editor's note: Adopted July 15, 1994, effective October 1, 1994

Rule 1910.13.A. Disobedience of Subpoena: 1910.13-1.A. Failure or Refusal to Appear Pursuant to Order of Court. Failure to Produce

(a) If a party is properly served with a subpoena duces tecum for production of records and documents or a notice to attend and produce before a Hearing Officer and does not have good reason for failure to produce, such failure may be deemed disobedience of a court order, and will, in addition, permit the drawing of adverse inferences by the hHearing oOfficer and the court.

(b) If either party has failed to comply with the initial Order of Court requiring the production of certain documents and information at the Domestic Relations Office Conference, a per curiam order shall issue requiring that party to produce a copy of said documents and information to both the Domestic Relations Office and to counsel for the other party (or to an unrepresented party) within ten (10) days of the conclusion of the Domestic Relations Office Conference. Failure to comply with said per curiam order may result in the imposition of sanctions recommended by the Hearing Officer or court and will, in addition, permit the drawing of adverse inferences by the Hearing Officer and the court.

Rule 1910.15.A. Paternity. Rescinded

(1) The domestic relations office shall assign all matters in which paternity is denied to the court for hearing.

(2) At the initial conference in the domestic relations office, the person named by the complainant as the putative father of the child(ren) in question shall be advised as follows:.

(a) That the complaint may be heard before a judge sitting without a jury, or by a judge and jury, as putative father wishes;

(b) That he has the right to be represented by counsel;

(c) That he has the right to request blood tests under the Uniform Act on Blood Tests to Determine Paternity (23 Pa.C.S. § 5104 et seq.), provided he pays for the tests (unless he is indigent, in which event the county may be required to pay), and requests the court to order such tests within thirty (30) days of the conference in the domestic relations office.

(3) The alleged father shall be required to sign and date a form acknowledging receipt of the above advice.

(4) In every suit involving paternity, the domestic relations office shall notify the complainant to file with the domestic relations office at least fourteen (14) days in advance of trial, if reasonably available:

(a) A birth certificate showing the names of both parents;

(b) A written report of the attending physician, giving his opinion as to the date of the onset of pregnancy, the date of birth, and whether or not the delivery was full-term.

If such documents are filed as required above, they shall be admissible at trial without further authentication but may be disputed by the defendant. The complainant may also submit such further, properly authenticated evidence as may be relevant. In appropriate cases, the court may tax the costs of the blood tests to the losing party.

Editor's note: Adopted July 15, 1994, effective October 1, 1994.

Note: the provisions in this Rule are addressed in Pa.R.C.P. 1910.15.

Rule 1910.17.A. Support Order. Private Pay Orders. Arrears. Property Settlement Agreements. Registration. Effective Date.

(a) All orders for Support shall be paid through the Domestic Relations Office. No orders providing for direct payment of moneys shall be accepted for filing at the Domestic Relations Office, except as follows:

(1) In those cases where a Chester County Divorce action is pending, private pay support orders may be filed with the Office of the Prothonotary under the Divorce Docket number.

(b) In no instance will a miscellaneous docket number be issued either by the Domestic Relations Office or the Office of the Prothonotary.

Comment: In lieu of utilizing private pay orders the parties may request no wage attachment issue on matters payable through PA SCDU.

(c) Requests for modification shall be brought under the Divorce Docket number and heard before the Court. The Court may in its discretion order the matter be registered at the Domestic Relations Office for the purposes of the instant modification hearing and subsequent payment.

(d) Every order filed under a Domestic Relations Office docket number and PACSES identification number shall include a provision for payment toward outstanding arrears. Domestic Relations shall not accept for filing any order that fails to include such a provision.

Comment: This provision applies to all support orders filed with the Domestic Relations Office. If there are no arrears due on a case, the arrears provision in the order will not be enforced via wage attachment or any other enforcement remedy. If arrears become due at a later date, the Domestic Relations Office will enforce the arrears provision via wage attachment and any other applicable enforcement remedy.

(e) The Domestic Relations Office shall enforce the support terms and provisions of any property settlement agreement effective the date such agreement is registered with that office.

(1) Any party seeking registration of an incorporated Property Settlement Agreement for enforcement purposes shall:

(i) pay to the Domestic Relations Office a fee of one hundred dollars (\$100.00) for the registration of an alimony order. No fee shall be required to register an order for child support;

(ii) provide to the Domestic Relations Office a certified copy of the divorce decree including a complete, executed copy of the property settlement agreement; and

(iii) completed copies of the Domestic Relations Office information sheets.

Comment: For the time period prior to registration with the Domestic Relations Office, the parties may seek to enforce the provisions of a property settlement agreement by filing the appropriate petition with the Family Court.

IFSA and UIFSA Comment: All Intrastate cases are governed by the provisions of Pa. R.C.P. 1910.2-1 and the Intrastate Family Support Act, 23 Pa.C.S. sec. 8103 et seq. All Interstate cases are governed by the provisions of Pa. R.C.P. 1910.2-1 and the Uniform Interstate Family Support Act, 23 Pa.C.S. sec. 7101, et seq.

Rule 1910.19.A. Support Modification.

(a) Modification of Property Settlement Agreement. In those cases in which a property settlement agreement was executed prior to February 12, 1988, or in which a property settlement agreement was executed after February 11, 1988, but not incorporated into a divorce decree, any party seeking modification of any child support provision of such agreement must petition the court for modification. Such petition must be filed with the Prothonotary's Office under the divorce caption and will be heard by a family court judge. In the event that a judge determines that the child support provision of the agreement is modifiable, the matter may be remanded to a Hearing Officer for consideration of the merits of the alleged grounds for modification.

(b) Registration and Modification. In those cases which involve property settlement agreements signed after February 11, 1988 and which have been incorporated into a final divorce decree, the procedure for modification of a child support provision of the agreement shall be as follows:

(1) The party seeking modification shall register the executed property settlement agreement with the Domestic Relations Office.

(2) The party seeking modification shall file a petition to modify with the Domestic Relations Office. The registration of the property settlement agreement and the petition to modify may be filed simultaneously.

(3) The petition to modify will be handled in the same manner as a petition to modify an existing court order for child support.

Rule 1910.20.A. Credit Bureau Notice.

Notice shall be in the following form in all instances wherein any consumer credit bureau has requested information regarding arrearages:

See Form on Page 162

Plaintiff : IN THE COURT OF COMMON PLEAS
: CHESTER COUNTY, PENNSYLVANIA
vs : NO.
: CIVIL ACTION—LAW
Defendant : IN SUPPORT

Pursuant to § 4303 of Act 1985-66, a Consumer Credit Bureau Organization has requested the amount of arrearages owed by you under your existing support order. Domestic Relations must provide this information to the Consumer Credit Bureau Organization on any arrearage in excess of \$1,000.00

Our records show an arrearage of \$ _____ on the above order.

You may contest the accuracy of this information by contacting the Domestic Relations Office at 117 West Gay Street, West Chester, PA, (610) 344-6215 no later than _____. If you fail to contact Domestic Relations by said date, the figure stated above will be reported to the Consumer Credit Bureau Organization.

Rule 1910.25-5.A. Civil Contempt. Order. Incarceration.

Any individual incarcerated pursuant to a bench warrant issued for failure to comply with an order of support shall be brought before the Court consistent with the procedures outlined in the Court of Common Pleas of Chester County, Pennsylvania Administrative Regulation No. 3-2004 and/or its successors.

Rule 1915.3.A. Form of Notice. Commencement of Action. Complaint. Order.

~~(1)(a) Notice of a custody action and conciliation conference shall be in the form prescribed by Pa.R.C.P. 1915.15. include the date and time for each party to attend parenting class, the date and time for custody conciliation, the name of the assigned mediator and instructions to contact the mediator within three (3) days.~~

~~(2) Parties requesting the presence of children ages five (5) and older at a conciliation conference shall do so by submitting their request in the form of a proposed order, as follows, to the Office of the Family Court Administrator. That office shall maintain such forms in blank, for this purpose. The proposed order shall be served by the requesting party on all other parties promptly and in sufficient time so that the opposing parties are given at least ten (10) days notice, prior to the conciliation conference, of the entry of the order:~~

~~(3) Form of the order:~~

~~See Form on Page 155~~

~~(b) Relocation. Upon petition of either party, issues of relocation shall be heard before the Court. Each petition shall be accompanied by a Rule Returnable that sets forth separate Rule and Hearing dates.~~

~~(c) All custody matters alleging the prior existence of a Children, Youth and Families (CYF) proceeding shall include a copy of the order closing the case file prior to the institution of an action for custody in the Family Court.~~

~~Comment: For form of the order as required by Pa.R.C.P. 1915.3(a) see C.C.R.C.P. 1915.15.A.(a) Information regarding the appearance of children at a conciliation conference has been moved in its entirety to C.C.R.C.P. 1915.11.A. to coincide with the Pa. R.C.P. 1915.11.~~

~~Rule 1915.5.C. Rule 1915.4.A. Prompt Disposition of Custody Cases. Custody Hearing Demand. Pre-Trial Statement. Certificate of Readiness.~~

~~(a) Initial Contact with the Court.~~

~~(1) All complaints for custody and petitions for modification shall be scheduled for mediation within thirty (30) days of filing with the Office of the Prothonotary and/or~~

~~(2) All parties shall attend parenting classes within thirty (30) days of filing the initial Complaint with the Office of the Prothonotary.~~

~~(b) Listing Trials before the Court.~~

~~(1) All temporary orders for custody unless otherwise specifically indicated on the order, shall automatically become a Final Order of the Court no later than 180 days of the filing of the Complaint or Petition for Modification except in those cases where the parties have demanded trial within the time limitations set forth in Pa.R.C.P. 1915.4. and C.C.R.C.P. 1915.4.A.(c)(3).~~

~~(2) All temporary orders for custody shall include the following language:~~

~~NOTICE: UNLESS A DEMAND FOR TRIAL HAS BEEN FILED, THIS ORDER SHALL BECOME A FINAL ORDER OF THE COURT WITHIN 180 DAYS OF THE FILING OF THE COMPLAINT OR PETITION FOR MODIFICATION or 90 DAYS OF THE MOST RECENT CONCILIATION CONFERENCE, WHICHEVER IS EARLIER.~~

~~(c) Trial~~

~~(1)(a)~~

~~(i) If When trial is demanded by any party, within thirty (30) days of filing the demand or at the time a petition for relocation is filed, after the most recent conciliation conference, said the moving party shall file with the Prothonotary a completed Certificate of Readiness and a pPre-trial statement containing the following information:~~

~~(i)(a) a list of all fact witnesses; a brief statement of the claim(s) being made by the moving party or the defense(s) made by the responding party;~~

~~(ii)(b) a list of all expert witnesses; a concise statement of the facts;~~

~~(iii)(c) issues for resolution; and a concise statement of the factual or legal issues involved, if any, including citations to applicable statutes or case law, if any;~~

~~(iv)(d) estimated length of trial: a list showing the names and addresses of all witnesses each party intends to call at trial; and~~

~~(e) a schedule of all exhibits to be offered at trial.~~

~~(ii) Attached to the Pre-trial statement shall be the reports of any experts intended to be called and a proposed order setting forth the requested disposition of the matter.~~

~~(iii) All Pre-trial statements shall not exceed three (3) pages in length;~~

~~(iv) A time-stamped copy of the filed Pre-trial statement shall be served upon Family Court and opposing counsel ;~~

~~(v) The responding party shall file his/her Pre-trial statement within twenty (20) days of the filing of the movant's statement.~~

~~(2)~~

~~(i) The form of Demand for Trial as required by C.C.R.C.P. 1915.4.A.(c)(1)(i) shall be substantially in the following form:~~

Plaintiff : IN THE COURT OF COMMON PLEAS
 : CHESTER COUNTY, PENNSYLVANIA
 vs : NO.
 : ACTION—LAW
 Defendant : IN CUSTODY

DEMAND FOR TRIAL

TO THE FAMILY COURT ADMINISTRATOR:

I, _____, plaintiff/defendant, hereby demand trial in the above-captioned custody matter.

Date: _____ Attorney for I.D. # _____

Address _____

Date of Most Recent Conciliation Conference: _____
 (Must be within 90 days of filing)

N.B. No case shall receive a trial date until such time as a Certificate of Trial Readiness is filed of record. All Certificates of Trial Readiness and Pre-Trial Statements shall be filed within thirty (30) days of filing a demand for trial. Failure to file within the time frame as specified will result in the recommendation of the custody conciliator becoming a Final Order of the Court.

~~(ii) The form of Certificate of Readiness required by C.C.R.C.P. 1915.4.A.(c)(1)(i) shall be substantially in the following form:~~

Plaintiff : IN THE COURT OF COMMON PLEAS
 : CHESTER COUNTY, PENNSYLVANIA
 vs : NO.
 : ACTION—LAW
 Defendant : IN CUSTODY

CERTIFICATE OF READINESS—CUSTODY

I hereby certify that all reports are completed and the above custody matter is ready for trial.

Date: _____ Attorney for

Date: _____ Attorney for

Estimated time of hearing: _____

I hereby certify that on _____, I served a copy of this certificate on _____ with a request that he/she join in this certificate.

Date: _____ Attorney for

N.B. This form must be completed in its entirety or the certificate will be rejected by the Family Court Administrator and the case will not be listed for trial.

~~(b) All counsel and unrepresented parties shall be given not less than eight (8) days notice of the intent to present said Certificate of Readiness.~~

~~(2)(a) The Certificate of Readiness shall be in the following form:~~

See Form on Page 156

~~(b)(iii) A copy of the Certificate of Readiness shall be served upon the Family Court Administrator, who shall schedule the case for hearing and promptly notify all counsel and unrepresented parties in the case. Any certificate of readiness that fails to include an estimated time of trial will be rejected and not placed on the trial list.~~

~~(3)~~

~~(c)(i) The opposing party shall file a pre-trial statement within fourteen (14) days of receipt of the demanding party's pretrial statement. The information contained in all pre-trial statements shall be updated, as appropriate, any time prior to commencement of the custody hearing. Failure to produce the information required may result in exclusion of such evidence at time of hearing.~~

~~(3) (4) If trial is not demanded by any party within ninety (90) days after the most recent conciliation conference, the parties shall return for further conciliation before a demand for trial may be filed. All demands for trial shall be filed within ninety (90) days of the most recent conciliation conference. A copy of the demand for trial shall be served upon the Family Court Administrator.~~

Comment: In the event no demand for trial has been filed, the docket will automatically reflect that the Order of the Court was finalized no later than 180 days after the filing of the Complaint or Petition for Modification. This rule does not apply to collateral matters not involving actual custody issues such as legal, physical, partial physical and primary physical custody.

Rule 1915.5.A. Questions of Jurisdiction. No Responsive Pleading by Defendant Required. Counterclaim. Venue. Discovery.

(1)(a)

(1) All references to hearing in Pa.R.C.P. 1915.5. shall be construed as referring to the conference before the custody conciliator. If a question of jurisdiction or venue is raised by timely Preliminary Objections, the conciliation shall be continued until decision by the court.

(2) All Preliminary Objections to jurisdiction or venue shall be accompanied by a Rule to Show Cause stating separate Rule Returnable and Hearing Dates.

~~(3)(b) A party filing and presenting a motion Requests for discovery shall be in accordance with C.C.R.C.P. 206.1.C. except that give forty-eight (48) hours notice to opposing counsel and unrepresented parties of the date, time and place of presentation of the motion. The movant shall file and present to the court with the motion a proposed order and a certification of service. No brief shall be required.~~

Rule 1915.5.B. Custody Conciliator. Conference.

~~(1)(a) The president judge Court shall appoint no fewer than two (2) appropriate persons as custody conciliators. No custody conciliator or any member of the custody conciliator's firm shall appear in any action which may be referred to a custody conciliator:~~

~~(2)(b) The custody conciliator:~~

~~(a)(1) shall conciliate custody; and visitation and contempt cases filed with the court;~~

~~(b)(2) may hear contempt cases filed with the court;~~

~~(c)(3) may recommend to the court that interim temporary and final custody orders be entered; and~~

~~(c)(4) may recommend the appointment of counsel and/or a guardian ad litem for the child.~~

~~(3)(c) All custody matters shall be scheduled for conference before the custody conciliator no sooner than ten (10) days after filing of an action. Emergency matters may be scheduled for an earlier conference on a standby basis. All parties shall be present at such conference. Failure of a party to appear at the conference may result in the entry of an order in the absence of such party.~~

~~(4)(d) An appearance by counsel before the custody conciliator shall be deemed an entry of appearance on behalf of the party represented.~~

~~(5)(e) To facilitate the conciliation process and encourage frank, open and meaningful exchanges between the parties and their respective counsel all statements, except agreements made by the parties, or their witnesses, as well as reports received before the custody conciliator shall not be the subject of direct or cross examination at a later hearing before the court. The custody conciliator shall not be subject to subpoena as a witness.~~

~~(6)(f)~~

(1) At the conclusion of every conciliation conference the conciliator or attorney designated by the conciliator shall prepare an written report of the matters order either agreed upon by the parties or to be recommended by the conciliator. The conciliator shall appoint one of the attorneys to draft an submit the order reflecting the agreement or recommendation to the Court for approval. The drafting attorney shall provide opposing counsel, or the opposing unrepresented party, with a copy of any order to be submitted for approval by a conciliator. Any party shall have five (5) days from the mailing of such proposed order to contact the conciliator with any objection to the proposed order. Objections shall be in writing and addressed to the conciliator with a copy to be filed with the Prothonotary, and a copy sent to the drafter of

the proposed order. If no objection is received within five (5) days, the conciliator shall approve the proposed order and submit same to the court. If an objection to a proposed order is timely received, the conciliator shall advise the court, all counsel and any unrepresented party of the conciliator's recommended resolution of the objection.

(2)

(i) Recommendations that change primary custody, which are not agreed upon by the parties, shall be scheduled for hearing before the Court. Any party requesting the issuance of the recommendation as an interim order shall present to the Family Court Administrator within two (2) business days of the conciliation conference an order for scheduling a hearing. Said matter shall be scheduled within thirty (30) days of the conciliation conference for a brief hearing on the issuance of an interim order. The moving party shall also file a demand for trial no later than the day and time set for the hearing on the issuance of an interim order.

(ii) The form of order required by C.C.R.C.P. 1915.5.B.(f)(2)(i) shall be substantially in the following form:

Plaintiff : IN THE COURT OF COMMON PLEAS
 : CHESTER COUNTY, PENNSYLVANIA
 vs : NO.
 : CIVIL ACTION—LAW
 Defendant : IN CUSTODY

NOTICE AND ORDER TO APPEAR

A recommended order for a change in primary custody has been forwarded to the Court by _____, Conciliator. At the request of _____, a hearing has been scheduled before the Court to determine if the recommended order should be entered as an Interim Order pending trial.

The parties and counsel are ordered to appear for a hearing on _____ at _____ m. in Courtroom No. _____ of the Chester County Courthouse, West Chester, PA. The Court has set aside fifteen (15) minutes for each side to present their case in the format of their choice (evidentiary testimony, legal argument). At the conclusion of which, the Judge will render a decision regarding the entry of an Interim order pending trial. Upon the filing of a Demand for Trial and the requisite Certificate of Trial Readiness, the matter shall be set for trial in the normal course of business. Failure to demand trial within ninety (90) days of the conciliation conference shall result in the Interim Order, if entered, becoming a final Order of the Court.

BY THE COURT:

Date: _____

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, PLEASE CONTACT THE OFFICE SET FORTH BELOW:

Lawyer Referral Service
 15 West Gay Street
 West Chester, PA 19380
 610-429-1500

IF YOU CANNOT AFFORD A LAWYER, PLEASE CONTACT THE OFFICE SET FORTH BELOW:

Legal Aid of Southeastern Pennsylvania
 Chester County Division
 14 East Biddle Street
 West Chester, PA 19380
 610-436-4510

AMERICAN WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Chester 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 disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference.

BY THE COURT:

Date: _____

Comment: It is the general practice of this Court to schedule Custody conciliation conferences no later than 90 days from the filing of the Complaint or Petition to Modify. Hearing requested pursuant to C.C.R.C.P. 1915.5.B.(f)(2)(i) will be approximately 30 minutes in length (15 minutes each side) for the presentation of evidence on the issue of a change in primary custody.

Rule 1915.8.A. Physical or Mental Examination of Persons:

(1) In the event that either psychological studies or home studies become necessary to a proper disposition of the cause, and a party or parties are unable to pay the cost of such studies, the cost thereof may be assessed upon the county, subject to the obligation of the parties to reimburse the county as their means permit.

(2) Any person requesting the performance of a Home Investigation shall post an investigation fee with the Family Court in such amount as shall be established by the court from time to time.

Rule 1915.11.A. Appointment of Attorney for Child. Interrogation of Child. Attendance of Child at Hearing or Conference.

(a) If counsel or a guardian ad litem is appointed for the child, fees may be assessed against the parties. or the county, subject to the obligation of the parties to reimburse the county as their means permit. The court shall maintain a list of counsel willing to act as counsel for the child, at such rate as may be fixed by the court, and appointments shall be made from such list on a rotating basis, unless otherwise ordered by the court.

(b)

(1) No child(ren) shall be present at a conciliation conference unless specifically ordered to appear.

(2)

(i) Parties requesting the presence of children ages ten (10) and older at a conciliation conference shall do so by submitting their request in the form of a proposed order to the Office of the Family Court Administrator. That office shall maintain such forms in blank, for this purpose. The proposed order shall be served by the requesting party on all other parties promptly and in sufficient time so that the opposing parties are given at least ten (10) days notice, prior to the conciliation conference, of the entry of the order.

(ii) The form of order required by C.C.R.C.P. 1915.11.A.(b)(2) shall be substantially in the following form:

Plaintiff : IN THE COURT OF COMMON PLEAS
 : CHESTER COUNTY, PENNSYLVANIA
 vs : NO.
 : ACTION—LAW
 Defendant : IN CUSTODY

ORDER FOR APPEARANCE

WHEREAS, a Custody Conciliation Conference in this matter has been scheduled for the _____ day of _____, 20____ at _____m. before a Chester County Custody Conciliator in the Child Custody Conciliation Room at Courthouse, Third Floor Annex, West Chester, Pennsylvania, and,

WHEREAS, _____, who is a party to these proceedings has requested the presence at the Conciliation Conference of the children named below who are the subject of these proceedings and are ten (10) years of age or older,

IT IS HEREBY ORDERED that the following minor children shall attend the aforesaid Conciliation Conference:

| | |
|------------|---------------------|
| Name _____ | Date of Birth _____ |
| Name _____ | Date of Birth _____ |
| Name _____ | Date of Birth _____ |

BY THE COURT:

Date: _____

(3) The custody conciliator may at his/her discretion reschedule a conference and direct the appearance of a child or children of any age.

Rule 1915.12.A. Contempt. Civil Contempt for Disobedience of Custody Order. Petition. Form of Petition. Service. Order.

(a) All petitions for Contempt shall be accepted for filing by the Office of the Prothonotary upon payment of the appropriate fee.

(b) All petitions for Contempt shall allege with specificity the facts that constitute a wilful failure to comply and indicate the remedy the party is seeking.

(c) All Petitions for Contempt shall may be scheduled for a conciliation conference hearing before the Custody Conciliator. At the conclusion of the conference all unresolved matters shall be certified for hearing before the court. Said certification shall be forwarded to the Family Court Administrator after filing, for scheduling consistent with the court's business. The hearing shall be limited to one (1) hour in duration at which time the parties may present evidentiary testimony. At the conclusion of the hearing, the custody conciliator shall make a recommendation and advise the parties they have ten (10) days in which to request a hearing de novo. At the conclusion of the ten (10) days if no objections have been filed, the recommendation shall become an order of the court. In the event objections are filed, the matter shall be listed, in the normal course of business, for a hearing de novo before the Court. The hearing shall be limited to the issues raised by the pleadings.

Rule 1915.13.A. Special Relief

(1)(a) Motions or pPetitions seeking a stay or other immediate, substantive relief may be presented to the court at any time.

(2)(b) The court will not enter a stay or grant the relief ex parte unless:

(a)(1) Notice—it appears from the petition or motion that reasonable notice, under the circumstances, has been given to all parties in interest of the date, time and place of the application; or

(b)(2) Stipulation—it appears from the petition or motion that there is an agreement by all parties in interest; or

(c)(3) Exigency—the court in its discretion shall determine that there are extraordinary circumstances justifying a stay or immediate relief. Such exigent circumstances include those where immediate action is necessary to protect the mental or physical well-being of a child or children, or to undo the effects of a "snatch" (that is, a recent sudden change in a long-standing custody arrangement brought about contrary to the wishes of the custodial parent), or to preserve the status quo.

(c) Where prompt action is necessary, the family court may also enter temporary orders based on:

(a)(1) the recommendations of the conciliator; or

(b)(2) affidavits, depositions, reports of physicians, police or school personnel, and the oral representations of counsel; or

(c)(3) investigations of child service agencies, or

(d)(4) a combination of the foregoing.

Rule 1915.15. A. Form of Complaint. Caption. Order. Petition to Modify a Partial Custody or Visitation Order.

(a) The form of order required by Pa.R.C.P. 1915.3(a) shall be in the following form:

Plaintiff : IN THE COURT OF COMMON PLEAS
 : CHESTER COUNTY, PENNSYLVANIA
 vs : NO.
 : CIVIL ACTION—LAW
 Defendant : IN CUSTODY

NOTICE & ORDER TO APPEAR

A complaint has been filed in the Court of Common Pleas of Chester County concerning custody/partial custody/visitation of your children.

You are ordered to appear in person at the Chester County Courthouse, 17 North Church Street, Custody Conciliation Room, Third Floor Annex, West Chester, PA for a Custody Conciliation Conference on _____, at _____, ____m.

If you fail to appear as provided by this order, an order for custody, partial custody or visitation may be entered against you.

You, _____, Plaintiff, are ordered to appear in person to attend a Parenting Class on Wednesday, _____ at 4:30 p.m. in the Jury Room, Chester County Courthouse, 2 North High Street, West Chester, PA.

You, _____, Defendant, are ordered to appear in person to attend a Parenting Class on Wednesday, _____ at 4:30 p.m. in the Jury Room, Chester County Courthouse, 2 North High Street, West Chester, PA.

Failure to attend the session as scheduled may affect your rights to custody, partial custody or visitation.

You are ordered to contact the Mediator assigned to your case within three (3) days of receiving these papers.

Mediator: _____ Phone _____

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, PLEASE CONTACT THE OFFICE SET FORTH BELOW:

Lawyer Referral Service
 15 West Gay Street
 West Chester, PA 19380
 610-429-1500

IF YOU CANNOT AFFORD A LAWYER, PLEASE
CONTACT THE OFFICE SET FORTH BELOW:

Legal Aid of Southeastern Pennsylvania
Chester County Division
14 East Biddle Street
West Chester, PA 19380
610-436-4510

AMERICAN WITH DISABILITIES ACT OF 1990

The Court of Common Pleas of Chester 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 disabled individuals having business before the court, please contact our office. All arrangements must be made at least 72 hours prior to any hearing or business before the court. You must attend the scheduled conference.

BY THE COURT:

Date: _____

(b) All Petitions for Modification shall be accepted for filing by the Office of the Prothonotary upon the payment of the appropriate fee.

(c) All Petitions for Modification shall allege with specificity the modification sought and the reasons for seeking the modification.

Rule 1920.16.A. Severance of Actions and Claims. Bifurcation.

(a) Upon motion of either party and after hearing, the Master may recommend bifurcation of the divorce proceedings and issuance of a divorce decree prior to a determination of other matters raised by written report in accordance with Pa.R.C.P. 1920.53. The court shall permit bifurcation for good cause shown. In such event, this decree shall be indexed in the judgment docket to give notice of the divorced spouse's equitable interest in the property of the other.

(b) The decree of divorce in such circumstances shall contain the following statement: "The court reserves jurisdiction to dispose of ancillary matters properly raised by the parties heretofore; each spouse shall retain his or her equitable interest in the marital property of the other." be substantially in the form as prescribed by Pa.R.C.P. 1920.76.

(c) A copy of the Petition for Bifurcation shall be served upon the appointed Master.

Rule 1920.18A. Discontinuance. Rescinded

After a special master has been appointed, a discontinuance shall be entered only by leave of court after notice to the defendant and the master.

Editor's note: Amended July 15, 1994, effective October 1, 1994.

Rule 1920.22.A. Discovery. Sanctions. Rescinded

If a party does not comply with a discovery order, the master may either:

(1)(a) Proceed, nevertheless, to consider the evidence presented by the parties and, in his or her closing report, recommend sanctions against the non-complying party, including deemed admissions on the matters involved; or

(2)(b) Make an immediate recommendation to the court that sanctions of a specified nature be imposed.

Comment: Written interrogatories may be served as of course pursuant to Pa.R.C.P. 1920.22. Pa.R.C.P. 1920.33(a) further requires the filing of any inventory by

each party within ninety (90) days after service of a pleading or petition containing a claim for determination and distribution of property under Section 3502 of the Divorce Code. Any party who has complied with these Rules may, where appropriate, apply to the court for sanctions pursuant to Pa.R.C.P. 4019 if the opposing party has failed to answer interrogatories and/or failed to file a required document. In the event of a successful Application pursuant to Pa.R.C.P. 4019, the Court of Common Pleas of Chester County may grant a broad order requiring, inter alia: timely answers to interrogatories; timely production of all relevant documents requested; and, when appropriate, deposition of the uncooperative party. Failure to comply with a court order requiring compliance with mandatory or other discovery will result in the imposition of appropriate sanctions, which may include, inter alia, an award of counsel fees and/or costs.

Editor's note: Amended July 15, 1994, effective October 1, 1994.

Comment: The rule relating to discovery in domestic relations matters is C.C.R.C.P. 1930.5.A.

Rule 1920.31.A. Joinder of Related Claims. Child and Spousal Support. Alimony. Alimony Pendente Lite. Counsel Fees. Expenses. Registration of Alimony. Registration of Foreign Decrees

(a)(1) A party in whose favor the court has entered an order for alimony may, upon payment to the domestic relations office of a registration fee of fifty (\$50.00) one hundred (\$100.00) dollars, register the order. Upon registration, and notice to the opposing side, the order shall be enforced in the same manner as other support orders.

(2) All orders for alimony shall be subject to automatic wage attachment.

Editor's note: Amended July 15, 1994, effective October 1, 1994.

(b)(1) Petitions to register, adopt and enforce foreign decrees as provided in Section 3705 of the Divorce Code shall be filed with the Prothonotary and shall contain the following:

(a)(i) identification of parties and their respective residences;

(b)(ii) a certified copy of the decree and any subsequent modifications; and

(c)(iii) a reference to laws of the issuing state which impact on enforcement of such decree

(2) Upon filing of the petition, the Family Court Administrator is authorized to issue, per curiam, a Rule to Show Cause why the prayer of the said petition should not be granted, returnable in not less than twenty (20) days. Each such rule shall notify respondents that well pled facts of the petitions will be admitted unless an answer specifically denying the same is filed by the close of court on the return date of the rule.

(3) The petitions shall be served in the same manner as in original process for divorce.

(4) All well pled factual averments in the petition shall be deemed admitted unless an answer specifically denying the same is filed on the return date of the rule. The requirements of Pa.R.C.P. 1029 shall apply.

(5) An answer to the petition for registration shall contain all defenses to the requested relief including those based upon jurisdiction and the law of the issuing state. Any statutes or applicable law upon which the

respondent-bases his defense shall be cited, and in the case of foreign statutes, a copy of the applicable statute shall be attached.

(6) If no answer has been timely filed, the petitioning party, five (5) days after the return date, may move to have the rule made absolute, granting the prayer of the petition.

(7) When an answer has been timely filed and any issues(s) raised by the petition and answer is (are) ripe for consideration, subject to the provisions of Pa.R.C.P. 209.206.7, any party may file a praecipe for determination in the form described in C.C.R.C.P. 206.2, with a supporting brief. Responsive briefs shall be filed within fifteen (15) days of the filing of the praecipe for determination.

(8) A decree granting registration and adoption of a foreign decree with respect to alimony or alimony pendente lite may be registered with the Domestic Relations Office in the same manner as provided in C.C.R.C.P. 1920.31.A.

Rule 1920.31.B. Registration of Foreign Decrees:

(1) ~~Petitions to register, adopt and enforce foreign decrees as provided in Section 3705 of the Divorce Code shall be filed with the Prothonotary and shall contain the following:~~

(a) ~~identification of parties and their respective residences;~~

(b) ~~a certified copy of the decree and any subsequent modifications; and~~

(c) ~~a reference to laws of the issuing state which impact on enforcement of such decree.~~

(2) ~~Upon filing of the petition, the Family Court Administrator shall issue a Rule to show Cause why the prayer of the said petition should not be granted, returnable in not less than twenty (20) days. Each such rule shall notify respondents that well pled facts of the petitions will be admitted unless an answer specifically denying the same is filed by the close of court on the return date of the rule.~~

(3) ~~The petitions shall be served in the same manner as in original process for divorce.~~

(4) ~~All well pled factual averments in the petition shall be deemed admitted unless an answer specifically denying the same is filed on the return date of the rule. The requirements of Pa.R.C.P. 1029 shall apply.~~

(5) ~~An answer to the petition for registration shall contain all defenses to the requested relief including those based upon jurisdiction and the law of the issuing state. Any statutes or applicable law upon which the respondent-bases his defense shall be cited, and in the case of foreign statutes, a copy of the applicable statute shall be attached.~~

(6) ~~If no answer has been timely filed, the petitioning party, five (5) days after the return date, may move to have the rule made absolute, granting the prayer of the petition.~~

(7) ~~When an answer has been timely filed and any issues(s) raised by the petition and answer is (are) ripe for consideration, subject to the provisions of Pa.R.C.P. 209, any party may file a praecipe for determination in the form described in C.C.R.C.P. 206.2, with a supporting brief. Responsive briefs shall be filed within fifteen (15) days of the filing of the praecipe for determination.~~

(8) ~~A decree granting registration and adoption of a foreign decree with respect to alimony or alimony~~

~~pendente lite may be registered with the Domestic Relations Office in the same manner as provided in C.C.R.C.P. 1920.31A.~~

~~Editor's note: Amended July 15, 1994, effective October 1-1994~~

~~Comment: C.C.R.C.P. 1920.31.B. has been moved in its entirety and renumbered as C.C.R.C.P. 1920.31.A.(b)(1)-(8).~~

~~Rule 1920.32.A. Joinder of Related Claims. Custody. Hearing by Court. Joinder of Custody Claim.~~

~~If a custody claim is asserted in a divorce complaint, a duplicate copy of the complaint shall be filed with the Prothonotary and it shall receive a court number separate from the divorce action. Such filing shall contain the information required by Pa.R.C.P. 1915.3(a) & 1915.15(a) and C.C.R.C.P. 1915.3.A. An additional filing fee may be required for this duplicate complaint. A copy of the duplicate, with the separate court number, shall be served on the defendant.~~

~~Rule 1920.42.A. Affidavit and Decree Under § 3301(c) or § 3301(d)(1) of the Divorce Code. Notice of Intention to Request Entry of Divorce Decree in § 3301(c) and § 3301(d)(1)(i) Divorces. Counter-Affidavit. Praecipe to Transmit Record. Incorporation of Agreement in Divorce Decree~~

~~(1)(a) Withdrawal of Claims—Prior to the filing of the praecipe to transmit the record, any ancillary claim that has not been resolved by an agreement to be incorporated into the decree shall be withdrawn by praecipe of the party who raised the claim. All praecipos to withdraw ancillary claims shall include a certification that opposing counsel, any unrepresented party and the Master, if appointed, have been served with a copy of said praecipe and notice of intention to file same at least twenty (20) days prior to the date of its filing. The notice of intention to file the withdrawal of ancillary claims may be waived. Waivers shall be in writing and signed by counsel of record, or the parties and filed of record.~~

~~Note: The required notice of intention to file a praecipe to withdraw ancillary claims may be given at the same time as the notice of intention to file a praecipe to transmit the record. The praecipe to withdraw ancillary claims may then be filed immediately prior to the filing of the praecipe to transmit the record.~~

~~(2)(b) All praecipos to transmit a record shall include a certification that opposing counsel, any unrepresented party and the master, if appointed, have been served with a copy of said praecipe and notice of intention to file same at least twenty (20) days prior to the date of its filing: In those cases where a Master has been appointed, at the time of filing the Notice of Intention to file the Praecipe to Transmit the Record or the Waiver of Notice of Intent with the Prothonotary, the filing party shall notify the Master, in writing, that the action has been settled and file a certification of said notice with the Prothonotary.~~

~~(3)(c) Within eight (8) days of the Master's receipt of a notice of intention to file a praecipe to transmit record, the Master shall return the court file to the Prothonotary of Chester County, along with a statement of services rendered, certification that payment has been made and a recommendation for disposition of the praecipe to transmit record.~~

~~(4) Notices required by this rule may be waived but any such waiver of notice must be filed of record and, if the party waiving notice is not represented by counsel of record, then such waiver shall be effective only if the~~

waiver is contained in a separate written document which specifically sets forth the substance of the notice requirements which are being waived and is signed by the party waiving such notice:

(d) If the parties conclude a written agreement as to any or all ancillary matters and desire to have such agreement incorporated in the divorce decree, the agreement to be so incorporated must be filed of record. The Praecepto to Transmit the Record should request incorporation and a written stipulation agreeing to same, executed by the parties and/or their respective counsel, must be filed of record. Should incorporation be included in the agreement, the Praecepto to Transmit the Record shall refer to the paragraph and page number(s) of the agreement at which the terms providing for incorporation may be found.

~~Comment: See C.C.R.C.P. 1920.76.A regarding incorporation of a marriage settlement agreement into the divorce decree.~~

~~Editor's note: Amended July 15, 1994, effective October 1, 1994.~~

Rule 1920.43.A. Special Relief.

~~(1)(a) All applications petitions for special relief shall be in the form prescribed by C.C.R.C.P. 206.1.A.(1)(a) and C.C.R.C.P. 206.2.B.(1) and (2).~~

~~(2)(b) A rule to show cause assigned a return date not sooner than twenty (20) days after the date of filing shall be issued per curiam when presented to the deputy court administrator, family court.~~

~~(3)(c) Any petitioner seeking a return date sooner than twenty (20) days of filing, or seeking a rule which stays proceedings or which by its terms grants substantive relief, shall present the petition, proposed order and rule to the signing judge of the Family Court. The court will not enter a stay or grant more immediate relief ex parte unless:~~

~~(a)(1) Notice—It appears from the petition or motion that reasonable notice, under the circumstances, of the date, time and place of the application presentation of the petition has been given to all counsel and unrepresented parties;~~

~~(b)(2) Stipulation—It appears from the petition or motion that there is an agreement by all counsel and unrepresented parties; or~~

~~(c)(3) Exigency—The court in its discretion shall determine that there are extraordinary circumstances justifying a stay or more immediate relief.~~

~~(4)(d) Immediately after filing documents with the Prothonotary each party shall serve upon all other counsel and unrepresented parties complete copies of such documents. Within five (5) days of such filing, the moving party shall file with the Prothonotary a separate document certifying such service in the form prescribed by C.C.R.C.P. 206.3.~~

~~(5) The court in its discretion may order depositions in lieu of scheduling a hearing on any Application for special relief.~~

~~(6) At least five (5) days prior to any evidentiary hearing before the court, all parties shall file with the prothonotary a pre-hearing statement and shall immediately serve copies of the statement on all other parties. The pre-hearing statement shall not exceed two (2) pages in length and shall set forth the following:~~

~~(a) A brief statement of the claim(s) being made by the moving party or the defense(s) being made by respondent;~~

~~(b) A concise statement of the facts;~~

~~(c) A concise statement of the legal issues involved, if any, and shall include citations to any applicable statutes; and~~

~~(d) An estimate of the required hearing time.~~

~~Pre-hearing statements for hearings scheduled less than twenty (20) days from the filing of the application shall be filed one day before the evidentiary hearing.~~

~~Editor's note: Amended July 15, 1994, effective October 1, 1994.~~

Rule 1920.46.A. Military Service.

~~(1)(a) If the defendant has not appeared and the plaintiff avers in the affidavit regarding military service that the defendant is in the military service or that the plaintiff cannot determine whether or not the defendant is in the military service, then the plaintiff shall file with the affidavit a motion and order for the appointment of an attorney to represent the defendant and shall deposit with the Prothonotary two hundred (\$200.00) dollars to cover the attorney's fees.~~

~~(2)(b) The attorney appointed to represent the defendant shall promptly perform the following duties:~~

~~(a)(1) The attorney shall make diligent inquiry to ascertain the whereabouts of the defendant.~~

~~(b)(2) If the attorney ascertains that the defendant is in the military service, the attorney shall inform the defendant of the action pending and ascertain whether the defendant wishes to appear and be heard, shall attend all hearings before the Master, and shall take any action proper to protect the interests of the defendant.~~

~~(c)(3) If the defendant is in the military service and wishes to appear and be heard, or if in the opinion of the attorney the defendant is prejudiced by said military service, the attorney shall state this in an interim report filed with the Prothonotary, copies of which shall immediately be served upon the attorney for the plaintiff and the Master, if appointed. In such event all proceedings shall be stayed until further order of the court.~~

~~(d)(4) If the attorney cannot ascertain the whereabouts of the defendant or whether or not the defendant is in the military service, the attorney shall, within ninety (90) days from the date of the appointment, file with the Prothonotary an interim report stating what information has been ascertained and what steps were taken to ascertain such information, copies of which report shall immediately be served upon the attorney for the plaintiff and the Master, if appointed. The attorney shall attend all hearings before the Master and take any action proper to protect the interest of the defendant.~~

~~(e)(5) Within ten (10) days after the hearings before the Master have closed, the attorney shall file with the Master a final report stating whether or not the defendant's whereabouts have been ascertained, and if the defendant is in the military service, whether or not the defendant is prejudiced by said military service. This final report shall be attached to and made a part of the report of the Master.~~

~~(f)(6) Upon the filing of an interim report resulting in the staying of all proceedings until further order of the court, or upon the filing of a final report, the attorney shall be entitled to receive the two hundred (\$200.00) dollars previously filed with the Prothonotary.~~

Editor's note: Amended July 15, 1994, effective October 1, 1994.

Rule 1920.51.A. Hearing by the Court. Lists of Masters. Appointment of Master. Notice of Hearing. Applicable Masters' Fees.

(1) ~~The court shall maintain a list of masters which shall be comprised of attorneys appointed by the president judge from among those attorneys admitted to practice before the Supreme Court of Pennsylvania and actively engaged in the practice of law in Chester County who are deemed to be specially qualified to serve as masters.~~

(2)(a) In actions where ancillary claims have been raised and are at issue, on the motion of either party, a Master shall be appointed by the court to hear testimony and prepare a report and recommendation.

(3)(b) Motion for Appointment of a Master—A motion for the appointment of a Master may be filed at any time after the filing of a complaint in divorce and shall state specifically what claims are at issue, what claims have been settled by agreement and whether any such agreement is to be entered as a court order. The moving party must be in compliance with Pa.R.C.P. 1920.31 and 1920.33. The motion shall include a certification that the completed inventory has been filed and served on the other party. The motion and order shall be in the form prescribed by Pa.R.C.P. 1920.74(a), (b).

(4)(1) Certification of Service—The movant shall file, along with the motion for appointment of a Master, a certification that opposing counsel or any unrepresented party has been served with a copy of the motion and all other documents required pursuant to sub-section (3)(b) hereof.

(5)(2) The motion for the appointment of a Master shall aver whether any acting Master is disqualified from acting as a Master in the action and the basis for the disqualification.

(c) Objections to the Motion for the Appointment of Master shall be filed within ten (10) days of the filing of the motion and shall be in accordance with C.C.R.C.P. 206.1.C. except that no brief shall be required.

Editor's note: Adopted July 15, 1994, effective October 1, 1994.

(d) Cover Sheet—Any motion for appointment of a Master shall be filed in the office of the Prothonotary and shall be accompanied by the following cover sheet, available at the office of the Prothonotary.

(e) Appointment of Master—Upon filing of the motion for the appointment of a Master, in the form prescribed by Pa.R.C. P. 1920.74, the required cover sheet and the posting of the required fee, the Office of the Prothonotary shall forward the motion to the Family Court Administrator Masters' Unit for the scheduling of a preliminary conference. When a party files a motion for the appointment of a Master, the moving party shall pay to the Prothonotary the applicable fee pursuant to this Rule. No Master shall be appointed without such payment.

(f) Applicable Fee—The party filing for the appointment of a Master shall specify on the cover sheet the matters sought to be heard by the Master, which shall determine the applicable fee. In addition to posting the requisite fee, the moving party shall pay eight dollars (\$8) for filing fee with the Prothonotary.¹

¹ The filing fee with the Prothonotary is subject to change.

(1) The fee for the appointment of a Master to hear only marital dissolution issues shall be \$130.

(2) The fee for the appointment of a Master to hear interim issues of alimony pendente lite, counsel fees and/or litigation expenses shall be \$100. The party moving for the appointment of a Master to hear a claim for alimony pendente lite shall file a time-stamped copy of the motion filed with the Prothonotary pursuant to subsection (1) hereof and a copy of the receipt or payment of the requisite fee, in the Domestic Relations Office of Chester County. The Domestic Relations Office shall then schedule a conference in accordance with Pa.R.C.P. 1910.12 and C.C.R.C.P. 1910.12.A.

(3) Whenever a party moves for the appointment of a Master to hear equitable distribution of marital property, whether or not there are other claims to be heard by the Master, the moving party shall deposit \$500 for the Master's fee plus eight dollars (\$8) for filing with the Prothonotary.

(g) The above fees are non-refundable.

Rule 1920.51.B. Regular Masters [Rescinded]

Rule 1920.51.C. Special Masters [Rescinded]

Rule 1920.51.D. Disqualification of Master. [Rescinded]

Rule 1920.51.E. Motion for Appointment of a Master. Applicable Masters' Fees.

(1) Cover Sheet—Any motion for appointment of a master shall be filed in the office of the Prothonotary and shall be accompanied by the following cover sheet, available at the office of the Prothonotary:

See Form on Page 165

(2) Appointment of Master—Upon filing of the motion for the appointment of a master, in the form prescribed by Pa.R.C. P. 1920.74, the required cover sheet and the posting of the required fee, the Office of the Prothonotary shall forward the motion to the Family Court Administrator for the scheduling of a preliminary conference. When a party files a motion for the appointment of a master, the moving party shall pay to the Prothonotary the applicable fee pursuant to this Rule. No master shall be appointed without such payment.

(3) Applicable Fee—The party filing for the appointment of a master shall specify on the cover sheet the matters sought to be heard by the master which shall determine the applicable fee. In addition to posting the requisite fee, the moving party shall pay eight dollars (\$8) for filing fee with the prothonotary.²

(a) The fee for the appointment of a master to hear only marital dissolution issues shall be \$130.

(b) The fee for the appointment of a master to hear interim issues of alimony pendente lite counsel fees and/or litigation expenses shall be \$100. The party moving for the appointment of a master to hear a claims for alimony pendente lite shall file a time-stamped copy of the motion filed with the Prothonotary pursuant to subsection (1) hereof and

1. The filing fee with the prothonotary is subject to change:

a copy of the receipt or payment of the requisite fee, in the Domestic Relations Office of Chester County. The Domestic Relations Office shall then schedule a conference in accordance with Pa.R.C.P. 1910.12 and C.C.R.C.P. 1910.12.A.

~~(c) Whenever a party moves for the appointment of a master to hear equitable distribution of marital property, whether or not there are other claims to be heard by the master, the moving party shall deposit \$500 for the master's fee plus eight dollars (\$8) for filing with the Prothonotary.~~

The above fees are non-refundable.

~~Editor's note: Adopted July 15, 1994, effective October 1, 1994.~~

~~Comment: C.C.R.C.P. 1920.51.E. has been moved in its entirety and renumbered as C.C.R.C.P. 1920.51.A.(d)-(g).~~

~~Rule 1920.51.F. 1920.53.A. Hearing by Master. Master's Report.~~

~~(a) Master's Duty To Determine Jurisdiction—The Master shall examine the formal sufficiency and regularity of the proceedings and the question of jurisdiction on the face of the pleading. If defective, but curable by amendment, the Master shall notify counsel and suspend further action until the necessary amendment is made. When the Master is satisfied of the formal sufficiency and regularity of the proceeding and the existence of jurisdiction, the hearing shall proceed as follows:~~

~~(1)(b) Uncontested Cases Divorce and Annulment Cases—(Not Involving Equitable Distribution.)~~

~~(a)(1) Counsel shall be provided with written notice of the hearing at least ten (10) days prior thereto.~~

~~(b)(2) In all hearings before a master that are believed to be uncontested, tThe plaintiff shall, prior to the hearing, submit to the Master a written "Plaintiffs Record of Testimony" bearing the case's caption, and consisting of the following:~~

~~(i) The plaintiff's testimony, in question and answer form, signed and verified by the plaintiff,~~

~~(ii) Any exhibits specifically identified in the plaintiff's evidence, and~~

~~(iii) The testimony of each of the plaintiff's witnesses, in question-and-answer form, signed and verified by the witnesses.~~

~~(c)(1) The Master's hearing in uncontested cases shall be conducted as follows:~~

~~(i) At the time of hearing, tThe plaintiff and all witnesses whose evidence Record of Testimony has been prepared in advance shall be present and shall affirm their prerecorded evidence, under oath or affirmation, in the Master's presence.~~

~~(ii) The Master may examine the plaintiff and the witnesses regarding the prerecorded evidence to evaluate their credibility, and may interrogate them as to any relevant matter whether or not included in the prepared record of testimony.~~

~~(iii) The Master, upon being satisfied that the plaintiff's record of testimony is credible, shall accept it and include it in the Master's report in lieu of findings on the merits, provided, however, that in the report the Master certifies that:~~

~~1.(a) At the hearing and in the Master's presence the plaintiff and witnesses offering prerecorded testimony were placed under oath and were examined and that they, by credible evidence, substantiated the facts set forth in the plaintiff's record of testimony, and~~

~~2.(b) No witness who was sworn or affirmed presented testimony or evidence contrary to the facts set forth in such record testimony.~~

~~(c) A report and recommendation of the Master shall issue at some time after the hearing.~~

~~(d) The Master's hearing, in contested divorce and annulment cases, shall be conducted as follows:~~

~~(1) The parties shall appear and present evidence, with a Court Reporter present.~~

~~(2) The Master may inquire of the parties under oath.~~

~~(2) Contested Cases—(or Involving Equitable Distribution) Rule 1920.54.A. Hearing by Master. Report. Related Claims.~~

~~(a) Preliminary Conference—~~

~~(i)(1) A Master shall hold a preliminary conference within thirty (30) days after being appointed to determine the scope of the ancillary issues raised. No stenographic record shall be made of this conference unless requested by a party, and approved by the Master, in which case that party shall engage and bear the cost of the stenographer.~~

~~(ii)(2) A Master may recommend to the court the entry of orders for discovery, alimony pendente lite, child support, counsel fees, expenses or costs following the preliminary conference.~~

~~(b) Discovery—~~

~~(1) Counsel may prepare and submit to the assigned Master and opposing counsel a listed of requested discovery at the preliminary conference.~~

~~(2) A Master may recommend to the court the entry of orders for discovery, including but not limited to, the filing of an inventory, an income and expense statement and affidavit of vital statistics. Said discovery orders may include discovery deadlines upon the request of either party or at the direction of the Master.~~

~~(b)(c) Prehearing Settlement Conference—Within thirty (30) days of the hearing, tThe Master shall conduct a settlement conference at which both parties shall submit a prehearing statement, which shall:~~

~~(1) Gives biographical information of each party, including but not limited to, age, education, occupation, income, health and children;~~

~~(i) Identify all witnesses with a brief summary~~

~~(ii) Identify all exhibits and agreements which shall be premarked;~~

~~(iii) Identify all reports of all experts;~~

~~(iv)(2) Contains any updates on valuation of property at issue;~~

~~(3) Identifies any and all legal or factual disputes or issues;~~

~~(v)(4) Contains a proposed specific schedule of distribution of all property including the percent of distribution to each party;~~

~~(vi) Identify the dates and duration of conferences during which counsel and the parties have discussed settlement in good faith.~~

~~Editor's note: The prothonotary has prepared a Certification of Trial Readiness Divorce form.~~

See Form on Page 166

~~(d) Certification of Trial Readiness:~~

~~(1) At the conclusion of the settlement conference, if all discovery has been completed, the deadline for discovery~~

has passed, the case has not settled and divorce grounds have been established, the parties may file a Certification of Trial Readiness.

(2) A time-stamped copy of the completed Certification of Trial Readiness shall be served upon the assigned Master and proof thereof, shall be filed with the Prothonotary. Any certificate that fails to include an estimated time of trial will be rejected by the Master and not placed on the Master's trial list.

(3) Upon receipt of the Certification of Trial Readiness by the Master, the matter shall be placed on the assigned Master's trial list in accordance with the filing date as indicated by the Prothonotary's time-stamp.

(4) All certifications of trial readiness shall be filed on blue paper with the Office of the Prothonotary.

Comment: The form certificate has been moved to C.C.R.C.P. 1920.74.A. to be consistent with Pa.R.C.P. 1920.71, et seq.

Note: This form of certification of trial readiness amends the prior form originally published in 1993.

(c)(e) Hearing—

(f)(1) The Master shall hold a formal record hearing for the determination of all matters at issue. Each party shall file a pre-trial statement not less than 10 days prior to the scheduled Master's hearing not exceeding 3 pages setting forth:

(i) a brief statement of the claim(s) being made by the moving party or the defense(s) made by the responding party;

(ii) a concise statement of the facts;

(iii) a concise statement of the factual or legal issues involved including citations to the applicable statutes or case law, if any;

(iv) a list identifying the names and addresses of all witnesses each party intends to call at trial;

(v) copies of all exhibits to be offered at trial intended to be admitted during the party's case in chief;

(vi) identify and attach reports of all experts;

(vii) contain any updates on valuation of property at issue;

(viii) contain an updated, proposed specific schedule of distribution of all property including the percent of distribution to each party.

(2) Failure to comply with the above rule may result in the imposition of sanctions recommended by the Master and will, in addition, permit the drawing of adverse inferences by the Master and the court.

(3) A copy of the pre-trial statement shall be served upon the Master and opposing counsel or any unrepresented party. Proof of service shall be filed with the Prothonotary.

All discovery pertaining to the ancillary issues before the master shall be made and transcribed for filing pursuant to Pa.R.C.P. 1920.53(a)(f) at any formal hearing before the master and court reporters shall be made available to the masters.

(f)(4) The time and place of such hearing shall be designated by the court. Court reporters shall be made available to the Masters. Once a hearing begins, it shall proceed to its conclusion within the limits of the estimated trial time. Thereafter, scheduling shall be consistent with the schedule of the Master. Whenever possible,

consistent with the master's duties pursuant to Pa.R.C.P. 1920.53 et seq., the master shall announce his or her recommendations at the conclusion of the hearing.

(5) The Master shall file a report in accordance with Pa.R.C.P. 1920.54. and 1920.55-2(a)(1), (2).

Editor's note: Adopted July 15, 1994, effective October 1, 1994.

Comment: Exhibits not attached and intended to be used as rebuttal or on cross-examination are still subject to relevancy standards by the finder of fact.

Comment: See generally, Pa.R.C.P. 1920.33

Rule 1920.53.A. Master's Report. Rescinded

(f) Preparation; Form—

(a) Upon receipt of notice of the filing of the transcript of testimony, or after the hearing if the plaintiffs record of testimony has been accepted in lieu of the transcript, the master shall prepare a report and recommendation and enclose the papers of the case in a strong backing paper in the following order:

(i) Decree Recommended

(ii) Master's Report

(iii) Testimony

(iv) Complaint and other papers in the case.

(b) The cover shall be endorsed with the court number, the names of the parties, the names of the attorneys and the name of the master.

(c) All regular master reports shall conform to Pa.R.C.P. 1920.53. All special master reports shall conform to Pa.R.C.P. 1920.53 and 1920.54.

(2) Notice of Filing of Report—If the defendant did not appear at the master's hearing, and if there is no attorney of record for the defendant, the master shall include in the notice required by Pa.R.C.P. 1920.53 and 1920.54 a statement that exceptions to the report may be filed with the prothonotary within ten (10) days after the date of filing of the report.

(3) Dismissal of Complaint— If a master's report recommends that the divorce decree not be granted, and if no exceptions to the report are filed within ten (10) days of the filing of the report, the court shall dismiss the complaint.

Rule 1920.55.A. 1920.55-2.A. Master's Report. Notice. Exceptions to Master's Report. Final Decree

(1)(a) Dismissal—Exceptions shall be dismissed in any case in which the notes of testimony have not been ordered, and paid for if required, within thirty (30) days of the filing of the exceptions.

(2)(b) Briefs—

(1) No less than three (3) weeks before the date set for oral argument, the excepting party or parties shall file a brief with the Prothonotary, shall serve copies of the brief upon all counsel, unrepresented parties and the judge assigned to hear the exceptions, and shall file a certification that service has been made.

(2) No less than one (1) week before the day set for oral argument, the responding party shall file a brief and certification of service in the manner prescribed in (1) above.

(3) In the event that both parties file exceptions, each party shall be treated as an excepting party for the purposes of the briefing schedule as set forth above.

(3)(c) Argument—If an excepting party fails to file a brief within the time prescribed by these rules, or within the time as extended, a non-excepting party may move for dismissal of the exceptions. If non-excepting party fails to file a brief within the time prescribed by these rules, or within the time as extended, he will not be heard at oral argument except by permission of the court.

Argument to the court shall be made only on the evidence in the record made before the master.

Comment: These motions to dismiss may be made at any time prior to commencement of oral argument and are not subject to the requirements of C.C.R.C.P. 206.1.(a).

Editor's note: Amended July 15, 1994, effective October 1, 1994.

Rule 1920.72.A. Form of Complaint. Affidavit. Affidavit Under § 3301(c) or 3301(d) of the Divorce Code. Counter-affidavit. Waiver of Notice of Intention to Request Decree Under § 33301(c) and § 3301(d). Form of Continuance.

(a) All requests for continuance for any proceeding under these rules shall be in the form prescribed by C.C.R.C.P. 1930.1.A.

(b) All requests for continuance shall be by original motion. No facsimile requests will be accepted.

Rule 1920.74.A. Form of Motion for Appointment of Master. Order. Form of Certification of Trial Readiness—Divorce.

(a) All certifications of trial readiness shall be filed on blue paper with the Office of the Prothonotary. Upon the filing of the certificate, a copy shall be served upon the appointed Master.

(b) The certification of trial readiness shall be substantially in the following form:

Plaintiff : IN THE COURT OF COMMON PLEAS
: CHESTER COUNTY, PENNSYLVANIA
v. : NO.
Defendant : CIVIL ACTION—IN DIVORCE

CERTIFICATION OF TRIAL READINESS—DIVORCE

Please place the above-captioned case on the trial list of _____, Esquire, Master and schedule if for a hearing. NO CONTINUANCES SHALL BE GRANTED WITHOUT GOOD CAUSE SHOWN. FAILURE TO BE READY AT THE TIME THE CASE IS CALLED MAY RESULT IN THE REASSIGNMENT OF THE CASE ON THE TRIAL LIST.

If after fifteen (15) days the adverse party fails to execute this certificate, the moving party may certify the matter as an active case.

Estimated trial time _____.

I hereby certify that on _____, I notified all interested parties.

Signature of Attorney For Plaintiff
Signature of Attorney for Defendant
Type Name & Attorney I.D. No.
Type Name & Attorney I.D. No.
Address of Attorney
Address of Attorney
Telephone # of Attorney
Telephone # of Attorney

Unrepresented party (signature), name and address typed

TO BE FILED WITH THE PROTHONOTARY. 2004

(This form is printed on blue paper).

Rule 1920.76.A. Incorporation of Agreement in Divorce Decree.

If the parties conclude a written agreement as to any or all ancillary matters and desire to have such agreement incorporated in the divorce decree, the agreement to be so incorporated must be filed of record. The Praecepto to Transmit the Record should request incorporation and a written stipulation agreeing to same, executed by the parties and/or their respective counsel, must be filed of record. Should the stipulation be included in the agreement itself, the Praecepto to Transmit the Record shall refer to the paragraph and page number(s) of the agreement at which the stipulation may be found.

Editor's note: Adopted July 15, 1994, effective October 1, 1994.

Comment: C.C.R.C.P. 1920.76.A. has been moved in its entirety and renumbered as C.C.R.C.P. 1920.42.A.(d).

Rule 1930.1.A. Form of Pleadings. Form of Caption. Form of Continuance Request and Order. Form of Rule Returnable.

(a) The form of request for continuance as required by C.C.R.C.P. 1920.72.A.(a) shall be substantially in the following form:

Plaintiff : IN THE COURT OF COMMON PLEAS
: CHESTER COUNTY, PENNSYLVANIA
vs : NO.
Defendant : CIVIL ACTION—IN

MOTION FOR CONTINUANCE

I, _____, Esquire, attorney for Plaintiff/Defendant, move for a continuance of the _____ (specify type of hearing) scheduled for _____, 20____ at _____ m. in Courtroom No. _____ for the following reasons: _____

The opposing party/counsel _____ (name) has been notified and AGREES/DISAGREES.

Attorney for Plaintiff/Defendant

_____ (name)

ORDER FOR CONTINUANCE

AND NOW, this _____ day of _____, 20____, based upon the foregoing Motion, the continuance is GRANTED/DENIED.

The above matter is hereby rescheduled to the _____ day of _____, 20____ in Courtroom No. _____ at _____ m.

BY THE COURT:

_____ J.

(b) The form of Rule to Show Cause as required by Pa.R.C.P. 206.6, in Family Matters shall be substantially in the following form:

Plaintiff : IN THE COURT OF COMMON PLEAS
: CHESTER COUNTY, PENNSYLVANIA
vs : NO.
Defendant : CIVIL ACTION—IN

RULE

AND NOW, this _____ day of _____, 20____, upon consideration of with Petition for _____, a Rule is issued upon the Respondent, _____, to show cause, if any he may have, why the prayer of the Petition should not be granted.

Rule Returnable the _____ day of _____, 20____, with hearing the _____ day of _____, 20____ at _____ a.m./p.m. in Courtroom No. _____, of the Chester County Courthouse, West Chester, PA.

The respondent is advised the well-pled facts of the Petition shall be deemed admitted unless a response specifically denying same is filed by close of court on or before the rule returnable date as set forth above.

BY THE COURT:

Rule 1930.3.A. Testimony by Electronic Means.

(a) The procedure for requesting testimony by electronic means shall be in accordance with C.C.R.C.P. 206.1.A.(1).

(b) Should the court grant a request for testimony by electronic means, the requesting party shall be responsible for all costs by either the initiation of the telephone call or by use of a credit card for payment.

Comment: The court requires no less than 48 hours notice to arrange for the use of specialized equipment.

See generally Pa.R.C.P. 1920.3.

Rule 1930.5.A. Discovery in Domestic Matters. Sanctions.

If a party does not comply with a discovery order, the master may either:

(a) Proceed, nevertheless, to consider the evidence presented by the parties and, in his or her closing report, recommend sanctions against the non-complying party, including deemed admissions on the matters involved; or

(b) Make an immediate recommendation to the court that sanctions of a specified nature be imposed.

Comment: Pa.R.C.P. 1920.33(a) requires the filing of an inventory by each party within ninety (90) days after service of a pleading or petition containing a claim for determination and distribution of property under Section 3502 of the Divorce Code. Any party who has complied with these Rules may, where appropriate, apply to the court for sanctions pursuant to Pa.R.C.P. 4019 if the opposing party has failed to answer interrogatories and/or failed to file a required document. In the event of a successful Application pursuant to Pa.R.C.P. 4019, the Court of Common Pleas of Chester County may grant a broad order requiring, inter alia: timely answers to interrogatories; timely production of all relevant documents requested; and, when appropriate, deposition of the uncooperative party. Failure to comply with a court order requiring compliance with mandatory or other discovery will result in the imposition of appropriate sanctions, which may include, inter alia, an award of counsel fees and/or costs.

Comment: Requests for Discovery shall be made in accordance with C.C.R.C.P. 206.1.A.(1).

Rule ~~1940.3~~ 1940.3.A. Order for Orientation Session and Mediation. Selection of Mediator.

(a) Except as provided in (c) below, in an action for custody, partial custody or visitation where an agreement is not reached and reduced to writing by the conclusion of

the Custody Conciliation Conference, (see Local Rule 1915.5B) the parties upon recommendation by the conciliator may attend a two-hour custody mediation orientation session:

(a) All Complaints for Custody or Petitions to Modify Custody shall be referred to mediation. The mediator shall be assigned to the case at the time the custody conciliation conference and the parenting classes are scheduled. All parties shall call the assigned mediator within three (3) days of receiving the Complaint for Custody or Petition to Modify.

(b) An orientation session is an initial meeting between parties, and a mediator pursuant to Local Rule 1940.4 below, to educate the parties concerning the mediation process so that an informed choice can be made about continued participation in that process. The mediation is confidential at the point, if any, that mediation commences during, or after, the initial orientation session.

(b) All parties shall attend a custody mediation orientation, unless otherwise excused under this rule.

(c) An orientation session shall not be recommended required if a party or a party's child is or has been the subject of a Protection from Abuse Order abuse by either party within 24 months preceding the filing of the action.

(d) The Family Court Administrative Office shall maintain a list of custody mediators who have satisfied the requirements of C.C.R.C.P. 1940.4.A. The list of custody mediators shall be made available, upon request, to all parties and counsel.

(e) In the event the parties agree to additional mediation at the conclusion of the orientation session, 42 Pa.C.S.A. § 5949 shall govern confidentiality and admissibility issues.

Editor's note: Adopted May 22, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*.

Rule ~~*1940.4~~ 1940.4.A. Minimum Qualifications to be a Mediator Under Local Rule 1940.3. of the Mediator.

(a) A mediator must meet the following minimum requirements:

(1) hold a postgraduate level degree in law, or a mental health field such as psychiatry, psychology, counseling, or family therapy;

(2) have successfully completed a 40-hour basic mediation training in a custody mediation program approved by the PBA, or the Academy of Family Mediators, the Academy of Matrimonial Lawyers, or substantial equivalent; consistent with Pa.R.C.P. 1940.4.

(3) provide annual, written proof to the Court's designee that the mediator maintains a current policy of Professional Liability Insurance covering mediation is maintained; which includes mediation as a covered practice area;

(4) participation in a program offered by the Family Law Section of the Chester County Bar Association involving substantive law training, training concerning our local child custody procedures, and training concerning the local custody mediation orientation program, including reporting obligations;

(4) complete twenty (20) hours of additional mediation training every two (2) years, effective January 1, 2002. For the purposes of this rule, additional training shall include advanced mediation training, ongoing supervision

by or consultation with an Advanced Practitioner level member of ACR or substantial equivalent, or by a professional mediation trainer.

~~(5) continued compliance with the ethical standards and any continuing educational requirements of the PBA, or the Academy of Family Mediators, or the Academy of Matrimonial Lawyers, or substantial equivalent.~~

~~(b) Mediators shall submit an application and an application fee in the amount of ~~\$100.00~~ \$150.00 or such sum as the Court directs to the Court's designee]. Mediators shall be required to renew their registration as a mediator annually every two years and to pay an annual a bi-annual renewal fee of ~~\$25.00; \$70.00~~ or such sum as the Court directs.~~

~~(c) The Court, upon its own motion or the motion of its designee, shall have the authority to decertify any Chester County custody mediator who has not complied with any provision of these Rules.~~

~~Editor's note: Adopted May 22, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*.~~

~~Rule *1940.5. 1940.5.A. Duties of the Mediator.~~

~~(a) At the orientation session, the mediator must inform the parties in writing of the following:~~

- ~~(1) the costs of mediation;~~
- ~~(2) the process of mediation;~~
- ~~(3) that the mediator does not represent provide legal advice, therapy or counseling to either or both of the parties;~~
- ~~(4) the nature and extent of any relationships with the parties and any personal, financial or other interests that could result in a bias or conflict of interest;~~
- ~~(5) that mediation is not a Substitute for the benefit of independent legal advice; and~~
- ~~(6) that the parties should obtain legal assistance for drafting or reviewing any agreement.~~

~~(b) When proceeding from the orientation to mediating a custody dispute, the mediator The primary focus of all custody mediation shall ensure that the parties consider fully be the best interests of the children.~~

~~(c) Only with the consent of tThe parties, the mediator may meet with mutually agree that the mediator include the parties' children or invite other persons to participate in the mediation process.~~

~~(d) At the conclusion of the mediation session, the mediator shall submit a written report to the Family Court Administrative Office.~~

~~Editor's note: Adopted May 22, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*.~~

~~Rule *1940.6. 1940.6.A. Termination of Mediation~~

~~(a) Mediation, if undertaken after the initial orientation session, shall terminate upon the earliest of the following:~~

- ~~(1) a written agreement between the parties on all custody issues;~~
- ~~(2) a written agreement between the parties that mediation be terminated;~~
- ~~(3) a partial written agreement between the parties concerning custody issues and a determination by the mediator that further mediation will not resolve the remaining issues;~~

~~(4) a written determination by the mediator that tthe parties are unable to reach an agreement through mediation or that the proceeding is inappropriate for mediation; or~~

~~(5) a refusal of one of the parties to continue with the mediation.~~

~~(b) If the parties reach a complete or partial agreement regarding custody at the mediation, the mediator shall promptly prepare and transmit to the parties and their attorneys, if any, a Memorandum Temporary Custody Order, setting forth the terms of the parties' agreement. In no event shall any such Memorandum Temporary Custody Order be binding on the parties unless and until it is incorporated into a written agreement signed by the parties.~~

~~(c) The mediator may mediate subsequent disputes between the parties, but shall not act as attorney, counselor, or psychotherapist, for any party either during or after the mediation of a custody action, or in any matter which was the subject of mediation. If the parties reach an agreement regarding custody at mediation, the mediator shall advise them that they may review the Temporary Custody Order with an attorney. If the parties wish to review the Temporary Custody Order with their attorneys, the order shall not be signed, by the parties, at mediation. The mediator shall provide the parties with a copy of the Temporary Custody Order. The attorneys must finalize and submit the signed Temporary Custody Order to the Family Court at least five (5) days prior to the scheduled custody conciliation conference in order for the conference to be cancelled.~~

~~(d) The mediator is prohibited from instructing either of the parties to sign any Memorandum Agreement. No mediator drafted Memorandum shall be submitted to the Court in any proceeding, nor is such admissible as evidence in the absence of a written Agreement signed by the parties. The parties may agree to waive review by their attorneys and to sign the Temporary Custody Order at the mediation. If the parties sign the Temporary Custody Order at mediation, the mediator shall submit the signed Temporary Custody Order to the Family Court at least five (5) days prior to the scheduled custody conciliation conference in order for the conference to be cancelled.~~

~~Editor's note: Adopted May 22, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*.~~

~~Rule *1940.7. Confidentiality of Mediation Subsequent to Initial Orientation Session~~

~~42 Pa.C.S.A. 5949 shall govern confidentiality and admissibility issues.~~

~~Note: Rule 1940.7 has been subsumed by C.C.R.C.P. 1940.3.A.~~

~~Rule *1940.8. 1940.7.A. Mediator Compensation.~~

~~Mediators shall be compensated for their orientation services at the rate of \$75.00 per hour or such sum as the Court directs. Unless otherwise ordered, the rate established for the custody mediation orientation session shall be divided between the parties.~~

~~Rule * 1940.7 Mediator's Report.~~

~~The Mediator's Report shall be filed by the mediator with the Family Court~~

~~Note: Rule 1940.7. has been subsumed by C.C.R.C.P. 1940.5.A.~~

Rule *1940.8. Mediator Compensation:

Mediators shall be compensated for their orientation services at the rate of \$75.00 per hour. Unless otherwise ordered, the rate established for the custody mediation orientation session shall be divided between the parties.

Editor's note: Adopted May 22, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*

Note: Rule 1940.8 has been moved in its entirety to C.C.R.C.P. 1940.7.A. to coincide with the Pennsylvania Rules of Civil Procedure.

Rule *1940.8. Confidentiality of Mediation Subsequent to Initial Orientation Session

42 Pa.C.S.A. 5949 shall govern confidentiality and admissibility issues.

Rule *1940.9 1940.8.A. Sanctions.

On its own motion or the motion of a party, the Court may impose sanctions against any party or attorney who fails to comply or causes a party not to comply with these mediation rules. Sanctions may include an award of mediation costs and attorney's fees, including those incurred in the filing and presentation of the motion for sanctions, as well as a finding of contempt. A hearing on a Custody Complaint or Petition The Custody Conciliation shall not be delayed, however, by a party's refusal or failure in to attending the mediation orientation sessions.

Rule *1940.8. Confidentiality of Mediation Subsequent to Initial Orientation Session

42 Pa.C.S.A. 5949 shall govern confidentiality and admissibility issues.

Note: Rule 1940.8 has been subsumed by C.C.R.C.P. 1940.3.A.

Rule *1940.9 Sanctions:

On its own motion or the motion of a party, the Court may impose sanctions against any party or attorney who fails to comply or causes a party not to comply with these mediation rules. Sanctions may include an award of mediation costs and attorney's fees, including those incurred in the filing and presentation of the motion for sanctions, as well as a finding of contempt. A hearing on a Custody Complaint or Petition The Custody Conciliation shall not be delayed, however, by a party's refusal or failure in to attending the mediation orientation sessions.

Editor's note: Adopted May 22, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*

Note: Rule 1940.9 has been moved in its entirety to C.C.R.C.P. 1940.8.A. to coincide with the Pennsylvania Rules of Civil Procedure.

Rule *1940.10: 1940.10.A. Evaluation of Custody Mediation Orientation Program.

(a) The court [or its designee] may evaluate the mediation orientation program annually.

(b) The President Judge may appoint a judge of the Court designee to oversee and implement the program consistent with the local Court Rules Chester County Rules of Civil Procedure, including, but not limited to, implementing and monitoring the program consistent with Paragraph (a) above.

Editor's note: Adopted May 22, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*.

Rule *1940.11. Certificate of Compliance:

A certificate of compliance shall be filed by the mediator with the Prothonotary's Office, confirming compliance. Such certificate shall reflect only that such party or parties have complied with these Rules without further detail (see 42 Pa.C.S.A. 5949).

Editor's note: Adopted May 22, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*.

Rule *1940.12. Available List of Mediators

The Family Court Administrator shall maintain and make available to all parties and counsel in the Family Court Administrator's Office a list of custody mediators who have satisfied the requirements of Local Rule 1940.4. Such list shall include, at a minimum, the names, addresses and the schedule of fees for mediation services.

Editor's note: Adopted May 22, 2000, effective 30 days after publication in the *Pennsylvania Bulletin*.

Note: Rule 1940.12 has been subsumed by C.C.R.C.P. 1940.3.A.

Rule *1940.13 1940.11.A. Ex Parte Communications Counsel and/or the parties shall not engage in or participate in ex parte communications with the mediator regarding substantive issues which relate to the mediation. Communications regarding scheduling are not subject to this rule.

Rule *1940.14 1940.12.A. Removal of Mediator from Court List.

(a) A mediator is an at will service provider and may be removed from the court list for the following reasons:

(1) failure to maintain current mediation qualifications as set forth in Rule 1940.4; C.C.R.C.P. 1940.4.A.

(2) failure to file mediator's reports with the court in a timely manner;

(3) multiple negative reports about the mediator; or

(4) other just cause.

(b) Procedure for Removing a Mediator from the Court List

(1)

(i) Complaints regarding a mediator shall be in writing and be sent to the Family Court Administrator for submission to the Court.

(ii) All complaints shall be considered confidential in nature.

(2) The Court, in its discretion, may decide whether to remove a mediator or recommend additional training or other remedial steps.

(3) If remedial steps are recommended, the mediator may be suspended during the time needed for additional training but shall not be removed from the list unless the mediator fails to amend the situation to the satisfaction of the Court.

[Pa.B. Doc. No. 04-845. Filed for public inspection May 14, 2004, 9:00 a.m.]

STATEMENTS OF POLICY

Title 37—LAW

JUVENILE COURT JUDGES' COMMISSION

[37 PA. CODE CH. 200]

Standards Governing Searches of the Person and Property of Children by Juvenile Probation Officers

The Juvenile Court Judges' Commission (Commission) adopts Subchapter E (relating to standards governing searches of the person and property of children by juvenile probation officers) as a statement of policy to read as set forth in Annex A.

Authority

This statement of policy is promulgated in response to the requirements of the act of December 9, 2002 (P. L. 1705, No. 215) (Act 215).

Purpose and Requirements

This statement of policy is intended to provide guidance in the implementation of 42 Pa.C.S. § 6304(a.1) (relating to powers and duties of probation officers), which sets forth the statutory framework governing searches of the person and property of children by juvenile probation officers.

Affected Parties

This statement of policy will affect county juvenile probation officers.

Cost and Paperwork Estimates

Although advisory in nature, this statement of policy recommends the development of written reports and protocols that may not currently exist in all jurisdictions.

Effective Date

This statement of policy will become effective upon publication in the *Pennsylvania Bulletin*.

Contact Person

For further information regarding this statement of policy, contact Keith B. Snyder, Deputy Director, Juvenile Court Judges' Commission, 401 Finance Building, Harrisburg, PA 17120-0018, (717) 787-5634.

Findings

The Commission finds that this statement of policy is necessary for compliance with Act 215.

Order

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

(a) The regulations of the Commission, 37 Pa. Code Chapter 200, are amended by adding a statement of policy in §§ 200.401, 200.402, 200.411, 200.421, 200.431—200.437 and 200.441—200.443 to read as set forth in Annex A.

(b) The Executive Director of the Commission will certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) The order shall take effect upon publication in the *Pennsylvania Bulletin*.

JAMES E. ANDERSON,
Executive Director

Fiscal Note: 23-4. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 37. LAW

PART III. AGENCIES AND OFFICES

Subpart N. JUVENILE COURT JUDGES' COMMISSION

CHAPTER 200. JUVENILE COURT JUDGES' COMMISSION

Subchapter E. STANDARDS GOVERNING SEARCHES OF THE PERSON AND PROPERTY OF CHILDREN BY JUVENILE PROBATION OFFICERS

GENERAL PROVISIONS

Sec.
200.401. Purpose.
200.402. Definitions.

AUTHORITY

200.411. General.

PERSONAL SEARCHES

200.421. General.

PROPERTY SEARCHES

200.431. General.
200.432. Searching a residence.
200.433. Nonapproved residence or other sites.
200.434. Extent of search.
200.435. Use of force.
200.436. Motor vehicles.
200.437. Additional requirements.

PROCEDURES

200.441. Written reports.
200.442. Agency protocols.
200.443. Training.

GENERAL PROVISIONS

§ 200.401. Purpose.

Pennsylvania's juvenile justice system is mandated to provide programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community. The authority of juvenile probation officers to conduct searches of the person and property of children is essential to achieving the community protection and accountability goals of the system. These standards are intended to guide policy and practice relating to searches of the person and property of children by juvenile probation officers.

§ 200.402. Definitions.

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

Exigent circumstances—Include, but are not limited to, a reasonable suspicion by the probation officer that contraband or other evidence of violations of the conditions of supervision might be destroyed, or suspicion that a weapon might be used.

Personal search—A warrantless search of a child's person, including, but not limited to, the child's clothing and any personal property which is in the possession, within the reach or under the control of the child.

Property search—A warrantless search by a probation officer of real property, a vehicle or personal property which is in the possession or is under the control of a child.

Reasonable suspicion—The existence of reasonable suspicion to search shall be determined in accordance with constitutional search and seizure provisions as applied by judicial decision. Reasonable suspicion requires specific and articulable facts, that is, something more than an unparticularized suspicion or hunch. *Terry v. Ohio*, 392 U.S. 1 (1968) (reasonable suspicion requires that the officer “be able to point to specific and articulable facts which, taken together with rational inferences from those facts, reasonably warrant” the intrusion on an individual’s privacy). Those specific facts must be such as to indicate that contraband or evidence of a violation of the conditions of a child’s supervision will be found in the place to be searched. In accordance with that case law, the following factors, when applicable, may be taken into account:

- (i) The observations of the officers.
- (ii) Information provided by others.
- (iii) The activities of the child.
- (iv) Information provided by the child.
- (v) The experience of the probation officer with the child.
- (vi) The experience of probation officers in similar circumstances.
- (vii) The prior delinquent and supervisory history of the offender.
- (viii) The need to verify compliance with the conditions of supervision.

AUTHORITY

§ 200.411. General.

Probation officers may search the person and property of the following children:

- (1) Children who are under their supervision as delinquent children or under a consent decree.
- (2) Children who are being taken into custody or who have been taken into custody under 42 Pa.C.S. § 6324 (relating to taking into custody).
- (3) Children who are in the process of being detained under 42 Pa.C.S. § 6304, § 6325 or § 6331 (relating to powers and duties of probation officers; detention of child; and release from detention or commencement of proceedings).
- (4) Children whose cases are the subject of an intake process conducted under 42 Pa.C.S. §§ 6304 and 6331.

PERSONAL SEARCHES

§ 200.421. General.

(a) A personal search may be conducted only under the following circumstances:

- (1) When the probation officer has a reasonable suspicion to believe that the child possesses contraband or other evidence of violations of the conditions of supervision.
- (2) When the child is being transported by the probation officer.
- (3) When the child is taken into custody by the probation officer.

(4) When a child is admitted to, or discharged from, a detention center, institution or other facility.

(b) Whenever possible, and consistent with the protection of the officer, child, and community, personal searches shall be conducted by officers who are of the same gender as the child who is the subject of the search.

PROPERTY SEARCHES

§ 200.431. General.

A property search may be conducted by a probation officer if there is reasonable suspicion to believe that the real or other property in the possession of, or under the control of, a child who is under supervision as a delinquent child or pursuant to a consent decree contains contraband or other evidence of violations of the conditions of supervision.

§ 200.432. Searching a residence.

The officer has the authority to make warrantless searches upon reasonable suspicion, of the portion of the residence to which the child normally has access. A residence in which the child shares living space with a parent or guardian can be divided into the following three zones for search purposes:

(1) Zone 1: The portion of the residence over which the child has exclusive control can be searched without a warrant based upon reasonable suspicion.

(2) Zone 2: The portion of the residence to which the child has access but shares with others can be searched without a warrant based upon reasonable suspicions even though the others may object. Deciding on a search in this situation is more difficult since the probation officer must be able to demonstrate that the child normally has access to the area.

(3) Zone 3: The portion of the residence to which the child has no access cannot be searched without a search warrant based upon probable cause or the consent of the person who has control over the area.

§ 200.433. Nonapproved residence or other sites.

(a) Any residence other than the child’s approved residence cannot be searched without the consent of a person who owns, leases or has access and appears to reside at that address. If consent is not obtained, a search warrant will be required to enter, except during hot pursuit.

(b) Landlords and owners, upon leasing a property, cannot enter that property without the lessee’s consent except in an emergency such as a fire or in the event of water damage when the landlord or owner is permitted to protect his property. Therefore, they cannot give probation officers access to their leased property.

(c) A warrantless search of the child’s job site cannot be made without consent of the owner. If consent is given, the area in which the child has exclusive control, such as a desk or locker, can effectively be searched for contraband.

(d) As with the job site, a shelter or rehabilitative program has constitutionally protected property rights. Thus, any search must be limited to an area over which the child has exclusive control. Searches or arrest should be coordinated with staff.

§ 200.434. Extent of search.

The extent of any search is limited to articulable reasons. If the reason for a search is to arrest the child and the child is located and arrested, the search must end. An exception is a search of the immediate area

around the child for safety reasons. Additional reasonable suspicion would be required to continue the search beyond that area.

§ 200.435. Use of force.

(a) Forced entry into an approved residence should only occur when the probation officer has reason to believe a fugitive is inside or evidence of violations, such as weapons or drugs, may be removed or destroyed if not seized immediately. For example, the officer hears the child's voice inside the home or notes movement, but no one responds to the officer's knocking and identification.

(b) Probation officers should enter using only the amount of force necessary.

§ 200.436. Motor vehicles.

Motor vehicles can be searched if any of the following conditions exist:

- (1) The child owns the vehicle.
- (2) The child is driving the vehicle although the child is not the owner.
- (3) The child is observed in the vehicle. This authorizes a limited search in the immediate area where the child is sitting unless consent is given by the operator/owner to search the entire vehicle.

§ 200.437. Additional requirements.

(a) Except when exigent circumstances are present, juvenile probation officers shall receive the approval of a supervisor to conduct a property search.

(b) Juvenile probation supervisors and administrators may conduct a property search without prior approval.

(c) The child may be detained for safety reasons if the child is present during a property search. Temporary confinement or restraint is permissible as long as the confinement ends as soon as it is reasonably safe to do so.

(d) If the child is not present during a property search, the probation officer in charge of the search shall make a reasonable effort to provide the child and the child's parent/guardian with notice of the search, including an inventory of the items seized, after the search is completed.

(e) Conditions of supervision for children under the supervision of probation officers as delinquent children, or pursuant to a consent decree, shall include a statement notifying the child that a property search may be conducted by a probation officer if there is reasonable

suspicion to believe that the real or other property in the possession of, or under the control of, the child contains contraband or other evidence of violations of the conditions of supervision.

PROCEDURES

§ 200.441. Written reports.

A written report of every person or property search shall be completed by the probation officer who conducted the search. The report shall be maintained in the child's case file.

(1) The written report of a personal search shall include the name of the child, the date and time of the search, other persons present, the location of the child when the search was conducted, the circumstances necessitating the search and an inventory of all items seized.

(2) The written report of a property search shall contain the elements in paragraph (1) and, if relevant to the search, any exigent circumstances that existed at the time of the search.

§ 200.442. Agency protocols.

(a) Each probation department shall develop a protocol for conducting personal and property searches that is approved by the court.

(b) The protocol should include, at a minimum, the following:

- (1) The circumstances under which searches should be conducted.
- (2) The procedures to obtain supervisory approval.
- (3) The documentation of reasonable suspicion and exigent circumstances, when appropriate.
- (4) The documentation, chain of custody and security of all items seized.

§ 200.443. Training.

Prior to conducting searches, probation officers should receive training in the following areas:

- (1) The legal requirements of searches.
- (2) The provisions of this subchapter.
- (3) The provisions of the agency's protocol for conducting searches and seizures.
- (4) The physical and verbal techniques involved in both personal and property searches.

[Pa.B. Doc. No. 04-846. Filed for public inspection May 14, 2004, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Public Hearing on a Proposed Rulemaking Regarding Lifetime Dog Licenses

A public hearing has been scheduled to seek input from persons and organizations subject to the Dog Law (3 P. S. §§ 459-101—459-1201) and from other interested parties.

The Bureau of Dog Law Enforcement will conduct a public hearing at 10 a.m. on May 24, 2004, in Room 202, Department of Agriculture, 2301 North Cameron Street, Harrisburg, PA. The purpose of the public hearing is to receive input on a proposed rulemaking to 7 Pa. Code § 21.51 (relating to lifetime dog license issuance) allowing for use of microchips and other amendments to 7 Pa. Code Chapter 21 (relating to general provisions; kennels; licensure; dog-caused damages).

Persons wishing to speak at the public hearing should provide the commentator's name, address and telephone number to Mary Bender, (717) 787-3062. Written copies of statements shall be provided at the time of the meeting. Comments and statements shall pertain to the lifetime license provisions of 7 Pa. Code Chapter 21 only. Oral statements will be limited to 10 minutes.

Written comments may also be submitted and must include the commentator's name, address and telephone number. Written comments must be received by May 20, 2004, to be included in the record. Comments should be sent to the Department of Agriculture, Bureau of Dog Law Enforcement, Attn: Mary Bender, Director, 2301 N. Cameron Street, Harrisburg, PA 17110-9408.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 04-847. Filed for public inspection May 14, 2004, 9:00 a.m.]

Referendum on Continuation of the Pennsylvania Peach and Nectarine Research Program

Under the applicable provisions of the Agricultural Commodities Marketing Act (3 Pa.C.S. §§ 4501—4513), a referendum was held from March 17, 2004, to March 31, 2004, to determine if the producers affected by the Pennsylvania Peach and Nectarine Research Program (program) wanted the program continue for another 5 years. To pass, a majority of eligible producers voting had to vote in favor of continuing the program.

An impartial Teller Committee (Committee) met on April 12, 2004, to count the ballots. The following results were submitted to me by the Committee: a total of 62 eligible votes were cast, with 49 producers voting in favor of and 13 producers voting against continuing the program. The eligible votes favoring continuation of the program represented 79% of the eligible votes and those against continuation of the program represented 21% of the eligible votes. There were two spoiled or ineligible ballots. Because a majority of the votes were cast in favor of the program, the program shall continue for another 5 years.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 04-848. Filed for public inspection May 14, 2004, 9:00 a.m.]

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 May 4, 2004.

BANKING INSTITUTIONS

Holding Company Acquisitions

| <i>Date</i> | <i>Name of Corporation</i> | <i>Location</i> | <i>Action</i> |
|-------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|---------------|
| 4-27-04 | Community Bank System, Inc., DeWitt, NY, to acquire 100% of the voting shares of First Heritage Bank, Wilkes-Barre, PA | DeWitt, NY | Filed |
| 4-30-04 | Harleysville National Corporation, Harleysville, to acquire 100% of the voting shares of Millennium Bank, Malvern, by means of a merger of Millennium Bank with and into The Harleysville National Bank and Trust Company, a wholly owned subsidiary of Harleysville National Corporation | Harleysville | Effective |

New Charter Applications

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|---------------|
| 4-30-04 | Bucks County Bank Doylestown Bucks County | Doylestown | Approved |
| 4-30-04 | Penn Liberty Bank Wayne Delaware County <i>Correspondent:</i> John P. Soukenik, Esq. Elias, Matz, Ternan & Herrick, LLP 734 15th Street, N. W., 12th Floor Washington, D. C. 20005 | Wayne | Filed |

Consolidations, Mergers and Absorptions

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|--------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|---------------|
| 4-29-04 | Northwest Savings Bank, Warren, PA, and Leeds Federal Savings Bank, Baltimore, MD Surviving Institution—Northwest Savings Bank, Warren, PA | Warren | Approved |

Branch Applications

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|-----------------------------------------------------------------|--------------------------------------------------------------------------------------|---------------|
| 4-28-04 | PeoplesBank, A Codorus Valley Company York York County | The Brogue Center 2514 Delta Road Brogue Chanceford Township York County | Approved |
| 4-28-04 | Iron and Glass Bank Pittsburgh Allegheny County | Three Park Manor Drive Robinson Township Allegheny County | Approved |
| 4-29-04 | Landmark Community Bank Pittston Luzerne County | Davis Street and Pittston Avenue Scranton Lackawanna County | Filed |

Branch Relocations

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|----------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|
| 4-29-04 | Citizens Bank of Pennsylvania Philadelphia Philadelphia County | <i>To:</i> 400 Northtowne Square Gibsonia Allegheny County <i>From:</i> 5600 William Flynn Highway Gibsonia Allegheny County | Filed |
| 4-30-04 | First Commonwealth Bank Indiana Indiana County | <i>To:</i> 14303 Clearfield-Shawville Highway Clearfield Clearfield County <i>From:</i> 1800 Daisy Street Ext. Clearfield Clearfield County | Filed |
| 4-30-04 | First Commonwealth Bank Indiana Indiana County | <i>To:</i> 708 West High Street Ebensburg Cambria County <i>From:</i> 613 West High Street Ebensburg Cambria County | Filed |
| 4-30-04 | First Commonwealth Bank Indiana Indiana County | <i>To:</i> 2028 North Center Avenue Somerset Somerset County <i>From:</i> 1514 North Center Avenue Somerset Somerset County | Filed |

Branch Discontinuances

| <i>Date</i> | <i>Name of Bank</i> | <i>Location</i> | <i>Action</i> |
|-------------|-----------------------------------------------|------------------------------------------------------------------------------------------------------|---------------|
| 4-28-04 | CSB Bank Curwensville Clearfield County | Route 879 Clearfield/Curwensville Highway Clearfield Lawrence Township Clearfield County | Approved |
| 5-4-04 | S & T Bank Indiana Indiana County | 109 Grant Avenue Vandergrift Westmoreland County | Filed |

Articles of Amendment

| <i>Date</i> | <i>Name of Bank</i> | <i>Purpose</i> | <i>Action</i> |
|-------------|------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------|
| 4-29-04 | Gateway Bank of Pennsylvania (In Organization) McMurray Washington County | Articles of Amendment provide for the amendment and restatement of the Articles of Incorporation in their entirety to increase the number of First Directors. | Approved and Effective |

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS**Consolidations, Mergers and Absorptions**

| <i>Date</i> | <i>Name of Credit Union</i> | <i>Location</i> | <i>Action</i> |
|-------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------|---------------|
| 4-28-04 | Belco Community Credit Union, Harrisburg, and Wellspan Federal Credit Union, York Surviving Institution—Belco Community Credit Union, Harrisburg | Harrisburg | Filed |

Branch Applications

| <i>Date</i> | <i>Name of Credit Union</i> | <i>Location</i> | <i>Action</i> |
|-------------|-----------------------------------------------------------------|-----------------------------------------------------------|---------------|
| 4-30-04 | UTI Employees Credit Union Collegeville Montgomery County | 50 West Third Avenue Collegeville Montgomery County | Filed |

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 04-849. Filed for public inspection May 14, 2004, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Conservation and Natural Resources Advisory Council Meeting

The Conservation and Natural Resources Advisory Council of the Department of Conservation and Natural Resources (Department) will hold a meeting on Wednesday, May 26, 2004, at 10 a.m. in Room 105, Lobby Level, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting or agenda items should be directed to Kurt Leitholf, (717) 705-0031.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Joan Dupes at (717) 705-0031 or through the

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

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 04-850. Filed for public inspection May 14, 2004, 9:00 a.m.]

Pennsylvania Recreational Trails Advisory Board Meeting

The Pennsylvania Recreational Trails Advisory Board of the Department of Conservation and Natural Resources (Department) will hold a meeting on Tuesday, May 18, 2004, at 6:30 p.m. at Damons Restaurant, 120 State Route 93, Hazelton, PA.

Questions concerning this meeting or agenda items should be directed to Vanyla Tierney, (717) 783-2654

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should

contact Jane Fox at (717) 787-2316 or through the 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. 04-851. Filed for public inspection May 14, 2004, 9:00 a.m.]

Retention of an Archaeological Consulting Firm; Project Reference FDC-500-578

The Department of Conservation and Natural Resources (Department) will retain an archaeological consultant to conduct Phase 1—3 surveys at various State parks and forests in this Commonwealth. This consultant's area of responsibility shall include projects throughout the entire Commonwealth. Bureau of Facility Design and Construction (Bureau) personnel will identify the sites to be surveyed.

The services shall include the required archaeological surveys and subsequent reports for each project. These surveys and reports are for support of the Bureau's construction program. It is important that, upon assignment of a specific site, the selected firm must be capable of completing the surveys and reports in a timely and expedient manner. The selected firm may be required to complete surveys on multiple sites concurrently and complete and submit reports to the Bureau in a format acceptable to the Historical and Museum Commission (Commission). The contract shall be based on the hours of service and qualifying expenses not exceeding the contract amount. Reports will be mailed to the Commission. The Bureau will receive a duplicate copy of the report. The survey reports will be reviewed by Bureau personnel and, when acceptable, approved by the Bureau. The Bureau will obtain other agency approvals necessary.

Interested professionals and firms must be listed in the most recent edition of *Archaeological Consultants* as maintained by the Commission. Personnel involved in providing these services shall have at least the minimum educational and professional experience requirements as defined by the Commission in Appendix B of *A Comprehensive State Plan for the Conservation of Archaeological Resources, Volume I*; PHMC; 1985.

The Commonwealth strongly encourages the submission of proposals by Socially and Economically Restricted Businesses (SERB).

Information Concerning SERBs

SERBs are small businesses whose economic growth and development have been restricted based on social and economic bias. Small businesses are Bureau of Minority and Women Business Opportunities (BMWBO)-certified minority and women-owned businesses, other disadvantaged businesses and businesses whose development has been impeded because their primary or headquarters facilities are physically located in areas designated by the Commonwealth as being designated enterprise zones. A small business will not be considered socially/economically restricted if it has gross annual revenues of \$8 million (\$18 million for businesses in the information technology sales or services business) or more, is dominant in its field of operation or employs more than 100 persons.

A company and its affiliates have achieved success and are graduated from this State-sponsored program when

its gross annual revenues are \$8 million (\$18 million for businesses in the information technology sales or service business) or more. Other small business in which an owner of the graduated firm has a financial interest or control over, either directly or through family members, will not qualify for SERB status. Control is defined as the power, whether or not exercised, to direct or cause the direction of the management and policies of a firm, whether through the ownership of voting shares, by contract or otherwise or through the making of day-to-day as well as major decisions in matters of policy, management and operations. A determination of control shall include, but shall not be limited to, the following factors: capital investment and all other financial, property, acquisition, contract negotiation and legal matters; officer-director-employee selection and comprehensive hiring, operating responsibility, cost-control matters and income and dividend matters; financial transactions; and rights of other shareholders or joint partners.

Contractors and others seeking to identify businesses for joint venture and subcontracting opportunities are encouraged to contact the Department of General Services, Bureau of Minority and Women Business Opportunities, Room 502, North Office Building, Harrisburg, PA 17125, (717) 787-7380, www.dgsapp.state.pa.us/cabd/mwbddata.asp.

SERB Information

To receive credit for being a SERB, entering into a joint venture agreement with a SERB or subcontracting to a SERB (including purchasing supplies or services through a purchase agreement), a company must include proof of SERB qualification in the SERB portion of the proposal:

1. SERBs qualifying as a result of MBE/WBE certification from the BMWBO must provide their BMWBO certification number or a photocopy of their BMWBO certificate.
2. SERBs qualifying as a result of having their headquarters located in a designated enterprise zone must provide proof of this status, including proof of the location of their headquarters (such as a lease or deed) and confirmation of the enterprise zone in which they are located (obtained from their local enterprise zone office). More information on the locations of enterprise zones can be obtained by calling the Department of Community and Economic Development (DCED), (717) 720-7409, fax (717) 787-4088, akartorie@state.pa.us.
3. SERBs qualifying as disadvantaged businesses certified by the Small Business Administration must submit proof of Small Business Administration certification.
4. Companies claiming SERB status, whether as a result of BMWBO certification, Small Business Administration certification as a disadvantaged business or the location of their headquarters in an enterprise zone, must submit proof that their gross annual revenues are less than \$8 million (\$18 million for businesses in the information technology sales or services business). This can be accomplished by including a recent tax or audited financial statement.

In addition to these verifications, the SERB portion of the proposal should include the following information:

1. The name and telephone number of the project contact person for the SERB.
2. The company name, address and telephone number of the prime contact person for each specific SERB business included in the proposal. The SERB businesses to which commitments are made must be specified. Credit

will not be received by stating a SERB will be found after the contract is awarded or by listing several companies and stating one will be selected later.

3. The specific work, goods or services the SERB will perform or provide.

4. The location where the SERB will perform these services.

5. The timeframe for the SERB to provide or deliver the goods or services.

6. The amount of capital, if any, the SERB will be expected to provide.

7. The form and amount of compensation each SERB will receive. In the SERB Information portion of the proposal, provide the estimated dollar value of the contract to each SERB.

8. The percent of the total value of services or products purchased/subcontracted under the proposal that will be provided by the SERB.

9. In the case of a joint venture agreement, a copy of the agreement, signed by all parties, must be included in the SERB portion of the proposal. If subcontracting, a signed subcontract or letter of intent must be included in the SERB portion of the proposal.

The SERB portion of the proposal must be identified as SERB information and bound and sealed separately from the remainder of the proposal. Only one copy of the SERB section is needed.

The dollar value ratio designated for SERB commitment should be placed in a separate sealed envelope and stapled to the SERB section of the proposal or included in the bound and sealed envelope.

The selected contractor's SERB commitment amount, name of the SERB and services to be provided including timeframe for performing services will be included as a contractual obligation when the contract is executed.

SERB Participation

The following options will be considered as part of the final criteria for selection:

Priority Rank 1—Proposals submitted by SERBs.

Priority Rank 2—Proposals submitted from a joint venture with a Commonwealth-approved SERB as a joint venture partner.

Priority Rank 3—Proposals submitted with subcontracting commitments to SERBs.

A proposal will be rated for its approach to enhancing the utilization of SERBs. Each approach will be evaluated, with option number one receiving the greatest value and the succeeding options receiving values in accordance with the previously listed priority ranking.

SERB Contract Requirements

Contracts containing SERB participation must also include a provision requiring the contractor to meet and maintain those commitments made to SERBs at the time of proposal submittal or contract negotiation, unless a change in the commitment is approved by the contracting Commonwealth agency upon recommendation by the BMWBO. Contracts containing SERB participation must include a provision requiring SERB contractors and SERBs in a joint venture to incur at least 50% of the cost of the subcontract or SERB portion of the joint venture, not including materials.

Commitments to SERBs made at the time of proposal submittal or contract negotiation must be maintained throughout the term of the contract. A proposed change must be submitted to the BMWBO, which will make a recommendation as to a course of action to the contracting officer.

If a contract is assigned to another contractor, the new contractor must maintain the SERB participation of the original contract.

The contractor shall complete the Prime Contractor's Quarterly Utilization Report (or similar type document containing the same information) and submit it to the contracting officer of the agency that awarded the contract and the BMWBO within 10 workdays at the end of each quarter the contract is in force. If there was no activity, the form must also be completed, stating "No activity in this quarter." This information will be used to determine the actual dollar amount paid to SERB subcontractors, suppliers and joint ventures. Also, it is a record of fulfillment of the commitment the firm made and for which it received SERB points.

Note: Equal employment opportunity and contract compliance statements referring to company equal employment opportunity policies or past contract compliance practices do not constitute proof of SERB status or entitle a proposer to receive credit for SERB utilization.

General Requirements and Information

Firms interested in performing the required services for this project are invited to submit letters of interest to Eugene J. Comoss, P. E., Director, Bureau of Facility Design and Construction, RCSOB, 8th Floor, 400 Market Street, P. O. Box 8451, Harrisburg, PA 17105-8451. Contact Marcus Snyder at (717) 787-9290 for general information concerning the archaeological work.

Letters of interest must include the firm's Federal identification number and the project reference number. Letters of interest shall also include a description of the firm's three most recently completed archaeological surveys similar to the work being proposed. The description shall include the client, contact person and phone number and the estimated or actual cost of the portion of the work which the firm completed, the project manager and the names of all personnel who made major contributions to the project.

A standard Department of General Services Form 150-ASP must accompany the letter of interest and shall indicate the individual in charge. The Form 150-ASP is available by downloading from the Department of General Services' website: www.dgs.state.pa.us. Form 150-ASP may also be obtained in hard copy or on disk in Word '97 format only by contacting the Selections Committee, Department of General Services, Room 104, 18th and Herr Streets, Harrisburg, PA 17125, pbianchi@exec.gsinc.state.pa.us. Additional information pertinent to the firm's qualifications to do the work of this contract may be included.

General Requirements

Direct costs other than payroll, such as travel and subsistence, shall be based on the current State rates. Miscellaneous expenses such as copies, prints, sepias, postage and film shall be reimbursed at cost upon approval by the Department.

The following factors will be considered during the evaluation of the firm's letter of interest:

Criteria evaluated by the technical review will include:

1. Professional's understanding of the problem as demonstrated in the letter of interest, and as stated in the interpretation of the tasks to be performed.
2. Qualifications of the firm.
3. Professional personnel in the firm.
4. Soundness of approach as demonstrated in the letter of interest, and as stated in the interpretation of the tasks to be performed.
5. Available manpower to perform the services required.
6. SERB participation. (Evaluated by the Department of General Services.)
7. Equitable distribution of the contracts.

Proposers shall relate their proposals to the previous criteria.

One copy of the SERB section bound and sealed separately from the remainder of the proposal and six

copies of the complete set consisting of the letter of interest and the required forms must be received by 4 p.m. on June 18, 2004. Six copies shall be submitted in six complete sets that shall be spiral bound or in folders or secured by binder clips. The assignment and services will be made to one of the firms responding to this notice. However, the Department reserves the right to reject all letters of interest submitted, cancel the solicitation requested under this notice and/or readvertise solicitation for this service.

The Department will not offer a debriefing session to the unsuccessful firms. The Department disclaims any liability whatsoever to its review of the proposals submitted and in formulating a recommendation for selections. Recommendations made by the Department shall be final.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 04-852. Filed for public inspection May 14, 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

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> |
|--------------------------------|------------------------------------------------------------------------------------------|-------------------------------------|--------------------------------------------|------------------------|
| PA0038920 SEW | Burnham Borough Authority 200 First Avenue Burnham, PA 17009 | Mifflin County Burnham Borough | Kishacoquillas Creek Hungry Run 12-A | Y |
| PA0087734 IW | Marietta Gravity Water Company 1195 River Road P. O. Box 302 Marietta, PA 17547 | York County Hellam Township | Dugan's Run 7-I | Y |
| PA0086118 SEW | Robert Conley Bumper Bob's Restaurant 1875 Old Trail Road Etters, PA 17319-9546 | York County Newberry Township | UNT to Fishing Creek 7-E | Y |
| PA0086479 IW | Dietrich's Milk Products, LLC 100 McKinley Avenue Reading, PA 19605-2199 | Berks County Muhlenberg Township | Laurel Run 3-C | 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.

PA0057789, SEW, SIC 4952, **River Park Office Association, c/o Preferred Plus—Lee Park**, Suite 336, 1100 East Hector Street, Conshohocken, PA 19428. This proposed facility is in Whitemarsh Township, **Montgomery County**.

Description of Proposed Activity: River Park Office facility sewage treatment plant that discharges to the Schuylkill River.

The receiving stream, Schuylkill River, is in the State Water Plan watershed 3D and is classified for WWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for the Philadelphia Water Department is on the Schuylkill River, 4.7 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 15,000 gpd.

| <i>Parameters</i> | <i>Concentration (mg/l)</i> | | |
|-------------------------|------------------------------|------------------------|------------------------------|
| | <i>Instantaneous Minimum</i> | <i>Average Monthly</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | | 25 | 50 |
| Total Suspended Solids | | 30 | 60 |
| Ammonia as N | | 20 | 40 |
| Fecal Coliform | | 200 #/100ml | |
| Dissolved Oxygen | 2.0 | Monitor and Report | |
| pH (STD Unit) | 6.0 | | 9.0 |
| Total Residual Chlorine | | 0.5 | 1.2 |

PA0012769, Industrial Waste, **Rohm & Haas Company, Rohm & Haas—Bristol Plant**, 200 Route 413 Bristol, PA 19007. This application is for renewal of an NPDES permit to discharge treated process wastewater, noncontact cooling water, filter backwash water and stormwater from a manufacturing plant for plastic and synthetic resins in Bristol Township, **Bucks County**. This is an existing discharge to the Delaware River Zone 2 of the Delaware Estuary.

The receiving stream is classified for WWF, aquatic life, water supply and recreation. For the purpose of evaluating effluent limitations for total dissolved solids, nitrite and nitrate (as N), fluoride and phenolics, the existing downstream potable water supply considered during the application review is the Philadelphia Water Department, Baxter Water Filtration Plant, approximately 7 miles downstream.

The proposed effluent limits for Outfall 001, based on an average flow of 0.081 mgd, are as follows:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|------------------|------------------------------------------------------|---------------------------------|-----------------------------------------|
| Total Zinc | | Monitor and Report | |
| Temperature | | | 110°F |
| pH | within limits of 6.0—9.0 standard units at all times | | |

The proposed effluent limits for Outfall 003, based on an average flow of 0.515 mgd, are as follows:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|------------------|------------------------------------------------------|---------------------------------|-----------------------------------------|
| Total Zinc | | Monitor and Report | |
| Temperature | | | 110°F |
| pH | within limits of 6.0—9.0 standard units at all times | | |

The proposed effluent limits for Outfall 008, based on an average flow of 0.529 mgd, are as follows:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|------------------|------------------------------------------------------|---------------------------------|-----------------------------------------|
| Total Zinc | | Monitor and Report | |
| Temperature | | | 110°F |
| pH | within limits of 6.0—9.0 standard units at all times | | |

The proposed effluent limits for Outfall 009, based on an average flow of 1.716 mgd, are as follows:

| <i>Parameters</i> | <i>Mass (lbs/day)</i> | | <i>Concentrations (mg/l)</i> | | |
|------------------------------------------------|------------------------------------------------------|--------------------------|------------------------------|--------------------------|----------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| BOD ₅ | 343 | 916 | 24 | 64 | 64 |
| BOD ₅ (Percent Removal) | 88.5 | | | | |
| CBOD ₂₀ | 386 | | | | |
| Total Suspended Solids | 572 | 1,860 | 40 | 130 | 130 |
| TSS (Percent Removal) | 85 | | | | |
| pH | within limits of 6.0—9.0 standard units at all times | | | | |
| Total Dissolved Solids (Issuance to Year 2) | Monitor and Report | Monitor and Report | Monitor and Report | Monitor and Report | Monitor and Report |
| (Year 3 to Expiration) | Monitor and Report | Monitor and Report | 1,000 | 2,000 | 2,500 |
| Methylene Chloride | 0.572 | 1.274 | 0.040 | 0.089 | 0.100 |
| Total Cyanide | 6.011 | 17.174 | 0.420 | 1.200 | 1.200 |
| Phenol | 0.215 | 0.372 | 0.015 | 0.026 | 0.038 |
| Acenaphthene | 0.315 | 0.844 | 0.022 | 0.059 | 0.059 |
| Acrylonitrile | 1.374 | 3.463 | 0.096 | 0.242 | 0.242 |
| Benzene | 0.530 | 1.946 | 0.037 | 0.136 | 0.136 |
| Carbon-Tetrachloride | 0.258 | 0.544 | 0.018 | 0.038 | 0.045 |
| Chlorobenzene | 0.214 | 0.400 | 0.015 | 0.028 | 0.038 |
| 1,2,4-Trichlorobenzene | 0.973 | 2.00 | 0.068 | 0.140 | 0.170 |
| Hexa-Chlorobenzene | 0.214 | 0.400 | 0.015 | 0.028 | 0.038 |
| 1,2 Dichlorethane | 0.973 | 3.02 | 0.068 | 0.211 | 0.211 |
| 1,1,1-Trichloroethane | 0.300 | 0.774 | 0.021 | 0.054 | 0.054 |
| Hexachloroethane | 0.300 | 0.774 | 0.021 | 0.054 | 0.054 |
| 1,1-Dichloroethane | 0.315 | 0.844 | 0.022 | 0.059 | 0.059 |
| 1,1,2-Trichloroethane | 0.300 | 0.773 | 0.021 | 0.054 | 0.054 |
| Chloroethane | 1.488 | 3.835 | 0.104 | 0.268 | 0.268 |
| Chloroform | 0.300 | 0.658 | 0.021 | 0.046 | 0.053 |
| 2-Chlorophenol | 0.444 | 1.403 | 0.031 | 0.098 | 0.098 |
| 1,2-Dichlorobenzene | 1.102 | 2.333 | 0.077 | 0.163 | 0.193 |
| 1,3-Dichlorobenzene | 0.444 | 0.630 | 0.031 | 0.044 | 0.078 |
| 1,4-Dichlorobenzene | 0.215 | 0.401 | 0.015 | 0.028 | 0.038 |
| 1,1-Dichloroethylene | 0.229 | 0.358 | 0.016 | 0.025 | 0.040 |
| 1,2-Trans-Dichloroethylene | 0.301 | 0.772 | 0.021 | 0.054 | 0.054 |
| 2,4-Dichlorophenol | 0.558 | 1.746 | 0.039 | 0.112 | 0.112 |
| 1,2-Dichloropropane | 2.190 | 3.292 | 0.153 | 0.230 | 0.383 |
| 1,3-Dichloropropylene | 0.415 | 0.630 | 0.029 | 0.044 | 0.073 |
| 2,4-Dimethylphenol | 0.258 | 0.515 | 0.018 | 0.036 | 0.045 |
| 2,4-Dinitrotoluene | 1.617 | 4.079 | 0.113 | 0.285 | 0.285 |

| <i>Parameters</i> | <i>Mass (lbs/day)</i> | | <i>Concentrations (mg/l)</i> | | |
|------------------------------|------------------------|----------------------|------------------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| 2,6-Dinitrotoluene | 3.654 | 9.174 | 0.255 | 0.641 | 0.641 |
| Ethylbenzene | 0.458 | 1.546 | 0.032 | 0.108 | 0.108 |
| Fluoranthene | 0.356 | 0.973 | 0.025 | 0.068 | 0.068 |
| Methyl Chloride | 1.230 | 2.719 | 0.086 | 0.190 | 0.215 |
| Hexachloro-Butadiene | 0.286 | 0.701 | 0.020 | 0.049 | 0.050 |
| Napthalene | 0.315 | 0.844 | 0.022 | 0.059 | 0.059 |
| Nitrobenzene | 0.386 | 0.973 | 0.027 | 0.068 | 0.068 |
| 2-Nitrophenol | 0.587 | 0.987 | 0.041 | 0.069 | 0.103 |
| 4-Nitrophenol | 1.030 | 1.775 | 0.072 | 0.124 | 0.180 |
| 2,4-Dinitrophenol | 1.016 | 1.760 | 0.071 | 0.123 | 0.178 |
| 4,6-Dinitro-O-Cresol | 1.116 | 3.964 | 0.078 | 0.277 | 0.277 |
| Bis (2-ethylhexyl) phthalate | 1.474 | 3.993 | 0.103 | 0.279 | 0.279 |
| Di-N-Butylphthalate | 0.386 | 0.816 | 0.027 | 0.057 | 0.068 |
| Diethyl Phthalate | 1.159 | 2.905 | 0.081 | 0.203 | 0.203 |
| Dimethyl Phthalate | 0.272 | 0.673 | 0.019 | 0.047 | 0.047 |
| Benzo (a) Anthracene | 0.315 | 0.844 | 0.022 | 0.059 | 0.059 |
| Benzo (a) Pyrene | 0.329 | 0.873 | 0.023 | 0.061 | 0.061 |
| 3,4-Benzo Flouranthene | 0.329 | 0.873 | 0.023 | 0.061 | 0.061 |
| Benzo (k) Flouranthene | 0.315 | 0.844 | 0.022 | 0.059 | 0.059 |
| Chrysene | 0.315 | 0.844 | 0.022 | 0.059 | 0.059 |
| Acenaphthylene | 0.315 | 0.844 | 0.022 | 0.059 | 0.059 |
| Anthracene | 0.315 | 0.844 | 0.022 | 0.059 | 0.059 |
| Fluorene | 0.315 | 0.844 | 0.022 | 0.059 | 0.059 |
| Phenanthrene | 0.315 | 0.844 | 0.022 | 0.059 | 0.059 |
| Pyrene | 0.358 | 0.959 | 0.025 | 0.067 | 0.067 |
| Tetrachloro-Ethylene | 0.315 | 0.844 | 0.022 | 0.056 | 0.056 |
| Toluene | 0.372 | 1.145 | 0.026 | 0.080 | 0.080 |
| Trichloroethylene | 0.300 | 0.774 | 0.021 | 0.054 | 0.054 |
| Vinyl Chloride | 1.488 | 3.835 | 0.104 | 0.268 | 0.268 |
| Total Chromium | 15.866 | 39.643 | 1.110 | 2.770 | 2.770 |
| Total Copper | 20.752 | 48.373 | 1.450 | 3.380 | 3.625 |
| Total Lead | 4.580 | 9.875 | 0.320 | 0.690 | 0.800 |

| <i>Parameters</i> | <i>Mass (lbs/day)</i> | | <i>Concentrations (mg/l)</i> | | |
|-----------------------|------------------------------|------------------------------|------------------------------|----------------------|------------------------------|
| | <i>Instantaneous Maximum</i> | <i>Instantaneous Maximum</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Total Nickel | 24.186 | 56.960 | 1.690 | 3.980 | 4.225 |
| Total Zinc | 15.027 | 37.353 | 1.05 | 2.61 | 2.61 |
| Dichlorobromo-Methane | | | Monitor and Report | Monitor and Report | |
| Chlorodibromo-Methane | | | Monitor and Report | Monitor and Report | |
| Total Phenols | | | Monitor and Report | Monitor and Report | |
| Bromoform | | | Monitor and Report | Monitor and Report | |
| PCBs Total | | | Monitor and Report | Monitor and Report | |

The proposed effluent limits for Outfalls SW-3 and SW-9, based on an average storm event, are as follows:

| <i>Parameters</i> | <i>Concentrations (mg/l)</i> |
|-------------------------|------------------------------|
| | <i>Maximum Daily</i> |
| CBOD ₅ | Monitor and Report |
| COD | Monitor and Report |
| Oil and Grease | Monitor and Report |
| Suspended Solids | Monitor and Report |
| pH | Monitor and Report |
| Total Kjeldahl Nitrogen | Monitor and Report |
| Total Phosphorus | Monitor and Report |
| Iron, Dissolved | Monitor and Report |
| Acenaphthene | Monitor and Report |
| Acrylonitrile | Monitor and Report |
| Benzene | Monitor and Report |

| <i>Parameters</i> | <i>Concentrations (mg/l)</i> |
|------------------------------|------------------------------|
| | <i>Maximum Daily</i> |
| Carbon-Tetrachloride | Monitor and Report |
| Chlorobenzene | Monitor and Report |
| 1,2,4-Trichlorobenzene | Monitor and Report |
| Hexa-Chlorobenzene | Monitor and Report |
| 1,2 Dichlorethane | Monitor and Report |
| 1,1,1-Trichloroethane | Monitor and Report |
| Hexachloroethane | Monitor and Report |
| 1,1-Dichloroethane | Monitor and Report |
| 1,1,2-Trichloroethane | Monitor and Report |
| Chloroethane | Monitor and Report |
| Chloroform | Monitor and Report |
| 2-Chlorophenol | Monitor and Report |
| 1,2-Dichlorobenzene | Monitor and Report |
| 1,3-Dichlorobenzene | Monitor and Report |
| 1,4-Dichlorobenzene | Monitor and Report |
| 1,1-Dichloroethylene | Monitor and Report |
| 1,2-Trans-Dichloroethylene | Monitor and Report |
| 2,4-Dichlorophenol | Monitor and Report |
| 1,2-Dichloropropane | Monitor and Report |
| 1,3-Dichloropropylene | Monitor and Report |
| 2,4-Dimethylphenol | Monitor and Report |
| 2,4-Dinitrotoluene | Monitor and Report |
| 2,6-Dinitrotoluene | Monitor and Report |
| Ethylbenzene | Monitor and Report |
| Fluoranthene | Monitor and Report |
| Methyl Chloride | Monitor and Report |
| Hexachloro-Butadiene | Monitor and Report |
| Napthalene | Monitor and Report |
| Nitrobenzene | Monitor and Report |
| 2-Nitrophenol | Monitor and Report |
| 4-Nitrophenol | Monitor and Report |
| 4,6-Dinitro-O-Cresol | Monitor and Report |
| Bis (2-Ethylhexyl) Phthalate | Monitor and Report |
| Di-N-Butyl Phthalate | Monitor and Report |
| Diethyl Phthalate | Monitor and Report |
| Dimethyl Phthalate | Monitor and Report |
| Benzo (a) Anthracene | Monitor and Report |
| Benzo (a) Pyrene | Monitor and Report |
| 3,4-Benzo Flouranthene | Monitor and Report |
| Benzo (k) Flouranthene | Monitor and Report |
| Chrysene | Monitor and Report |
| Acenaphthylene | Monitor and Report |
| Anthracene | Monitor and Report |
| Fluorene | Monitor and Report |
| Phenanthrene | Monitor and Report |
| Pyrene | Monitor and Report |
| Tetrachloro-Ethylene | Monitor and Report |
| Toluene | Monitor and Report |
| Trichloroethylene | Monitor and Report |
| Vinyl Chloride | Monitor and Report |
| Total Chromium | Monitor and Report |
| Total Copper | Monitor and Report |
| Total Lead | Monitor and Report |
| Total Nickel | Monitor and Report |
| Total Zinc | Monitor and Report |
| Total Phenols | Monitor and Report |
| PCBs, Total | Monitor and Report |

Stormwater only Outfalls SW1—SW8, SW10, SW12, SW13, SW15, SW16 and SW18—SW21 are not required to be monitored, but are subject to the terms and conditions of other requirement no. 17 (requirements applicable to stormwater outfalls).

Other Conditions: 85% reduction of suspended solids per Delaware River Basin Commission (DRBC) requirements; 88.5% reduction of BOD₅ per DRBC requirements; approved chemical usage; thermal requirements; stormwater monitoring requirements; PCBs monitoring and minimization plan; WET test requirements; PPC plan requirement; and acceptance of outside R & H and non-R & H wastestream.

The EPA waiver is not in effect.

PA0011002, IW, SIC 2893, **American Inks and Coatings Corporation**, P. O. Box 803, Valley Forge, PA 19482. This proposed facility is in Schuylkill Township, **Chester County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge noncontact cooling water and stormwater from the facility.

The receiving stream, Schuylkill River, is in the State Water Plan watershed 3D and is classified for WWF. The nearest downstream public water supply intake for the Pennsylvania American Water Company is on the Schuylkill River, 7.5 miles below the point of discharge.

The proposed effluent limits for Outfalls 001—003, based on an average flow of 36,350 GPD, are as follows:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|------------------|------------------------------------------------------|---------------------------------|-----------------------------------------|
| Temperature | | | 110°F |
| pH | within limits of 6.0—9.0 standard units at all times | | |

The proposed effluent limits for stormwater Outfalls 003—005 are:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------|-----------------------------------|---------------------------------|-----------------------------------------|
| CBOD ₅ | | | Report |
| COD | | | Report |
| Oil and Grease | | | Report |
| pH | | | Report |
| Total Suspended Solids | | | Report |
| Total Kjeldahl Nitrogen | | | Report |
| Total Phosphorus | | | Report |
| Iron (Dissolved) | | | Report |

The EPA waiver is in effect.

PA0010944, IW, SIC 2821, **Occidental Chemical Corporation**, 375 Armand Hammer Boulevard, P. O. Box 699, Pottstown, PA 19464-0699. This proposed facility is in Pottstown Borough, **Montgomery County**.

Description of Proposed Activity: Occidental Chemical Corporation, Industrial Waste NPDES renewal application for stormwater and inhouse emergency discharges to the Schuylkill River in Lower Pottsgrove Township, Montgomery County.

The receiving stream, Schuylkill River, is in the State Water Plan watershed 3D and is classified for WWF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for the Pennsylvania American Home Water Division is on the Schuylkill River, 4 miles below the point of discharge.

The proposed effluent limits for Outfall 303 oil/water separator are as follows:

| <i>Parameters</i> | <i>Concentration (mg/l)</i> | | <i>Instantaneous Maximum (mg/l)</i> |
|------------------------|-------------------------------------------------|--------------------------|---------------------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | |
| Total Dissolved Solids | 1,000 | 2,000 | 2,500 |
| Total Suspended Solids | 30 | 60 | 75 |
| Oil and Grease | 15 | | |
| Temperature | | | 110°F |
| pH | within limits of 6.0 standard units a all times | | |
| Zinc | Monitor and Report | Monitor and Report | |

The proposed effluent limits for Outfall 103, from firewater reservoir overflow, are as follows:

| <i>Parameters</i> | <i>Concentration (mg/l)</i> | | <i>Instantaneous Maximum (mg/l)</i> |
|------------------------|-----------------------------|--------------------------|---------------------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | |
| Total Dissolved Solids | 1.0 | | 1.0 |

The proposed effluent limits for Outfalls 003—006 are as follows:

| <i>Parameters</i> | <i>Concentration (mg/l)</i> | | <i>Instantaneous Maximum (mg/l)</i> |
|--------------------------|-----------------------------|--------------------------|---------------------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | |
| CBOD ₅ | | | Monitor and Report |
| Chemical Oxygen Demand | | | Monitor and Report |
| Oil and Grease | | | Monitor and Report |
| pH | | | Monitor and Report |
| Water Priority Chemicals | | | Monitor and Report |
| Total Suspended Solids | | | Monitor and Report |
| Total Phosphorous | | | Monitor and Report |
| Nitrogen | | | Monitor and Report |

| <i>Parameters</i> | <i>Concentration (mg/l)</i> | | <i>Instantaneous</i> |
|-------------------|-----------------------------|----------------------|-----------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Maximum (mg/l)</i> |
| Iron (Dissolved) | | | Monitor and Report |
| Total Zinc | | | Monitor and Report |

The EPA waiver is in effect.

PA0011533, Industrial Waste, SIC 2911, **Sunoco, Inc. (R & M), Girard Point Processing Area**, 3144 Passyunk Avenue, Philadelphia, PA 19145-5299. This proposed facility is in the City of Philadelphia, **Philadelphia County**.

Description of Proposed Activity: The facility, generally characterized as a petroleum refinery, has following operations: crude oil processing; fluid catalytic cracking; catalytical desulfurization; HF alkylation; catalytical reforming; and sulfur recovery and isomerization.

The receiving stream, Schuylkill River, is in the State Water Plan watershed 3F and is classified for WWF and MF. There are no public water supply intake in this Commonwealth.

The proposed effluent limits for Outfalls 001 and 009 occurs only during emergency consists of partially treated process water commingled with the stormwater runoff are as follows:

| <i>Parameters</i> | <i>Concentration Limits (mg/l)</i> | | |
|------------------------|----------------------------------------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| BOD ₅ | 26.4 | 48.0 | 66.0 |
| Total Suspended Solids | 21.6 | 34.0 | 55.0 |
| COD | 180 | 360 | 450 |
| Oil and Grease | 8.0 | 15.6 | 20.0 |
| Phenolic Compounds | 0.17 | 0.35 | 0.43 |
| Chromium, Total | 0.42 | 0.72 | 1.05 |
| Chromium, Hex | 0.028 | 0.062 | 0.07 |
| pH | within limits of 6.0 to 9.0 STD units at all times | | |

The proposed effluent limits for Outfalls 002 and 014, solely consist of contaminated stormwater runoff are as follows:

| <i>Parameters</i> | <i>Effluent Limitations (mg/l)</i> |
|----------------------|----------------------------------------------------|
| | <i>Instantaneous Maximum</i> |
| Total Organic Carbon | 110 |
| Oil and Grease | 15 |
| pH | within limits of 6.0 to 9.0 STD units at all times |

The proposed effluent limits for Outfalls 004 and 011 consist of 2.1 MGD and 3.1 MGD respectively of noncontact cooling water are as follows:

| <i>Parameters</i> | <i>Effluent Limitations (mg/l)</i> |
|----------------------|----------------------------------------------------|
| | <i>Instantaneous Maximum</i> |
| Total Organic Carbon | 5.0 mg/l |
| Temperature | 110°C |
| pH | within limits of 6.0 to 9.0 STD units at all times |

The proposed effluent limit for Outfalls 005, 010 and 012 consist of uncontaminated stormwater runoff are as follows:

| <i>Parameters</i> | <i>Effluent Limitations (mg/l)</i> | |
|-------------------------|------------------------------------|----------------------|
| | <i>Average Monthly</i> | <i>Daily Maximum</i> |
| CBOD ₅ | Monitor and Report | Monitor and Report |
| COD | Monitor and Report | Monitor and Report |
| Oil and Grease | Monitor and Report | Monitor and Report |
| pH | Monitor and Report | Monitor and Report |
| Total Suspended Solid | Monitor and Report | Monitor and Report |
| Total Kjeldahl Nitrogen | Monitor and Report | Monitor and Report |
| Total Phosphorus | Monitor and Report | Monitor and Report |
| Iron, Dissolved | Monitor and Report | Monitor and Report |

The proposed effluent limitations for Outfall 015 consist of 7.1 MGD treated industrial wastewater are as follows:

| <i>Parameters</i> | <i>Mass (lb/day)</i> | | <i>Concentration Limits (mg/l)</i> | | |
|-------------------------------------|------------------------|----------------------|----------------------------------------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Daily Maximum</i> | <i>Average Month</i> | <i>Daily Maximum</i> | <i>Instantaneous Maximum</i> |
| BOD ₅ | 1,482 | 2,964 | 28 | 56 | 70 |
| CBOD ₂₀ | 2,170 | | | | |
| BOD ₅ Percent Removal | 89.25 | | | | |
| COD | 11,861 | 22,858 | 200 | 386 | 500 |
| Total Suspended Solids | 1,359 | 2,131 | 23 | 36 | 58 |
| Oil and Grease | 495 | 927 | 8.4 | 15.7 | 21.0 |
| Ammonia as N | 927 | 2,039 | 16.0 | 34.5 | 40.0 |
| Sulfide | 9.0 | 20.0 | 0.15 | 0.38 | 0.38 |
| Phenolic Compounds | 7.9 | 22.9 | 0.133 | 0.390 | 0.390 |
| Chromium, Total | 9.28 | 26.63 | 0.157 | 0.450 | 0.450 |
| Chromium, Hex | 0.757 | 1.729 | 0.013 | 0.03 | 0.03 |
| Fluoride | 763 | 1,527 | 13.0 | 26.0 | 33.0 |
| Total Residual Oxidant | | | Monitor and Report | 0.2 | 0.5 |
| Phosphorus as P | | | Monitor and Report | Monitor and Report | |
| Copper, T | | | Monitor and Report | Monitor and Report | |
| Lead, T | | | Monitor and Report | Monitor and Report | |
| Zinc, T | | | Monitor and Report | Monitor and Report | |
| 1,2 Dichloroethane | | | Monitor and Report | Monitor and Report | |
| Tetrachloroethylene | | | Monitor and Report | Monitor and Report | |
| Trichloroethylene | | | Monitor and Report | Monitor and Report | |
| Toxicity Chronic (TU _c) | | | Monitor and Report | Monitor and Report | |
| PCBs | | Monitor and Report | | Monitor and Report | |
| Phenols | | | shall not exceeds 2.0 mg/l at all times | | |
| pH | | | within limits of 6.0 to 9.0 STD units at all times | | |

In addition to the effluent limits, the permit contains the following major special conditions: stormwater runoff calculations; intake credit for various wastestream; CBOD₂₀ allocation; BOD₅; percentage removal; approved chemical additives; approved EPA test methods; permit modification upon modeling of estuary; limitation of contaminated stormwater runoff; plant operation effectiveness; thermal mixing zone definition; TRO definition; stormwater outfalls requirements; chronic toxicity requirements; and PCBs minimization plan.

PA0042617, Industrial Waste, SIC 3490, **Uniform Tubes, Inc.**, 200 West Seventh Avenue, Collegeville, PA 19426. This proposed facility is in Trappe Borough, **Montgomery County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge noncontact cooling water, treated groundwater and stormwater runoff into a dry swale that drains to an unnamed tributary to Perkiomen Creek.

The receiving stream, an unnamed tributary to Perkiomen Creek, is in the State Water Plan watershed 3E and is classified for TSF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for the Suburban Water Company is on the Perkiomen Creek, approximately 7 miles below the point of discharge.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.1054 MGD.

| <i>Parameters</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|-------------------|------------------------|----------------------|-------------------------------------------------------|----------------------|-------------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum (mg/l)</i> |
| Temperature | | | | | 110°F |
| pH | | | within limits of 6.0—9.0 standards units at all times | | |

The proposed effluent limits for Outfall 002 are based on an average flow of 0.1054 MD and are as follows:

| <i>Parameters</i> | <i>Average Monthly (mg/l)</i> | <i>Maximum Daily (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-----------------------|-------------------------------|-----------------------------|-------------------------------------|
| Trichloroethylene | 0.005 | 0.010 | 0.013 |
| 1,1,1-Trichloroethane | 0.2 | 0.4 | 0.5 |
| Chromium, Hexavalent | 0.009 | 0.018 | 0.023 |
| 1,4-Dioxane | Monitor and Report | Monitor and Report | Monitor and Report |

The proposed effluent limits for Outfall 003, based on an average storm event, are as follows:

| <i>Parameters</i> | <i>Maximum Daily (mg/l)</i> |
|------------------------|---------------------------------|
| CBOD ₅ | Monitor and Report |
| Oil and Grease | Monitor and Report |
| pH | Monitor and Report |
| Total Suspended Solids | Monitor and Report |
| Total Nitrogen | Monitor and Report |
| Total Phosphorus | Monitor and Report |
| Dissolved Iron | Monitor and Report |
| Manganese, Total | Monitor and Report |

Other Permit Conditions:

1. Discharge is to dry swale. Effluent shall not create a health hazard.
2. No chemicals are permitted for control of corrosion scaling, and the like. No stripper tower cleaning wastewater discharges are permitted.
3. Permittee shall submit groundwater monitoring reports generated as part of the RCRA corrective action to the Department.

PA0054402, Industrial Waste, SIC 3824, **Brooks Instrument, Inc.**, 407 West Vine Street, Hatfield, PA 19440. This proposed facility is in Hatfield Borough, **Montgomery County**.

Description of Proposed Activity: Renewal of an NPDES permit to discharge treated groundwater using an air stripper treatment unit. This is an existing discharge to West Branch Neshaminy Creek.

The receiving stream, West Branch Neshaminy Creek, is in the State Water Plan watershed 2F and is classified for WWF, MF, aquatic life, water supply and recreation. The nearest downstream public water supply intake for AQUA PA is on the Neshaminy Creek.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.036 mgd.

| <i>Parameters</i> | <i>Mass (lb/day)</i> | | <i>Concentration (mg/l)</i> | | |
|---------------------|----------------------------|--------------------------|-------------------------------------------------------|--------------------------|---------------------------------------|
| | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Average Monthly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum mg/l</i> |
| Trichloroethylene | | | 0.005 | 0.010 | 0.013 |
| Tetrachloroethylene | | | 0.005 | 0.010 | 0.013 |
| pH | | | within limits of 6.0—9.0 standard units at all times. | | |

In addition to the effluent limits, the permit contains the following major special conditions: remedial measures; obtain property rights; BAT/BCT reopener; change of ownership; TMDL/WLA reopener; no stripping tower cleaning wastewater; dry stream discharge; proper sludge disposal; quarterly groundwater monitoring; annual groundwater report; and laboratory certification.

The EPA waiver is in effect.

PA0055107, Sewage, SIC 4952, **East Marlborough Township**, 721 Unionville Road, Kennett Square, PA 19348. This application is for renewal of an NPDES permit to discharge treated sewage from the Baltimore Pike Wastewater Treatment Plant in East Marlborough Township, **Chester County**.

The receiving stream, an unnamed tributary to East Branch Red Clay Creek, is in the State Water Plan watershed 3I White Clay and is classified for TSF, potable water supply, industrial water supply, livestock water supply, wildlife water supply, irrigation, boating, fishing, water contact sports and esthetics. There are no downstream public water supply intakes on East Branch or Red Clay Creek in this Commonwealth. Red Clay Creek crosses the State line approximately 4.6 miles downstream of the discharge point. The nearest water supply intake on Red Clay Creek in Delaware is approximately 7 miles downstream from the State line.

The proposed effluent limits for Outfall 001 are based on a design flow of 0.15 mgd.

| <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 | 38 | | 50 |
| Suspended Solids | 30 | 45 | | 60 |
| Ammonia (as N) | | | | |
| (5-1 to 10-31) | 2.0 | 3.0 | | 4.0 |
| (11-1 to 4-30) | 4.0 | 6.0 | | 8.0 |
| Total Phosphorus | | | | |
| (4-1 to 10-31) | 2.0 | 3.0 | | 4.0 |
| Total Residual Chlorine | 0.06 | | | 0.14 |
| Fecal Coliform | | | 200 colonies/100 ml | |
| Dissolved Oxygen | | | minimum of 5.0 at all times | |
| pH | | | within limits of 6.0—9.0 standard units at all times | |

In addition to the effluent limits, the permit contains the following major special conditions: DMR to the Department; average weekly definition; remedial measures if unsatisfactory effluent; no stormwater; acquire necessary property rights; small stream discharge; proper sludge disposal; watershed reopener; and Cl₂ requirements.

PA0043974, Sewage, **Valley Forge Sewer Authority**, 333 Pawling Road, Phoenixville, PA 19460. This application is for renewal of an NPDES permit to discharge treated sewage from the Valley Forge Sewer Authority treatment plant in Schuylkill Township, **Chester County**. This is an existing discharge to Schuylkill River.

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

The proposed effluent limits for Outfall 001, based on an average flow of 9.2 MGD, are as follows:

| <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 | | | | |
| (5-1 to 10-31) | 20 | 30 | | 40 |
| (11-1 to 4-30) | 25 | 40 | | 50 |
| Suspended Solids | 30 | 45 | | 60 |
| Ammonia (as N) | | | | |
| (5-1 to 10-31) | 8.0 | | | 16.0 |
| (11-1 to 4-30) | 16.0 | | | 32.0 |
| Total Residual Chlorine | 0.5 | | | 1.6 |
| Total Copper | | | Monitor and Report | |
| Total Lead | | | Monitor and Report | |
| Total Zinc | | | Monitor and Report | |
| Free Cyanide | | | Monitor and Report | |
| Total Arsenic | | | Monitor and Report | |
| Total Cadmium | | | Monitor and Report | |
| Hexavalent Chromium | | | Monitor and Report | |
| Total Selenium | | | Monitor and Report | |
| Total Silver | | | Monitor and Report | |
| Total Mercury | | | Monitor and Report | |
| Fecal Coliform | | 200 colonies/100 ml as a geometric average | | |
| Dissolved Oxygen | | minimum of 5.0 mg/l at all times | | |
| pH | | within limits of 6.0—9.0 standard units at all times | | |

The proposed effluent limits for Stormwater Outfall 002 are as follows:

| <i>Parameter</i> | <i>Instantaneous Maximum (mg/l)</i> |
|-------------------------|-----------------------------------------|
| CBOD ₅ | Monitor and Report |
| COD | Monitor and Report |
| Oil and Grease | Monitor and Report |
| pH | Monitor and Report |
| Total Suspended Solids | Monitor and Report |
| Total Kjeldahl Nitrogen | Monitor and Report |
| Total Phosphorus | Monitor and Report |
| Iron (Dissolved) | Monitor and Report |
| Fecal Coliform | Monitor and Report |

The EPA waiver is not in effect.

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

PA0228796, SIC 4952, **Matthew M. Barr**, 667 Marjorie Mae Street, State College, PA 16803. This proposed action is for a new NPDES permit for discharge of treated sewage to Halfmoon Creek in Halfmoon Township, **Centre County**.

The receiving stream is in the Little Juniata Watershed (11-A) and is classified for HQ, CWF, aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the downstream potable water supply considered during the evaluation is the Pennsylvania American Water Company below the discharge on the West Branch Susquehanna River.

Outfall 001: The proposed effluent limits, based on a design flow of 0.0006 MGD, are:

| <i>Parameter</i> | <i>Average Monthly (mg/l)</i> | <i>Instantaneous Maximum (mg/l)</i> |
|------------------------|-----------------------------------|-----------------------------------------|
| CBOD ₅ | 10 | 20 |
| Suspended Solids | 10 | 20 |
| Free Chlorine Residual | Monitor | |
| Fecal Coliform | | |
| (5-1 to 9-30) | 200/100 ml as a geometric average | |
| (10-1 to 4-30) | 200/100 ml as a geometric average | |
| pH | 6.0—9.0 SU at all times | |

The EPA waiver is in effect.

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

PA0216500, Industrial Waste, SIC, 9999, **Viacom, Inc.**, 11 Stanwix Street, Pittsburgh, PA 15222. This application is for renewal of an NPDES permit to discharge treated groundwater from Beaver in Vanport Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, Ohio River, 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 Midland Borough Water Authority on the Ohio River, 8.0 miles below the discharge point.

Outfall 001GW: existing discharge, design flow of 0.0432 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 (MGD) | 0.072 | | | | |
| Suspended Solids | | | 20 | 40 | |
| Trichloroethylene | | | 0.02 | 0.04 | |
| Manganese | | | 2.0 | 4.0 | |
| pH | not less than 6.0 nor greater than 9.0 | | | | |

The EPA waiver is in effect.

PA0024082, Sewage, **Municipal Authority of Westmoreland County**, P. O. Box 730, Greensburg, PA 15601. This application is for renewal of an NPDES permit to discharge treated sewage from the Avonmore Borough Sewage Treatment Plant in Avonmore Borough, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Kiskiminetas River, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Freeport Water Company on the Allegheny River.

Outfall 001: existing discharge, design flow of 0.19 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|-------------------------|----------------------------------------|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 25 | 37.5 | | 60 |
| Suspended Solids | 30 | 45 | | 60 |
| Fecal Coliform | | | | |
| (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 2,000/100 ml as a geometric mean | | | |
| Total Residual Chlorine | 1.0 | | | 3.3 |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0032085, Sewage, **Department of Conservation and Natural Resources, Prince Gallitzin State Park**, 966 Marina Road, Patton, PA 16668. This application is for renewal of an NPDES permit to discharge treated sewage from the Prince Gallitzin State Park STP in White Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Beaverdam Run, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Pennsylvania American Water Company on the West Branch Susquehanna River near Milton.

Outfall 001: existing discharge, design flow of 0.12 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|-------------------------|----------------------------------------|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 25 | 38 | | 50 |
| Suspended Solids | 30 | 45 | | 60 |
| Fecal Coliform | | | | |
| (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 30,000/100 ml as a geometric mean | | | |
| Total Residual Chlorine | 1.0 | | | 3.3 |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0034614, Sewage, **RAS Development LP**, 12 Arenzen Boulevard, Charleroi, PA 15022. This application is for renewal of an NPDES permit to discharge treated sewage from the Mountain Pine Resort STP in Saltlick Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Indian Creek, which are classified as a HQ CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Indian Creek Valley Water Authority.

Outfall 001: existing discharge, design flow of 0.035 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|-------------------------|----------------------------------------|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Fecal Coliform | | | | |
| (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 2,000 as a geometric mean | | | |
| Total Residual Chlorine | 1.4 | | | 3.3 |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0043869, Sewage, **North Hempfield Volunteer Fire Company**, R. R. 15, Box 200, Greensburg, PA 15601. This application is for renewal of an NPDES permit to discharge treated sewage from the North Hempfield Volunteer Fire Company STP in Hempfield Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Brush Creek, which are classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Pennsylvania American Water Company—Pittsburgh.

Outfall 001: existing discharge, design flow of 0.002 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|-------------------------|----------------------------------------|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Ammonia Nitrogen | | | | |
| (5-1 to 10-31) | 3.5 | | | 7.0 |
| (11-1 to 4-30) | 10.5 | | | 21.0 |
| Fecal Coliform | | | | |
| (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 4,000/100 ml as a geometric mean | | | |
| Total Residual Chlorine | Monitor and Report | | | |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0091588, Sewage, **Yough School District**, 99 Lowbar Road, Herminie, PA 15637. This application is for renewal of an NPDES permit to discharge treated sewage from the Yough Jr. High School STP in South Huntingdon Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Sewickley Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the McKeesport Water Authority.

Outfall 001: existing discharge, design flow of 0.0135 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|-------------------------|----------------------------------------|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Ammonia Nitrogen | | | | |
| (5-1 to 10-31) | 2.0 | | | 4.0 |
| (11-1 to 4-30) | 5.0 | | | 10.0 |
| Fecal Coliform | | | | |
| (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 2,000/100 ml as a geometric mean | | | |
| Total Residual Chlorine | 0.18 | | | 0.41 |
| Dissolved Oxygen | not less than 5.0 mg/l | | | |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0092932, Sewage, **Berardo Maragni**, 1056 Mount Pleasant Road, Greensburg, PA 15601. This application is for renewal of an NPDES permit to discharge treated sewage from the Berardo Maragni STP in Hempfield Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Brush Creek, which is classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Pennsylvania American Water Company—Pittsburgh.

Outfall 001: existing discharge, design flow of 0.005 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|------------------------------------|----------------------------------------|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Ammonia Nitrogen (5-1 to 10-31) | 3.2 | | | 6.4 |
| (11-1 to 4-30) | 8.1 | | | 16.2 |
| Fecal Coliform (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 2,000 as a geometric mean | | | |
| Total Residual Chlorine | 1.4 | | | 3.3 |
| Dissolved Oxygen | not less than 6.0 mg/l | | | |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0093211, Sewage, **Menallen Township Sewer Authority**, P. O. Box 576, New Salem, PA 15468. This application is for renewal of an NPDES permit to discharge treated sewage from the Buffington Sewage Treatment Plant in Menallen Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Dunlap Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Brownsville Water Company.

Outfall 001: existing discharge, design flow of 0.2 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|------------------------------------|----------------------------------------|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 25 | 38 | | 50 |
| Suspended Solids | 30 | 45 | | 60 |
| Ammonia Nitrogen (5-1 to 10-31) | 8.5 | 12.8 | | 17.0 |
| (11-1 to 4-30) | 25.0 | 37.5 | | 50.0 |
| Fecal Coliform (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 10,000/100 ml as a geometric mean | | | |
| Total Residual Chlorine | 1.0 | | | 3.3 |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0096695, Sewage, **Frazier School District**, 142 Constitution Street, Perryopolis, PA 15473. This application is for renewal of an NPDES permit to discharge treated sewage from the Central Elementary School STP in Jefferson Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an unnamed tributary of Little Redstone Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the California Water Company.

Outfall 001: existing discharge, design flow of 0.005 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|------------------------------------|-----------------------------|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Ammonia Nitrogen (5-1 to 10-31) | 9.0 | | | 18.0 |
| (11-1 to 4-30) | 25.0 | | | 50.0 |

NOTICES

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|---------------------------------|----------------------------------------|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| Fecal Coliform (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 5,000/100 ml as a geometric mean | | | |
| Total Residual Chlorine | 1.4 | | | 3.3 |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0098345, Sewage, **Connellsville Area School District**, Administrative Building, 125 North Seventh Street, Connellsville, PA 15425. This application is for renewal of an NPDES permit to discharge treated sewage from the Clifford Pritts Elementary School STP in Saltlick Township, **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Indian Creek, which are classified as a HQ CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Indian Creek Valley Water Authority.

Outfall 001: existing discharge, design flow of 0.007735 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|---------------------------------|----------------------------------------|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Fecal Coliform (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 20,000/100 ml as a geometric mean | | | |
| Total Residual Chlorine | 1.4 | | | 3.3 |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0098400, Sewage, **Albert Gallatin School District**, 2625 Morgantown Road, Uniontown, PA 15401. This application is for renewal of an NPDES permit to discharge treated sewage from the Albert Gallatin South Junior High School and the Friendship Hill Elementary School STP in **Fayette County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Georges Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Dunkard Valley Joint Municipal Authority.

Outfall 001: existing discharge, design flow of 0.0143 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|------------------------------------|----------------------------------------|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Ammonia Nitrogen (5-1 to 10-31) | 20.0 | | | 40.0 |
| Fecal Coliform (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 15,000/100 as a geometric mean | | | |
| Total Residual Chlorine | 1.4 | | | 3.3 |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0205281, Sewage, **New Sewickley Township Municipal Authority**, 233 Miller Road, Rochester, PA 15074-2759. This application is for renewal of an NPDES permit to discharge treated sewage from the Tri-County Commerce Park Sewage Treatment Plant in New Sewickley Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as swale which leads to an unnamed tributary of North Fork Big Sewickley Creek, which is classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Midland Borough Water Authority.

Outfall 001: existing discharge, design flow of 0.05 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|-------------------------|----------------------------------------|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 10 | | | 20 |
| Suspended Solids | 10 | | | 20 |
| Ammonia Nitrogen | | | | |
| (5-1 to 10-31) | 1.9 | | | 3.8 |
| (11-1 to 4-30) | 2.8 | | | 5.6 |
| Fecal Coliform | | | | |
| (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 2,000/100 as a geometric mean | | | |
| Total Residual Chlorine | 0.01 | | | 0.03 |
| Dissolved Oxygen | not less than 6 mg/l | | | |
| pH | not less than 6.0 nor greater than 9.0 | | | |

Other Conditions: The following effluent limitations will apply if/when the treatment plant is expanded to a flow of 0.1 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|-------------------------|----------------------------------------|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 10 | 15 | | 20 |
| Suspended Solids | 10 | 15 | | 20 |
| Ammonia Nitrogen | | | | |
| (5-1 to 10-31) | 1.9 | 2.9 | | 3.8 |
| (11-1 to 4-30) | 2.8 | 4.2 | | 5.6 |
| Fecal Coliform | | | | |
| (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 2,000/100 as a geometric mean | | | |
| Total Residual Chlorine | 0.01 | | | 0.03 |
| Dissolved Oxygen | not less than 6 mg/l | | | |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0205729, Sewage, **Estate of Lois A. Grose, Attn: Charles R. Grose**, 4141 Henderson Road, Hickory, PA 15340. This application is for renewal of an NPDES permit to discharge treated sewage from the Lois A. and Walter Grose Small Flow Treatment Facility in Blaine Township, **Washington County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Wolf Run, which are classified as a HQ WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is in West Virginia.

Outfall 001: existing discharge, design flow of 0.0008 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|----------------------------|----------------------------------------|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Ammonia Nitrogen | | | | |
| (5-1 to 10-31) | 3.0 | | | 6.0 |
| (11-1 to 4-30) | 9.0 | | | 18.0 |
| Fecal Coliform | | | | |
| (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 2,000/100 ml as a geometric mean | | | |
| Total Residual Chlorine | | | | |
| (1st Month to 36th Month) | Monitor and Report | | | |
| (37th Month to Expiration) | 1.4 | | | 3.3 |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0216267, Sewage, **Patterson-Kurelic Rental**, P. O. Box 608, Greensburg, PA 15601. This application is for renewal of an NPDES permit to discharge treated sewage from the Pine Garden Apartments STP in Loyalhanna Township, **Westmoreland County**.

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

Outfall 001: existing discharge, design flow of .006 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|-------------------------|----------------------------------------|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 10 | | | 20 |
| Suspended Solids | 10 | | | 20 |
| Ammonia Nitrogen | | | | |
| (5-1 to 10-31) | 3.0 | | | 6.0 |
| (11-1 to 4-30) | 9.0 | | | 18.0 |
| Fecal Coliform | | | | |
| (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 2,000/100 ml as a geometric mean | | | |
| Total Residual Chlorine | 1.4 | | | 3.3 |
| Dissolved Oxygen | not less than 3.0 mg/l | | | |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

PA0218201, Sewerage, **RoxCoal, Inc.**, 1576 Stoystown Road, P. O. Box 149, Friedens, PA 15541. This application is for renewal of an NPDES permit to discharge treated sewage from the Augustus Deep Mine Portal Sewage Treatment Plant in Shade Township, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Coal Run, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the Municipal Authority of Buffalo Township along the Allegheny River.

Outfall 003: new discharge, design flow of 0.002 mgd.

| <i>Parameter</i> | <i>Concentration (mg/l)</i> | | | |
|-------------------------|----------------------------------------|-----------------------|----------------------|------------------------------|
| | <i>Average Monthly</i> | <i>Average Weekly</i> | <i>Maximum Daily</i> | <i>Instantaneous Maximum</i> |
| CBOD ₅ | 25 | | | 50 |
| Suspended Solids | 30 | | | 60 |
| Fecal Coliform | | | | |
| (5-1 to 9-30) | 200/100 ml as a geometric mean | | | |
| (10-1 to 4-30) | 2,000/100 ml as a geometric mean | | | |
| Total Residual Chlorine | 1.4 | | | 3.3 |
| pH | not less than 6.0 nor greater than 9.0 | | | |

The EPA waiver is in effect.

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

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

WQM Permit No. 1504406, Sewerage, **Little Washington Wastewater Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010-3489. This proposed facility is in East Brandywine Township, **Chester County**.

Description of Proposed Action/Activity: Expansion of the existing Little Washington Wastewater Treatment Plant from 120,000 to 155,500 gallons per day.

WQM Permit No. 1504407, Sewerage, **East Brandywine Township Municipal Authority**, 1214 Horseshoe Pike, Downingtown, PA 19335. This proposed facility is in East Brandywine Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a wastewater treatment plant.

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

WQM Permit No. 6404401, Sewerage, **Camp Lavi**, 311 Dennis Street, Oceanside, NY 11572. This proposed facility is in Buckingham Township, **Wayne County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit.

WQM Permit No. 4003403, Sewerage, **Sand Springs Development Corporation**, 4511 Falmer Drive, Bethlehem, PA 18020. This proposed facility is in Butler Township, **Luzerne County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit.

WQM Permit No. 4804402, Sewerage, **Bath Borough Authority**, P. O. Box 87, Bath, PA 18014. This proposed facility is in Upper Nazareth Township, **Northampton County**.

Description of Proposed Action/Activity: This project involves construction of a pump station to convey public sewage from Penn-Dixie Manor to the Bath Borough Authority.

NPDES Permit No. PAG042209, Sewerage, **Roy and Michelle Gordon**, R. R. 2, Box 273A, Susquehanna, PA 18847. This proposed facility is in Oakland Township, **Susquehanna County** and discharges to the Susquehanna River.

Description of Proposed Action/Activity: Issuance of NPDES General Permit.

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

WQM Permit No. 0693410, Amendment 04-1, Sewerage, **Ruscombmanor Township**, 204 Oak Lane, Fleetwood, PA 19522. This proposed facility is in Ruscombmanor Township, **Berks County**.

Description of Proposed Action/Activity: Plant expansion.

WQM Permit No. 0704403, Sewerage, **Altoona City Authority**, 20 Greenwood Road, Altoona, PA 16601-7114. This proposed facility is in Altoona City, **Blair County**.

Description of Proposed Action/Activity: Replacement of approximately 18,000 linear feet of sanitary sewer.

WQM Permit No. 6704409, Sewerage, **Northeastern York County Sewer Authority**, P. O. Box 516, Mount Wolf, PA 17347. This proposed facility is in East Manchester Township, **York County**.

Description of Proposed Action/Activity: Sewer and pumping system the Chestnut Valley Phases III and IV Subdivision.

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

WQM Permit No. 4704201, Industrial Waste 4931, **PPL Montour LLC**, Two North Ninth Street, Allentown, PA 18101. This proposed facility is in Derry Township, **Montour County**.

Description of Proposed Action/Activity: The applicant proposes to construct and operate facilities to treat coal pile runoff. The facilities will be a pump station, neutralization plant and settling in the existing ash basin.

WQM Permit No. 0804403, Sewage 4952, **Karen Cummins**, R. R. 4, Box 4262, Wyalusing, PA 18853. This proposed facility is in Standing Stone Township, **Bradford County**.

Description of Proposed Action/Activity: The applicant proposes to construct and operate a single residence sewage plant. The sewage plant will be an aerobic septic tank, two free access sand filters and chlorination.

WQM Permit No. 5904403, Sewerage, SIC 4952, **Wellsboro Municipal Authority**, 28 Crafton Street, Wellsboro, PA 16901. This proposed facility will be in Wellsboro Borough, **Tioga County**.

Description of Proposed Action/Activity: Applicant is applying for a permit to authorize the construction and operation of an additional screening structure, to be installed at CSO Outfall 002. Discharge from the plant is to Marsh Creek (WWF).

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

WQM Permit No. 0272418-A4, Sewerage, **Riverview Sanitary Authority**, 3100 University Boulevard, Route 51, Moon Township, PA 15108. This proposed facility is in Moon Township, **Allegheny County**.

Description of Proposed Action/Activity: Application for the construction and modification of the Riverview Sanitary Authority Sewerage Treatment Plant.

WQM Permit No. 6573448-A6, Sewerage, **North Huntingdon Township Municipal Authority**, 11265 Center Highway, North Huntingdon, PA 15642. This proposed facility is in North Huntingdon Township, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the modification and operation of the Youghiogheny WWTP Sludge Drying Beds.

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

WQM Permit No. 2504412, Sewerage, **John W. Britton**, 9620 Donation Road, Waterford, PA 16441. This proposed facility is in Summit Township, **Erie County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

WQM Permit No. 6104402, Sewerage, **Christine M. and Silas W. Clark**, 1071 Shot Gun Club Road, Emlenton, PA 16373. This proposed facility is in Richland Township, **Venango County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

WQM Permit No. 2004405, Sewerage, **Ira J. Kelley**, 21833 Guntown Road, Conneautville, PA 16406. This proposed facility is in Summerhill Road, **Crawford County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

WQM Permit No. 4304410, Sewerage, **Gary M. Chizmar**, 129 Kennard Road, Greenville, PA 16125. This proposed facility is in Sugar Grove Township, **Mercer 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.

| <i>NPDES Permit No.</i> | <i>Applicant Name and Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|-----------------------------------------------------------------------------------------|---------------|----------------------|----------------------------|
| PAI010904005 | Clifford Starr Clifford Staff Funks Mill Road P. O. Box 84 Zion Hill, PA 18981 | Bucks | Springfield Township | Cooks Creek HQ |

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

Centre County Conservation District: 414 Holmes Ave., Suite 4, Bellefonte, PA 16823, (814) 355-6817.

| <i>NPDES Permit No.</i> | <i>Applicant Name and Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|------------------------------------------------------------------------|---------------|---------------------|----------------------------------------------|
| PAI041404007 | Richard Frautschi 214 Blackberry Hill Rd. Port Matilda, PA 16870 | Centre | Patton Township | Buffalo Run HQ-CWF |
| PAI041404008 | Department of Transportation P. O. Box 342 Clearfield, PA 16830 | Centre | Marion Township | Nittany Creek (W) CWF Lick Run (E) HQ-CWF |

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

Washington County Conservation District: 602 Courthouse Square, Washington, PA 15301, (724) 228-6774.

| <i>NPDES Permit No.</i> | <i>Applicant Name and Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|------------------------------------------------------------------------------------------------|---------------|-------------------------|-------------------------------|
| PAI056304002 | North Strabane Township Municipal Authority 1959 Route 519 South Canonsburg, PA 15317 | Washington | North Strabane Township | Little Chartiers Creek HQ-WWF |

Westmoreland County Conservation District: Center for Conservation Education, 211 Donohoe Road, Greensburg, PA 15601, (724) 837-5271.

| <i>NPDES Permit No.</i> | <i>Applicant Name and Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|------------------------------------------------------------------|---------------|---------------------|-----------------------------------|
| PAI056504001 | William and Jayne Hoy 2781 Italy Road Pittsburgh, PA 15239 | Westmoreland | Washington Township | Unnamed tributary to Thorn Run HQ |

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

| | |
|--------|--------------------------------|
| PAG-12 | CAFOs |
| PAG-13 | Stormwater Discharges from MS4 |

CAFO Notices of Intent Received

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

PAG123583, CAFO, Jared Rottmund, 69 East Church Road, Stevens, PA 17578. This proposed facility is in Clay Township, **Lancaster County**.

Description of Size and Scope of Proposed Operation/Activity: The Jared Rottmund farm is an existing swine operation with a total AEU of 385. This operation consists of 4,400 finishing swine with a total annual manure production of 9,854 tons. A new swine barn will replace the old swine barn and an additional swine barn will also be constructed. Both barns will be identical 81.5-foot by 22-foot buildings with 6-foot deep below house manure storage facilities. Each barn will have approximately 536,465 gallons of useable storage volume. Of the 2,365,066 gallons of manure generated on the farm, 2,297,066 gallons will be exported from the farm with the remaining 68,000 gallons land applied in the spring to the acres owned by this operation.

The receiving stream, Indian Run, is in watershed 7-J and classified for TSE.

The proposed effluent limits for the operation/activity include: Except for the chronic or catastrophic rainfall events defined as over the 25-year/24-hour rain storms, the CAFO general permit is a nondischarge NPDES permit. Where applicable, compliance with 40 CFR Federal effluent limitation guidelines is required. The general permit requires no other numeric effluent limitations and compliance with the Pennsylvania Nutrient Management Act and The Clean Streams Law constitutes compliance with the State narrative water quality standards.

MS4 Notices of Intent Received

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

| <i>NPDES Permit No.</i> | <i>Applicant Name and Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> | <i>Department Protocol (Y/N)</i> |
|-------------------------|-----------------------------------------------------|---------------|---------------------|-----------------------------------------------|----------------------------------|
| PAG132270 | Courtdale Borough Box 197 Courtdale, PA 18704 | Luzerne | Courtdale Borough | Toby Creek WWF Susquehanna River WWF | Y |

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> |
|-------------------------|--------------------------------------------------------------------------|---------------|---------------------|---------------------------------------------------------------|----------------------------------|
| PAG138331 | City of New Castle 230 North Jefferson Street New Castle, PA 16101 | Lawrence | City of New Castle | Mahoning and Shenango Rivers, Neshannock Creek and Big Run | Y |

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

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

| | |
|-----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Permit No. 1604501 , Public Water Supply Applicant | Limestone Township General Municipal Authority |
| Township or Borough | Limestone Township |
| Responsible Official | William Kodrich, Chair |
| Type of Facility | PWS |
| Consulting Engineer | Jack A. Rokavec, P. E. Maguire Group Inc. 1040-4 Benner Pike State College, PA 16801 |
| Application Received Date | April 19, 2004 |
| Description of Action | Construction of a PWS system to serve approximately 330 homes and businesses in portions of Limestone Township, Clarion County. The water system will consist of 104,280 LF of water mains, a 350,000-gallon potable water storage tank with adjacent rechlorination building, an abovegrade 100 gpm booster pumping station and underground meter vault. |

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:

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

Mark Development Company (Walgreens Store No. 07739), City of Scranton, **Lackawanna County.** Christopher D. Carlson, P. G., Senior Project Manager, ATC Associates, 2200 Garden Drive, Suite 200, Seven Fields, PA 16046 has submitted a Notice of Intent to Remediate (on behalf of Mark Development Company, P. O. Box 1389, Kingston, PA 18704) concerning the remediation of site soils for benzene and benzidine as the result of historic site operations. The applicant proposes to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate will be published in the *Scranton Times Tribune*.

Munoz Residence, East Stroudsburg Borough, **Monroe County.** Salvatore Sciascia, President, S & M Management, Inc., P. O. Box 1429, Milford, PA 18337 has submitted a Notice of Intent to Remediate (on behalf of

Francisco Munoz, Oak Street, East Stroudsburg, PA) concerning the remediation of soils impacted by the release of no. 2 fuel oil during a delivery. The applicant proposes to meet the Residential Statewide Health Standard. A summary of the Notice of Intent to Remediate was published in *The Pocono Record* on March 30, 2004. A Final Report was simultaneously submitted.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Agway Curryville Property, North Woodbury Township, **Blair County.** Groundwater Sciences Corporation, 2601 Market Place Street, Suite 310, Harrisburg, PA 17110, on behalf of Agway, Inc., 333 Butternut Drive, Syracuse, NY 13214, submitted a Notice of Intent to Remediate soils and groundwater impacted by fertilizer (nitrate, nitrite and ammonia) and herbicides (atrazine, alachlor, cyanazine and metolachlor). The intended future use of the property is continued use as an agricultural property.

Agway Lebanon Surplus Property, West Lebanon Township, **Lebanon County.** Groundwater Sciences Corporation, 2601 Market Place Street, Suite 310, Harrisburg, PA 17110, on behalf of Agway, Inc., 333 Butternut Drive, Syracuse, NY 13214, submitted a Notice of Intent to Remediate soils and groundwater impacted by volatile and semivolatile compounds, fuel-related VOCs, naphthalene and used motor oil. The intended future use of the property is as a nonresidential commercial property.

Aspens, Inc., City of Lebanon, **Lebanon County.** MACTEC Engineering and Consulting, Inc., 5205 Militia Hill Road, Plymouth Meeting, PA 19462, on behalf of Beneficial Communities, LLC, 3131 Clark Road, Suite 203, Sarasota, FL 34231 and George Christianson, 411 Chestnut Street, Lebanon, PA 17042, submitted a revised Notice of Intent to Remediate site soils contaminated with 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 *Lebanon Daily News* on February 9, 2004.

Northcentral Region: Environmental Cleanup Program, 208 West Third Street, Williamsport, PA 17701.

Vine Street Property (BVK, Inc.) Cleanup, Berwick Borough, **Columbia County.** AGI Aegis Company, Inc., on behalf of BVK, Inc., Castletown Square North, 4290 Rt. 8, Allison Park, PA 15101, has submitted an Amended Notice of Intent to Remediate soil and groundwater contaminated with PAHs, fuel oil no. 2, chlorinated organic compounds, PCBs, metals and other organic compounds. This site is being remediated to meet the Special Industrial Area Requirements. A summary of this Amended Notice of Intent to Remediate was reported to have been published in the *Press Enterprise* on April 2, 2004.

Southwest Region: Environmental Cleanup Program Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Operation Nehemiah/Former Caruso Property, Wilkesburg Borough, **Allegheny County.** Christopher Hartigan, The Fourth River Company, 1550 Obey Street, Suite 201, Pittsburgh, PA 15205 (on behalf of Constance Balthrop, 235 Eastgate Drive, Pittsburgh, PA 15235) has submitted a Notice of Intent to Remediate groundwater contaminated with lead, gasoline constituents and tetrachloroethylene and its products of decomposition. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of

Intent to Remediate was reported to have been published in the *Pittsburgh Post Gazette* on March 14, 2004.

Reitz No. 4 Site (Former), Shade Township, **Allegheny County**. Peter A. Pellissier, P. E., EA Engineering, Science and Technology, Inc., 15 Loveton Circle, Sparks, MD 21152 (on behalf of Alan Comp, AMD & ART, Inc., 411 Third Ave., Johnstown, PA 15906) has submitted a Notice of Intent to Remediate soil and groundwater contaminated with inorganics, other organics, PCBs and PAHs. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Tribune-Democrat* on March 28, 2004.

Proposed Bausman Street Independent Living Property, City of Pittsburgh, **Allegheny County**. Mary King, Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 (on behalf of Richard Ripley, Ripley & Sons, 1910 South 18th Street, Pittsburgh, PA 15203 and Kevin Hanley, Bauseman Street Independent Living, Inc., 50 South 14th Street, Pittsburgh, PA 15203) has submitted a Notice of Intent to Remediate soil and groundwater contaminated with other organics, inorganics, lead and pesticides. The applicant proposes to remediate the site to meet the Statewide Health Standard.

Edgewater Street, LTD Property (Former), Borough of Oakmont, **Allegheny County**. Charles Haefner, KU Resources, Inc., Business Innovation Center, Suite 207, One Library Place, Duquesne, PA 15110 (on behalf of Maureen Ford, RIDC, 425 Sixth Ave., Suite 500, Pittsburgh, PA 15219) has submitted a Notice of Intent to Remediate soil and groundwater contaminated with lead, heavy metals, solvents and SVOCs. The applicant proposes to remediate the site to meet the Site Specific Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Valley News Dispatch* on March 24, 2004.

Phase II Monessen Riverfront Redevelopment, City of Monessen, **Westmoreland County**. Alan Halperin, D'Appolonia Engineering, 275 Center Road, Monroeville, PA 15146 (on behalf of Jay Bandieramonte, Redevelopment Authority of the County of Westmoreland, 601 Courthouse Square, Greensburg, PA 15601) has submitted a Notice of Intent to Remediate soil contaminated with fuel oil no 6, inorganics, lead and PAHs. The applicant proposes to remediate the site to meet the Special Industrial Area Requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Tribune Review* on February 24 and 29, 2004.

Franklin Mills Site, Borough of Franklin, **Cambria County**. Von Eric Fisher, P. G., KU Resources, Inc., One Library Place, Suite 207, Duquesne, PA 15110 (on behalf of Richard McNulty, 1125 Main Street, Johnstown, PA 15909 and John Toth, EMF Development Corp., 365 Bassett Road, Hooversville, PA 15936) has submitted a Notice of Intent to Remediate for this site contaminated with asbestos, PCBs, lead and organics. The applicant proposes to remediate the site to meet Special Industrial Area Requirements. A summary of the Notice of Intent to Remediate was reported to have been published in the *Tribune-Democrat* on March 30, 2004.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Applications Received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste

Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.

Permit Application No. 101390. Waste Management of Indian Valley, 400 Progress Drive, Telford, PA 18969-1191, Hilltown Township, **Bucks County**. This application was received for the permit renewal for the Indian Valley Transfer Station. The application was received by the Southeast Regional Office on April 28, 2004.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit ID No. 301268. Hansen Engineering, Inc., 167 Laidley's Run Road, West Alexander, PA 15376. An application for the renewal of a permit for a residual waste processing facility in West Finley Township, **Washington County** was received in the Regional Office on May 3, 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.

01-05016E: ISP Minerals, Inc. (P. O. Box O, 1455 Old Waynesboro Road, Blue Ridge Summit, PA 17214-0914) for construction of a new Gyradisc Crusher, hopper, feeders and associated conveyors and elevators, all controlled by an existing fabric filter baghouse in Hamiltonban Township, **Adams 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.

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

40-303-009C: Pennsy Supply, Inc. (1001 Paxton Street, Harrisburg, PA 17104) for modification and operation of an existing batch mix asphalt plant in Jenkins Township, **Luzerne County**. The plant will be modified to use waste derived liquid fuel (WDLF) and recycled asphalt pavement (RAP). WDLF will be heated in a preheater prior to being used. RAP will be introduced into the pug mill. Particulate emissions from the plant will be controlled by a baghouse. Expected particulate emission rate will be less than 0.02 grain/dscf. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system. 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.

35-315-035B: The Procter and Gamble Paper Products Co. (PA Route 87, Mehoopany, PA 18629) for construction and operation of two paper machines in Washington Township, **Wyoming County**.

The company submitted to the Department an application for approval for a modification to an existing plan approval issued for the construction and operation of two paper machines. The proposed change would occur at the sources in Washington Township, Wyoming County. The application was submitted under 25 Pa. Code § 127.11 and has been reviewed in accordance with all applicable air quality regulations.

The proposed modification and changes are not subject to the requirements of PSD regulations. A preliminary review of the information submitted by The Procter and Gamble Paper Products Company indicates that the construction and operation of the proposed two paper

machines will meet all applicable air quality requirements. Based upon these findings, the Department plans to approve the application and issue a permit for the modification of two paper machines.

The information provided by the applicant and the Department's own analysis indicates that after modification emissions from these paper machines will either remain the same or have an expected decrease in the NOx emissions. Particulate emissions will be reduced to 54.9 tpy from 63.9 tpy; CO emissions will remain the same at 306 tpy; VOCs will remain the same at 380.2 tpy; and NOx emissions will increase from 162.2 tpy to 206.9 tpy. The emissions of these pollutants are within all applicable emissions limitations and will not cause an exceedance of the National Ambient Air Quality Standards. A decreasing of NOx emissions from the existing boilers by installing low NOx burners will offset NOx emission increases from these two paper machines. No net increase will occur in NOx emissions from this project, therefore, the modification is not subject to the NSR requirement.

To assure compliance with the applicable standards, the Department will place the following conditions on the plan approval.

1. Stack test shall be performed in accordance with 25 Pa. Code Chapter 139 to show compliance with the applicable standards.
2. NOx emissions from boilers 1, 2 and 4 shall be recorded continuously.

Persons who wish to provide the Department with additional information they believe should be considered prior to the issuance of the Plan Approval should submit the information to the following address. Written comments should include the name, address and telephone number of the person submitting the comment, identification of proposed Plan Approval 35-315-035B and a concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

Request for a public fact finding conference or hearing should also be made by writing the Department at the following address. A public conference may be held if the Department, in its discretion, decides that a conference is warranted on the basis of the information received. Persons who have submitted comments or have requested a conference will be notified of the decision to hold a conference by publication in a newspaper, in the *Pennsylvania Bulletin* or by telephone, when the Department determines notification by telephone is sufficient. Comments and requests must be received by the Department by 30 days after final publication date and should be sent to Mark J. Wejkszner, P. E., Chief of Engineering Services, Air Quality Program, Department of Environmental Protection, 2 Public Square, Wilkes-Barre, PA 18711, (570) 826-2511.

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

06-05002C: Lehigh Cement Co. (537 Evansville Road, Fleetwood, PA 19522) for installation of a midkiln air injection system on portland cement kiln 2 at their facility in Maiden creek Township, **Berks County**. The system is designed to reduce the emissions of NOx, SO₂ and CO from the kiln. The kiln is subject to 40 CFR Part 63, Subpart LLL, National Emission Standards for Hazardous Air Pollutants from Portland Cement Facilities. The plan approval will include monitoring, recordkeeping, work practices and reporting requirements designed to

keep the source operating within all applicable air quality requirements. The facility is presently covered by Title V Operating Permit 06-05002. The plan approval will be incorporated into this permit in accordance with 25 Pa. Code § 127.450.

36-03092B: Donegal Rock Products, LLC (P. O. Box 10, Rheems, PA 17570) for modification of the former Union Quarries, Inc. limestone crushing plant in West Donegal Township, **Lancaster County**. The modifications include the replacement of an existing triple deck screen and addition of a conveyor. PM emissions from the plant are estimated at less than 12 tons per year. The plan approval and operating permit will contain emission restrictions, work practice standards, monitoring, recordkeeping and reporting requirements to ensure the facility complies with the applicable air quality requirements.

36-05079C: Chester County Solid Waste Authority (722 Division Highway, Narvon, PA 17555) for expansion of the Lanchester landfill to accommodate approximately 3,598,542 cubic yards of additional municipal solid waste in Caernarvon Township, **Lancaster County**. The modification is expected to increase facility emissions of CO by 110 tpy, NOx by 33 tpy, PM10 by 47 tpy, SOx by 52 tpy, NMOCs by 12 tpy and VOCs by 4 tpy. The landfill is a major Title V facility subject to 40 CFR Part 60, Subpart WWW—Standards of Performance for Municipal Waste Landfills, 40 CFR Part 61, Subpart M, 61.154—National Emission Standard for Asbestos: Standard for Active Waste Disposal Sites and 40 CFR Part 63, Subpart AAAA—National Emission Standards for Hazardous Air Pollutants: Municipal Solid Waste Landfills. The plan approval and operating permit shall contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Richard Maxwell, New Source Review Chief, (570) 327-3637.

41-310-012A: Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) for installation of an air cleaning device, a water spray dust suppression system, on various pieces of stone crushing, and the like, equipment in Hagerman's Run Plant 12 in Armstrong Township, **Lycoming County**.

The proposed water spray dust suppression system will replace an existing water spray dust suppression system currently used for the control of fugitive particulate matter from a number of pieces of existing stone crushing, and the like, equipment operating under Plan Approval 41-310-012. It will also be used to control the fugitive particulate matter from a primary crusher and associated feeder and conveyor, the construction of which was approved by Plan Approval 41-310-012 but which have not yet been constructed. Following the installation of the proposed water spray dust suppression system, the emission of fugitive particulate matter from the existing stone crushing, and the like, equipment is expected to decrease from the level now occurring but the magnitude of the decrease is unknown. The installation of the proposed water spray dust suppression system is expected to help better assure compliance with applicable fugitive air contaminant emission requirements on a consistent basis.

The Department's review of the information submitted by Glenn O. Hawbaker, Inc. indicates that the air contaminant emissions from the respective stone crushing,

and the like, equipment will comply with all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants following the installation of the proposed water spray dust suppression system, including the fugitive air contaminant emission requirements of 25 Pa. Code § 123.1, the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12 and the requirements of Subpart OOO of the Standards of Performance for New Stationary Sources, 40 CFR 60.670—60.676. Based on this finding, the Department proposes to issue plan approval.

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 of the spray nozzles identified in the application and supplemental materials submitted for Plan Approval 41-310-012A shall be installed. Additional nozzles may be installed without prior Department approval but none of those identified in the application and supplemental materials may be omitted or deleted.

2. The water spray dust suppression system shall be connected to an on-demand water supply capable of delivering an adequate supply of water to all spray nozzles at any time the stone crushing, and the like, equipment is operating. If the water spray dust suppression system is incapable of operation, the stone crushing, and the like, equipment shall not be operated.

3. The water spray dust suppression system shall be equipped with a winterization system to allow for cold weather operation.

4. The water supply system shall incorporate a filter to remove particulate which could clog the water spray dust suppression system spray nozzles.

59-00005E: Dominion Transmission, Inc. (625 Liberty Avenue, Pittsburgh, PA 15222-3199) 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 their Sabinsville Compressor Station in Clymer Township, **Tioga County**. The Sabinsville Compressor Station is a major facility which has been issued a Title V Operating Permit 59-00005.

The proposed air cleaning device will supplement existing air pollution controls on the respective engine and will help better assure compliance with NOx emission limitations previously established for the engine under the reasonably available control technology requirements of 25 Pa. Code §§ 129.91—129.95. This installation will not result in any change in the amount of NOx or any other air contaminant allowed to be emitted from the engine but may result in a reduction in the emission rate of one or more air contaminants from the levels now actually occurring.

The Department's review of the information submitted by Dominion Transmission, Inc. indicates that the proposed installation will meet all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants. Based on this finding, the Department intends to issue plan approval for the installation of the proposed high pressure fuel injection system on the respective engine. Additionally, if the Department determines that the engine is operating in compliance with all applicable plan approval conditions and regulatory requirements following the installation of the high pressure fuel injection system, the conditions established in the plan approval will be incorporated into

Title V Operating Permit 59-00005 by means of an administrative amendment under 25 Pa. Code § 127.450.

The following is a summary of the conditions the Department proposes to place in the plan approval to ensure compliance with all applicable regulatory requirements:

1. Following the installation of the high pressure fuel injection system on Engine 6, NO_x, expressed as NO₂, emissions from the respective engine shall not exceed 13.23 pounds per hour at full load/full speed and 26.4 pounds per hour at any time. Additionally, the emission of VOCs and CO from the engine shall not exceed 3.5 and 11.96 pounds per hour, respectively.
2. Within 120 days of the completion of installation of the high pressure fuel injection system, stack testing shall be performed for NO_x, VOCs and CO.
3. Semiannual NO_x portable analyzer testing shall be performed on the engine.
4. Records shall be maintained of the number of hours per month that the engine is operated per month and the amount of fuel used per month.
5. The engine shall only be fired on pipeline quality natural gas.

18-315-001: First Quality Tissue, LLC (599 South Highland Street, Lock Haven, PA 17745) for construction of a paper towel and tissue manufacturing facility in Castanea Township, **Clinton County**.

The respective facility, if constructed, will be a major facility for which a Title V operating permit will have to be obtained.

The facility will consist of no. 1 and no. 2 paper machines, each of which will consist of a pulper area, a wet end area, a first stage dryer, a glue containment area, a second stage dryer, a dry end area and a converting area. The facility will also incorporate additional scrap paper pulpers, printing presses, additive storage tanks, a wastewater treatment system, various small natural gas/propane-fired unit heaters and makeup air units and a 300 horsepower diesel-fired fire pump.

The PM emissions, including PM₁₀, from each of the paper machine wet end areas will be controlled by a cyclone collector. The PM, including PM₁₀, from each of the paper machine dry end areas will be controlled by a venturi scrubber system. The NO_x emissions from the combustion of fuel in the paper machines' first stage dryer burners, second stage dryer burners and second stage boilers will be minimized by the use of low NO_x burners.

The paper towel and tissue manufacturing facility will emit up to 167.55 tons of NO_x, 269.73 tons of CO, 335.52 tons of VOCs, 36.44 tons of PM, including PM₁₀, 1.64 tons of SO_x and 2.35 tons of HAPs in any 12 consecutive month period.

The facility's VOC and NO_x emissions are subject to the New Source Review (NSR) provisions of 25 Pa. Code §§ 127.201—127.217. The Department has determined that the proposed level of VOC and NO_x emission control will satisfy the lowest achievable emission rate requirement of these regulations and also, under 25 Pa. Code § 127.205(5), that the benefits of the proposed facility will significantly outweigh the environmental and social costs associated with the facility. The Department has also determined that First Quality Tissue, LLC must obtain 192.68 tons of NO_x emission reduction credits as well as 385.85 tons of VOC emission reduction credits before the

facility may begin operation. First Quality Tissue, LLC has committed to obtaining these emission reduction credits in a timely fashion.

The facility's NO_x, CO, PM and PM₁₀ emissions are subject to the Prevention of Significant Deterioration (PSD) regulations of 40 CFR 52.21 and 25 Pa. Code § 127.83. The Department has determined that the proposed level of NO_x, CO, PM and PM₁₀ emission control will satisfy the best available control technology requirement of these regulations and that the emission of these air contaminants will not endanger the maintenance of any applicable National Ambient Air Quality Standard or result in the consumption of more ambient increment than is available in the Castanea Township area.

The maximum annual NO_x ambient concentration is projected to be 69.3 micrograms per cubic meter (standard is 100 micrograms per cubic meter), the maximum annual PM₁₀ ambient concentration is projected to be 39.5 micrograms per cubic meter (standard is 50 micrograms per cubic meter) and the maximum 24-hour PM₁₀ ambient concentration is projected to be 113.5 micrograms per cubic meter (standard is 150 micrograms per cubic meter). The total amount of increment consumed at the respective site, including the impact of the proposed facility, is projected to be 20.9 micrograms per cubic meter of the total allowable 25 micrograms per cubic meter of annual NO_x increment, 5.3 micrograms per cubic meter of the total allowable 17 micrograms per cubic meter of annual PM₁₀ increment and 26.3 micrograms per cubic meter of the total allowable 30 micrograms per cubic meter of 24 hour PM₁₀ increment. This will leave 4.1 micrograms per cubic meter of annual NO_x increment, 11.7 micrograms per cubic meter of annual PM₁₀ increment and 3.7 micrograms per cubic meter of 24-hour PM₁₀ increment available for future industrial, and the like, growth in the Castanea Township area.

The PSD regulations also require an analysis of the impact of the facility's projected NO_x, CO, PM and PM₁₀ emissions on visibility, soils and vegetation. The Department has determined that there will be no adverse impact on local visibility and minimal impacts on soil and vegetation.

All of the air contaminant emissions to be emitted from the facility are also subject to the best available technology (BAT) provisions of 25 Pa. Code §§ 127.1 and 127.12. The Department has determined that the proposed level of control for all air contaminants will satisfy these requirements.

The Department's review of the information submitted by First Quality Tissue, LLC indicates that the proposed paper towel and tissue manufacturing facility will meet all applicable air quality regulatory requirements pertaining to air contamination sources and the emission of air contaminants. Based on this finding, the Department proposes to issue plan approval for the construction of the respective facility.

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. The paper towel and tissue manufacturing facility is to be constructed in accordance with the plans submitted with the application (as approved herein).
2. This plan approval is issued for the construction of a paper towel and tissue manufacturing facility comprised of the following:

A. Two paper machines each comprised of the following:

- i. Pulper area, incorporating a pulper.
- ii. Wet-end area, incorporating a wet-end former.
- iii. No. 1 dryer section, incorporating a natural gas/propane-fired low NOx burner.
- iv. Glue containment area.
- v. No. 2 dryer section, incorporating two natural gas/propane-fired low NOx burners and eight natural gas/propane-fired boilers equipped with ultra-low NOx burners.

- vi. Dry-end area, incorporating a pulper.
- vii. Converting area, incorporating a pulper.

B. Converting area comprised of the following:

- i. Three flexographic printing presses.
- ii. Adhesive application operation.

C. Additive storage tanks.

- i. Six 10,000-gallon wet strength additives storage tanks.
 - ii. Two 7,500-gallon creping adhesive storage tanks.
 - iii. Two 3,200-gallon dry strength additives storage tanks.
 - iv. One 8,000-gallon and two 4,500-gallon sodium hypochlorite storage tanks.
 - v. Two 2,600-gallon polyvinyl alcohol storage tanks.
- D. Wastewater treatment system.

E. Natural gas/propane-fired unit heaters.

- i. Four 1.20 million Btu per hour.
- ii. One 1.00 million Btu per hour.
- iii. Eighteen 0.80 million Btu per hour.
- iv. Two 0.50 million Btu per hour.
- v. Sixty-six 0.40 million Btu per hour.
- vi. Eight 0.10 million Btu per hour.
- vii. Four 0.075 million Btu per hour.
- viii. Two 0.50 million Btu per hour.

F. Natural gas/propane-fired air make-up units.

- i. Ten 9.70 million Btu per hour.
- ii. Two 2.111 million Btu per hour.
- iii. Two 0.575 million Btu per hour.

G. 300 horsepower, 2 fuel oil-fired diesel fire pump.

3. Under the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the extension provisions of 25 Pa. Code § 127.13, this plan approval shall be null and void if construction has not started within 18 months of the issuance of the plan approval or if there is more than an 18-month lapse in construction.

4. Under the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, each of the two paper machines, with the exception of the eight boilers associated with each machine, shall not be operated more than 8,520 hours per year.

5. Under the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the emission of PM, including PM10, from each of the following sources shall

not exceed the limitations specified. The Department may revise these limitations in response to a request from First Quality which includes moisture content data collected during actual operations.

Paper Machines 1 and 2

| | |
|--------------------------|--------------------------------------------------------------------|
| Pulper | 0.12 pound per hour and 0.000442 grain per dry standard cubic foot |
| Wet-End | 0.70 pound per hour and 0.00262 grain per dry standard cubic foot |
| Dryer No. 1 | 1.24 pounds per hour and 0.00188 grain per dry standard cubic foot |
| Dryer No. 2 | 0.22 pound per hour and 0.00185 grain per dry standard cubic foot |
| Boilers (eight combined) | 0.65 pound per hour |
| Dry-End | 0.75 pound per hour and 0.00262 grain per dry standard cubic foot |
| Broke Pulper | 0.35 pound per hour and 0.00225 grain per dry standard cubic foot |

6. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the annual emission of PM, including PM10, from each of the following sources shall not exceed the respective limitation:

Paper Machines 1 and 2

| | |
|--------------------------|----------------------------------------------|
| Pulper | 0.50 ton in any 12 consecutive month period |
| Wet-End | 2.98 tons in any 12 consecutive month period |
| Dryer No. 1 | 5.28 tons in any 12 consecutive month period |
| Dryer No. 2 | 0.94 ton in any 12 consecutive month period |
| Boilers (eight combined) | 2.85 tons in any 12 consecutive month period |
| Dry-End | 3.20 tons in any 12 consecutive month period |
| Broke Pulper | 1.50 tons in any 12 consecutive month period |

Other Sources

| | |
|------------------------------------|----------------------------------------------|
| Unit Heaters and Air Make-Up Units | 1.77 tons in any 12 consecutive month period |
| Diesel Fire Pump | 0.17 ton in any 12 consecutive month period |

7. Under the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the PM emissions from the wet-end area of each paper machine shall be controlled by a cyclone separator with a diameter, cylinder length and cone length of 11, 11 and 18 2/3 feet respectively.

8. Under the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, each of the cyclone separators controlling the PM emissions from the wet-end areas shall be equipped with instrumentation to continuously monitor the differential pressure across the respective device.

9. Under the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the PM emissions from the

dry-end area of each paper machine shall be controlled by a variable throat venturi scrubber incorporating a mesh pad for mist elimination.

10. Under the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the mesh pad mist eliminators associated with the venturi scrubbers controlling the PM emissions from the dry-end areas shall be equipped with back-spray systems for periodic cleaning.

11. Under the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, each of the venturi scrubbers controlling the PM emissions from the dry-end areas shall be equipped with instrumentation to continuously monitor the differential pressure across the scrubber and mesh pad, respectively, as well as equipped with instrumentation to continuously monitor the recirculation, make-up feed and continuous bleed flows.

12. Under the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the recirculation and continuous bleed flows of each of the venturi scrubbers controlling the PM emissions from the dry-end areas shall be maintained at or above 850 gallons per minute and 2.0 gallons per minute, respectively, and the differential pressure across the scrubber shall be maintained at a minimum of 12 inches of water, at all times the respective scrubber is in operation, except that the permittee may deviate from these values during the performance of the stack testing. The Department may revise these operational parameter requirements following the performance of stack testing, based on test results, in response to a request by First Quality or at its own discretion.

13. Under the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the NSR provisions of 25 Pa. Code §§ 127.201—127.217 and the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the emission of NO_x, expressed as NO₂, from each of the following sources shall not exceed the limitations specified. The Department may revise these limitations in response to a request by First Quality which includes moisture content data collected during actual operations.

Paper Machines 1 and 2

| | |
|--------------------------|-------------------------------------------------------------------------|
| Dryer No. 1 | 12.40 pounds per hour and 85 ppm, dry volume basis, @ 3% O ₂ |
| Dryer No. 2 | 1.32 pounds per hour and 51 ppm, dry volume basis, @ 3% O ₂ |
| Boilers (eight combined) | 2.87 pounds per hour and 25 ppm, dry volume basis, @ 3% O ₂ |

Other Sources

| | |
|------------------|---------------------------------|
| Diesel Fire Pump | 0.031 pound per horsepower-hour |
|------------------|---------------------------------|

14. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the annual emission of NO_x, expressed as NO₂, from each of the following sources shall not exceed the respective limitation:

Paper Machines 1 and 2

| | |
|--------------------------|-----------------------------------------------|
| Dryer No. 1 | 52.82 tons in any 12 consecutive month period |
| Dryer No. 2 | 5.63 tons in any 12 consecutive month period |
| Boilers (eight combined) | 12.57 tons in any 12 consecutive month period |

Other Sources

| | |
|------------------------------------|----------------------------------------------------------|
| Unit Heaters and Air Make-Up Units | 23.18 tons in any 12 consecutive month period (combined) |
| Diesel Fire Pump | 2.33 tons in any 12 consecutive month period |

15. Under the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the NSR provisions of 25 Pa. Code §§ 127.201—127.217 and the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, dryers 1 and 2 shall each be equipped with low NO_x burners. Additionally, each of the boilers shall be equipped with an ultra-low NO_x burner.

16. Under the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the emission of CO from each of the following sources shall not exceed the limitations specified. The Department may revise these limitations in response to a request by First Quality which includes moisture data collected during actual operations.

Paper Machines 1 and 2

| | |
|--------------------------|-------------------------------------------------------------------------|
| Dryer No. 1 | 18.6 pounds per hour and 206 ppm, dry volume basis, @ 3% O ₂ |
| Dryer No. 2 | 3.30 pounds per hour and 206 ppm, dry volume basis, @ 3% O ₂ |
| Boilers (eight combined) | 7.21 pounds per hour and 100 ppm, dry volume basis, @ 3% O ₂ |

Other Sources

| | |
|------------------|-----------------------------------|
| Diesel Fire Pump | 0.00668 pound per horsepower-hour |
|------------------|-----------------------------------|

17. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the annual emission of CO from each of the following sources shall not exceed the respective limitation:

Paper Machines 1 and 2

| | |
|--------------------------|-----------------------------------------------|
| Dryer No. 1 | 79.24 tons in any 12 consecutive month period |
| Dryer No. 2 | 14.06 tons in any 12 consecutive month period |
| Boilers (eight combined) | 31.58 tons in any 12 consecutive month period |

Other Sources

| | |
|------------------------------------|----------------------------------------------------------|
| Unit Heaters and Air Make-Up Units | 19.47 tons in any 12 consecutive month period (combined) |
| Diesel Fire Pump | 0.50 ton in any 12 consecutive month period |

18. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the emission of SO_x, expressed as SO₂, from each of the following sources shall not exceed the respective limitations:

Paper Machines 1 and 2

| | |
|--------------------------|----------------------|
| Dryer No. 1 | 0.087 pound per hour |
| Dryer No. 2 | 0.015 pound per hour |
| Boilers (eight combined) | 0.060 pound per hour |

19. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the annual emission of SO_x, expressed as SO₂, from each of the following sources shall not exceed the respective limitations:

Paper Machines 1 and 2

Dryer No. 1 0.38 ton in any 12 consecutive month period

Dryer No. 2 0.07 ton in any 12 consecutive month period

Boilers (eight combined) 0.24 ton in any 12 consecutive month period

Other Sources

Unit Heaters and Air Make-Up Units 0.13 ton in any 12 consecutive month period (combined)

Diesel Fire Pump 0.15 ton in any 12 consecutive month period

20. Under the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the NSR provisions of 25 Pa. Code §§ 127.201—127.217 and the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the dryers, boilers, unit heaters and air make-up units shall only be fired on natural gas or propane. Additionally, the diesel fire pump shall only be fired on virgin diesel or no. 2 fuel oil (diesel or fuel oil to which no reprocessed or waste oil or other waste materials have been added).

21. Under the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the NSR provisions of 25 Pa. Code §§ 127.201—127.217 and the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, no more than a combined total of 463.75 million cubic feet of natural gas shall be used to fire the unit heaters and air make-up units in any 12 consecutive month period. The company may substitute propane for natural gas, however, only on an equivalent Btu basis.

22. Under the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, as well as the NSR provisions of 25 Pa. Code §§ 127.201—127.217 and the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the diesel fire pump shall not be operated more than 500 hours in any 12 consecutive month period.

23. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the diesel fuel or no. 2 fuel oil used to fire the diesel fire pump shall contain no more than 0.3% sulfur.

24. Under the sulfur compound emission provisions of 25 Pa. Code § 123.21, the concentration of SO_x, expressed as SO₂, in the exhaust of the diesel fire pump shall not exceed 500 ppm, by volume, dry basis.

25. Under the NSR provisions of 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the emission of VOCs resulting from combustion in each of the following sources shall not exceed the respective limitation:

Paper Machines 1 and 2

Dryer No. 1 6.70 pounds per hour

Dryer No. 2 0.44 pound per hour

Boilers (eight combined) 0.46 pound per hour

26. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the annual emission of VOCs from each of the following sources shall not exceed the respective limitation:

Paper Machines 1 and 2

Dryer No. 1 28.54 tons in any 12 consecutive month period (products of combustion only)

Dryer No. 2 1.875 tons in any 12 consecutive month period (products of combustion only)

Boilers (eight combined) 2.01 tons in any 12 consecutive month period

Other Sources

Paper Additives * 218.93 tons in any 12 consecutive month period (total)

Printing Presses 13.37 tons in any 12 consecutive month period (combined)

Adhesives 0.77 ton in any 12 consecutive month period (total)

Storage Tanks 0.07 ton in any 12 consecutive month period (combined)

Wastewater Additives 24.22 tons in any 12 consecutive month period (total)

Boiler and Cooling Tower Additives 11.85 tons in any 12 consecutive month period (total)

Unit Heaters and Air Make-Up Units 1.27 tons in any 12 consecutive month period (combined)

Diesel Fire Pump 0.19 ton in any 12 consecutive month period

* Includes VOCs emitted as a result of additives added at the glue containment area.

27. Under the NSR provisions of 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the VOC content and vapor pressure of each of the following paper additives shall not exceed the limitations specified. The Department may revise these limitations in response to a request by First Quality which includes justification for changes in materials, more accurate quantification of vapor pressure and documentation of investigation of alternate materials potentially emitting less VOCs. Prior Department approval is required for use of alternate materials containing HAPs or materials with a higher VOC content or higher vapor pressure than is specified herein. Substitution of non-HAP containing materials having a lower potential to emit VOCs (factoring in both VOC content and vapor pressure) may be made without prior Department approval. In these instances, notification and supporting documentation must be submitted to the Department within 7 days following the substitution.

| Additive | VOC Content lbs/gal, as applied | Vapor Pressure mmHg |
|--------------------|------------------------------------|------------------------|
| Wet Strength No. 1 | 0.124 | 0.180 |
| Dry Strength | 0.080 | 0.001 |
| Wet Strength No. 2 | 0.005 | 0.180 |
| Softener/Debonder | 0.009 | 0.001 |
| Formation Aid | 0.001 | 0.180 |
| Defoamer | 0.010 | 0.010 |
| Creping Adhesive | 0.002 | 0.010 |
| Release Aid | 0.092 | 0.001 |
| Fabric Release | 2.319 | 1.000 |
| Biocide | 0.001 | 0.500 |
| Drainage Aid | 2.285 | 18.000 |

28. Under the NSR provisions of 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the total combined emission of VOCs resulting from the use of paper additives shall not exceed 3.30 pounds per ton of paper towel and other heavy stock paper products manufactured and 1.21 pounds per ton of tissue paper and other light stock paper

products manufactured. Compliance with this limitation shall be based on a calendar month average and the permittee may assume that 23.3% of fabric release VOC content will remain in the product.

29. Under the NSR provisions of 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the maximum amount of wet strength no. 1, fabric release and drainage aid additives which may be added to the paper products being manufactured shall not exceed the following limitations. The Department may revise these limitations in response to a request by First Quality which includes justification for a change in application rate and documentation of investigation of alternate materials having a lower potential to emit VOCs. Prior Department approval is required for higher usage rates than are specified herein.

| <i>Additive</i> | <i>Paper Towel and Other Heavy Stock Paper Products lbs/ton of product</i> | <i>Tissue Paper and Other Light Stock Paper Products lbs/ton of product</i> |
|-----------------|------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------|
| | Wet Strength No. 1 | 30.0 |
| Release Aid | 0.562 | 0.586 |
| Fabric Release | 3.88 | 3.88 |
| Drainage Aid | 0.96 | 0.96 |

Compliance with this limitation shall be based on a calendar month average.

30. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the total combined emission of HAPs resulting from the use of paper additives shall not exceed 2.22 tons in any 12 consecutive month period.

31. Under the NSR provisions of 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the VOC content of the inks used in the printing presses shall not exceed 0.15 pound per gallon for the color set no. 1 inks, or any other color inks which may be used in the printing presses, and 0.16 pound per gallon for color set no. 2 inks. Additionally, no more than a combined total of 480 gallons of ink may be used per day. Compliance with the ink usage rate limitation shall be based on a calendar month average.

32. Under the NSR provisions of 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, no additives, other than water, shall be used to thin the inks used for the printing presses. Additionally, no solvents, other than water, shall be used for cleanup of the presses and associated equipment. If necessary, a mild, non-VOC detergent may be added to the water for cleanup.

33. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the inks and detergents used for the printing presses shall contain no HAPs.

34. Under the NSR provisions of 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the VOC content and usage rate of each of the following adhesives shall not exceed the limitations specified. The Department may revise these limitations in response to a request by First Quality which includes justification for a change in materials or change in usage rate and documentation of investigation of alternative materials potentially emitting less VOCs. Prior Department approval is required for use of alternate materials containing HAPs or materials with a higher VOC content or for a higher material usage rate

than is specified herein. Substitution of non-HAP containing materials with lower VOC content than are specified herein may be made without prior Department approval. In these instances, notification and supporting documentation must be submitted to the Department within 7 days following the substitution.

| <i>Adhesive</i> | <i>VOC Content pounds per gallon</i> | <i>Usage Rate gallons per day</i> |
|-----------------|------------------------------------------|---------------------------------------|
| Case Glue | 0.000 | 10.3 |
| Laminating Glue | 0.005 | 40.0 |
| Tail Tie | 0.008 | 4.7 |
| Transfer Glue | 0.821 | 4.7 |
| Core Glue | 0.008 | 14.0 |

Compliance with the adhesive usage rate limitations shall be based on a calendar month average.

35. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, with the exception of transfer glue, the adhesives used at this facility shall contain no HAPs. As for the transfer glue, this adhesive shall contain no more than 0.0075 pound of HAPs per gallon.

36. Under the NSR provisions of 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the 15 additive storage tanks identified herein shall each be equipped with pressure relief valves set to release at no less than 0.7 psig of pressure and 0.3 psig of vacuum.

37. Under the NSR provisions of 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the VOC content of each of the following wastewater treatment additives shall not exceed the respective limitation:

| <i>Additive</i> | <i>VOC Content pounds per gallon</i> |
|--------------------|------------------------------------------|
| Novus Flocculant | 2.34 |
| Polyfloc Clarifier | 2.18 |

The Department may revise these limitations in response to a request by First Quality which includes justification for a change in materials and documentation of investigation of alternative materials potentially emitting less VOCs. Prior Department approval is required for use of alternate materials containing HAPs or materials with a higher VOC content. Substitution of non-HAP containing materials with lower VOC content than are specified herein may be made without prior Department approval. In these instances, notification and supporting documentation must be submitted to the Department within 7 days following the substitution.

38. Under the BAT provisions of 25 Pa. Code §§ 127.1 and 127.12, the total combined HAP emissions resulting from the use of wastewater treatment, cooling tower and boiler additives shall not exceed 100 pounds in any 12 consecutive month period.

39. Under the NSR provisions of 25 Pa. Code §§ 127.201—127.217, the company shall be in possession of 192.68 tons of NO_x emission reduction credits and 385.85 tons of VOC emission reduction credits prior to the start-up of any source associated with this facility.

40. Under the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, the construction of this facility results in the consumption of a total of 20.9 µg/m³ of the allowable 25 µg/m³ annual NO_x increment, 26.3 µg/m³ of the allowable 30 µg/m³ 24 hour and 5.3 µg/m³ of the allowable 17 µg/m³ annual PM₁₀ increment.

41. Under the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, with the exception of an approximate

250-foot section running along the southern edge of the railroad right-of-way, the entire remaining perimeter of the site, as described by the topographical maps provided in the permittee's air dispersion modeling analysis and received by the Department on August 7, 2003, shall incorporate fencing which provides an effective physical boundary which reasonably prevents public access.

42. Within 120 days of achieving maximum production, but no later than 180 days after initial startup, the permittee shall perform testing on the exhausts of the pulper area, the wet-end area, the no. 1 and no. 2 dryers, the boilers, the dry-end area and the broke pulper of paper machine no. 1 to determine the PM emission rate from each of the respective sources. Additionally, the permittee shall perform testing on the no. 1 and no. 2 dryers and the boilers of paper machine no. 1 to determine NO_x, expressed as NO₂, and CO emission rates from each of the respective sources. Lastly, the permittee shall perform testing on the no. 1 and no. 2 dryers and the boilers of paper machine no. 1 to determine the emission of VOCs resulting from combustion in each of the respective sources. All testing shall be performed while the paper machine is operating at its maximum rate of production, using test methods and procedures approved by the Department.

43. Within 120 days of achieving maximum production, but no later than 180 days after initial startup, the permittee shall perform testing on the exhausts of the pulper area, the wet-end area, the no. 1 and no. 2 dryers, the boilers, the dry-end area and the broke pulper of paper machine no. 2 to determine the PM emission rate from each of the respective sources. Additionally, the permittee shall perform testing on the no. 1 and no. 2 dryers and the boilers of paper machine no. 2 to determine NO_x, expressed as NO₂, and CO emission rates from each of the respective sources. Lastly, the permittee shall perform testing on the no. 1 and no. 2 dryers and the boilers of paper machine no. 2 to determine the emission of VOCs resulting from combustion in each of the respective sources. All testing shall be performed while the paper machine is operating at its maximum rate of production, using test methods and procedures approved by the Department.

44. At least 60 days prior to the performance of any testing required by conditions 42 and 43, the permittee shall submit three copies of a pretest protocol to the Department for review. This protocol shall describe the test methods and procedures to be used in the performance of testing and shall include dimensioned sketches of the exhaust systems showing the locations of all proposed sampling ports. The protocol shall also identify all process data which will be monitored and recorded during testing.

45. At least 10 days prior to the performance of any testing required by conditions 42 and 43, the permittee shall notify the Department of the actual dates and times that testing will occur so that Department personnel can arrange to be present during testing. The Department is under no obligation to accept the results of any testing performed without proper notification having first been given.

46. Within 60 days following the completion of testing required by conditions 42 and 43, the permittee shall submit three copies of a test report to the Department. This test report shall contain the results of the testing, a description of the test methods and procedures actually used, copies of all raw test data with sample calculations and copies of all process data recorded during testing and

operating load calculations. Since the testing is required for the purpose of demonstrating compliance with limitations identified in conditions contained herein, the results of the testing shall be expressed in units identical to the units of all the limitations identified herein for each of the respective air contaminants.

47. The permittee shall maintain accurate and comprehensive monthly records of the following:

- The number of hours paper machine no. 1 operated each calendar month.
- The number of hours paper machine no. 2 operated each calendar month.
- The number of hours diesel fire pump operated each calendar month.
- The amount of natural gas and propane used to fire the unit heaters and air make-up units each calendar month.
- The identity and the amount of towel and other heavy stock and tissue paper and other light stock, produced each calendar month.
- The identity, the amount used each calendar month and the VOC content of each paper additive used to produce towel or other heavy stock and tissue paper or other light stock, as well as the amount of each HAP contained in the respective additive.
- The identity, the amount used each calendar month and the VOC content of each ink used.
- The identity, the amount used each calendar month and the VOC content of each adhesive used, as well as the amount of each HAP contained in the respective adhesive.
- The identity, the amount used each calendar month and the VOC content of each wastewater treatment additive used, as well as the amount of each HAP contained in the respective additive.
- The identity, the amount used each calendar month and the VOC content of each boiler and cooling tower additive used, as well as the amount of each HAP contained in the respective additive.

These records shall be used by the permittee to calculate the monthly emission of air contaminants from the paper towel and tissue manufacturing facility to demonstrate compliance with the emission limitations specified herein. All background information, assumptions and calculations used in the derivation of these emissions values shall be provided to the Department upon request. Additionally, these records shall be used to demonstrate compliance with the various material VOC content limitations, material usage limitations, and the like, specified herein.

All records generated under this condition, as well as all background information and calculations used in the derivation of any reported values, shall be retained onsite for a period of at least 5 years from the date of generation and shall be provided to the Department upon request. Additionally, all records generated for each calendar quarter shall be submitted to the Department by the 30th day following the respective calendar quarter (reports due on January 30, April 30, July 30 and October 30). This report shall include all background information, assumptions and calculations used in the derivation of the reported values.

48. The 16 boilers are subject to Subpart Dc of the Federal Standards of Performance for New Stationary

Sources, 40 CFR 60.40c—60.48c. The permittee shall comply with all applicable requirements of these subparts as well as any other applicable subpart of the Standards of Performance, including any recordkeeping and reporting requirements. Under 40 CFR 60.4 of the Standards of Performance, the submission of all requests, reports, applications, submittals and other communications required by the Standards of Performance must be made both to the Department and the EPA. The EPA copies should be sent to U. S. EPA Region III; 1650 Arch Street; Philadelphia, PA 19106-2029.

49. The issuance of an operating permit for this facility is contingent upon all sources being constructed, all air cleaning devices being installed and all sources and air cleaning devices being maintained and operated, as described in the plan approval and supplemental materials submitted for this application, and in accordance with all conditions contained herein, and upon satisfactory demonstration that any air contaminant emissions are in compliance with all limitations specified herein, as well as in compliance with all requirements specified in, or established under, all applicable rules and regulations in 25 Pa. Code Article III.

50. The permittee shall immediately notify the Department of any malfunction of any sources or associated air cleaning devices which results in, or may possibly be resulting in, the emission of air contaminants in excess of the limitations specified in, or established under, any applicable rule or regulation in 25 Pa. Code Article III or in excess of the limitations specified in any condition contained herein or which otherwise results in, or may possibly be resulting in, noncompliance with the requirements specified in any condition contained herein.

51. This Plan Approval authorizes temporary operation of the sources covered by this Plan Approval provided the following conditions are met.

a) The Department must receive written notice from the owner/operator of the completion of construction and the operator's intent to commence operation at least 5 working days prior to the completion of construction. The notice should state when construction will be completed and when operator expects to commence operation.

b) Operation is authorized only to facilitate the start-up and shake-down of sources and air cleaning devices, to permit operations pending the issuance of an Operating Permit or to permit the evaluation of the sources for compliance with all applicable regulations and requirements.

c) This condition authorizes temporary operation of the sources for a period of 180 days from the date of commencement of operation, provided the Department receives notice from the owner/operator under subpart (a).

d) The owner/operator may request an extension if compliance with all applicable regulations and Plan Approval requirements has not been established. The extension request shall be submitted in writing at least 15 days prior to the end of this period of temporary operation and shall provide a description of the compliance status of the source, a detailed schedule for establishing compliance and the reasons compliance has not been established.

e) The notice submitted by the owner/operator under subpart (a) prior to the expiration of this Plan Approval, shall modify the plan approval expiration date. The new plan approval expiration date shall be 180 days from the date of the written notice.

52. Notification required as a result of any condition should be directed to Joseph J. Dwyer, 208 West Third Street, Suite 101, Williamsport, PA 17701-6448, (570) 327-3642.

OPERATING PERMITS

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

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

06-05063: Boyertown Foundry Co. (P. O. Box 443, New Berlinville, PA 19545) for operation of a gray iron foundry in the Borough of Boyertown and Colebrookdale Township, **Berks County**. The facility is subject to 40 CFR Part 64, Compliance Assurance Monitoring. This action is a renewal of the Title V Operating Permit issued in 1999. The facility is additionally subject to 25 Pa. Code § 129.91, Reasonably Achievable Control Technology (RACT). The Department will hold one public hearing for the purpose of receiving comments on the proposed approval of the RACT plan for VOC emissions from various sources at the facility. The hearing will be held on June 16, 2004, at 9 a.m. in the Reading District Office. The public is invited to present testimony at this hearing. Persons wishing to present testimony should contact Roger Fitterling, Reading District Office, (610) 916-0100. Written comments will be accepted until June 23, 2004, at 1005 Cross Roads Boulevard, Reading, PA 19605.

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

04-00497: SCA Packaging North America—New Brighton Facility (800 Fifth Avenue, New Brighton, PA) for renewal of their operating permit in New Brighton, **Beaver County**.

The Department intends to issue a renewal Title V Operating Permit for their expandable resin molding facility which operates two boilers, two expanders and multiple silos and presses. VOC content of expandable polystyrene resins shall not exceed 4.5% and expandable ARCEL resins shall not exceed 8.5%, based on a 30-day rolling average. Annual emissions shall not exceed 97.2 tons VOC per 12-month period.

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

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

39-00028: Buckeye Terminals, LLC (P. O. Box 368, Emmaus, PA 18049) for bulk petroleum storage tanks in Lower Macungie Township, **Lehigh County**.

39-00071: HAB Industries, Inc. (15 South Albert Street, Allentown, PA 18105) for a textile manufacturing process and boilers in the City of Allentown, **Lehigh County**.

40-00076: American Asphalt Paving Co. (500 Chase Road, Shavertown, PA 18708) for a batch asphalt plant and associated air pollution control device in Plains Township, **Luzerne County**.

48-00078: Silverbrook Anthracite, Inc. (1 Market Street, Laflin, PA 18702) for a coal processing plant and associated air pollution control device in Newport Township, **Luzerne County**.

48-00070: Lamson and Sessions (25701 Science Park Drive, Cleveland, OH 44122) for a manufacturing plant and associated air pollution control devices in Upper Nazareth Township, **Northampton County**.

54-00055: Summit Anthracite, Inc. (R. D. 1, Box 12A, Klingerstown, PA 17941) for a coal processing plant and associated air pollution control device in Porter Township, **Schuylkill County**.

54-00057: Reading Anthracite Co. (P. O. Box 1200, Pottsville, PA 17901) for a coal processing plant and associated air pollution control device in Butler and West Mahanoy Townships, **Schuylkill County**.

39-00053: General Mills Inc. (2132 Downyflake Lane, Allentown, PA 18103) for operation of baking ovens, flours silos, boiler and associated air cleaning devices at their plant in the City of Allentown, **Lehigh County**.

40-00079: Johns Manville—A Berkshire Hathaway Co. (600 Jaycee Drive, Hazleton, PA 18201) for operation of polyisocyanurate foam products process and associated air cleaning devices at their plant in Hazle Township, **Luzerne County**.

40-00075: Truth Hardware (500 Jaycee Drive, Hazleton, PA 18201) for operation of a fluid clean system and its associated air cleaning devices at their plant in Hazle Township, **Luzerne County**.

39-00032: Precision Roll Grinders, Inc. (6356 Champans Road, Allentown, PA 18106) for operation of the application of coating to refurbished rolls throughout the facility and its associated activities at their facility in Upper Macungie Township, **Lehigh County**.

39-00038: Sure Fit—Division of Fieldcrest Cannon, Inc. (939 Marcon Boulevard, Allentown, PA 18103) for operation of the boilers and associated accessories at their facility in Hanover Township, **Lehigh County**.

48-00058: Efforts Foundry, Inc. (Route 512 Industrial Campus, P. O. Box 158, Bath, PA 18014) for operation of the manufacturing of steel castings and associated process at their plant in Bath Township, **Northampton County**.

48-00067: Eastern Industries, Inc. (4401 Camp Meeting Road, Center Valley, PA 18034) for the stone crushing plant and associated accessories at their plant in Lower Nazareth Township, **Northampton County**.

48-00073: Stockertown Construction Materials—Division of Haines and Kibblehouse, Inc. (P. O. Box 196, Skippack, PA 19474) for the stone crushing plant and associated accessories at their plant in Stockertown Borough, **Northampton County**.

48-00074: Newstech PA, LP (6 Horwith Drive, Northampton, PA 18067) for operation of a pulp mill and associated air cleaning devices and a boiler at their facility in Northampton Borough, **Northampton County**.

13-00016: Haulmark Industries, Inc. (P. O. Box 8, McAdoo, PA 18237) for operation of a spray booth at their facility in Banks Township, **Carbon County**.

40-00081: Quality Collisions, Inc. (Box 701, Route 309, Dallas, PA 18612) for operation of a spray both and associated air cleaning devices at their facility in Dallas Borough, **Luzerne County**.

48-00077: Falk Funeral Home, Inc. (1418 Main Street, Hellertown, PA 18055) for operation of the human crematory at their facility in Hellertown Borough, **Northampton County**.

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

06-03003: Hauer Custom Manufacturing, Inc. (447 Old Swede Road, Douglassville, PA 19518) for operation of their polish and sanitary products facility in Amity Township, **Berks County**. The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

07-03022: Juniata Fabrics, Inc. (1301 Broadway, Altoona, PA 16603) for operation of their fabric mill in the City of Altoona, **Blair County**. The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

07-03043: McLanahan Corporation (200 Wall Street, Hollidaysburg, PA 16648) for operation of their steel foundry in Hollidaysburg Borough, **Blair County**. The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

28-03023: Valley Quarry, Inc. (169 Quarry Road, Chambersburg, PA 17201) for operation of their Mt. Cydonia Sand Plant No. 2 in Greene Township, **Franklin County**. The facility emits approximately 10 tons of PM10 per year. Standard monitoring, recordkeeping and work practice standards are included to keep the facility operating within all applicable requirements.

38-03012: Sheridan Supply Co., Inc. (7 Furnace Road, R. D. 2, Newmanstown, PA 17073) for operation of a crushing facility in Millcreek Township, **Lebanon County**. Annual emissions from this facility are expected to be about 2 tons of PM per year. The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

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

17-00052: P and N Coal Co., Inc. (P. O. Box 332, Punxsutawney, PA 15767) for their Stiner coal processing facility in Goshen Township, **Clearfield County**. The facility's main sources includes one coal crusher with integral screener and two belt conveyors, one 125 HP diesel-fired generator and one 2,000-gallon storage tank. These sources have the potential to emit PM/PM10, NOx, SOx, HAPs and CO below the major emission thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

08-00008: Guthrie Robert Packer Hospital (One Guthrie Square, Sayre, PA 18840) for their general medical and surgical hospital facility in Sayre Borough, **Bradford County**. The facility's main sources include three natural gas/no. 2 fuel oil fired boilers and four

diesel fired emergency generators. The facility has taken restrictions to limit potential SOx emissions below Title V thresholds. The proposed operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

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

65-00793: Wilson Scrap Metals Inc. (330 Wilson Lane, Saltsburg, PA 15681) renewal for operation of a metal smelting and refining plant in Bell Township, **Westmoreland County**.

PUBLIC HEARING

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

66-05063: Boyertown Foundry Co. (P. O. Box 443, New Berlinville, PA 19545) for operation of a gray iron foundry in the Borough of Boyertown and Colebrookdale Township, **Berks County**. The facility is subject to 40 CFR Part 64, Compliance Assurance Monitoring. This action is a renewal of the Title V Operating Permit issued in 1999. The facility is additionally subject to 25 Pa. Code § 129.91, Reasonably Achievable Control Technology (RACT).

The Department will hold one public hearing for the purpose of receiving comments on the proposed approval of the RACT plan for VOC emissions from various sources at the facility. The hearing will be held on June 16, 2004, at 9 a.m. in the Reading District Office. The public is invited to present testimony at this hearing. Persons wishing to present testimony should contact Roger Fitterling, Reading District Office, (610) 916-0100. Written comments will be accepted until June 23, 2004, at 1005 Cross Roads Boulevard, Reading, PA 19605.

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 |

| <i>Parameter</i> | <i>30-Day Average</i> | <i>Daily Maximum</i> | <i>Instantaneous Maximum</i> |
|----------------------------------|---------------------------|--------------------------|----------------------------------|
| 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.

40990202R. HUD, Inc. t/a Emerald Anthracite II (P. O. Box 27, 200 East Front Street, Nanticoke, PA 18634), renewal of an existing coal refuse reprocessing operation in Newport and Hanover Townships, **Luzerne County**, affecting 104.2 acres. Receiving streams: None. Application received April 23, 2004.

40870101R3 and NPDES Permit No. PA0594598. Kaminski Brothers, Inc. (c/o Great Valley Construction Services, LLC, 100 Baltimore Drive, 4th Floor, East Mountain Corp. Center, Wilkes-Barre, PA 18702), renewal of an existing anthracite surface mine operation in Jenkins Township, **Luzerne County**, affecting 76.6 acres. Receiving streams: Watershed of Lampback and Gardner Creeks. Application received April 26, 2004.

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

30960701. NPDES Permit No. PA0215201, RAG Emerald Resources, LP (158 Portal Road, P. O. Box 1020, Waynesburg, PA 15370), to renew the permit for the Emerald Mine No. 1—Coal Refuse Disposal Area No. 2 in Franklin Township, **Greene County** and related NPDES permit. No additional discharges. Application received March 29, 2004.

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

33040104 and NPDES Permit No. PA0242527. Ben Hal Mining Company (389 Irishtown Road, Grove City, PA 16127), commencement, operation and restoration of a bituminous surface strip operation in Union Township, **Jefferson County**, affecting 16.5 acres. Receiving streams: one unnamed tributary to Simpson Run and Simpson Run and one unnamed tributary to Welch Run (CWF). There are no potable surface water supply intakes within 10 miles downstream. Application received April 20, 2004.

33980110 and NPDES Permit No. PA0227901. Original Fuels, Inc. (P. O. Box 343, Punxsutawney, PA 15767), revision to an existing bituminous surface strip operation in Perry Township, **Jefferson County**, affecting 122.3 acres. Receiving streams: unnamed tributaries to Mahoning Creek (CWF). There are no potable surface water supply intakes within 10 miles downstream. Revision to include a post mining landuse change from forestland to unmanaged natural habitat. Application received April 29, 2004.

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

11830108 and NPDES Permit No. PA0605972. L & J Energy Company, Inc. (P. O. Box I, Grampian, PA 16838), surface mining permit renewal for reclamation only in Susquehanna Township, **Cambria County**, af-

fecting 183.4 acres. Receiving streams: unnamed tributary of West Branch of Susquehanna River (CWF), West Branch Susquehanna River (WWF). There are no potable water supply intakes within 10 miles downstream. Application received April 5, 2004.

32803053 and NPDES Permit No. PA0124770. A & T Coal Company, Inc. c/o Vapco Engineering (P. O. Box 327, Punxsutawney, PA 15767-0327), surface mining permit renewal for reclamation only in Banks Township, **Indiana County**, affecting 160.0 acres. Receiving streams: unnamed tributary to South Branch Bear Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received April 22, 2004.

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

63880102 and NPDES Permit No. PA0591025. Robinson Coal Company (200 Neville Road, Neville Island, PA 15225), renewal application for reclamation only of an existing bituminous surface mine in Robinson Township, **Washington County**, affecting 55 acres. Receiving streams: unnamed tributary to Robinson Run (WWF). There is no potable water supply intake within 10 miles from the point of discharge. Renewal application received April 27, 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

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

E38-135: Department of Transportation, District 8-0, 2140 Herr Street, Harrisburg, PA 17103 in South Londonderry Township, **Lebanon County**, ACOE Baltimore District.

To remove the existing bridge and then to construct and maintain a 20-foot by 7-foot box culvert on a 73 degree skew at the channel of Conewago Creek (TSF) on SR 0241, Section 005, Segment 0060, Offset 0000, about 0.75 mile north of the Village of Lawn (Elizabethtown, PA Quadrangle N: 19.3 inches; W: 4.8 inches) in South Londonderry Township, Lebanon County.

E01-247: Mount Pleasant Township, 1035 Beck Road, Gettysburg, PA 17325 in Mount Pleasant Township, **Adams County**, ACOE Baltimore District.

To remove a two-cell 49-inch by 33-inch corrugated metal pipe culvert and then to construct and maintain a 20-foot by 5-foot precast reinforced concrete box culvert with cast-in-place wingwalls upstream and a 6-foot tapered end section downstream at a point where Willow Road (T-421) crosses White Run (WWF) (Gettysburg, PA Quadrangle N: 9.8 inches; W: 6.8 inches) in Mount Pleasant Township, Adams County.

E67-770: Springettsbury Township, 1501 Mount Zion Road, York, PA 17402 in Springettsbury Township, **York County**, ACOE Baltimore District.

To construct and maintain a new roadway and associated fill in the floodplain of Codorus Creek (WWF) and an outfall structure with a rip-rap rock apron discharging into Johnson's Run (CWF), all near the intersection of Eden Road and Route 30 (York, PA Quadrangle N: 20.5 inches; W: 13.25 inches) in Springettsbury Township, York County.

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

E08-413. Ronald S. Kline, R. R. 2, Box 341, Troy, PA 16947-9798. Stream restoration in Springfield Township, **Bradford County**, ACOE Baltimore District (East Troy, PA Quadrangle N: 10.9 inches; W: 15.7 inches).

To: (1) construct and maintain approximately 400 feet of relocated stream channel; (2) four 20-foot long willow log deflectors in Leonards Creek (WWF); and (3) to restore channel capacity to 100 feet of unnamed tributary beginning at the mouth and proceeding upstream. The project is on the west side of SR 4017 approximately 3

miles north of the intersection of SR 4017 with Route 6. The project will not impact wetlands while impacting approximately 550 feet of waterway.

E14-460. Union Township, 125 Sycamore Lane, Julian, PA 16844. Public road crossing unnamed tributary Bald Eagle Creek in Union Township, **Centre County**, ACOE Baltimore District (Bellefonte, PA Quadrangle N: 9.6 inches; W: 13.0 inches).

To construct, operate and maintain a public road crossing an unnamed tributary to Bald Eagle Creek (CWF) to provide improved public access on Jacobs Road (T-398). The crossing of T-398 across the unnamed tributary shall be constructed with a single cell corrugated metal arch culvert pipe that will have a minimum span of 9 feet, rise of 5.3 feet a length of 38 feet. The culvert shall be depressed 1 foot beneath the streambed. As proposed the project will not impact wetlands while impacting 40 feet of waterway that is along the eastern right-of way of SR 0220 approximately 1,500 feet east of Union Township Road T-398 and SR 0220 intersection.

E49-275. Clarence E. Bailey, 331 Stone School Road, Northumberland, PA 17857. Water Obstruction and Encroachment joint permit application in Upper Augusta Township, **Northumberland County**, ACOE Susquehanna River Basin District (Sunbury, PA Quadrangle N: 1.31 inches; W: 4.85 inches).

To construct and maintain a concrete dock measuring 17 feet wide by 5 feet high by 60 feet long in the floodway of the Susquehanna River, 0.24 mile north of Sunbury on Packers Island in Upper Augusta Township, Northumberland County. This project proposes to have a minimal impact on the floodway of the Susquehanna River (WWF). The project does not propose to impact any jurisdictional wetlands.

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

E02-1467. Slade Landscaping and Garden Center, P. O. Box 2095, Warrendale, PA 15086. Slade Landscaping bridge and outfall in Marshall Township, **Allegheny County**, Pittsburgh ACOE District (Mars, PA Quadrangle N: 5.5 inches; W: 11.62 inches) (Latitude: 40° 39' 20" and Longitude: 80° 05' 01"). The applicant proposes to widen, operate and maintain the existing bridge having a span of 23.0 feet with a minimum underclearance of 10.5 feet across the channel of Brush Creek (WWF) to provide access to the Slade Landscaping and Garden Center and to construct and maintain an outfall structure on the stream bank. The project is on the south side of Northgate Drive, approximately 1,700 feet west from the intersection of Northgate Drive and Mount Pleasant Road and will impact 25.0 feet of stream.

E63-559. Ronald Romanetti, 206 Agape Road, Hickory, PA 13540. Romanetti stream crossing in Hopewell Township, **Washington County**, Pittsburgh ACOE District (Midway, PA Quadrangle N: 1.3 inches; W: 15.9 inches) (Latitude: 40° 15' 26" and Longitude: 80° 21' 50"). The applicant proposes to construct and maintain a low flow stream crossing consisting of four arch culverts each 20.0 feet in length and having a span of 3.5 feet with an underclearance of 2.4 feet in the channel of Cross Creek (HQ-WWF) for the purpose of providing cattle and tractor access. The project is on the south side of Lynn Portal Road (SR 4035), approximately 5,100 feet north from the intersection of T-635, L. R. 62041 and T-486 and will impact 20.0 feet of stream channel.

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

E37-161, Lawrence County, Lawrence County Government Center, 430 Court Street, New Castle, PA 16101. T-485 Stoughton Road bridge across Slippery Rock Creek in Scott Township, **Lawrence County,** ACOE Pittsburgh District (Harlansburg, PA Quadrangle N: 5.0 inches; W: 4.1 inches).

To remove the existing structure and to construct and maintain a prestressed concrete spread box beam bridge having two normal spans of 61.21 feet and a minimum underclearance of 16 feet on a 60 degree skew across Slippery Rock Creek (CWF) approximately 70 feet downstream of the existing bridge on a new alignment involving a total of approximately 700 feet of roadway on T-485, Stoughton Road, approximately 0.4 mile south of SR 108.

Major Amendment E42-275, Bradford Properties, L. P., 609 Alexander Street, Pittsburgh, PA 15220-5503. Bradford Wal-Mart in Foster, **McKean County,** ACOE Pittsburgh District (Derrick City, PA Quadrangle N: 18.8 inches; W: 15.5 inches).

The original permit giving its consent to fill 0.29 acre of wetlands (PEM and PEM/PSS), install and maintain approximately 150 feet of bank stabilization and create 0.3 acre of replacement wetlands is to be amended giving consent to regrade the failed wetland mitigation area to original contours providing vegetative plantings to achieve stabilization and to create additional floodplain by grading an area approximately 200 feet long ranging 10 to 15 feet in width and reestablishing stabilization with "live stakes" and an appropriate seed mix all to be along the north bank of Foster Brook (CWF) at the Wal-Mart retail center east of East Main Street approximately 1,000 feet north of its intersection with SR 346. The developer will be required to make payment of \$5,000 to the wetland replacement fund in lieu of recreating the failed wetland.

E43-310, Orion Development RA XLVIII, LLC, 4125 Freedom Way, Weirton, WV 26062. Eckerd Store 8720 R in the City of Hermitage, **Mercer County,** ACOE Pittsburgh District (Sharpsville, PA Quadrangle N: 1.2 inches; W: 10.5 inches).

The applicant proposes to construct a commercial development consisting of Eckerd Store No. 8702R (14,735 square feet) at the southeast corner of the intersection of SR 18 and SR 3020 (Lamor Road) involving the channel realignment and reconstruction of an UNT to Pine Hollow Run (WWF, perennial) involving: (1) to construct and maintain a 42-foot long, 5-foot diameter reinforced concrete pipe culvert with a riprap dissipator at the upstream end; (2) to construct and maintain a 210-foot long, 4-foot diameter HDPE plastic pipe stream enclosure; and (3) to reconstruct 150 feet of open stream channel. The project also involves the construction and maintenance of an outfall having a 1.5-foot diameter HDPE stormwater pipe and a utility line stream crossing by a 1.5-foot diameter HDPE stormwater pipe. The project proposes to directly affect 402 linear feet of stream.

E43-312, John C. Oliver, 1016 Oliver Building, 535 Smithfield Street, Pittsburgh, PA 15222. Cranberry Swamp habitat enhancement in Deer Creek Township, **Mercer County,** ACOE Pittsburgh District (Hadley, PA Quadrangle N: 16.25 inches; W: 2.0 inches).

To dredge a total of 6,275 linear feet of trapezoidal channel having a bottom width of approximately 15 feet

and a depth of 4 feet to create shallow open-water access within the existing 186 acre wetland shown on the USGS Topographic Map as "Cranberry Swamp." Of the 6,275 feet, 1,525 linear feet is improvement of existing channel and 4,750 feet is the construction of new channel. Excavated or dredged materials will be side-cast within the existing wetland randomly on either side of the channels. The project proposes to impact a total of 4.75 acres of wetland.

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

E53-398. National Fuel Gas Supply Corporation, P. O. Box 2081, Erie, PA 16512-1720. Bridge replacement in Hebron Township, **McKean County,** ACOE Pittsburgh District (Coudersport, PA Quadrangle N: 21.56 inches; W: 0.25 inch).

For the purpose of providing access to an existing private residence and an existing gas well, the applicant proposes to remove the existing structure (a wooden plank bridge with a span of 7 feet) and to construct and maintain a steel bridge with a single span of 12 feet and an underclearance of approximately 4 feet across an unnamed tributary to South Branch Oswayo Creek (EV) on an existing access road approximately 400 feet south of the intersection of Route 44 and SR 4008. The applicant also proposes to construct a temporary crossing using a culvert and stream mats approximately 20 feet downstream of the existing bridge. Approximately 40 feet of stream channel will be affected by the project.

ENVIRONMENTAL ASSESSMENTS

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

EA22-013CO. Dauphin County Conservation District, 1451 Peters Mountain Road, Dauphin, PA 17018. Washington Township, **Dauphin County,** ACOE Baltimore District.

Project proposes to breach and remove Shiffer's Mill Dam across Wiconisco Creek (WWF) to eliminate a threat to public safety and to restore the stream to a free flowing condition. The dam is partially breached on the right side and is creating an erosion problem. The dam is approximately 500 feet northeast of the intersection of Shiffer Mill Road (T400) and Lenker Road (T401) (Elizabethville, PA Quadrangle N: 8.05 inches; W: 16.00 inches).

WATER QUALITY CERTIFICATIONS REQUESTS

Northwest Region: Water Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6945.

Certification Request initiated by **U. S. Army Corps of Engineers.** Allegheny River, Kinzua Dam, Angler's Fishing Pier in Glade Township, **Warren County,** ACOE Pittsburgh District (Clarendon, Quadrangle N: 16.6, inches; W: 0.5 inch).

Project description: To construct and maintain a 125-foot long by 11.5-foot wide pile supported handicap accessible fishing pier and a 30-foot wide by 30-foot long parking area along the right (north) bank of the Allegheny River immediately downstream of the Kinzua Dam stilling basin (Clarendon, PA Quadrangle N: 16.6 inches; W: 0.5 inch).

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.

PA0063665, MS4, **City of Allentown**, 112 Union Street, Allentown, PA 18102-4912. This proposed facility is in the City of Allentown, **Lehigh County**.

Description of Proposed Activity: Renewal of MS4 consisting of 165 miles of storm sewer pipe, with 227 outfalls to the Lehigh River and Little Lehigh, Trout, Cedar, Little Cedar and Jordan Creeks.

The permittee must develop, implement and maintain programs to characterize the outfalls and minimize their impact on water quality.

Permit requirements include: establishing legal authority; source identification; discharge characterization; stormwater management programs including implementation of appropriate best management practices; assessment of controls; adequate fiscal resources and submission of annual report.

| <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> |
|--------------------------------|-------------------------------------------------------------------------------|---------------------------------|---------------------------------------------|-------------------------|
| PA0063851 | Sweet Valley Mobile Home Village 26 Updyke Road Hunlock Creek, PA 18621 | Ross Township Luzerne County | Unnamed tributary to Roaring Brook 5B | Y |

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

| <i>NPDES Permit No. (Type)</i> | <i>Facility Name and Address</i> | <i>County and Municipality</i> | <i>Stream Name (Watershed No.)</i> | <i>EPA Waived Y/N ?</i> |
|--------------------------------|--------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------|------------------------------------|-------------------------|
| PA0217972 | The Waterfront Partners, LLC 285 East Waterfront Drive Suite 150 Homestead, PA 15120-5011 | Allegheny County Homestead Borough | Monongahela River | Y |
| PA0095435 | Bell Acres Municipal Sewage Authority Municipal Building 1151 Camp Meeting Road Sewickley, PA 15143 | Allegheny County Bell Acres Borough | Little Sewickley Creek | Y |
| PA0097756 | Highland Sewer and Water Authority 120 Tank Drive Johnstown, PA 15904 | Beaverdam Water Treatment Plant Summerhill Township Cambria County | Beaverdam Run | Y |
| PA0204161 | Valley School of Ligonier P. O. Box 616 Ligonier, PA 15658 | Ligonier Township Westmoreland County | Linn Run | Y |

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

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

NPDES Permit No. PAS212213, Industrial Waste, **Norton Stone Co.**, R. R. 2, Box 135C, New Milford, PA 18834. This proposed facility is in New Milford Township, **Susquehanna County**.

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

NPDES Permit No. PAG042209, Sewage, **Roy and Michelle Gordon**, R. R. 2, Box 273A, Susquehanna, PA 18847. This proposed facility is in Oakland Township, **Susquehanna County** and discharges to the Susquehanna River.

Description of Proposed Action/Activity: Issuance of NPDES General Permit.

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

NPDES Permit No. PA0024023, Sewage, **Borough of Bernville**, P. O. Box 40, Bernville, PA 19506. This proposed facility is in Bernville Borough, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to Northkill Creek in Watershed 3-C.

NPDES Permit No. PA0008150, Industrial Waste, **MH Technologies, LLC**, One Mountain Street, Mount Holly Springs, PA 17065-1406. This proposed facility is in Mount Holly Springs, **Cumberland County**.

Description of Proposed Action/Activity: Permit transfer.

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

NPDES Permit No. PA0219410, Industrial Waste, **Duquesne Light Company**, 411 Seventh Avenue, MD-16-711, Pittsburgh, PA 15230-1930. This proposed facility is in Monongahela Township, **Greene County**.

Description of Proposed Action/Activity: Discharge of water from aquaculture facility no. 1 to Whiteley Creek.

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

Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.

WQM Permit No. 4604401, Sewerage, **Berks-Montgomery Municipal Authority**, 136 Municipal Drive, P. O. Box 370, Gilbertsville, PA 19525-0370. This proposed facility is in Douglas Township, **Montgomery County**.

Description of Proposed Action/Activity: Construction and operation of a gravity interceptor, sanitary pump station and force main.

WQM Permit No. 1503420, Sewerage, **Wallace Township Municipal Authority**, 1250 Creek Road, Glenmoore, PA 19343. This proposed facility is in Wallace Township, **Chester County**.

Description of Proposed Action/Activity: Construction and operation of a wastewater facility subdivision for 63 single family homes.

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

WQM Permit No. 0603412, Sewerage, **Diana Minnich, Secretary, Caernarvon Township Municipal Authority**, P. O. Box 291, Morgantown, PA 19543. This proposed facility is in Caernarvon Township, **Berks County**.

Description of Proposed Action/Activity: Caernarvon Township Wastewater Treatment Plant.

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

WQM Permit No. 4103405, Sewerage, 4952, **Lycoming County Water and Sewer Authority**, 216 Old Cement Road, Montoursville, PA 17754. This proposed facility is in Woodward Township, **Lycoming County**.

Description of Proposed Action/Activity: The LCWSA proposes the construction of additional sewer conveyances and six pump stations to include various sewerage hook-ups in Woodward Township, Lycoming County. The proposed sewer conveyances and pump stations will trans-

port the sewerage to Williamsport Sanitary Authority's West Sewage Treatment Plant.

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

WQM Permit No. 1104401, Sewerage, **Russell and Sharon Burk**, 247 Kid Long Road, Gallitzin, PA 16641. This proposed facility is in Gallitzin Township, **Cambria County**.

Description of Proposed Action/Activity: Construction of a single residence sewage treatment plant.

WQM Permit No. 1169402-A5, Sewerage, **Winber Area Authority**, 1200 Stockholm Avenue, Winber, PA 15963. This proposed facility is in Richland Township, **Cambria County**.

Description of Proposed Action/Activity: Placement of an interceptor sewer.

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

WQM Permit No. 6104401, Sewerage, **Stephanie L. Hunt**, 1678 Lisbon Road, Kennerdell, PA 16374. This proposed facility is in Scrubgrass Township, **Venango County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

WQM Permit No. 2004402, Sewerage, **Tammy S. Breckenridge**, 9596 Mercer Pike, Meadville, PA 16335. This proposed facility is in Union Township, **Crawford 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. | Applicant Name and Address | County | Municipality | Receiving Water/Use |
|------------------|-------------------------------------------------------------------------------------------------------------------------|----------|--------------------------------------|-------------------------------------------|
| PAI012303006 | The Boeing Company Boeing-Crum Creek Flood Control Project P. O. Box 1658, P 25-75 Philadelphia, PA 19142-0858 | Delaware | Ridley Township Eddystone Borough | Crum Creek WWF Delaware River MF |

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

Blair County Conservation District: 1407 Blair Street, Hollidaysburg, PA 16648, (814) 696-0877, Ext. 5.

| NPDES Permit No. | Applicant Name and Address | County | Municipality | Receiving Water/Use |
|------------------|--------------------------------------------------------------------------------|--------|-------------------------|------------------------|
| PAI030704002 | Tony Fitz Gibbons 279 North Zinns Mill Road Suite D Lebanon, PA 17042 | Blair | North Woodbury Township | Clover Creek HQ-CWF |

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

| NPDES Permit No. | Applicant Name and Address | County | Municipality | Receiving Water/Use |
|------------------|--------------------------------------------------------------------------|-----------|-----------------------------------|------------------------------------------------------------------------------------|
| PAI063304001 | Department of Transportation 400 North Street Harrisburg, PA 17120 | Jefferson | Pinecreek and Warsaw Townships | Tributary to Little Mill Creek HQ Tributary to Sugarcamp Run CWF |

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

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

| | |
|-------|-------------------------------------------------------------------------------------------|
| PAG-1 | General Permit for Discharges from Stripper Oil Well Facilities |
| PAG-2 | General Permit for Discharges of Stormwater Associated with Construction Activities (PAR) |
| PAG-3 | General Permit for Discharges of Stormwater from Industrial Activities |
| PAG-4 | General Permit for Discharges from Single Residence Sewage Treatment 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> |
|---------------------------------------------|-------------------|-----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------|-------------------------------------------------------------------------------------------|
| Kennett Township Chester County | PAG2001504006 | Kennett Township and Kennett Area Park Authority Anson B. Nixon Park Field P. O. Box 230 Kennett Square, PA 19348 | East Branch Red Clay Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| East Caln Township Chester County | PAR10G317-R1 | Department of Transportation Interchange US 30 and PA 113 7000 Geerdes Boulevard King of Prussia, PA 19406 | East Branch Brandywine Creek WWF, MF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| West Goshen Township Chester County | PAG2001504037 | Domestic Violence Center of Chester County Temporary Residential Housing P. O. Box 832 West Chester, PA 19381-0832 | Goose Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Birmingham Township Chester County | PAG2001504028 | Joseph Peacock Residence 1106 Dorset Drive West Chester, PA 19382 | Brandywine Creek WWF, MF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| West Sadsbury Township Chester County | PAG2001504040 | A Duie Pyle Companies 100 South Limestone Road Parkesburg, PA 19365 | Valley Creek TSF, MF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| East Marlborough Township Chester County | PAG2001504026 | Brian Campbell Development 402 Bayard Road Kennett Square, PA 19348 | East and West Branches Red Clay Creek TSF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Birmingham Township Chester County | PAG2001504027 | Becker Builders Development 244 Harvey Road Chadds Ford, PA 19317 | Brinton Run WWF, MF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Westtown Township Chester County | PAG2001504007 | John O'Brien Subdivision 123 Chatwood Avenue West Chester, PA 19382 | East Branch Chester Creek TSF, MF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| City of Philadelphia Philadelphia County | PAG2015104004 | Ruggiero Development Company Independence Court Development 74 West Baltimore Pike Media, PA 19063 | Philadelphia Water Department Storm Sewer | 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> |
|---------------------------------------------|-------------------|----------------------------------------------------------------------------------------------------------------------|----------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| City of Philadelphia Philadelphia County | PAG2015104005 | Winther Investments, Inc. Dobson Mills Development 1919 Post Oak Drive Suite 3101 Houston, TX 77227-7085 | Schuylkill River CWF | Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900 |
| Glenburn Township Lackawanna County | PAG2003504016 | Michael Noto P. O. Box 716 Waverly, PA 18471 | Ackerly Creek TSF | Lackawanna County Conservation District (570) 281-9495 |
| Dunmore Borough Lackawanna County | PAG2003504005 | Dunmore Public School District 300 W. Warren St. Dunmore, PA 18512-2235 | Meadow Brook CWF | Lackawanna County Conservation District (570) 281-9495 |
| Heidelberg Township Berks County | PAG2000604030 | David Dieffenbach 57 Host Road Womelsdorf, PA 19567 | UNT to Tulpehocken Creek WWF | Berks County Conservation District P. O. Box 520 1238 County Welfare Road Leesport, PA 19533 (610) 372-4657, Ext. 201 |
| Hereford Township Berks County | PAG200604040 | Keith Masemore 45 Evergreen Lane Barto, PA 19504 | UNT to Perkiomen Creek TSF | Berks County Conservation District P. O. Box 520 1238 County Welfare Road Leesport, PA 19533 (610) 372-4657, Ext. 201 |
| Kutztown Borough Berks County | PAG2000604032 | Kutztown State University P. O. Box 730 Kutztown, PA 19530 | Maiden Creek EV | Berks County Conservation District P. O. Box 520 1238 County Welfare Road Leesport, PA 19533 (610) 372-4657, Ext. 201 |
| City of Altoona Blair County | PAG2000704002 | Jerry Goldstein 220 West Plank Road Altoona, PA 16602 | Mill Run WWF | Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5 |
| Hollidaysburg Borough Blair County | PAG2000704003 | Hollidaysburg Borough 401 Blair Street Hollidaysburg, PA 16648 | Frankstown Branch of Juniata River WWF | Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5 |
| Antis Township Blair County | PAG2000704004 | Jeffery S. Long R. D. 1 Box 426 Tyrone, PA 16686 | UNT Sandy Run CWF | Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5 |
| City of Altoona Blair County | PAG2000704005 | Norfolk Southern Corporation 200 North 4th Avenue Altoona, PA 16601 | Little Juniata River TSF | Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5 |

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| <i>Facility Location and Municipality</i> | <i>Permit No.</i> | <i>Applicant Name and Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office and Telephone No.</i> |
|----------------------------------------------|-----------------------|----------------------------------------------------------------------------------------------------------------|-----------------------------------------------------|--------------------------------------------------------------------------------------------------------------------|
| Antis Township Blair County | PAG2000704009 | Surplus City, Inc. R. R. 7 Box 592 Altoona, PA 16601 | UNT Little Juniata River WWF | Blair County Conservation District 1407 Blair Street Hollidaysburg, PA 16648 (814) 696-0877, Ext. 5 |
| Hampden Township Cumberland County | PAG2002104013 | Dawood Engineering Office II Yasmin Dawood 815 Clubhouse Drive Mechanicsburg, PA 17055 | UNT to Conodoguinet WWF | Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812 |
| Upper Allen Township Cumberland County | PAG2002104008 | Cracker Barrel Old Country Store, Inc. 307 Hartman Drive Lebanon, TN 37087 | Cedar Run CWF | Cumberland County Conservation District 43 Brookwood Avenue Carlisle, PA 17013 (717) 240-7812 |
| Centre County Centre Hall Borough | PAG2001403037 | B. Allan Schoonover Penns Valley Area School District 4528 Penns Valley Rd. Spring Mills, PA 16875 | Sinking Creek CWF | Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817 |
| Centre County Patton Township | PAG2001403052 | Donald Haubert 15 Central Blvd. Camp Hill, PA 17011 | Big Hollow CWF | Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817 |
| Centre County Bellefonte Borough | PAR10F083 Revision | Greg Brown Parkview Heights Assoc. 2090 East College Ave. State College, PA 16801 | UNT Spring Creek HQ-CWF | Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817 |
| Clinton County Castanea Township | PAG2001803004(1) | First Quality Properties IV, LLC 121 North Road McElhattan, PA 17748 | Bald Eagle Creek WWF | Clinton County Conservation District 45 Cooperation Lane Mill Hall, PA 17751 (570) 726-3798, Ext. 5 |
| Cambria County Croyle Township | PAG2001104002 | Federal Highway Administration EFLHD 21400 Ridgetop Circle Sterling, VA 20166 | South Fork Little Conemaugh River CWF | Cambria County Conservation District (814) 472-2120 |
| Fayette County North Union Township | PAG2002604007 | Fay-Penn Economic Development Council Two West Main St. P. O. Box 2101 Uniontown, PA 15401 | Redstone Creek WWF | Fayette County Conservation District (724) 438-4497 |
| Fayette County Menallen Township | PAG2002604017 | Dominic DeFrank P. O. Box 467 New Salem, PA 15468 | Unnamed tributary to Saltlick Run WWF | Fayette County Conservation District (724) 438-4497 |
| Somerset County Lincoln Township | PAG2005604005 | Sipesville Volunteer Fire Department 968 Schoolhouse Rd. Sipesville, PA 15561 | Unnamed tributary to Quemahoning Creek CWF | Somerset County Conservation District (814) 445-4652 |

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> |
|-------------------------------------------|-------------------|--------------------------------------------------------------------------------------------------|-------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| Dauphin County Derry Township | PAR123521 | Hershey Foods Corporation H. B. Reese Candy Co. 925 Reese Avenue Hershey, PA 17033-0430 | Swatara Quarry | SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Dauphin County Swatara Township | PAR803660 | FedEx Freight East, Inc. P. O. Box 840 Harrison, AR 72601 | Laurel Run Susquehanna River Basin WWF | SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Hanover Township Washington County | PAR606118 | Herbert Grubbs Grubbs Auto Wrecking 1279 Route 19 N Burgettstown, PA 15021 | Kings Creek | Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000 |
| Braddock Borough Allegheny County | PAR606124 | Josh Steel Co. 46 Sixth St. Braddock, PA 15104 | Monongahela River | Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000 |
| Rankin Borough Allegheny County | PAR606125 | Josh Steel Co. 46 Sixth St. Braddock, PA 15104 | Monongahela River | Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000 |
| City of New Castle Lawrence County | PAR208337 | New Castle Foundry Company 400 Hobart Street New Castle, PA 16102-1328 | Shenango River | NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |

General Permit Type—PAG-4

| <i>Facility Location and Municipality</i> | <i>Permit No.</i> | <i>Applicant Name and Address</i> | <i>Receiving Water/Use</i> | <i>Contact Office and Telephone No.</i> |
|-------------------------------------------|-------------------|------------------------------------------------------------------------------|------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------|
| Adams County Reading Township | PAG043597 | Jesse Rothenhoefer, Sr. 6850 Carlisle Pike York Springs, PA 17372-9104 | UNT Mud Run WWF | SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Berks County Amity Township | PAG043620 | Michael A. Thompson 43 Valley Road Birdsboro, PA 19508 | UNT Monocacy Creek WWF | SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |
| Gallitzin Township Cambria County | PAG046279 | Russell and Sharon Burk 247 Kid Long Road Gallitzin, PA 16641 | Clearfield Creek | Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000 |

| <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> |
|-----------------------------------------------|-------------------|---------------------------------------------------------------------------------------|-----------------------------------------|--------------------------------------------------------------------------------------------------|
| Scrubgrass Township Venango County | PAG048961 | Stephanie L. Hunt 1678 Lisbon Road Kennerdell, PA 16374 | Perry Run | NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| Union Township Crawford County | PAG048957 | Tammy S. Breckenridge 9596 Mercer Pike Meadville, PA 16335 | Unnamed tributary to French Creek | NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| South Pymatuning Township Mercer County | PAG048604 | George I. Johnson 5345 Tamarack Drive Sharpsville, PA 16150-0165 | Unnamed tributary to McCullough Run | NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| Vernon Township Crawford County | PAG048600 | Donald K. Jr. and Kelli L. Granda 16571 Harmonsburg Road Meadville, PA 16335 | Unnamed tributary to Cussewago Creek | NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| Greene Township Erie County | PAG048620 | William J. Brooks, Jr. 8928 Horseshoe Drive Erie, PA 16510-5053 | Unnamed tributary of Fourmile Creek | NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| Annin Township McKean County | PAG048581 | Patrick M. Aaron 163 Annin Creek Road Turtlepoint, PA 16750 | Unnamed tributary to Annin Creek | NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |
| Lackawannock Township Mercer County | PAG048575 | David P. Reeher 1021 Bend Road Mercer, PA 16137 | Harthegig Run | NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942 |

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> |
|-------------------------------------------|-------------------|----------------------------------------------------------------------|---------------------------------|-----------------------------------------------------------------------|
| Blair County Kimmel Township | PAG053579 | Wright Milling Company 1581 Beaverdam Road Claysburg, PA 16625 | UNT to Beaver Dam Run CWF | SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707 |

General Permit Type—PAG-8

| <i>Facility Location and Municipality</i> | <i>Permit No.</i> | <i>Applicant Name and Address</i> | <i>Contact Office and Telephone No.</i> |
|-------------------------------------------|-------------------|------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------|
| Hopewell Township York County | PAG083572 | Stewartstown Borough Authority Stewartstown WWTP 6 N. Main St. Stewartstown, PA 17363 | SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707 |

General Permit Type—PAG-9 (SSN)

| <i>Facility Location and Municipality</i> | <i>Applicant Name and Address</i> | <i>Contact Office and Telephone No.</i> |
|-----------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| Costanza Biosolids Site South Huntingdon Township Westmoreland County | Louis Costanza Elephant Septic Tank Service Inc. 176 Buffalo Hill Road Irwin, PA 15642 | Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000 |

*General Permit Type—PAG-13**Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

| <i>NPDES Permit No.</i> | <i>Applicant Name and Address</i> | <i>County</i> | <i>Municipality</i> | <i>Receiving Water/Use</i> |
|-------------------------|--------------------------------------------------------------------------------|---------------|---------------------|-----------------------------------------------------------|
| PAG130050 | Falls Township 188 Lincoln Highway Suite 100 Fairless Hills, PA 19030 | Bucks | Falls | Delaware River South |
| PAG130157 | Horsham Township 1025 Horsham Road Horsham, PA 19044-1326 | Montgomery | Horsham | Neshaminy/Little Neshaminy Pennypack Wissahickon |

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.

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

Operations Permit issued to **Schuylkill County Municipal Authority**, 221 South Centre Street, Pottsville, PA 17901, PWS ID 3540046, Tremont Borough, **Schuylkill County** on April 2, 2004, for the operation of facilities approved under Construction Permit N/A.

Operations Permit issued to **Easton Suburban Water Authority**, 2414 Butler Street, Easton, PA 18043, PWS ID 3480064, Williams Township, City of Easton, Palmer-Forks and Lower Nazareth Townships, **Northampton County** on April 26, 2004, for the operation of facilities approved under Construction Permit No. 4802502.

Operations Permit issued to **Montrose Terrace Mobile Home Park**, R. R. 6, Box 6067, Montrose, PA 18801, PWS ID 2580040, Bridgewater Township, **Susquehanna County** on April 26, 2004, for the operation of facilities approved under Construction Permit No. 5889503 issued August 22, 1994, and Minor Amendment issued July 5, 2002.

Operations Permit issued to **Pennsylvania American Water**, 800 West Hersheypark Drive, Hershey, PA 17033, PWS ID 2520062, Lehman Township, **Pike County** on April 29, 2004, for the operation of facilities approved under Construction Permit N/A.

Operations Permit issued to **Pocono Springs Company**, P. O. Box 787, Mount Pocono, PA 18344-0787, PWS ID 2406277, Bear Creek, Coolbaugh and Mt. Pocono Townships, **Luzerne and Monroe Counties** on April 29, 2004, for the operation of facilities approved under Construction Permit No. 4503506 issued on April 2, 2004.

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

Permit No. 2204501, Public Water Supply.

| | |
|------------------|--------------------------------------------|
| Applicant | Water To Go + Nutrition |
| Municipality | Lower Paxton Township |
| County | Dauphin |
| Type of Facility | Installation of a new retail water system. |

Consulting Engineer James C. Elliot, P. E.
Gannett Fleming, Inc.
P. O. Box 67100
Harrisburg, PA 17106-7100

Permit to Construct April 9, 2004
Issued:

Operations Permit issued to **The Harrisburg Authority**, 7220049, Harrisburg, **Dauphin County** on April 3, 2002, for the operation of facilities approved under Construction Permit No. 2201505 MA.

Operations Permit issued to **Red Lion Municipal Authority**, 7670091, Windsor Township, **York County** on April 19, 2004, for the operation of facilities approved under Construction Permit No. 6796504.

Operations Permit issued to **Exelon Generation**, 7670905, Peach Bottom Township, **York County** on April 30, 2004, for the operation of facilities approved under Construction Permit No. 6704505 E.

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

Operations Permit issued to **Shane Kosterman, Woodhaven MHP**, 7950 Page Rd., Wattsburg, PA 16442, PWS ID 6250084, Greene Township, **Erie County**, on April 28, 2004, for the operation of new potable water storage, turbidity meters and recorder, as approved under Construction Permit No. 2595504-MA2.

Operations Permit issued to **Pennsylvania American Water Co.**, 3736 Ellwood Rd., New Castle, PA 16101, PWS ID 6370034, Mahoning and Union Townships, **Lawrence County**, on April 28, 2004, for the operation of extended water lines and Winter Road finished water storage tank, as approved under Construction Permit No. 3799502-MA1.

Permit No. 2592503-MA6, Minor Amendment, Public Water Supply

Applicant **Erie City Water Authority**
Borough or Township Lawrence Park Township
County **Erie**
Type of Facility PWS
Consulting Engineer KLH Engineers, Inc.
5173 Campbells Run Rd.
Pittsburgh, PA 15205

Permit to Construct April 27, 2004
Issued

SEWAGE FACILITIES ACT PLAN APPROVAL

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

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

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|------------------------------------------|---------------|
| Heidelberg Township | 6424 York Road Spring Grove, PA 17362 | York |

Plan Description: A3-67928-101-3s, Donald Weaver. The approved plan provides for a two-lot single family residential subdivision on 57.81 acres with total proposed sewage flows of 400 gpd, which will be treated by an individual small flow treatment facility. The proposed development is at 1871 Smith Station Road, on the west

side, just north of Yingling Drive in Heidelberg Township, York County. Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

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

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|------------------------------------------|---------------|
| Neshannock Township | 3131 Mercer Road New Castle, PA 16101 | Lawrence |

Plan Description: The approved plan provides for the construction of sewage conveyance facilities to serve existing Neshannock Township sewer areas and the proposed Millennium Industrial Park. Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|--------------------------------------|---------------|
| McKean Borough | 8952 Main Street McKean, PA 16426 | Erie |

Plan Description: The approved plan provides for the upgrading of the Borough's wastewater treatment plant. The proposed upgrades consist primarily of the construction of a second treatment tank and refurbishing of the first. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

| <i>Borough or Township</i> | <i>Borough or Township Address</i> | <i>County</i> |
|----------------------------|------------------------------------|---------------|
| Monroe Township | 17956 Route 68 Sligo, PA 16255 | Clarion |

Plan Description: The approved plan provides for the construction of a sanitary sewer collection and conveyance system for a portion of Monroe Township, including the Village of Williamsburg and a large KOEZ with wastewater treatment at a .125 MGD wastewater treatment plant. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES permits or WQM permits must be obtained in the name of the municipality or authority as appropriate.

HAZARDOUS SITES CLEANUP UNDER THE ACT OF OCTOBER 18, 1988

Proposed Remedial Response

Chem Fab Site, Doylestown Borough, Bucks County

The Department of Environmental Protection (Department), under the authority of the Hazardous Sites Cleanup Act (HSCA) (35 P. S. §§ 6020.102—6020.1303), is proposing a remedial response at the Chem Fab Site (Site), 300 N. Broad St., Doylestown Borough, Bucks County.

Contamination from the Site extends into neighboring properties in Doylestown Township. The Site consists of a 1-acre parcel of land with three buildings currently in existence and the area of contamination associated with

the parcel. There was once an aboveground storage tank farm and a large underground tank that contained waste chromic acid on the 1-acre parcel. The Site includes both soil and groundwater contamination and an area of intermittent surface water contamination in a drainage swale. The population of Doylestown Borough, the county seat, is approximately 9,000 and the population of Doylestown Township is over 15,000. The current land use of the 1-acre parcel is as offices and commercial space. The neighboring affected properties, also included in the Site, are commercial/light industrial, residential and municipal. Cooks Run, a tributary of the Neshaminy Creek, is to the west of the Site and flows across residential property. It is a Chapter 305 nonattaining stream. Cooks Run's FEMA 100-year floodplain is along the western edge of the Site. Doylestown Municipal Water Authority's Well No. 13 is within 1/4 mile of the Site. The plume of groundwater contamination at the Site is within the designated Wellhead Protection Area of Doylestown Municipal Authority Well No. 13.

There is significant soil and groundwater contamination at the original 1-acre Chem Fab parcel and on a parcel now owned by Extra Space, Inc. The plume of groundwater contamination at the Site extends onto properties owned by Ms. B. Henning and the Bucks County Water and Sewer Authority. The groundwater plume is moving towards a public water supply well owned by Doylestown Water Authority.

The soils are contaminated with a number of chlorinated solvents and metals, including hexavalent chromium. The groundwater is contaminated with chlorinated solvents, other organics and a number of metals, including hexavalent chromium. In certain monitoring wells installed by the Department, the groundwater varies in pH from 2 to over 12 and is bright yellow in color due to extremely high concentrations of chromium.

The Site has been listed on the Pennsylvania Priority List for remediation.

The Department has considered seven alternatives for conducting groundwater remediation at the Site.

Alternative 1—No Action: A "No Action" alternative provides a baseline against which all other alternatives can be prepared and/or judged. Had the Department selected the "No Action" alternative, any actual or potential health and environmental risk posed by the Site would have remained the same.

Alternative 2—Groundwater Monitoring: This alternative consists of quarterly monitoring of the existing well network. Fate and transport analysis of the contaminant plume would be evaluated numerically and the potential for continued migration would be determined. This alternative could provide a warning to downgradient users, but would not comply with ARARs for removal or treatment of contaminants. No capital costs would be involved and the technology to implement this remedy is readily available. Risks to human health and the environment would remain at the current levels.

Alternative 3—Groundwater Monitoring, Extraction, Ex-Situ Treatment and Re-Injection: This alternative would include the following components: (1) groundwater monitoring—quarterly monitoring of the existing well network, as in Alternative 2; (2) groundwater extraction using three new extraction wells, to be near the former tank farm and former UST on the Chem Fab property and near MW-05 on the Extra Space property; (3) ex-situ treatment of extracted water to remove hexavalent chromium, other metals and chlorinated organic compounds;

and (4) reinjection of treated water through a network of approximately ten new wells to be placed using numerical ground water flow analysis. This remedy would minimize the continued offsite migration of the contaminant plume and reduce risks to human health and the environment. It would be easy to implement using standard technologies.

Alternative 4—Groundwater Monitoring, Ex-Situ Treatment, In-Situ Groundwater Treatment and Re-Injection: This alternative would include the following components: (1) groundwater monitoring—quarterly monitoring of the existing well network, as in Alternative 2; (2) groundwater extraction using five new extraction wells, to be near the former tank farm and former UST on the Chem Fab property and near MW-05 on the Extra Space property and near MW-20 on the Bucks County Water and Sewer Authority property; (3) ex-situ treatment of extracted water to remove hexavalent chromium, other metals and chlorinated organic compounds; (4) a reducing agent would be added to the treated groundwater prior to reinjection; and (5) reinjection of treated water through a network of approximately 15 new wells to be placed using numerical ground water flow analysis. This remedy would minimize the continued offsite migration of the contaminant plume and reduce risks to human health and the environment. It would be easy to implement using standard technologies. Addition of the reducing agent would enhance conversion of chromium to a lower solubility trivalent hydroxide salt and promote the reduction of chlorinated organic compounds.

Alternative 5—Groundwater Monitoring, Extraction from Hydrofractured bedrock, Ex-Situ Treatment and Re-Injection: This alternative would include the following components: (1) groundwater monitoring—quarterly monitoring of the existing well network, as in Alternative 2; (2) groundwater extraction using three new wells, to be near the former tank farm and former UST on the Chem Fab property and near MW-05 on the Extra Space property; (3) hydrofracturing—the shallow bedrock, extending to 50 feet below ground surface, would be hydrofractured in the collection and reinjection zones to increase the permeability of the rock and the interception of existing fracture zones; (4) ex-situ treatment of extracted water to remove hexavalent chromium, other metals and chlorinated organic compounds; and (5) reinjection of treated water through a network of approximately ten new wells to be placed using numerical ground water flow analysis. This remedy would minimize the continued offsite migration of the contaminant plume and reduce risks to human health and the environment. It would be easy to implement using standard technologies. Hydrofracturing would enhance the system operation relative to Alternative 3.

Alternative 6—Groundwater Monitoring, Extraction from Hydrofractured bedrock, Ex-Situ Treatment, Re-Injection and In-Situ Groundwater Treatment: This alternative would include the following components: (1) groundwater monitoring—quarterly monitoring of the existing well network, as in Alternative 2; (2) groundwater extraction using three new wells, to be near the former tank farm and former UST on the Chem Fab property and near MW-05 on the Extra Space property; (3) hydrofracturing—the shallow bedrock, extending to 50 feet below ground surface, would be hydrofractured in the collection and reinjection zones to increase the permeability of the rock and the interception of existing fracture zones; (4) ex-situ treatment of extracted water to remove hexavalent chromium, other metals and chlorinated organic compounds; (5) a reducing agent would be added to

the treated groundwater prior to reinjection; and (6) reinjection of treated water through a network of approximately 15 new wells to be placed using numerical ground water flow analysis. This remedy would minimize the continued offsite migration of the contaminant plume and reduce risks to human health and the environment. It would be easy to implement using standard technologies. Hydrofracturing would enhance the system operation relative to Alternative 3. Addition of the reducing agent would enhance conversion of chromium to a lower solubility trivalent hydroxide salt and promote the reduction of chlorinated organic compounds.

Alternative 7—Groundwater Monitoring, Extraction from Hydrofractured bedrock, Ex-Situ Treatment, Re-Injection and In-Situ Groundwater Treatment and a Permeable Reactive Barrier: This alternative would include the following components: (1) groundwater monitoring—quarterly monitoring of the existing well network, as in Alternative 2; (2) groundwater extraction using five new wells, to be near the former tank farm and former UST on the Chem Fab property, near MW-05 on the Extra Space property and near MW-20 on the Bucks County Water and Sewer Authority Property; (3) hydrofracturing—the shallow bedrock, extending to 50 feet below ground surface, would be hydrofractured in the collection and reinjection zones to increase the permeability of the rock and the interception of existing fracture zones; (4) ex-situ treatment of extracted water to remove hexavalent chromium, other metals and chlorinated organic compounds; (5) a reducing agent would be added to the treated groundwater prior to reinjection; (6) reinjection of treated water through a network of approximately 15 new wells to be placed using numerical ground water flow analysis; and (7) a permeable reactive barrier around the major source areas, established in a zone of hydrofractured bedrock, where reductant would be injected to treat groundwater moving off the site. This remedy would minimize the continued offsite migration of the contaminant plume and reduce risks to human health and the environment. It would be easy to implement using standard technologies. Hydrofracturing would enhance the system operation relative to Alternative 3. Addition of the reducing agent would enhance conversion of chromium to a lower solubility trivalent hydroxide salt and promote the reduction of chlorinated organic compounds. The exact location and extent of the reactive barriers necessary has not been determined and it is questionable whether the barriers would enhance remediation.

The Department has selected Alternative 4, Groundwater Monitoring, Ex-Situ Treatment, In-Situ Groundwater Treatment and Re-Injection. This alternative is technically feasible, implementable and would reduce risks to human health and the environment. The Department feels that hydrofracturing would be problematic at this Site and is choosing a remedy that does not employ this technology. The Department will consider methods of enhancing groundwater capture in the future based upon the effectiveness of the selected alternative.

An Administrative Record, which contains more detailed information concerning the remedial response action, is available for public inspection from 8 a.m. to 4 p.m. at the Department's offices at 2 East Main Street, Norristown, PA 19401 by calling April Flipse, (484) 250-5721.

An additional copy of the Administrative Record is available for review at the Doylestown Borough Hall, 57 West Court Street, Doylestown, PA 18901. A public hear-

ing is scheduled under section 506(d) of the HSCA (35 P. S. § 6020.506(d)) for June 22, 2004, at 7:15 p.m. at the Doylestown Borough Hall. Department staff will be available to informally answer questions beginning at 6:30 p.m. at the Doylestown Borough Hall. Persons who wish to present formal oral comments regarding this proposed response action may do so by registering with the Department before the hearing. Individuals may register by calling Lynda Rebarchak, Community Relations Coordinator, (484) 250-5820.

Individuals who wish to attend the public hearing in need of an accommodation as provided for in the Americans With Disabilities Act should contact Lynda Rebarchak at the previous number or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

The public may also submit written comments regarding the Department's proposed response action during the period of public comment. Under section 506(c) of the HSCA, the Department has established a period for public comment, which shall run from the date of this notice through August 16, 2004. Written comments should be addressed to April Flipse, Project Officer, at the Department's previous address. Individuals with questions concerning this notice should contact April Flipse.

Extension of Public Comment Period

Vandor Manufacturing Site, Doylestown Township, Bucks County

The Department, under the authority of the HSCA, has proposed an interim response at the Vandor Manufacturing Site (Site), Doylestown Township, Bucks County. This response will be undertaken under sections 501(a) and 505(b) of the HSCA (35 P. S. §§ 6020.501(a) and 6020.505(b)).

The Site is on the border of Doylestown and Buckingham Townships, Bucks County. The Site is comprised of two properties at 740 and 760 Edison Furlong Road and an associated plume of contaminated groundwater. Edison Furlong Road constitutes the boundary between the two townships. Both properties are in Doylestown Township. The Site consists of a plume of groundwater contaminated with VOCs, most notably trichloroethylene and perchloroethylene.

Under sections 505(b) and 506(b) of the HSCA, the Department is extending the Administrative Record public comment period by 90 days from the publication of this notice. The Administrative Record, which contains information about this Site and supports the Department's decision to perform these actions at the Site, is available for public review and comment from 8 a.m. to 4 p.m. at the Department's Southeast Regional Office, 2 East Main Street, Norristown, PA 19401 by contacting Grant Morehead at (484) 250-5727 for an appointment. The Administrative Record may also be reviewed at the Doylestown Township Building, 425 Wells Road, Doylestown, PA 18901. Call (215) 348-9915 to schedule an appointment at the Doylestown Township Building.

The Administrative Record will be open for comment from the date of publication of this notice in the *Pennsylvania Bulletin* and will remain open for 90 days. Persons may submit written comments regarding these actions to the Department until August 13, 2004, by sending them to Grant Morehead, Department of Environmental Protection, 2 East Main Street, Norristown, PA 19401, gmorehead@state.pa.us. E-mails should state "Comment

on Administrative Record for Vandor Manufacturing HSCA Site" in the subject line.

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:

Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.

Thelma H. McGrail Trust, Parkesburg Borough, **Chester County**. William F. Beers, Tetrahedron Consultants, Inc., P. O. Box 152, Oxford, PA 19363, on behalf of Thelma H. McGrail Trust, Daniel A. Winters, Trustee, 205 Chadds Ford Professional Center, Chadds Ford, PA 19317, has submitted a Final Report concerning remediation of site soils contaminated with inorganics and PCB. The report is intended to document remediation of the site to meet the Statewide Health Standard.

J. W. Maxwell & Son, Inc., Downingtown Borough, **Chester County**. James Arthur, Environmental Standards, Inc., 1140 Valley Forge Rd., P. O. Box 810, Valley

Forge, PA 19482-0810, on behalf of J. W. Maxwell, Inc., Thomas Trego, Sr., 12 Wallace Ave., Downingtown, PA 19335, has submitted a Final Report concerning remediation of site soil contaminated with no. 2 fuel oil and unleaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

United Transportation Corp., Morton Borough, **Delaware County**. Kurt J. Spiess, Environmental Management Group, Inc., 5066R West Chester Pike, P. O. Box 129, Edgemont, PA 19028, on behalf of United Transportation Corp., 501 Highland Ave., Morton, PA 19070, has submitted a Final Report concerning remediation of site groundwater contaminated with vinyl chloride and MTBE. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Darby Creek Joint Authority Former Sewage Treatment Plant, Darby Township, **Delaware County**. Edward R. Kashdan, P. E., Gannett Fleming, Inc., P. O. Box 80794, Valley Forge, PA 19484-0794, on behalf of Darby Creek Joint Authority, DELCORA, 100 E. Fifth St., P. O. Box 999, Chester, PA 19016-0999, has submitted a Remedial Investigation/Risk Assessment Report concerning the remediation of site soil contaminated with inorganics, PAH and PCB and groundwater contaminated with inorganics.

Verizon Inc.—Ardmore Business Center, Lower Merion Township, **Montgomery County**. Sean M. Damon, Langan Engineering & Environmental Services, 500 Hyde Park, Doylestown, PA 18901-6619, on behalf of Verizon, Inc., Cheryl L. Houghton, 966 S. Matlack St., West Chester, PA 19380, has submitted a Final Report concerning the remediation of site soil contaminated with no. 2 fuel oil. The report was submitted within 90 days of the release and is intended to document remediation of the site to meet the Statewide Health Standard.

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

Novick Chemical Co., Inc., City of Scranton, **Lackawanna County**. Martin Gilgallon, P. G., Project Hydrogeologist, PA Tectonics, Inc., 826 Main Street, Peckville, PA 18452 has submitted a combined Remedial Investigation Report and Risk Assessment Report (on behalf of Edward Novick, Novick Chemical Company, 705 Davis Street, Scranton, PA 18505) concerning the remediation of soils found or suspected to have been contaminated with chlorinated solvents and other organics as the result of historic site operations. The reports were submitted in partial fulfillment of the Site-Specific Standard.

Kerr-McGee Chemical LLC—Avoca Property, Avoca Borough, **Luzerne County**. David R. Kerschner, P. G., Principal, KU Resources, Inc., One Library Place, Suite 207, Duquesne, PA 15110 has submitted a combined Remedial Investigation Report and Risk Assessment Report (on behalf of Kerr-McGee Chemical LLC, P. O. Box 25861, Oklahoma City, OK 73125) concerning the characterization and remediation of site soils found or suspected to be contaminated with lead and other inorganics, PAHs and other organics. The reports were submitted in partial fulfillment of the Site-Specific Standard.

Mark Development Company (Walgreens Store No. 07739), City of Scranton, **Lackawanna County**. Christopher D. Carlson, P. G., Senior Project Manager, ATC Associates, 2200 Garden Drive, Suite 200, Seven Fields, PA 16046 has submitted a Final Report (on behalf

of Mark Development Company, P. O. Box 1389, Kingston, PA 18704) concerning the remediation of site soils for benzene and benzidine as the result of historic operations. The report was submitted to document attainment of a Statewide Health Standard.

Munoz Residence, East Stroudsburg Borough, **Monroe County**. Salvatore Sciascia, President, S & M Management, Inc., P. O. Box 1429, Milford, PA 18337, submitted a Final Report (on behalf of Francisco Munoz, Oak Street, East Stroudsburg, PA) concerning the remediation of soils impacted by the accidental release of no. 2 fuel oil during a delivery. The report was submitted to document attainment of the Residential Statewide Health Standard. A Notice of Intent to Remediate was simultaneously submitted.

Former Slatington Manufactured Gas Plant Site, Slatington Borough, **Lehigh County**. The RETEC Group, Inc., 3040 William Pitt Way, Pittsburgh, PA 15238-1359, submitted a Final Report (on behalf of PPL Gas Utilities, Inc., Two North Ninth St., Allentown, PA 18101) concerning the remediation of the subject site for residual contaminants in soil, groundwater and adjacent surface water found or suspected to have been contaminated with metals, polycyclic aromatic hydrocarbons, phenolics, cyanides and BTEX compounds related to historic manufactured gas plant operations. The report was submitted to document attainment under a combination of both the Statewide Health and Site-Specific Standards.

Former Durkee Foods Property, City of Bethlehem, **Lehigh County**. Peter Berkout, Senior Environmental Engineer, Environmental Waste Management Associates, LLC, 100 Misty Lane, P. O. Box 5430, Parsippany, NJ 07054 has submitted a Remedial Investigation Report and Cleanup Plan (on behalf of Tiger Den Partners, LLC, 171 Route 173, Suite 201, Asbury, NJ 08802) concerning the remediation of soils and groundwater found or suspected of being contaminated with various petroleum products, chlorinated solvents, polycyclic aromatic hydrocarbons, lead and/or other inorganics. The reports were submitted in partial fulfillment of a combination of the residential and Nonresidential Statewide Health and Site-Specific Standards.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), 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:

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

Former Penn Fuel Gas Manufactured Gas Plant—Pottsville Site, City of Pottsville, **Schuylkill County**. RETEC Group, Inc., 3040 William Pitt Way, Pittsburgh, PA 15238 submitted a Cleanup Plan (on behalf of PPL Gas Utilities, Two North Ninth Street, Allentown, PA 18101) concerning the remedy design of the subject site for residual contaminants in soil, groundwater and adjacent surface water found or suspected to have been contaminated with metals, polycyclic aromatic hydrocarbons, phenolics, cyanides and BTEX compounds related to historic manufactured gas plant operations. The plan was submitted in partial fulfillment of a combination of both the Statewide Health and Site-Specific Standards and was approved on April 29, 2004.

Exide Technologies Property—Dunmore Plant, Dunmore Borough, **Lackawanna County**. Sean Gallagher, Project Manager, Gannett Fleming Inc., 202 Wall Street, Princeton, NJ 08540 submitted a combined Remedial Investigation Report, Cleanup Plan and Final Report (on behalf of Exide Technologies, 3000 Montrose Avenue, Reading, PA 19605) concerning the characterization and remediation of site soils found or suspected to be contaminated with lead, chlorinated solvents and other organics and fuel oil nos. 2 and 4—6. The reports were submitted in fulfillment of a combination of the Nonresidential Statewide Health Standard and Site-Specific Standards and were approved March 8, 2004.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Cabela's Hamburg Store, Tilden Township, **Berks County**. Advantage Engineering, LLC, 20 South 36th Street, Camp Hill, PA 17011, on behalf of Cabela's Lodging, LLC and Cabela's Retail, LLC, One Cabela's Drive, Sidney, NE 69160, submitted a Final Report concerning remediation of site soils contaminated with lead. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on May 3, 2004.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Permits issued, suspended, expired, denied, revoked, reinstated or returned under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste treatment, storage or disposal facility.

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

PAD987367216. AERC.com Inc., 2591 Mitchell Avenue, Allentown, PA 18103-6609. The permit has been reissued to AERC.com Inc. for the receipt, storage and treatment of approved hazardous and residual wastes at this existing hazardous waste management facility (formerly Advanced Environmental Recycling Company LLC) in the City of Allentown, **Lehigh County**. The reissued permit also incorporated requested changes in the facility's operation including limited brokerage of previously approved waste types, the management of electronic scrap (including cathode ray tubes), a new site inventory system, relocation of various processing and storage/staging areas within the facility and minor modifications to the facility's hydrometallurgical and lamp processing systems. The Department also updated the permit to clarify various regulatory requirements for the management of segregated residual waste, universal waste batteries and other hazardous wastes including primary waste codes K071, K106, P030 and P092. The permit replaces the facility's original August 19, 1996, hazardous waste management permit. The permit was reissued in the Regional Office on April 6, 2004. It will expire on August 19, 2006.

HAZARDOUS WASTE ACTION—INTENT TO REDUCE BOND

Proposed action on an application for a permit under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a hazardous waste management facility.

Regional Office: Regional Manager, Waste Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit No. PAD003068282. Molycorp, Inc., Canton Township, **Washington County**. On April 6, 2004, the Department received a request for a financial assurance reduction from Molycorp, Inc. for groundwater monitoring at its clean closed Washington facility surface impoundments. The Department has reviewed the request and has determined that it is consistent with 25 Pa. Code § 265.165.

Persons wishing to comment on the proposed action are invited to submit a statement to the regional office indicated as the office responsible within 45 days from the date of this public notice. Comments received within this 45-day period will be considered in the formulation of the final determination regarding this application. Re-

sponses should include the name, address and telephone number of the writer and concise statement to inform the regional office of the exact basis of any 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 45-day comment period and/or public hearing, the Department will make a final determination regarding the proposed permit action. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

REGISTRATION FOR GENERAL PERMIT—RESIDUAL WASTE

Registration Approved under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Residual Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and residual waste regulations for a general permit to operate residual waste processing facilities and/or the beneficial use of residual waste other than coal ash.

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

Registration under **General Permit No. WMGR090R028. American Asphalt Paving Co.**, 500 Chase Road, Shavertown, PA 18708-9622. General Permit Number WMGR090 authorizes the processing and beneficial use of reclaimed asphalt pavement materials as a roadway construction material. The Central Office approved this registration for coverage under the general permit on April 30, 2004.

Persons interested in obtaining more information or obtaining copies of the general permit should contact Ronald C. Hassinger, Chief, General Permits and Beneficial Use Section, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, Rachel Carson State Office Building, P. O. Box 8472, Harrisburg, PA 17105-8472, (717) 787-7381. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permit revoked under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 603130. Borough of Huntingdon, 530 Washington Street, P. O. Box 592, Huntingdon, PA 16652-0592. The permit was revoked at the request of the permittee for the Kyper Farm Site 1, Smithfield Township, **Huntingdon County**. The permit was revoked by the Southcentral Regional Office on May 3, 2004.

Persons interested in reviewing the general permit should contact Cynthia Wolfe, File Review Coordinator, Southcentral Regional Office, 909 Elmerton Avenue, Harrisburg, PA 17110-8200, (717) 705-4732. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

MUNICIPAL AND RESIDUAL WASTE TRANSPORTER AUTHORIZATION

Issued applications for Municipal and Residual Waste Transporter Interim Authorization received under the Waste Transportation Safety Act (27 Pa.C.S. §§ 6201–6209) and regulations to transport municipal or residual waste.

Central Office: Bureau of Land Recycling and Waste Management, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472.

Henry Yeska & Son, Inc., 821 Georgetown Rd., Nazareth, PA 18064-9781. Authorization No. WH2210. Effective March 31, 2004.

Sequoia Landscaping, 4440 Bensalem Blvd., Bensalem, PA 19020. Authorization No. WH4840. Effective March 31, 2004.

Federouch Contracting, P. O. Box 522, Lawrence, PA 15055. Authorization No. WH5500. Effective April 27, 2004.

Parsons Motor Freight, Inc., P. O. Box 358, Bunker Hill, WV 25413-0358. Authorization No. WH5985. Effective March 31, 2004.

Durbin's Contracting d/b/a William L. Durbin, 169 Headley Rd., Washington, PA 15301. Authorization No. WH6024. Effective April 27, 2004.

Southern Ocean, Inc., 103 Roxie Ave., North Beach, NJ 08008-5636. Authorization No. WH6026. Effective March 31, 2004.

Enrique Navarro, 6234 Wheeler St., Philadelphia, PA 19142. Authorization No. WH6035. Effective April 12, 2004.

Thos. Somerville Co., 425 Nelson St., Chambersburg, PA 17201. Authorization No. WH6038. Effective April 9, 2004.

Romaine Trucking, 808 Bellport Ave., Bellport, NY 11713. Authorization No. WH6042. Effective April 5, 2004.

J. A. Frisina, Inc., P. O. Box 154, 2 Kinzua St., Bradford, PA 16701-0154. Authorization No. WH6046. Effective April 1, 2004.

Brian C. Himes, Burkett Hollow Rd., 3167, Brookville, PA 15825. Authorization No. WH6050. Effective April 5, 2004.

Aly A. Elsayed, 4607 N. Oaks Blvd., North Brunswick, NJ 08902. Authorization No. WH6052. Effective April 5, 2004.

Three Tees, Inc., 104 N. Kimberly Ave., Somerset, PA 15501. Authorization No. WH6053. Effective April 5, 2004.

C. Sphon Trucking, LLC, 454 Hollar's Ext., Everett, PA 15537-9677. Authorization No. WH6055. Effective April 5, 2004.

Marden D. Pineda, 602 Depot St., Scranton, PA 18509. Authorization No. WH6056. Effective April 9, 2004.

Don's Topsoil, P. O. Box 284, Sellersville, PA 18960. Authorization No. WH6057. Effective April 9, 2004.

Robert L. Bealer & Son, Inc., 1406 Farmington Ave., Pottstown, PA 19464. Authorization No. WH6058. Effective April 9, 2004.

Payano Transportation, Corp., Suite 3, 12-45 River Rd., Fairlawn, NJ 07410. Authorization No. WH6059. Effective April 9, 2004.

Goode Trash Removal, Inc., 4700 Lawrence St., Hyattsville, MD 20781. Authorization No. WH6060. Effective April 9, 2004.

Grimes Systems Co., Inc., 8005 Reich's Ford Rd., Fredrick, MD 21704. Authorization No. WH6061. Effective April 9, 2004.

Department of Transportation, Fl. 8, 400 North St., Harrisburg, PA 17120-0041. Authorization No. WH6062. Effective April 9, 2004.

Mark J. Rusnak, 486 Rusnak Ln., Phillipsburg, PA 16866. Authorization No. WH6063. Effective April 9, 2004.

Angel M. Campos, 504 Delavant St., Newark, NJ 07107. Authorization No. WH6064. Effective April 9, 2004.

Cristobal C. Veliz, 211 Meserole St., Brooklyn, NY 11206. Authorization No. WH6065. Effective April 9, 2004.

Ciro Assoc., LLC, 51 Curo Rd., N. Branford, CT 06471. Authorization No. WH6066. Effective April 9, 2004.

The Gehring Corporation, 2512 Eberhart Rd., Whitehall, PA 18052. Authorization No. WH6067. Effective April 9, 2004.

Douglas L Gibson Enterprises, Inc., 1586 Quarry Rd., Lansdale, PA 19446-4306. Authorization No. WH6068. Effective April 9, 2004.

Sukhminder Singh, 14 Thornbriar Ln., Burlington, NJ 08016. Authorization No. WH6069. Effective April 9, 2004.

David Laird, R. R. 1, Box 297 A, Long Run Rd., West Decatur, PA 16878. Authorization No. WH6070. Effective April 9, 2004.

Gerald E. Olver, R. R. 3, Box 3360, Honesdale, PA 18431. Authorization No. WH6071. Effective April 9, 2004.

Mark J. Rendulic, Birch St., P. O. Box 185, Lanse, PA 16849. Authorization No. WH6072. Effective April 9, 2004.

Glen C. Moyer, 9127 Gachenbach Rd., Kempton, PA 19529. Authorization No. WH6073. Effective April 9, 2004.

Baxter Landscape Contracting, 501 Bladerston Dr., Exton, PA 19341. Authorization No. WH6074. Effective April 9, 2004.

Mechanical Piping Corp., 4544 Richmond St., P. O. Box 11333, Philadelphia, PA 19137. Authorization No. WH6075. Effective April 9, 2004.

Ley Excavating, Inc., 1382 Upper Mateer Rd., Vandergrift, PA 15690. Authorization No. WH6076. Effective April 9, 2004.

Wickham A. Grant, 102 Shepard Ave., East Orange, NJ 07018. Authorization No. WH6077. Effective April 27, 2004.

Valley Waste Solutions, Inc., 234 E. Grand Ave., Tower City, PA 17980. Authorization No. WH6078. Effective April 14, 2004.

Jose R. Tavares, 47 Hop O Nose 47, Catskill, NY 12414. Authorization No. WH6079. Effective April 16, 2004.

Tuquel's Transport, Inc., 2900 New York Ave., PMB 95, Union City, NJ 07087. Authorization No. WH6080. Effective April 16, 2004.

Nationwide Transport Services, Inc., 5709 Saddlebridge Dr., Cincinnati, OH 45247. Authorization No. WH6081. Effective April 16, 2004.

BBR Trucking, 1383 Black Bear Ln., Bedford, PA 15522. Authorization No. WH6082. Effective April 16, 2004.

Carl Leicher Construction, Inc., 4174 Woodland Rd., Butler, PA 16002. Authorization No. WH6083. Effective April 16, 2004.

Daniel J. Durica, 1848 Soloman Run Rd., Johnstown, PA 15904. Authorization No. WH6084. Effective April 16, 2004.

Atlantic County Utilities Auth., P. O. Box 996, Pleasantville, NJ 08232-0996. Authorization No. WH6085. Effective April 20, 2004.

Reinaldo Carmoega, 61 Melrose Ave., Vineland, NJ 08360. Authorization No. WH6086. Effective April 16, 2004.

Richard A. Hans, 447 Alfred Dr., South Toms River, NJ 08757. Authorization No. WTT6087. Effective April 16, 2004.

American Sewer Service, Inc., 734 B Ansland Ave., Folcroft, PA 19032. Authorization No. WH6089. Effective April 16, 2004.

Croll Trucking, 2408 W. Irwin St., Aliquippa, PA 15001. Authorization No. WH6090. Effective April 20, 2004.

V-Tech Services, Inc., 3001 Dickinson St., Philadelphia, PA 19146. Authorization No. WH6091. Effective April 20, 2004.

Platinum Trucking, Inc., R. R. 1 Box 1791, Kunkletown, PA 18058. Authorization No. WH6092. Effective April 20, 2004.

K. F. Lawn Care & Landscaping, P. O. Box 43, Bangor, PA 18013. Authorization No. WH6093. Effective April 20, 2004.

Gary M. Snyder, P. O. Box 284, Morrisdale, PA 16858. Authorization No. WH6094. Effective April 14, 2004.

Brighton Exteriors, Inc., Suite 302/186, 3371 Brunswick Pike, Lawrenceville, NJ 08648. Authorization No. WH6095. Effective April 20, 2004.

City Wide Roofing, Inc., 7337 Wissinoming St., Philadelphia, PA 19136. Authorization No. WH96096. Effective April 20, 2004.

ATC Express, Inc., First Floor, 1107 Madison Ave., Elizabeth, NJ 07201. Authorization No. WH6097. Effective April 20, 2004.

D. C. Rauscher, Inc., 1622 NYS Rt. 144, Waterloo, NY 13165. Authorization No. WH6098. Effective April 20, 2004.

Robert E. Hildebrand, Sr., 2455 Brillhart Station Rd., York, PA 17403. Authorization No. WH6099. Effective April 15, 2004.

J & M Transport, R. R. 2, Box 79, Martinsburg, PA 16662. Authorization No. WH6100. Effective April 15, 2004.

K & K Adams, Inc., 2901 Druid Dr., Baltimore, MD 21215. Authorization No. WH6101. Effective April 15, 2004.

Ronald F. Bahr, R. R. 1 Box 65B, Monroeton, PA 18832. Authorization No. WH6012. Effective April 20, 2004.

Equipment Rental Services, LLC, 110 Main St., South Amboy, NJ 08879. Authorization No. WH6103. Effective April 20, 2004.

Eagle Express Trucking, Inc., Brussels St., 1300, Saint Mary's, PA 15857. Authorization No. WH6104. Effective April 20, 2004.

International Freight System, 644 Ridgedale Ave., Woodbridge, NJ 07095. Authorization No. WH6107. Effective April 20, 2004.

Summit Hardwoods, Inc., 9697 Perry Highway, Waterford, PA 16441. Authorization No. WH6108. Effective April 20, 2004.

Paul Hertz Contracting, 244 High Rd., Pottsville, PA 17901. Authorization No. WH6109. Effective April 20, 2004.

Hershey's Transport, Inc., 1776 E. 12th St., Brooklyn, NY 11229. Authorization No. WH6110. Effective April 20, 2004.

Mule Train Express, LLC, 89 Poplar St., Waretown, NJ 08758. Authorization No. WH6113. Effective April 27, 2004.

Bianco Transport, Inc., 1071 10th Ave., Brockway, PA 15824. Authorization No. WH6115. Effective April 27, 2004.

Kevin Henry, HCR 1, Box 102, Central Bridge, NY 12035. Authorization No. WH6116. Effective April 27, 2004.

Robert H. Sommers, Sr., 89 Poplar St., Waretown, NJ 08758. Authorization No. WH6117. Effective April 27, 2004.

Roman Mnich, 510 Lafayette St., Linden, NJ 07036. Authorization No. WH6118. Effective April 27, 2004.

Daniel A. Dasilva, 472 Devon St., Kearny, NJ 07032. Authorization No. WH6120. Effective April 27, 2004.

Marinko Kljajic, Apt. 405, 1811 Rhawn St., Philadelphia, PA 19111. Authorization No. WH6122. Effective April 29, 2004.

Good Trucking Co., 148 E. Howard St., Clayton, NJ 08312-1238. Authorization No. WH6123. Effective April 27, 2004.

Sherman Holding Co., P. O. Box 901, Scranton, PA 18501-0901. Authorization No. WH6124. Effective April 27, 2004.

C & S Enterprises d/b/a Artistic Lawn and Landscaping, Inc., 1991 Rte. 206 S., Southampton, NJ 08088. Authorization No. WH6125. Effective April 27, 2004.

Endless Mountains General Construction & Trucking, R. R. 1 Box 268B, Ulster, PA 18850. Authorization No. WH6127. Effective April 27, 2004.

HRI, Inc., 1750 W. College Ave., State College, PA 16801-2719. Authorization No. WH6128. Effective April 27, 2004.

Angelo's Construction & Remodeling, Inc., 2059 Reservoir Dr., Middletown, PA 17057-3942. Authorization No. WH6129. Effective April 29, 2004.

Crouse House Movers, 5061 Baltimore Pike, Litlestown, PA 17340. Authorization No. WH6130. Effective April 29, 2004.

Eastern Diversified Services, Inc., 89 Allentown Rd., Souderton, PA 18964. Authorization No. WH6133. Effective April 29, 2004.

James Malone, 1301 E. Grand Ave., Tower City, PA 17980. Authorization No. WH6134. Effective April 29, 2004.

Hardeep Grewal, 105 River Bank Rd., Roebling, NJ 08554. Authorization No. WH6135. Effective April 29, 2004.

Scott Building Co., 1933 Morris Rd., Blue Bell, PA 19422. Authorization No. WH6136. Effective April 29, 2004.

Clarence W. Godfrey, 3515 Godfrey Rd., Glenrock, PA 17327. Authorization No. WH6137. Effective April 29, 2004.

Rodney L. Seagreves, 2590 Northway Rd., Williamsport, PA 17701-9735. Authorization No. WH6138. April 29, 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.

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

39-310-020GP3: Reading Materials, Inc. (P. O. Box 1467, 2052 Lucon Road, Skippack, PA 19474) on April 26, 2004, to construct and operate a portable stone crushing plant and associated air cleaning device at Agere Systems in Allentown, **Lehigh County**.

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

GP1-21-03061: Carlisle HMA, Inc. (246 Parker Street, Carlisle, PA 17013) on April 28, 2004, for small gas and no. 2 oil fired combustion units under GP1 in South Middleton Township, **Cumberland County**.

GP3-2-38-03014: Pennsy Supply, Inc. (1001 Paxton Street, P. O. Box 3331, Harrisburg, PA 17105) on April 28, 2004, for portable nonmetallic mineral processing plants under GP3 in North Londonderry Township, **Lebanon County**.

GP7-06-03060: Tursack Printing, Inc. (701 Hemlock Road, Morgantown, PA 19543) on April 30, 2004, for sheetfed offset lithographic printing press under GP7 in Caernarvon Township, **Berks 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.

15-0066A: Nutra Soils Inc. (324 E. Baltimore Pike, West Grove, PA 19390) on April 28, 2004, to operate a compost dryer in London Grove Township, **Delaware County**.

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

67-05098B: Global Stone PenRoc, LP (P. O. Box 1967, York, PA 17405-1967) on April 30, 2004, to construct a conveyance system and relocate microsizer equipment from the company's Whiting Plant to their West Filler Plant, 495 Global Stone Drive, York, West Manchester Township, **York County**.

67-05103A: Metropolitan Edison Co. (P. O. Box 16001, Reading, PA 19612-6001) on April 30, 2004, to construct eight 2,000 kW diesel-fired electrical generating units at their Menges Mills Substation in Jackson Township, **York County**.

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

30-00149A: Foree Oil Co. (8235 Douglas Avenue, Dallas, TX 75225) on April 28, 2004, to install a compressor station in Greene Township, **Green 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.

23-0096: County of Department of Education—George W. Hill Correction Facility (Cheyney and Springlawn Roads, Thornton, PA 19373) on April 28, 2004, to operate a combustion unit in Concord Township, **Delaware County**.

46-0213: Cremation Society of Pennsylvania (4100 Jonestown Road, Harrisburg, PA 17109) on April 28, 2004, to operate a gas fired crematory in Upper Merion Township, **Montgomery County**.

15-0041: Eastern Shore Natural Gas Co. (P. O. Box 1769, 350 South Queen Street, Dover, DE 19904) on April 28, 2004, to operate two natural gas internal engines in Londonberry Township, **Chester County**.

46-0036H: Visteon Systems LLC (2750 Morris Road, Lansdale, PA 19446) on April 20, 2004, to operate a selective solder no. 11 in Worcester Township, **Montgomery County**.

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

41-00005B: Lycoming Engines (652 Oliver Street, Williamsport, PA 17701) on April 21, 2004, to operate three nitriders and associated air cleaning device (an ammonia gas neutralization unit) on a temporary basis, until August 19, 2004, in the City of Williamsport, **Lycoming County**. The plan approval has been extended.

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

26-00534A: Fayette Thermal, LLC (755 Opossum Lake Road, Carlisle, PA 17013) on April 28, 2004, to

install boilers at their East Millsboro Steam Plant in Luzerne Township, **Fayette County**. This plan approval was extended.

Operating Permits for Non-Title V Facilities Issued 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 19401; Edward Jurdones Brown, New Source Review Chief, (484) 250-5920.

46-00179: Tuscan/Lehigh Dairies L. P. (880 Allentown Road, Lansdale, PA 19446) on April 26, 2004, to operate a natural minor operating permit in Upper Gwynedd Township, **Montgomery County**.

09-00107: Oldcastle Retail Inc. d/b/a Bonsal American (1214 Hayes Boulevard, Bristol, PA 19007) on April 29, 2004, amended natural minor operating permit in Bristol Township, **Bucks County**.

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

56-00899: Friends to End, Inc. (5491 Somerset Pike, Hollsopple, PA 15935) on May 3, 2004, for a State-only operating permit for a crematory in Jenner Township, **Somerset County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.

S02-001: Metro Machine Corp. (Building No. 669, West 3rd Street, Philadelphia, PA 19112) on April 27, 2004, to operate a ship conversion and repair facility in the City of Philadelphia, **Philadelphia County**. The facility's air emissions sources include 7 boilers (each less than 10 mmBtu/hr), abrasive blasting, painting, 20 diesel engines (for fire pumps, emergency generators, blowers, compressors, a blast media vacuum recovery, washers, defueling pumps and a water jet), abrasive blasting and ship breaking. Blasting operations are controlled by dust collectors, a HEPA filter or containment screens. Painting that is part of a portable enclosure (CAPE) system vents to a regenerative thermal oxidizer.

S04-001: St. Christopher's Hospital for Children (Erie Avenue at Front Street, Philadelphia, PA 19134) on April 29, 2004, to operate a hospital in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include a 500 hP boiler, a 300 hP boiler, a 200 hP boiler and three emergency generators.

S03-003: Caledonian Dye Works (3300 Emerald Street, Philadelphia, PA 19134—Building No. 669, West 3rd Street, Philadelphia, PA 19112) on April 26, 2004, to operate a dye works facility in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include a 600 HP boiler.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

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

22-05038: Feldman Lubert Adler Harrisburg, LP (3225 North Central Avenue, Suite 1205, Phoenix, AZ 85012) on April 16, 2004, to operate their gas and no. 4

oil fired boilers at the Harrisburg East Mall in Swatara Township, **Dauphin County**. The State-only operating permit was administratively amended to reflect a change of ownership from Prudential Insurance Co. of America to Feldman Lubert Adler Harrisburg, LP. This is Revision No. 1 of the operating permit.

67-05068: Highway Materials, Inc. (1750 Walton Road, P. O. Box 1667, Blue Bell, PA 19422-0465) on April 14, 2004, to operate a batch asphalt plant controlled by a knockout box and a fabric collector and two 30,000-gallon asphalt storage tanks at their Wrightsville Plant in Hellam Township, **York County**. The State-only operating permit was administratively amended to incorporate a plan approval for the use of alternative fuels into the existing permit. This is Revision No. 1 of the operating permit.

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.

49830202R4. Split Vein Coal Co., Inc. (R. R. 1 Drawer 2, Paxinos, PA 17860), renewal of an existing coal refuse reprocessing operation in Coal Township, **Northumberland County**, affecting 276.5 acres. Receiving streams: None. Application received December 8, 2003. Renewal issued April 26, 2004.

49840103R3. Reading Anthracite Company (200 Mahantongo Street, P. O. Box 1200, Pottsville, PA 17901), renewal of an existing anthracite surface mine operation in East Cameron Township, **Northumberland County**, affecting 127.0 acres. Receiving streams: None. Application received January 14, 2004. Renewal issued April 27, 2004.

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

32971303. NPDES Permit No. PA0215066, Penn View Mining, Inc. (R. D. 1, Box 260D, Shelocta, PA 15774), to renew the permit for the Penn View Mine in West Wheatfield Township, **Indiana County** and related NPDES permit. No additional discharges. Permit issued April 26, 2004.

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

33020105 and NPDES Permit No. PA0242195. P. and N. Coal Company, Inc. (P. O. Box 332, Punxsutawney, PA 15767), commencement, operation and restoration of a bituminous strip and auger operation in Knox Township, **Jefferson County**, affecting 128.0 acres. Receiving streams: unnamed tributaries to Fivemile Run and Fivemile Run. Application received October 4, 2002. Permit issued April 20, 2004.

1192-33020105-E-1. P. and N. Coal Company, Inc. (P. O. Box 332, Punxsutawney, PA 15767), application for a stream encroachment to temporarily relocate, mine through and reconstruct unnamed tributary no. 4 to Fivemile Run and to construct and maintain a haul road crossing over both unnamed tributary J to Fivemile Run and the temporary channel for unnamed tributary no. 4 to Fivemile Run in Knox Township, **Jefferson County**. Receiving streams: unnamed tributaries to Fivemile Run and Fivemile Run. Application received October 4, 2002. Permit issued April 20, 2004.

1192-33020105-E-2. P. and N. Coal Company, Inc. (P. O. Box 332, Punxsutawney, PA 15767), application for a stream encroachment to mine through unnamed tributary A to Fivemile Run in Knox Township, **Jefferson County**. Receiving streams: unnamed tributaries to Fivemile Run and Fivemile Run. Application received October 4, 2002. Permit issued April 20, 2004.

1192-33020105-E-3. P. and N. Coal Company, Inc. (P. O. Box 332, Punxsutawney, PA 15767), application for a stream encroachment to mine through unnamed tributary B to Fivemile Run in Knox Township, **Jefferson County**. Receiving streams: unnamed tributaries to Fivemile Run and Fivemile Run. Application received October 4, 2002. Permit issued April 20, 2004.

1192-33020105-E-4. P. and N. Coal Company, Inc. (P. O. Box 332, Punxsutawney, PA 15767), application for a stream encroachment to mine through unnamed tributary C to Fivemile Run in Knox Township, **Jefferson County**. Receiving streams: unnamed tributaries to Fivemile Run and Fivemile Run. Application received October 4, 2002. Permit issued April 20, 2004.

1192-33020105-E-5. P. and N. Coal Company, Inc. (P. O. Box 332, Punxsutawney, PA 15767), application for a stream encroachment to mine through unnamed tributary D to Fivemile Run in Knox Township, **Jefferson County**. Receiving streams: unnamed tributaries to Fivemile Run and Fivemile Run. Application received October 4, 2002. Permit issued April 20, 2004.

1192-33020105-E-6. P. and N. Coal Company, Inc. (P. O. Box 332, Punxsutawney, PA 15767), application for a stream encroachment to mine through unnamed tributary E to Fivemile Run in Knox Township, **Jefferson County**. Receiving streams: unnamed tributaries to Fivemile Run and Fivemile Run. Application received October 4, 2002. Permit issued April 20, 2004.

1192-33020105-E-7. P. and N. Coal Company, Inc. (P. O. Box 332, Punxsutawney, PA 15767), application for a stream encroachment to mine through unnamed tributary F to Fivemile Run in Knox Township, **Jefferson County**. Receiving streams: unnamed tributaries to Fivemile Run and Fivemile Run. Application received October 4, 2002. Permit issued April 20, 2004.

1192-33020105-E-8. P. and N. Coal Company, Inc. (P. O. Box 332, Punxsutawney, PA 15767), application for a stream encroachment to mine through unnamed tributary G to Fivemile Run in Knox Township, **Jefferson County**. Receiving streams: unnamed tributaries to

Fivemile Run and Fivemile Run. Application received October 4, 2002. Permit issued April 20, 2004.

1192-33020105-E-9. P. and N. Coal Company, Inc. (P. O. Box 332, Punxsutawney, PA 15767), application for a stream encroachment to mine through unnamed tributary H to Fivemile Run in Knox Township, **Jefferson County**. Receiving streams: unnamed tributaries to Fivemile Run and Fivemile Run. Application received October 4, 2002. Permit issued April 20, 2004.

1192-33020105-E-10. P. and N. Coal Company, Inc. (P. O. Box 332, Punxsutawney, PA 15767), application for a stream encroachment to mine through unnamed tributary I to Fivemile Run in Knox Township, **Jefferson County**. Receiving streams: unnamed tributaries to Fivemile Run and Fivemile Run. Application received October 4, 2002. Permit issued April 20, 2004.

24980106 and NPDES Permit No. PA0227919. Fairview Coal Company (P. O. Box R, Ridgway, PA 15853), renewal of an existing bituminous strip, auger and coal ash placement operation in Horton Township, **Elk County** affecting 223.1 acres. Receiving streams: unnamed tributaries to Johnson Run and unnamed tributaries to Brandy Camp Creek. Application received January 21, 2004. Permit issued April 26, 2004.

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

32803048 and NPDES Permit No. PA0124711. Mears Enterprises, Inc. (P. O. Box 157, Clymer, PA 15728), surface mining permit renewal for reclamation only in Cherryhill Township, **Indiana County**, affecting 437 acres. Receiving streams: unnamed tributaries to Penn Run (CWF) and Rose Run (CWF) and to Penn Run (CWF) and Rose Run (CWF). The first downstream potable water supply intake from the point of discharge is the Pennsylvania American Water Company Two Lick Creek surface water withdrawal. Application received March 15, 2004. Permit issued April 22, 2004.

11830108 and NPDES Permit No. PA0605972. L & J Energy Company, Inc. (P. O. Box I, Grampian, PA 16838), surface mining permit renewal for reclamation only in Susquehanna Township, **Cambria County**, affecting 183.4 acres. Receiving streams: unnamed tributary of West Branch of Susquehanna River (CWF); West Branch Susquehanna River (WWF). There are no potable water supply intakes within 10 miles downstream. Application received April 5, 2004. Permit issued April 22, 2004.

32030109 and NPDES Permit No. PA0249505. AMFIRE Mining Company, LLC (One Energy Place, Latrobe, PA 15650), commencement, operation and restoration of a bituminous surface and auger mine in White Township, **Indiana County**, affecting 83.9 acres. Receiving streams: Two Lick Creek to Blacklick Creek to the Conemaugh River (TSF). There are no potable water supply intakes within 10 miles downstream. Application received July 30, 2003. Permit issued April 27, 2004.

32030103 and NPDES Permit No. PA0249416. Britt Energies, Inc. (2450 Philadelphia Street, Indiana, PA 15701), commencement, operation and restoration of a bituminous surface mine in Center Township, **Indiana County**, affecting 202.3 acres. Receiving streams: Tearing Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received February 20, 2003. Permit issued April 28, 2004.

Noncoal Permit Actions

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

6875SM3C4 and NPDES Permit No. PA0612383. Eastern Industries, Inc. (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034), renewal of an NPDES permit for discharge of treated mine drainage in Armagh Township, **Mifflin County**. Receiving streams: Honey Creek. Application received March 3, 2004. Renewal issued April 26, 2004.

58042801. Donna M. Manzer (P. O. Box 57, South Gibson, PA 18842-0057), commencement, operation and restoration of a quarry operation in Gibson Township, **Susquehanna County**, affecting 5.0 acres. Receiving streams: None. Application received February 3, 2004. Permit issued April 27, 2004.

64032805. Robert J. Suhosky (120 Lakeview Heights Drive, Honesdale, PA 18431), commencement, operation and restoration of a quarry operation in Cherry Ridge Township, **Wayne County**, affecting 5.0 acres. Receiving streams: None. Application received December 3, 2003. Permit issued April 28, 2004.

64030812. Johnston & Rhodes Bluestone Company (P. O. Box 130, One Bridge Street, East Branch, NY 13756), commencement, operation and restoration of a quarry operation in Scott Township, **Wayne County**, affecting 5.0 acres. Receiving streams: none. Application received November 21, 2003. Permit issued April 28, 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.

01044007. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting in Tyrone Township, **Adams County**, with an expiration date of December 31, 2004. Permit issued April 26, 2004.

21044024. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Tyson Commons in Silver Spring Township, **Cumberland County**, with an expiration date of April 30, 2005. Permit issued April 26, 2004.

67044023. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Wellspan Health in York Township, **York County**, with an expiration date of April 30, 2005. Permit issued April 26, 2004.

22044012. J. Roy's, Inc. (Box 125, Bowmansville, PA 17507), construction blasting at Fairway Estates in Lower Paxton Township, **Dauphin County**, with an expiration date of May 26, 2005. Permit issued April 27, 2004.

40044016. Joao & Bradley Construction (P. O. Box 20345, Lehigh Valley, PA 18002) and **AJT Blasting, LLC** (P. O. Box 20412, Bethlehem, PA 18020), construction blasting at Monroe Court in Skippack Township, **Montgomery County**, with an expiration date of January 22, 2005. Permit issued April 27, 2004.

48044014. Austin Powder Company (P. O. Box 289, Northampton, PA 18067), construction blasting at Northampton Community College Campus in Bethlehem Township, **Northampton County**, with an expiration date of May 27, 2005. Permit issued April 27, 2004.

36044033. Brubacher Excavating, Inc. (P. O. Box 528, 825 Reading Road, Bowmansville, PA 17507), construction blasting in East Lampeter Township, **Lancaster County**, with an expiration date of May 22, 2005. Permit issued April 28, 2004.

15044013. Horst Drilling & Blasting, Inc. (141 Ranck's Church Road, New Holland, PA 17557), construction blasting at Chestnut Hill in North Coventry Township, **Chester County**, with an expiration date of May 27, 2005. Permit issued April 28, 2004.

21044027. R & M Excavating (403 Hilltop Road, Newburg, PA 17240), construction blasting at Big Spring Terrace Mobile Home Park in West Pennsboro Township, **Cumberland County**, with an expiration date of April 30, 2005. Permit issued April 28, 2004.

21044025. Doli Construction Corp. (120 Independence Lane, Chalfont, PA 18914), construction blasting at Pumping Station 8 in Hampden Township, **Cumberland County**, with an expiration date of November 30, 2004. Permit issued April 29, 2004.

21044026. Hall Explosive, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at The Preserves in Hampden Township, **Cumberland County**, with an expiration date of May 30, 2005. Permit issued April 29, 2004.

06044016. Joao & Bradley Construction Co., Inc. (P. O. Box 20345, Lehigh Valley, PA 18022), construction blasting at Traprock Business Center in Douglass Township, **Berks County**, with an expiration date of January 27, 2005. Permit issued April 29, 2004.

15044014. Joao & Bradley Construction Co., Inc. (P. O. Box 20345, Lehigh Valley, PA 18022), construction blasting at Sanitary Sewer Extension in East Coventry Township, **Chester County** with an expiration date of January 27, 2005. Permit issued April 29, 2004.

36044034. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting at Stumptown Mennonite Church in Upper Leacock Township, **Lancaster County** with an expiration date of August 27, 2004. Permit issued April 29, 2004.

36044035. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting in Elizabeth Township, **Lancaster County** with an expiration date of November 27, 2004. Permit issued April 29, 2004.

36044036. Keystone Blasting Service (381 Reifsnyder Road, Lititz, PA 17543), construction blasting at Mel Weaver Foundation in Earl Township, **Lancaster County**, with an expiration date of August 27, 2004. Permit issued April 29, 2004.

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

05044001. Appalachian Geophysical Services (P. O. Box 426, 2659 State Park Road, Killbuck, OH 44637), seismic blasting project in East and West Providence Townships, **Bedford County**. Duration of blasting is 45 days. Permit issued April 26, 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.

E48-343. Department of Transportation, Engineering District 5-0, 1713 Lehigh Street, Allentown, PA 18103. Stockertown Borough and Palmer Township, **Northampton County**, Army Corps of Engineers Philadelphia District.

To construct and maintain a prestressed concrete beam bridge along the northbound lane of SR 0033 having a single span of 155 feet, an underclearance of approximately 25.0 feet and width of approximately 50.0 feet across Bushkill Creek (HQ-CWF). The removal of the existing three-span bridge was authorized by Emergency Permit No. EP4804402. The project also includes rehabilitation of the existing pier foundations of the bridge along the southbound lane of SR 0033 which is 100 feet upstream. The project is approximately 0.5 mile south of SR 0191 (Nazareth, PA Quadrangle N: 22.5 inches; W: 2.1 inches).

E48-341. Borough of Northampton, P. O. Box 70, Northampton, PA 18067. Borough of Northampton, **Northampton County**, Army Corps of Engineers Philadelphia District, Subbasin 2C.

To construct and maintain a steel truss pedestrian bridge having a single span of 98.5 feet and an underclearance of approximately 14.7 feet across Hokendauqua Creek (CWF, perennial). The bridge will connect the existing Heritage Trail to the D & L Trail and provide additional recreational resources to the public. The project is at the confluence of Hokendauqua Creek and the Lehigh River (Catasauqua, PA Quadrangle N: 9.5 inches; W: 15.7 inches). The project proposes to directly affect 12 linear feet of stream channel.

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

E14-454. Thomas E. Watson, 350 Heavenly Hill Road, Howard, PA 16841. Watson culvert in Curtain Township, **Centre County**, ACOE Baltimore District (Howard, PA Quadrangle N: 11.4 inches; W: 14.13 inches).

To construct and maintain a 42-inch diameter 25-foot long smooth bore plastic culvert depressed 12 inches into the streambed and the associated 55 feet of native sandstone approach fill in Romola Branch and its floodway to replace the preexisting 18-inch culvert crossing 2.4 miles up Orviston Road from SR 1002. The project has impacted 35 linear feet of Romola Branch (CWF) and no wetland impacts. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E14-458. George W. Newman, Wildcat Hollow Lodge, Inc., 323 Turnpike Street, P. O. Box 544, Milesburg, PA 16853-0544. Water Obstruction and En-

croachment joint permit application in Boggs Township, **Centre County**, ACOE Susquehanna River Basin District (Bellefonte, PA Quadrangle N: 21.6 inches; W: 14.6 inches).

To construct and maintain a 6-foot wide by 4-foot high CMP elliptical pipe and a 32-inch diameter concrete culvert pipe in an unnamed tributary to Wallace Run, 4.5 miles north of the SR 0144 intersection with SR 0220 along SR 0144 in Boggs Township, Centre County. This project proposes to have a minimal impact on the unnamed tributary to Wallace Run (EV). This project does not propose to impact any jurisdictional wetlands. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

E14-459. Bellefonte Borough, 236 West Lamb Street, Bellefonte, PA 16823. Water Obstruction and Encroachment permit application in Bellefonte Borough, **Centre County**, ACOE Susquehanna River Basin District (Bellefonte, PA Quadrangle N: 6.2 inches; W: 4.4 inches).

To remove a 22,000 square foot concrete building, a 4,000 square foot concrete block storage shed, 420 feet of abandoned railway siding and 1.5 acres of bituminous paving all of which is in the floodway of Spring Creek in Bellefonte Borough, Centre County. This permit was issued under section 105.13(e) "Small Projects."

E41-533. Lycoming County Water and Sewer Authority, 216 Old Cement Road, Montoursville, PA 17754. **Lycoming County** wastewater collection expansion in Woodward Township, Lycoming County, ACOE Baltimore District (Linden, PA Quadrangle N: 15.76 inches; W: 7.14 inches).

To construct, operate and maintain approximately 5 miles of 1.5-inch to 8-inch forcemains and approximately 5 miles of 8-inch gravity sanitary sewer line within the Susquehanna River watershed (WWF) for the treatment of municipal wastewater. Construction of the sanitary sewer lines will require the 13 stream and 4 wetland crossings as follows:

| <i>Stream Name</i> | <i>Number of Crossings</i> | <i>Total Length of Crossings</i> |
|---------------------------------------|----------------------------|----------------------------------|
| Unnamed tributaries Pine Run | 2 | 108.0 feet |
| Unnamed tributaries Susquehanna River | 8 | 408.0 feet |
| Unnamed tributaries Quenshukeny Run | 1 | 61.0 feet |
| Quenshukeny Run | 1 | 67.0 feet |
| Daugherty Run | 1 | 46.0 feet |
| Wetland (adjacent to Pine Run) | 1 | 100.0 feet |
| Wetland (adjacent to Pine Run) | 1 | 180.0 feet |
| Wetland (adjacent to Pine Run) | 1 | 140.0 feet |
| Wetland (near Northway Road) | 1 | 80.0 feet |

All sewer line crossings shall be constructed with a minimum of 3 feet of cover with concrete encasement beneath the waterways. Trench plugs or clay dikes shall be used at every sewer line crossing a waterway or wetland to ensure the hydrology of the streams or wetland is not altered. The project will impact 500 linear feet of jurisdictional wetlands and 690 feet of waterway. Construction of the Country Squire Mobile Home Park pump station will require the placement of fill in the floodplain of the Susquehanna River (WWF). Construction

of the Quenshukeny pump station will require the placement of fill in the floodplain of the Quenshukeny Run (WWF). The project is along the northern and southern right-of-way of SR 0220 approximately 5.33 miles east of Williamsport corporate boundary online SR 0220.

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

E02-1423. Municipality of Penn Hills, 12245 Frankstown Road, Pittsburgh, PA 15235. Thompson Run Arch Culvert in the Municipality of Penn Hills, **Allegheny County**, Pittsburgh ACOE District (Braddock, PA Quadrangle N: 12.1 inches; W: 6.8 inches) (Latitude: 40° 26' 30" and Longitude: 79° 47' 56"). To operate and maintain the existing 35-foot long arch culvert with a span of 26 feet and a rise of 12 feet, dredge and maintain approximately 140.0 linear feet of the channel of Thompson Run (WWF), to construct and maintain a gabion wall approximately 45.0 feet in length along the right bank of said stream just upstream from the South McCully Drive Bridge, to construct and maintain an outfall structure on the right bank of said stream just downstream from the South McCully Drive Bridge and to place and maintain fill on the right bank of said stream just upstream from the South McCully Drive Bridge for the purpose of improving Thompson Run. The project is approximately 350.0 feet west from the intersection of Thompson Run Road and South McCully Drive and will impact 140.0 linear feet of stream channel. This permit also authorizes the construction and maintenance of temporary cofferdams.

E02-1451. Allegheny County Airport Authority, 1000 Airport Boulevard, Suite 4000, P. O. Box 12370, Pittsburgh, PA 15231-0370. Clinton Road wetland fill in Findlay Township, **Allegheny County**, Pittsburgh ACOE District (Clinton, PA Quadrangle N: 22.2 inches; W: 5.1 inches) (Latitude: 40° 29' 50" and Longitude: 80° 17' 12"). To place and maintain fill in 0.37 acre of wetlands (PEM) to develop 1.69 million square feet of warehouse/distribution or flex warehouse space. The project is on the west side of Clinton Road approximately 3,000 feet north of its intersection with SR 60. To mitigate for the wetland impact the applicant will construct 0.37 acre of replacement wetlands. The applicant also proposes to impact approximately 225 feet of a tributary to Raredon Run (WWF) which meets the Department's Waiver 105.12(a)(2).

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

E20-532. Athens Township Supervisors, 35726 Centerville Road, Centerville, PA 16404-3416. T-765 (Dobbs Road) Bridge Maintenance in Athens Township, **Crawford County**, ACOE Pittsburgh District (Millers Station, PA Quadrangle N: 3.0 inches; W: 2.3 inches).

The applicant proposes to maintain a single span steel I-beam bridge having a clear span of 35.4 feet and a minimum underclearance of 5.16 feet on a 90 degree skew across Federal Run on T-765 (Dobbs Road) approximately 0.6 miles west of the intersection of T-765 (Dobbs Road) and SR 1037. The project includes concrete underpinning of the left abutment and wingwall and riprap protection of the abutments.

E61-262. President Township, 186 Julius Drive, Oil City, PA 16301. T-537 Across Stewart Run in President Township, **Venango County**, ACOE Pittsburgh District (President, PA Quadrangle N: 18.1 inches; W: 5.8 inches).

To remove the existing superstructure and to install and maintain a steel beam bridge having a structure length of 39 feet and providing a clear span of 32 feet and an underclearance of 6.2 feet across Stewart Run (CWF) on T-537 approximately 2.4 miles west of SR 62.

E62-391, Allegheny Partners, L. P., P. O. Box 1474, Smethport, PA 16749. Access road across Pedler Run in Triumph Township, **Warren County**, ACOE Pittsburgh District (Tidioute, PA Quadrangle N: 15.4 inches; W: 11.2 inches).

To install and maintain a 13-foot long prefabricated steel beam bridge having a clear span of 26 feet and a maximum underclearance of 6 feet across Pedler Run (CWF) on an existing access road to Warren 56 Tract approximately 0.25 mile south of T-362 (Youngsville Road).

ENVIRONMENTAL ASSESSMENTS

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

EA01-007CO. Conway Smith, 312 Lingg Road, New Oxford, PA 17350. Oxford Township, **Adams County**, ACOE Baltimore District.

Project proposes to modify an existing nonjurisdictional dam across a tributary to South Branch Conewago Creek

(WWF). The project will involve placing fill on the downstream toe of the dam to reduce the slope to facilitate maintenance. This project will impact 0.03 acre of palustrine emergent wetlands. The Department has determined these impacts to be de minimis and will not require wetland compensation. The dam is along T480 approximately 1,800 feet northwest of the intersection of T480 and T502 (McSherrystown, PA Quadrangle N: 18.3 inches; W: 7.4 inches).

SPECIAL NOTICES

Certification to Perform Radon-Related Activities in this Commonwealth

During April 2004, the Department of Environmental Protection, under the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder in 25 Pa. Code Chapter 240, has certified the following persons to perform radon-related activities in this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

| <i>Name</i> | <i>Address</i> | <i>Type of Certification</i> |
|---------------------------------------------------------------------------------------|-------------------------------------------------|------------------------------|
| Kevin Adams | 113 North Main Street Washington, PA 15301 | Testing |
| James Bucciarelli | 474 Easton Road Horsham, PA 19044 | Mitigation |
| Castle Inspection, Inc. | 20 Thornridge Road Springfield, PA 19064 | Testing |
| Thomas d'Arcy Radon Testing Systems | P. O. Box 243 Newtown, PA 18940 | Testing |
| James Davis | 614 Lincoln Avenue Jermyn, PA 18433 | Testing |
| E. David DeMar DeMar Associates Testing Services D. A. R. T. Mitigation Systems | 611 Ridge Road Sellersville, PA 18960 | Testing and Mitigation |
| Fred Durham, III | 2653 Terrwood Drive, West Macungie, PA 18062 | Testing |
| Timothy Ellis | 508 Jennifer Lane Gibsonia, PA 15044 | Testing |
| James Fawley | 41 Indian Rocks Lake Ariel, PA 18436 | Testing |
| Randon Ferguson | 15870 Rt. 322, Suite 1 Clarion, PA 16214 | Testing and Mitigation |
| Richard Finn | 6 Glendale Drive Mountain Top, PA 18707 | Testing |
| Frank Glantz | P. O. Box 866 Lemont, PA 16851 | Mitigation |
| Frank Hendron | 210 Stonebridge Boulevard | Testing and Mitigation |

| <i>Name</i> | <i>Address</i> | <i>Type of Certification</i> |
|-----------------------------------------------------|---------------------------------------------------|------------------------------|
| Northeast Inspection Corporation | New Castle, DE 19720 | |
| Leonard Kelsey Radon Specialists, Inc. | 800 Sunset Lane Stroudsburg, PA 18360 | Mitigation |
| Scott Latosky | 1153 Stowe Avenue McKees Rocks, PA 15136 | Testing |
| Eric Levine | P. O. Box 213 Minisink Hills, PA 18341 | Testing and Mitigation |
| Leonard Mathison | Box 125, Route 8 Valencia, PA 16059 | Mitigation |
| Stephen Mento | 324 Gay Street Phoenixville, PA 19460 | Testing |
| David Milliron | 124 Oakford Park Road Jeannette, PA 15644 | Testing |
| Cristopher Murphy World Inspection Network | 4101 Benden Circle Murrysville, PA 15668 | Testing |
| Dean Nowakowski | 356 Partridge Run Road Gibsonia, PA 15044 | Testing |
| Pillar To Post Home Inspection | 2370 York Road Suite A9-C Jamison, PA 18929 | Testing |
| Lisa Roddis Amerispec Home Inspection Service | P. O. Box 862 Hocressin, DE 19707 | Testing |
| Larry Smith | HCR 1, Box 48 Brodheadsville, PA 18322 | Testing |
| Robert Vail | 1335 Chapman Lake Road Jermyn, PA 18433 | Mitigation |
| Bradford Whitely | 516 Broad Street Montoursville, PA 17754 | Testing |
| David Wotring | R. R. 1, Box 491 Scotrun, PA 18355 | Testing |

[Pa.B. Doc. No. 04-853. Filed for public inspection May 14, 2004, 9:00 a.m.]

Availability of Final Total Maximum Daily Loads

The Department of Environmental Protection (Department) has developed Total Maximum Daily Loads (TMDLs) for the following watersheds. TMDLs set the pollutant loading amounts for impaired waters that are allocated among the sources in the watershed. The TMDLs have been approved by the Environmental Protection Agency and satisfy the Department's obligations under section 303(d) of the Federal Clean Water Act.

| <i>Stream Name</i> | <i>County</i> | <i>Pollutants</i> |
|---------------------------|--------------------------------------------|------------------------------|
| Thompson Run | Allegheny | Metals, pH, Other Inorganics |
| Allegheny River | Allegheny | PCB, Chlordane |
| Potato Garden Run | Allegheny and Washington | Metals, pH |
| Monongahela River | Allegheny, Fayette and Washington | PCB, Chlordane |
| Chartiers Creek | Allegheny and Washington | PCB, Chlordane |
| Little Chartiers Creek | Allegheny and Washington | PCB, Chlordane |
| Chartiers Creek Watershed | Allegheny and Washington | Metals |
| Ohio River | Allegheny, Beaver, Lawrence and Washington | PCB, Chlordane |

| <i>Stream Name</i> | <i>County</i> | <i>Pollutants</i> |
|---------------------------------|--------------------------------------------------------------------|-----------------------------------------------------------|
| Beaver River | Beaver and Lawrence | PCB, Chlordane |
| Brush Creek* | Beaver and Butler | Organic Enrichment/Low D. O. |
| Sandy Run | Bedford | Metals, pH |
| Hospital Creek | Berks | Nutrients |
| Little Cacoosing Creek | Berks | Nutrients, Siltation |
| UNT Tulpehocken Creek | Berks | Nutrients |
| Laurel Run* | Somerset | Metals, pH |
| Kittanning Run | Blair and Cambria | Metals, pH |
| Stephen Foster Lake | Bradford | Nutrients, Siltation |
| Levittown Lake | Bucks | PCB |
| Lake Luxembourg | Bucks | Nutrients, Suspended Solids |
| Fowler Run | Butler | Metals, pH |
| Bear Loop Run | Cambria | Metals, pH, Other Inorganics |
| Bald Eagle Creek* | Cambria | Thermal Modifications |
| Little Muddy Run | Cambria and Clearfield | Metals, pH |
| Cooks Run | Cameron and Clinton | Metals, pH, Siltation |
| Panther Creek | Carbon, Schuylkill | Metals, pH |
| Catawissa Creek | Carbon, Columbia, Luzerne and Schuylkill | Metals, pH |
| Cold Stream | Centre | Metals |
| West Branch Brandywine River | Chester and Montgomery | PCB, Chlordane |
| Valley Creek | Chester and Montgomery | PCB |
| Parks Run | Clarion | pH |
| Douglas Run | Clarion | Metals, pH |
| Beaver Run | Clarion | Metals, pH, Other Inorganics |
| Whites Run | Clarion | Metals, pH |
| Montgomery Creek | Clearfield | Metals, pH |
| Drury Run | Clinton | Metals, pH |
| Tangascootack Creek | Clinton | Metals, pH |
| Two Mile Run | Clinton | Metals, pH |
| Shamokin Creek | Columbia and Northumberland | Metals |
| Conneaut Lake | Crawford | Nutrients, Suspended Solids |
| Conodoguinet Creek Watershed** | Cumberland and Franklin | Siltation, Organic Enrichment/Low D. O. |
| Bear Creek | Dauphin | Metals, pH, Siltation |
| Rausch Creek | Dauphin and Schuylkill | Metals, pH |
| Conewago Creek | Dauphin, Lancaster and Lebanon | Nutrients, Siltation |
| Conewago Creek | Dauphin | Organic Enrichment/Low D. O. |
| Virgin Run Lake | Fayette | Nutrients |
| Cheat River | Fayette | Chlordane |
| Cats Run | Fayette | Metals, pH |
| Shoup Run | Huntingdon | Metals, pH |
| Huskins Run | Armstrong | Metals, pH, Other Inorganics |
| Parks Run | Jefferson | pH |
| Chickies Creek | Lancaster | Nutrients, Siltation |
| Conowingo Creek | Lancaster | Nutrients, Suspended Solids |
| Muddy Run | Lancaster | Nutrients, Siltation |
| Mill Creek (UNT)* | Lancaster | Total Dissolved Solids, Chlorides |
| Pequea Creek | Lancaster | Nutrients, Siltation, Organic Enrichment/Low D. O. |
| Donegal Creek | Lancaster | Organic Enrichment/Low D. O. |
| Shenango River | Lawrence and Mercer | PCB, Chlordane |
| Swatara Creek (UNT) | Lebanon | Organic Enrichment/Low D. O. |
| Owl Creek | Lebanon | Nutrients, Siltation |
| Deep Run | Lebanon | Nutrients, Siltation |
| Earlakill Run | Lebanon | Nutrients, Siltation |
| Quittapahilla Creek Watershed** | Lebanon | Nutrients, Suspended Solids, Organic Enrichment/Low D. O. |
| Harveys Lake | Luzerne | Nutrients, Suspended Solids |
| Trout Creek (UNT)* | Montgomery | Total Residual Chloride |
| Brandywine River* | Montgomery | PCB, Chlordane |
| Pennypack Creek* | Montgomery | Priority Organics, Organic Enrichment/Low D. O. |
| Susquehanna River | Northumberland, Montour, Columbia, Luzerne, Lackawanna and Wyoming | PCB |
| North Fork Cowanesque River | Potter and Tioga | Siltation, Organic Enrichment/Low D. O. |
| Upper Swatara Creek | Schuylkill | Metals |

| <i>Stream Name</i> | <i>County</i> | <i>Pollutants</i> |
|-------------------------------|---------------|-----------------------------------------|
| Wabash Creek | Schuylkill | Metals |
| Hans Yost Creek | Schuylkill | Metals, pH |
| North Branch Mahantango Creek | Snyder | Siltation, Organic Enrichment/Low D. O. |
| South Branch Wyalusing Creek | Susquehanna | Nutrients, Suspended Solids |
| Fall Brook | Tioga | Metals, pH |
| Morris Run | Tioga | Metals, pH |
| Babb Creek | Tioga | Metals, pH |
| Lockard Run | Venango | Metals, pH |
| Dutch Fork Lake | Washington | Organic Enrichment/Low D. O. |
| Plum Run | Washington | Siltation, Nutrients |
| Thorn Run | Westmoreland | Metals |
| Lake Carey | Wyoming | Nutrients |
| Pinchot Lake | York | Organic Enrichment/Low D. O. |
| Oil Creek | York | Nutrients, Siltation |

*Reports not available on website.

**No TMDL for mainstem.

To request a copy of a TMDL, contact the Division of Water Quality Assessment and Standards, Department of Environmental Protection, P. O. Box 8467, Harrisburg, PA 17105-8467, (717) 787-9637, rmaugle@state.pa.us. The TMDLs are also available on the Department's website: www.dep.state.pa.us/watermanagement_apps/tmdl/ (choose stream under "Select By TMDL Name:").

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-854. Filed for public inspection May 14, 2004, 9:00 a.m.]

Mining and Reclamation Advisory Board; Regulation, Legislation and Technical Committee Special Meeting

A special meeting of the Mining and Reclamation Advisory Board's Regulation, Legislation and Technical Committee is scheduled for May 20, 2004, at 1 p.m. in the 10th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The purpose of the meeting is to review and discuss the Department of Environmental Protection's (Department) draft report on incentives for re-mining abandoned coal mined lands.

Questions concerning this meeting should be directed to G. Nevin Strock, (717) 787-6842, gstrock@state.pa.us. The agenda and meeting materials will be available through the Public Participation Center on the Department's website: www.dep.state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact G. Nevin Strock at the previous telephone number or e-mail address 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. 04-855. Filed for public inspection May 14, 2004, 9:00 a.m.]

Pennsylvania Wetland Replacement Project

The Department of Environmental Protection (Department) has approved the following wetland restoration projects for funding under the Pennsylvania Wetland Replacement Project (PWRP). The PWRP is a jointly managed fund between the Department and the National

Fish and Wildlife Foundation established to offset wetland losses. Construction for the following projects is anticipated to begin in Spring 2004. For further information, contact Alissa Myers, Department of Environmental Protection, Division of Waterways, Wetlands and Erosion Control, P. O. Box 8775, Harrisburg, PA 17105-8775, (717) 787-6827, almyers@state.pa.us.

Project No. S12B34-001

Sponsored by Richfield Sportsman's Club, the main objective of the 0.8-acre emergent wetland restoration project in the Mahantango Creek Watershed of the Susquehanna River drainage is wildlife habitat. The area is primarily upland and the wetland component will add a transition area between the creek and the upland. The project is located in Monroe Township, Juniata County.

Project No. S07J36-007

Sponsored by Patricia Walmer, the primary objective of the 1-acre emergent wetland restoration project in the Hammer Creek Watershed of the Susquehanna River drainage is wildlife habitat. An additional benefit is water quality improvement by detaining nutrients from agricultural areas upslope of the proposed wetland. The project is located in Heidelberg Township, Lebanon County.

Project No. O20B04-001

Sponsored by Mark Ondrusek and Ducks Unlimited, the main objective of the 3-acre forested wetland restoration project in the Brady Run Watershed of the Ohio River drainage is wildlife habitat. The area is primarily upland forest and the wetland component will add a new habitat feature attracting a new guild of species. The project is located in Chippewa Township, Beaver County.

Project No. D03G23-001

Sponsored by Delco Anglers and Conservationists, the primary objective of this 1-acre emergent wetland restoration project in the Ridley Creek Watershed of the Dela-

ware River is the removal of a defunct fish hatchery. The project is located in Middletown Township, Delaware County.

Project No. S08D24-001

Sponsored by the Ruffed Grouse Society, the Department of Conservation of Natural Resources and Mackin Engineering Company, the primary objective of this 15-acre scrub/shrub wetland creation project in the headwaters of Beaver Run Watershed of the Susquehanna River drainage is habitat for game birds. The project is located in Benezette Township, Elk County.

Project No. O19D26-001

Sponsored by Brian Konieczny and Ducks Unlimited, the primary objective of this 2.5-acre emergent wetland creation project in the Latta Run Watershed of the Ohio River Drainage is wildlife habitat, specifically waterfowl. The project is located in Bullskin Township, Fayette County.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-856. Filed for public inspection May 14, 2004, 9:00 a.m.]

Proposed Revision to the State Implementation Plan for Architectural and Industrial Maintenance Coatings; Sherwin-Williams Company Variance Application for Interior Wiping Stains; Public Hearings

The Sherwin-Williams Company (Sherwin-Williams) has submitted an application, dated March 16, 2004, to the Department of Environmental Protection (Department) for a variance from the volatile organic compound (VOC) content limits in 25 Pa. Code § 130.603 (relating to standards) for interior wiping stains. The Sherwin-Williams variance application was submitted in accordance with 25 Pa. Code § 130.606 (relating to application for variance), which provides that a person who cannot comply with the VOC content limits in 25 Pa. Code § 130.603(a) may apply in writing to the Department for a variance. In accordance with 25 Pa. Code § 130.606, the application for variance must address the specific grounds upon which the variance is sought, the proposed date by which compliance with § 130.603(a) will be achieved and a compliance report detailing the methods by which compliance will be achieved. The Department will submit each Variance Order to the United States Environmental Protection Agency for approval as a State Implementation Plan (SIP) revision.

In accordance with 25 Pa. Code § 130.606, the Department will not grant a variance unless the applicant demonstrates in writing to the Department's satisfaction that:

- (1) It is technologically infeasible for the applicant to comply with 25 Pa. Code § 130.603(a).
- (2) The public interest in issuing the variance would outweigh the public interest in avoiding increased emissions of air contaminants that would result from issuing the variance.
- (3) The compliance program proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

Sherwin-Williams claims in the March 16, 2004, application for variance that it is technologically infeasible for Sherwin-Williams to formulate certain interior wiping stains to comply with the VOC content limit for interior wiping stains specified in 25 Pa. Code § 130.603(a) "... without substantially increasing toxicity or fire hazard, or jeopardizing the performance criteria which make these products feasible for application to large surfaces (e.g., floors, paneling, etc.) or fine wood surfaces that will not be subsequently top coated with a clear finish." Sherwin-Williams cites "lapping" and "grain raising" as the adverse performance impacts that would result from Sherwin-Williams' reformulation of interior wiping stains to water-based formulations. In the application for variance, Sherwin-Williams describes a research and development compliance plan by which compliance with the regulations will be achieved, and Sherwin-Williams indicates that the company's research and development efforts are directed toward a targeted compliance goal of January 1, 2010.

In accordance with 25 Pa. Code § 130.610 (relating to public hearings), the Department will hold public hearings on the Sherwin-Williams variance application to seek public comment on the following:

- (1) Whether a variance from 25 Pa. Code § 130.603(a) is necessary.
- (2) Under what conditions a variance from 25 Pa. Code § 130.603(a) is necessary.
- (3) To what extent a variance from 25 Pa. Code § 130.603(a) is necessary.

In addition to the previous, the Department will also seek comment on a Department-proposed Variance Order for issuance to Sherwin-Williams, as well as proposed revisions to the SIP. The Department-proposed Variance Order for issuance to Sherwin-Williams includes a requirement that compliance with 25 Pa. Code § 130.603 will be achieved by January 1, 2010, and that incremental progress reports will be sent to the Department to assure timely compliance. A variance issued by the Department shall cease to be effective upon failure of the party to whom the variance was granted to comply with a term or condition of the variance.

Based on data provided by Sherwin-Williams regarding sales in this Commonwealth of the materials for which the variance is requested, the Department estimates that, if the variance is granted, Statewide VOC emissions will be approximately 0.8 ton per day higher than if Sherwin-Williams were to market coatings at the compliance level. For the five-county Southeast Pennsylvania ozone nonattainment area, the granting of the variance will result in VOC emissions approximately 0.26 ton per day higher than if the affected materials were formulated at compliance levels.

Public Hearings

The Department will hold two public hearings to receive comments on the variance application submitted by Sherwin-Williams, as well as the proposed SIP revisions and the Department-proposed Variance Order. The public hearings will begin at 1 p.m. as follows:

June 14, 2004 Southeast Regional Office
Schuylkill River Conference Room
2 East Main Street
Norristown, PA 19401

June 17, 2004 Southcentral Regional Office
Susquehanna River Conference Room
909 Elmerton Avenue
Harrisburg, PA 17110

Persons wishing to present testimony at hearing should reserve a time by contacting Susan Ferree, P. O. Box 8468, Harrisburg, PA 17105, (717) 787-9495, sferree@state.pa.us. Persons who do not reserve a time will be able to testify as time allows. Witnesses should keep testimony to 10 minutes and should provide two written copies at the hearing. 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 Wick Havens, (717) 787-9495. TDD users should contact the AT&T Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

Written Comments

Written comments on the variance application submitted by Sherwin-Williams, as well as the proposed SIP revisions and the Department-proposed Variance Order, should be sent by 12 p.m. on July 15, 2004, to Terry Black, Chief, Regulation and Policy Development Section, Division of Air Resource Management, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468.

Availability of Documents

Sherwin-Williams' application for a variance and the Department's proposed Variance Order are available from Terry Black at the previous address or by e-mail to tblack@state.pa.us. These documents are also available on the Department's website: www.dep.state.pa.us (Subjects/Air Quality/Regs Plans/Clean Air Plans).

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-857. Filed for public inspection May 14, 2004, 9:00 a.m.]

Storage Tank Advisory Committee Meeting Cancellation

The June 1, 2004, meeting of the Storage Tank Advisory Committee has been cancelled. The next meeting is scheduled for Tuesday, September 14, 2004, at 10 a.m. on the 10th Floor, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting should be directed to James Adair, (717) 772-5551, jadair@state.pa.us. The agenda and meeting materials will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website: www.dep.state.pa.us.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Ruth Carmen at (717) 772-5831 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. 04-858. Filed for public inspection May 14, 2004, 9:00 a.m.]

Stream Redesignation Evaluation; Water Quality Standards Review

Under 25 Pa. Code § 93.4d (relating to processing of petitions, evaluations and assessments to change a design-

nated use), the Department of Environmental Protection (Department) gives notice that an evaluation will be conducted on the following stream section to determine the proper aquatic life use designation in the Commonwealth's water quality standards. Persons who have technical data concerning the water quality, instream habitat or biological condition of this stream section are encouraged to make it available to the Department for consideration in the assessment. This assessment may lead to a recommendation to the Environmental Quality Board (Board) for redesignation.

| <i>Stream Name</i> | <i>County</i> | <i>Tributary to</i> |
|--------------------------------------------------------------------------------------------------------------------------------------------------------|---------------|---------------------|
| Clarion River—Main Stem, from the inlet of Piney Lake upstream from Clarion to the confluence with the Allegheny River near Parker and Parkers Landing | Clarion | Allegheny River |

Data should be submitted to Bob Frey, Division of Water Quality Assessment and Standards, Bureau of Water Supply and Wastewater Management, P. O. Box 8467, Harrisburg, PA 17105-8467, rofrey@state.pa.us. Data should be submitted by June 14, 2004. Questions concerning these evaluations should be directed to Bob Frey, (717) 787-9637.

This assessment is being conducted in response to a rulemaking petition submitted to the Board by the Clarion River Petitioners. This portion of the main stem of the Clarion River is currently designated Cold Water Fishes. The petitioners are requesting redesignation to Warm Water Fishes.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Bob Frey at (717) 787-9637 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. 04-859. Filed for public inspection May 14, 2004, 9:00 a.m.]

DEPARTMENT OF HEALTH

Traumatic Brain Injury Advisory Board Meeting

The Traumatic Brain Injury Advisory Board, established under the Federal Traumatic Brain Injury Act of 1996 (Pub. L. No. 104-66), will hold a public meeting on Wednesday, May 26, 2004, from 10 a.m. to 3 p.m. in Room 812, Health and Welfare Building, Commonwealth Avenue at Forster Street, Harrisburg, PA.

For additional information, or persons a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Annette D. Jacek, Program Manager, Special Conditions Section, Division of Child and Adult Health Services, (717) 772-4959, for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

This meeting is subject to cancellation without notice.

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

[Pa.B. Doc. No. 04-860. Filed for public inspection May 14, 2004, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Federal Poverty Income Guidelines for 2004

The Department of Public Welfare (Department) announces the implementation in this Commonwealth of the 2004 Federal Poverty Income Guidelines (FPIGs) which were issued by the Department of Health and Human Services and published at 69 FR 7336 on February 13, 2004.

The FPIGs are the basis for the income eligibility limits for several categories of Medicaid whose regulations are published in 55 Pa. Code (relating to public welfare) and administered by the Department. These categories include Healthy Beginnings for Pregnant Women and Qualified Children (55 Pa. Code Chapter 140, Subchapter A), Healthy Horizons for the Elderly and Disabled (55 Pa. Code Chapter 140, Subchapter B) and Extended Medical Coverage under Categorically Needy TANF-Related Categories (55 Pa. Code Chapter 140, Subchapter C).

The percentages for the Medicaid categories of Healthy Beginnings and Healthy Horizons are set forth as follows:

| Persons | 100% of FPIG | | 120% of FPIG | | 133% of FPIG | | 135% of FPIG | |
|------------------------------|--------------|----------|--------------|----------|--------------|----------|--------------|----------|
| | Month | Annual | Month | Annual | Month | Annual | Month | Annual |
| 1 | \$ 776 | \$ 9,310 | \$ 931 | \$11,172 | \$1,032 | \$12,383 | \$1,048 | \$12,569 |
| 2 | \$1,041 | \$12,490 | \$1,249 | \$14,988 | \$1,385 | \$16,612 | \$1,406 | \$16,862 |
| 3 | \$1,306 | \$15,670 | \$1,567 | \$18,804 | \$1,737 | \$20,842 | \$1,763 | \$21,155 |
| 4 | \$1,571 | \$18,850 | \$1,885 | \$22,620 | \$2,090 | \$25,071 | \$2,121 | \$25,448 |
| 5 | \$1,836 | \$22,030 | \$2,203 | \$26,436 | \$2,442 | \$29,300 | \$2,479 | \$29,741 |
| 6 | \$2,101 | \$25,210 | \$2,521 | \$30,252 | \$2,795 | \$33,530 | \$2,837 | \$34,034 |
| 7 | \$2,366 | \$28,390 | \$2,839 | \$34,068 | \$3,147 | \$37,759 | \$3,194 | \$38,327 |
| 8 | \$2,631 | \$31,570 | \$3,157 | \$37,884 | \$3,499 | \$41,989 | \$3,552 | \$42,620 |
| Each Additional Person | \$ 265 | \$ 3,180 | \$ 318 | \$ 3,816 | \$ 353 | \$ 4,230 | \$ 358 | \$ 4,293 |

| Persons | 185% of FPIG | | 200% of FPIG | | 235% of FPIG | | 250% of FPIG | |
|------------------------------|--------------|----------|--------------|----------|--------------|----------|--------------|----------|
| | Month | Annual | Month | Annual | Month | Annual | Month | Annual |
| 1 | \$1,436 | \$17,224 | \$1,552 | \$18,620 | \$1,824 | \$21,879 | \$1,940 | \$23,275 |
| 2 | \$1,926 | \$23,107 | \$2,082 | \$24,980 | \$2,446 | \$29,352 | \$2,603 | \$31,225 |
| 3 | \$2,416 | \$28,990 | \$2,612 | \$31,340 | \$3,069 | \$36,825 | | |
| 4 | \$2,907 | \$34,873 | \$3,142 | \$37,700 | \$3,692 | \$44,298 | | |
| 5 | \$3,397 | \$40,756 | \$3,672 | \$44,060 | \$4,315 | \$51,771 | | |
| 6 | \$3,887 | \$46,639 | \$4,202 | \$50,420 | \$4,937 | \$59,244 | | |
| 7 | \$4,377 | \$52,522 | \$4,732 | \$56,780 | \$5,560 | \$66,717 | | |
| 8 | \$4,868 | \$58,405 | \$5,262 | \$63,140 | \$6,183 | \$74,190 | | |
| Each Additional Person | \$ 491 | \$ 5,883 | \$ 530 | \$ 6,360 | \$ 623 | \$ 7,473 | | |

These percentages apply as follows:

Healthy Beginnings—

- 185% for pregnant women and infants up to 1 year of age.
- 133% for children 1-5 years of age.

c. 100% for children 6 years of age and older who were born after September 30, 1983.

Healthy Horizons—

- 100% for persons eligible for the categorically needy and Medicare cost-sharing benefits.
- 120% for persons eligible for the Specified Low-Income Medicare Beneficiaries and Medically Needy Only benefits.
- 135% for persons eligible for the Qualifying Individuals Beneficiaries benefits.

(There are different resource limits for each of these programs.)

Additional information on the specific program is available at county assistance offices.

Effective Date

This notice shall take effect upon publication in the *Pennsylvania Bulletin* and apply retroactively to February 13, 2004.

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-390. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 55. PUBLIC WELFARE

PART II. PUBLIC ASSISTANCE MANUAL

Subpart C. ELIGIBILITY REQUIREMENTS

CHAPTER 140. SPECIAL MA ELIGIBILITY PROVISIONS

APPENDIX A

EXTENDED MEDICAL COVERAGE (EMC) MONTHLY INCOME LIMITS

**185% OF THE 2004 FEDERAL POVERTY INCOME
GUIDELINES**

| <i>Family Size</i> | <i>185% of the Federal Poverty Income Guidelines</i> |
|------------------------|----------------------------------------------------------|
| 1 | \$1,436 |
| 2 | \$1,926 |
| 3 | \$2,416 |
| 4 | \$2,907 |
| 5 | \$3,397 |
| 6 | \$3,887 |
| 7 | \$4,377 |
| 8 | \$4,868 |
| Each Additional Person | \$ 491 |

[Pa.B. Doc. No. 04-861. Filed for public inspection May 14, 2004, 9:00 a.m.]

**Income and Resource Limits for Spouse Living in
the Community When the Other Spouse is Insti-
tutionalized**

The Department of Public Welfare increased the income and resource limits described in 55 Pa. Code §§ 178.124(a)(3)(i) and (ii) and 181.452(d)(2)(iv) (relating to resource eligibility for the institutionalized spouse; and posteligibility determination of income available from an MA eligible person toward the cost of care) effective January 1, 2004, as required by 42 U.S.C.A. § 1396r-5.

Sections 181.452(d)(2)(iv) and 178.124(a)(3)(i) and (ii) of 55 Pa. Code establish the basis for determining the Monthly Community Spouse Maintenance Need Amount and the maximum and minimum Community Spouse Resource Standard for the Categorically Needy Nonmoney Payment and Medically Needy Only Medicaid programs. These standards are required to be published in the *Pennsylvania Bulletin* annually, and are available to the public upon request at the county assistance offices.

Effective January 1, 2004, the amounts are:

| | |
|----------------------------------------------------------|----------|
| Maximum Community Spouse Resource Standard | \$92,760 |
| Minimum Community Spouse Resource Standard | \$18,552 |
| Maximum Monthly Community Spouse Maintenance Need Amount | \$2,319 |

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-389. (1) General Fund; (2) Implementing Year 2003-04 is \$340,000; (3) 1st Succeeding Year 2004-05 is \$886,000; 2nd Succeeding Year 2005-06 is \$913,000; 3rd Succeeding Year 2006-07 is \$940,000; 4th Succeeding Year 2007-08 is \$968,000; 5th Succeeding Year 2008-09 is \$997,000; (4) 2002-03 Program—\$777,084,000; 2001-02 Program—\$761,877,000; 2000-01 Program—\$722,565,000; (7) Medical Assistance—Long Term Care; (8) recommends adoption. Funding for 2003-04 is included in Act 9-A of 2003. Funding for 2004-05 is recommended in the 2004-05 Executive Budget.

[Pa.B. Doc. No. 04-862. Filed for public inspection May 14, 2004, 9:00 a.m.]

**DEPARTMENT OF
REVENUE**

**Pennsylvania Sparkling Diamonds 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 Sparkling Diamonds.

2. *Price:* The price of a Pennsylvania Sparkling Diamonds instant lottery game ticket is \$10.

3. *Play Symbols:* Each Pennsylvania Sparkling Diamonds instant lottery game ticket will contain one play area featuring a "Winning Numbers" area and a "Your Numbers" area. The play symbols and their captions located in the "Winning Numbers" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTEN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWY TWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN) and 30 (THIRTY). The play symbols and their captions located in the "Your Numbers" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTEN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENT), 21 (TWYONE), 22 (TWY TWO), 23 (TWYTHR), 24 (TWYFOR), 25 (TWYFIV), 26 (TWYSIX), 27 (TWYSVN), 28 (TWYEGT), 29 (TWYNIN), 30 (THIRTY), 10X Symbol (10TIMES) and Money Bag Symbol (MNYBAG).

4. *Prize Play Symbols:* The prize play symbols and their captions located in the "Your Numbers" area are: \$5^{.00} (FIV DOL), \$10^{.00} (TEN DOL), \$15\$ (FIFTN), \$20\$ (TWENTY), \$25\$ (TWY FIV), \$50\$ (FIFTY), \$100 (ONE HUN), \$200 (TWO HUN), \$500 (FIV HUN), \$1,000 (ONE THO), \$250,000 (TWOFTYTHO) and \$500,000 (FIVHUNTHO).

5. *Prizes:* The prizes that can be won in this game are \$5, \$10, \$15, \$20, \$25, \$50, \$100, \$200, \$500, \$1,000, \$250,000 and \$500,000. A player can win up to 15 times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 4,800,000 tickets will be printed for the Pennsylvania Sparkling Diamonds instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$500,000 (FIVHUNTHO) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$500,000.

(b) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$250,000 (TWOFTYTHO) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$250,000.

(c) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$1,000 (ONE THO) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$1,000.

(d) Holders of tickets upon which any one of the "Your Numbers" play symbols is a 10X Symbol (10TIMES), and a prize play symbol of \$100 (ONE HUN) appears under the 10X Symbol (10TIMES) on a single ticket, shall be entitled to a prize of \$1,000.

(e) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$500 (FIV HUN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$500.

(f) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Money Bag Symbol (MNYBAG), and a prize play symbol of \$500 (FIV HUN) appears under the Money Bag Symbol (MNYBAG) on a single ticket, shall be entitled to a prize of \$500.

(g) Holders of tickets upon which any one of the "Your Numbers" play symbols is a 10X Symbol (10TIMES), and a prize play symbol of \$50\$ (FIFTY) appears under the 10X Symbol (10TIMES) on a single ticket, shall be entitled to a prize of \$500.

(h) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$200 (TWO HUN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$200.

(i) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Money Bag Symbol (MNYBAG), and a prize play symbol of \$200 (TWO HUN) appears under the Money Bag Symbol (MNYBAG) on a single ticket, shall be entitled to a prize of \$200.

(j) Holders of tickets upon which any one of the "Your Numbers" play symbols is a 10X Symbol (10TIMES), and a prize play symbol of \$20\$ (TWENTY) appears under the 10X Symbol (10TIMES) on a single ticket, shall be entitled to a prize of \$200.

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

(l) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Money Bag Symbol (MNYBAG), and a prize play symbol of \$100 (ONE HUN) appears under the Money Bag Symbol (MNYBAG) on a single ticket, shall be entitled to a prize of \$100.

(m) Holders of tickets upon which any one of the "Your Numbers" play symbols is a 10X Symbol (10TIMES), and a prize play symbol of \$10⁰⁰ (TEN DOL) appears under the 10X Symbol (10TIMES) on a single ticket, shall be entitled to a prize of \$100.

(n) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning

Numbers" play symbols and a prize play symbol of \$50\$ (FIFTY) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(o) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Money Bag Symbol (MNYBAG), and a prize play symbol of \$50\$ (FIFTY) appears under the Money Bag Symbol (MNYBAG) on a single ticket, shall be entitled to a prize of \$50.

(p) Holders of tickets upon which any one of the "Your Numbers" play symbols is a 10X Symbol (10TIMES), and a prize play symbol of \$5⁰⁰ (FIV DOL) appears under the 10X Symbol (10TIMES) on a single ticket, shall be entitled to a prize of \$50.

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

(r) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Money Bag Symbol (MNYBAG), and a prize play symbol of \$25\$ (TWY FIV) appears under the Money Bag Symbol (MNYBAG) on a single ticket, shall be entitled to a prize of \$25.

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

(t) Holders of tickets upon which any one of the "Your Numbers" play symbols matches any of the "Winning Numbers" play symbols and a prize play symbol of \$15\$ (FIFTN) appears under the matching "Your Numbers" play symbol, on a single ticket, shall be entitled to a prize of \$15.

(u) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Money Bag Symbol (MNYBAG), and a prize play symbol of \$15\$ (FIFTN) appears under the Money Bag Symbol (MNYBAG) on a single ticket, shall be entitled to a prize of \$15.

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

(w) Holders of tickets upon which any one of the "Your Numbers" play symbols is a Money Bag Symbol (MNYBAG), and a prize play symbol of \$10⁰⁰ (TEN DOL) appears under the Money Bag Symbol (MNYBAG) on a single ticket, shall be entitled to a prize of \$10.

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

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

| <i>Win With Prize(s) of:</i> | <i>Win:</i> | <i>Approximate Odds of 1 In:</i> | <i>Approximate No. of Winners Per 4,800,000 Tickets</i> |
|------------------------------|-------------|--------------------------------------|-------------------------------------------------------------|
| \$5 x 2 | \$10 | 27.27 | 176,000 |
| \$10 w/MB | \$10 | 27.27 | 176,000 |
| \$10 | \$10 | 33.33 | 144,000 |
| \$5 x 3 | \$15 | 100 | 48,000 |
| \$15 w/MB | \$15 | 75 | 64,000 |
| \$15 | \$15 | 100 | 48,000 |
| \$5 x 4 | \$20 | 150 | 32,000 |
| \$10 x 2 | \$20 | 60 | 80,000 |
| \$20 | \$20 | 30 | 160,000 |
| \$5 x 5 | \$25 | 150 | 32,000 |
| \$5 x 3 + \$10 | \$25 | 150 | 32,000 |
| \$15 + \$10 | \$25 | 150 | 32,000 |
| \$25 w/MB | \$25 | 150 | 32,000 |
| \$25 | \$25 | 150 | 32,000 |
| \$5 x 10 | \$50 | 347.83 | 13,800 |
| \$10 x 5 | \$50 | 600 | 8,000 |
| \$25 x 2 | \$50 | 1,200 | 4,000 |
| \$5 w/10X | \$50 | 200 | 24,000 |
| \$50 w/MB | \$50 | 1,200 | 4,000 |
| \$50 | \$50 | 230.77 | 20,800 |
| \$5 x 10 + \$10 x 5 | \$100 | 342.86 | 14,000 |
| \$10 x 10 | \$100 | 600 | 8,000 |
| \$10 x 5 + \$50 | \$100 | 600 | 8,000 |
| \$20 x 5 | \$100 | 800 | 6,000 |
| \$25 x 4 | \$100 | 960 | 5,000 |
| \$50 x 2 | \$100 | 960 | 5,000 |
| \$10 w/10X | \$100 | 300 | 16,000 |
| \$100 w/MB | \$100 | 1,200 | 4,000 |
| \$100 | \$100 | 342.86 | 14,000 |
| \$20 x 10 | \$200 | 12,000 | 400 |
| \$25 x 8 | \$200 | 12,000 | 400 |
| \$15 x 10 + \$10 x 5 | \$200 | 12,000 | 400 |
| \$20 w/10X | \$200 | 12,000 | 400 |
| \$200 w/MB | \$200 | 12,000 | 400 |
| \$200 | \$200 | 12,000 | 400 |
| \$50 x 10 | \$500 | 40,000 | 120 |
| \$100 x 5 | \$500 | 120,000 | 40 |
| \$50 w/10X | \$500 | 40,000 | 120 |
| \$500 w/MB | \$500 | 120,000 | 40 |
| \$500 | \$500 | 60,000 | 80 |
| \$100 x 10 | \$1,000 | 120,000 | 40 |
| \$200 x 5 | \$1,000 | 120,000 | 40 |
| \$100 w/10X | \$1,000 | 120,000 | 40 |
| \$1,000 | \$1,000 | 120,000 | 40 |
| \$250,000 | \$250,000 | 960,000 | 5 |
| \$500,000 | \$500,000 | 960,000 | 5 |

MB = Win prize automatically
10X = Win 10 times the prize shown

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Sparkling Diamonds 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 Sparkling Diamonds, prize money from winning Pennsylvania Sparkling Diamonds 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 Sparkling Diamonds 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 Sparkling Diamonds or through normal communications methods.

JONATHAN H. NEWMAN,
Chairperson

[Pa.B. Doc. No. 04-863. Filed for public inspection May 14, 2004, 9:00 a.m.]

ENVIRONMENTAL HEARING BOARD

**Harley-Davidson Motor Company v. DEP; EHB
Doc. No. 2004-103-K**

Harley-Davidson Motor Company has appealed the issuance by the Department of Environmental Protection of NPDES Permit No. PA0085677 (March 30, 2004) to same for a facility in Springettsbury Township, York County.

A date for the hearing on the appeal has not yet been scheduled.

The appeal is filed with the Environmental Hearing Board (Board) at its office on the Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457 and may be reviewed by interested parties on request during normal business hours. If information concerning this notice is required in an alternative form, contact the Secretary to the Board at (717) 787-3483. TDD users may telephone the Board through the AT&T Pennsylvania Relay Center at (800) 654-5984.

Petitions to intervene in the appeal may be filed with the Board by interested parties under 25 Pa. Code § 1021.81 (relating to intervention). Copies of the Board's rules of practice and procedure are available upon request from the Board.

MICHAEL L. KRANCER,
Chairperson

[Pa.B. Doc. No. 04-864. Filed for public inspection May 14, 2004, 9:00 a.m.]

HOUSING FINANCE AGENCY

**2004 Home Choice Programs and Mandatory
Preapplication Seminars**

The Housing Finance Agency (Agency) has set aside funds to continue the Home Choice Programs (HCP).

In 2004, the HCP will fund development of new single family homes, for purchase, in urban communities through HCP-HCI. In addition, the Agency is expanding the HCP to include a new Neighborhood Revitalization Initiative (HCP-NRI) to provide funding for the substantial rehabilitation of vacant housing and construction of in-fill homes as a part of a municipality's comprehensive approach to increase the net investment in housing in urban areas while building mixed-income communities and encouraging diversity of homeownership (HCP-NRI). In addition, the Agency is announcing the continuation of the pilot effort started in 2003 to encourage mixed use facility financing in commercial corridors of this Commonwealth (HCP-MUFFI).

The HCP encourages market-sensitive and innovative land use planning concepts in urban areas and works in concert with commercial development and community and downtown revitalization efforts. The focus is on development of new homeownership opportunities and the transformation of disinvested urban neighborhoods into attractive places to live, thereby offering a viable alternative to

suburbia and sprawl development. HCP proposals require partnerships among the municipality and for-profit and nonprofit builders/developers. HCP funding is just a part of the overall financing. To date, approved proposals have combined HCP funds with many various municipal, State and Federal program funding, as well as private moneys and commercial development activities.

This year, the Agency has two separate, but related, Requests for Proposals (RFP) inviting applications for the HCP. HCP proposals must be based upon the requirements set forth in the RFP for either HCP-HCI, HCP-NRI or HCP-MUFFI. Both RFPs, include specific instructions for applicants, outline the goals of the various initiatives and provide specific timelines for program submissions. The complete RFPs are available on the Agency's website: www.phfa.org.

At least one member of the principal sponsor of each HCP application must attend an informational seminar at the offices of the Agency at 211 N. Front Street, Harrisburg, PA. Pre-registration is required by June 1, 2004, by contacting Jennifer Kennedy, (717) 780-3910, jkennedy@phfa.org. Proposed applications not represented at one of the preapplication seminars will be rejected. The seminars will be held on June 2, 2004, and June 8, 2004, as follows:

HCP-MUFFI—10 a.m. to 12 p.m.

HCP-HCI/HCP—NRI-1 p.m. to 4 p.m.

BRIAN A. HUDSON,
Executive Director

[Pa.B. Doc. No. 04-865. Filed for public inspection May 14, 2004, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Action Taken by the Commission

The Independent Regulatory Review Commission met publicly at 10:30 a.m., Thursday, April 29, 2004, and announced the following:

Regulation Approved

Environmental Quality Board #7-384: Safe Drinking Water; Long Term 1 Enhanced Surface Water Treatment Rule (amends 25 Pa. Code Chapter 109)

Approval Order

Public Meeting held
April 29, 2004

Commissioners Voting: John R. McGinley, Jr., Esq., Chairperson, by phone; Alvin C. Bush, Vice Chairperson, by phone; Daniel F. Clark, Esq.; Arthur Coccodrilli; Murray Ufberg, Esq.

Environmental Quality Board—Safe Drinking Water; Long Term 1 Enhanced Surface Water Treatment Rule; Regulation No. 7-384

On July 15, 2003, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Environmental Quality Board (Board). This

rulemaking amends 25 Pa. Code Chapter 109. The proposed regulation was published in the July 26, 2003, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on March 23, 2004.

The regulation amends existing provisions in the Safe Drinking Water program. It will extend measures designed to control and reduce *Cryptosporidium* to public drinking water systems serving less than 10,000 people. The amendments represent the second phase in adopting Federal standards to protect the public from *Cryptosporidium*.

We have determined this regulation is consistent with

the statutory authority of the Board (35 P. S. § 721.4(a) and 71 P. S. § 510-20(b)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 04-866. Filed for public inspection May 14, 2004, 9:00 a.m.]

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulations. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

| <i>Reg. No.</i> | <i>Agency/Title</i> | <i>Close of the Public Comment Period</i> | <i>IRRC Comments Issued</i> |
|-----------------|--------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------|-------------------------------------|
| 7-389 | Coal and Clay Mine Subsidence Insurance Board Mine Subsidence Fund (34 Pa.B. 1329 (March 6, 2004)) | 4/5/04 | 5/5/04 |
| 16A-5715 | State Board of Veterinary Medicine Implanting Electronic Identification; Veterinary Technician (34 Pa.B. 1331 (March 6, 2004)) | 4/5/04 | 5/5/04 |

Coal and Clay Mine Subsidence Insurance Board Regulation No. 7-389

Mine Subsidence Fund

May 5, 2004

We submit for consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The Coal and Clay Mine Subsidence Insurance Board (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on April 5, 2004. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

Section 401.13. Coverage limits and premiums for insurance.—Clarity.

The term “agent” is used in this section and other sections of 25 Pa. Code Chapter 401. However, this term is not defined. We understand the term refers to employees of the Department of Environmental Protection working on behalf of the Board. To improve clarity and avoid confusion, the Board should define the term “agent.”

State Board of Veterinary Medicine Regulation No. 16A-5715

Implanting Electronic Identification; Veterinary Technician

May 5, 2004

We submit for consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The State Board of Veterinary Medicine must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on April 5, 2004. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

1. Section 31.31. Scope of practice.—Reasonableness.

Subsection (b)(1)(xi) authorizes a noncertified employee of a veterinarian to “implant an electronic identification device” under direct veterinary supervision. Commentators have objected to the use of noncertified employees to implant

electronic identification devices. Specifically, they state that the implantation of these devices is an invasive procedure that should be done by a trained and certified person to ensure that the device is inserted properly and the accompanying paperwork is completed and filed accurately.

The Board should further explain the basis for allowing noncertified employees to implant electronic identification devices.

2. Section 31.39. Grounds for disciplinary proceedings.—Consistency with statute.

Subsection (a)(6) deletes the phrase “which, if committed in this Commonwealth, would be deemed a felony.” However, section 21(15) of the Veterinary Practice Act (63 P. S. § 485.21(15)) contains this language. The Board should retain this language in the final-form regulation, or explain why it is unnecessary to do so.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 04-867. Filed for public inspection May 14, 2004, 9:00 a.m.]

Notice of Filing of Final Rulemakings

The Independent Regulatory Review Commission (Commission) received the following regulation on the date indicated. To obtain the date and time of the meeting at which the Commission will consider this regulation, contact the Commission at (717) 783-5417 or visit its website: www.irrc.state.pa.us. To obtain a copy of the regulation, contact the promulgating agency.

| <i>Final-Form Reg. No.</i> | <i>Agency/Title</i> | <i>Received</i> |
|--------------------------------|---------------------------------------------------------------|-----------------|
| 10-170 | Department of Health Public Swimming and Bathing Places | 4/30/04 |

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 04-868. Filed for public inspection May 14, 2004, 9:00 a.m.]

INSURANCE DEPARTMENT

**HealthAmerica; Eastern Pennsylvania Service Area
HMO Medical Base Rate; Rate Filing**

On April 27, 2004, the Insurance Department (Department) received from HealthAmerica a filing for a rate increase between 21% and 25%.

The increase will impact approximately 57,500 members and generate additional revenue amounting to \$31.1 million annually, to be effective July 1, 2004.

Unless formal administrative action is taken prior to July 28, 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 Department's regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, csandersjo@state.pa.us within 30

days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-869. Filed for public inspection May 14, 2004, 9:00 a.m.]

Pennsylvania Professional Liability Joint Underwriting Association; Rate Filing

On April 30, 2004, the Insurance Department (Department) received from the Pennsylvania Professional Liability Joint Underwriting Association (JUA) a filing to increase overall rates by 0.6% for noninstitutional health care providers by proposing to:

- Decrease the base rate by 8.0% for noninstitutional health care providers.
- Move ten specialties from one class to another class.
- Make various class changes including the addition of six new classes and the deletion of classes that are not currently used or that are not eligible for the JUA under Act 13. Clarify the definitions of major and minor surgery.
- Change all class relativities (except 015).
- Move ten counties from one territory to another.
- Change two territorial relativities.

The JUA is also seeking approval to increase the base rates by 0.6% for institutional health care providers. Additionally, the Hospital Experience Rating Plan has been updated.

Unless formal administrative action is taken prior to June 29, 2004, the rates within the subject filing may be deemed into use upon the effective date, September 1, 2004, 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 available for public inspection during normal working hours, by appointment, at the Department's regional offices in Harrisburg, Philadelphia and Pittsburgh.

Interested parties are invited to submit written comments, suggestions or objections to Ken Creighton, ACAS, Insurance Department, Insurance Product Regulation and Market Enforcement, 1311 Strawberry Square, Harris-

burg, PA 17120, kcreighton@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-870. Filed for public inspection May 14, 2004, 9:00 a.m.]

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. 04-871. Filed for public inspection May 14, 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 office in Philadelphia, 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 Mary E. Gillikin; file no. 04-182-03130; Erie Insurance Exchange; doc. no. PH04-04-041; June 18, 2004, 9 a.m.

Appeal of Michael and Doreen Hanna; file no. 04-215-01027 AAA Mid-Atlantic Company; doc. no. PH04-04-043; June 18, 2004, 10 a.m.

Appeal of Augustinus Tedjasukmana; file no. 04-267-01136; Rutgers Casualty Insurance Company; doc. no. PH04-04-036; June 18, 2004, 12:30 p.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid,

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insurer has requested hearings as authorized by the act of June 17, 1998 (P. L. 464, No. 68) in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg and Pittsburgh, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Erie Insurance Exchange; file no. 04-193-02644; Jennifer M. Swartz; doc. no. P04-04-039; June 9, 2004, 1:30 p.m.

The following hearing will be held in the Pittsburgh Regional Office, Room 304 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Erie Insurance Exchange; file no. 04-308-70699; Charles W. Miller, Jr.; doc. no. PI04-04-038; July 15, 2004, 11 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's order will be sent to those persons participating in the hearing or their designated representatives. The order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid,

service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-872. Filed for public inspection May 14, 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 office in Harrisburg, 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 Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Charles Spatz; file no. 04-183-03754; Mutual Benefit Insurance Company; doc. no. P04-04-040; June 3, 2004, 1:30 p.m.

Appeal of Lon Diffenderfer; file no. 04-183-03258; Homesite Insurance Company of PA; doc. no. P04-04-034; June 15, 2004, 10:30 a.m.

Each party may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-873. Filed for public inspection May 14, 2004, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insurer has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with the company's termination of the insured's policy. The administrative hearing will be held in the Insurance Department's

regional office in Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Philadelphia Regional Office, Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Shelby Insurance Company; file no. 04-280-01057; Joseph Margolis; doc. no. PH04-04-042; June 18, 2004, 11 a.m.

Each party may appear with or without counsel and offer relevant testimony and/or other relevant evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

Following the hearing and receipt of the stenographic transcript, the Insurance Commissioner (Commissioner) will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Tracey Pontius, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-874. Filed for public inspection May 14, 2004, 9:00 a.m.]

Sharon L. Walker; Prehearing

Appeal of Sharon L. Walker under 40 P. S. §§ 991.2101—991.2193; Keystone Health Plan Central; Doc. No. HC04-04-037

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 June 9, 2004, at 11 a.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before May 13, 2004. A date for a hearing shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before May 28, 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 2, 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. 04-875. Filed for public inspection May 14, 2004, 9:00 a.m.]

LEGISLATIVE REFERENCE BUREAU

Documents Filed But Not Published

The Legislative Reference Bureau (Bureau) accepted the following documents during the preceding calendar month for filing without publication under 1 Pa. Code § 3.13(b) (relating to contents of Bulletin). The Bureau will continue to publish on a monthly basis either a summary table identifying the documents accepted during the preceding calendar month under this subsection or a statement that no documents have been received. For questions concerning or copies of documents filed, but not published, call (717) 783-1530.

Executive Board

Resolution #CB-04-096, Dated April 13, 2004. Authorizes implementation of the Memorandum of Understanding between the Commonwealth and the Independent State Store Union.

Resolution #CB-04-104, Dated April 27, 2004. Authorizes implementation of the Collective Bargaining Agreement between the Commonwealth and the United Food and Commercial Workers Union.

Governor's Office

Management Directive No. 205.9—Implementation of Financial Disclosure Provisions of the Governor's Code of Conduct, Revision No. 1, Dated April 2, 2004.

Administrative Circular No. 04-6—Directives Management System Conversion to Electronic Distribution of Documents, Dated April 8, 2004.

Administrative Circular No. 04-7—Refueling of Commonwealth Automotive Fleet Vehicles, Dated April 9, 2004.

MARY JANE PHELPS,
Director
Pennsylvania Bulletin

[Pa.B. Doc. No. 04-876. Filed for public inspection May 14, 2004, 9:00 a.m.]

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board leases will expire:

Allegheny County, Wine & Spirits Shoppe #0218, 2947 W. Liberty Avenue, Pittsburgh, PA 15216-2543.

Lease Expiration Date: April 30, 2005

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board

with approximately 3,400 net useable square feet of new or existing retail commercial space on West Liberty Avenue in Dormont Borough. The site must have adequate off-street customer parking and access for rear truck deliveries.

Proposals due: June 4, 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: Bruce VanDyke, (412) 565-5130

Allegheny County, Wine & Spirits Shoppe #0231, Robinson Town Centre, 1160 Park Manor Blvd., Pittsburgh, PA 15205.

Lease Expiration Date: February 28, 2009

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 11,000 net useable square feet of new or existing retail commercial space in a shopping center environment near the intersection of U. S. Route 22/30 and State Route 60 in Robinson Township.

Proposals due: June 4, 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: Bruce VanDyke, (412) 565-5130

Allegheny County, Wine & Spirits Shoppe #0296, 5249 Library Road, Bethel Park, PA 15102-2714.

Lease Expiration Date: February 28, 2005

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,800 net useable square feet of new or existing retail commercial space in a shopping center environment fronting State Route 88 in Bethel Park Borough.

Proposals due: June 4, 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: Bruce VanDyke, (412) 565-5130

Montour County, Wine & Spirits Shoppe #4701, 604 Continental Blvd., Danville, PA 17821-1041.

Lease Expiration Date: September 30, 2004

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 within the Borough of Danville.

Proposals due: June 4, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Willard Rhodes, (717) 657-4228

Northampton County, Wine & Spirits Shoppe #4805, 1910 Center Street, Northampton, PA 18067-1355.

Lease Expiration Date: April 30, 2005

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,400 net useable square feet of new or existing retail commercial space within Northampton Borough.

Proposals due: June 4, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Willard Rhodes, (717) 657-4228

Schuylkill County, Wine & Spirits Shoppe #5412, 17 St. John Street, Schuylkill Haven, PA 17972-1652.

Lease Expiration Date: May 31, 2005

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 3,200 net useable square feet of new or existing retail commercial space within Schuylkill Haven Borough.

Proposals due: June 4, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, Brandywine Plaza, 2223 Paxton Church Road, Harrisburg, PA 17110-9661
Contact: Willard Rhodes, (717) 657-4228

JONATHAN H. NEWMAN,
Chairperson

[Pa.B. Doc. No. 04-877. Filed for public inspection May 14, 2004, 9:00 a.m.]

MILK MARKETING BOARD

Hearing and Presubmission Schedule for Milk Marketing Areas 2, 3, 5 and 6; Wholesale Discounts

Under the Milk Marketing Law (31 P. S. §§ 700j-101—700j-1302), the Milk Marketing Board (Board) will conduct a public hearing for Milk Marketing Areas 2, 3, 5 and 6 on May 20, 2004, at 1 p.m. in Room 309, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearing is to receive testimony and exhibits concerning wholesale discounts in Milk Marketing Areas 2, 3, 5 and 6. Testimony and exhibits will also be received concerning the application of discounts to the computation of minimum wholesale and retail prices in Milk Marketing Areas 2, 3, 5 and 6.

The staff of the Board is deemed to be a party to this hearing, and the attorney representing staff is deemed to have entered his appearance. Other persons who wish to present evidence may be included on the Board's list of parties by: (1) having their attorney file with the Board on or before 4 p.m. on May 17, 2004, a notice of appearance substantially in the form prescribed by 1 Pa. Code § 31.25 (relating to form of notice of appearance); or (2) if unrepresented by counsel, filing with the Board on or before 4 p.m. on May 17, 2004, notification of their desire to be included as a party.

The parties shall observe the following requirements for advance filing of witness information and exhibits. The Board may exclude witnesses or exhibits of a party that fails to comply with these requirements. In addition, the

parties shall have available in the hearing room at least 20 additional copies made available for the use of nonparties attending the hearing.

1. By 4 p.m. on May 17, 2004, each party shall file with the Board seven copies and ensure receipt by all other parties of one copy of:

a. A list of witnesses who will testify for the party, along with a statement of the subjects concerning which each witness will testify. A witness who will be offered as an expert shall be so identified, along with the witness's area or areas of proposed expertise.

b. Each exhibit to be presented, including testimony to be offered in written form.

2. By 4 p.m. on May 19, 2004, each party shall file and serve as set forth in paragraph 1 information concerning rebuttal witnesses and copies of rebuttal exhibits.

Parties that wish to offer in evidence documents on file with the Board, public documents or records in other proceedings before the Board or wish the Board to take official notice of facts shall comply with, respectively, 1 Pa. Code § 35.164, § 35.165, § 35.167 or § 35.173. Whenever these rules require production of a document as an exhibit, copies shall be provided to each Board member and to all other parties. In addition, at least 20 copies shall be available for distribution to nonparties attending the hearing.

Requests by parties for Board staff to provide data pertinent to the hearing shall be made in writing and received in the Board office by 4 p.m. on May 12, 2004.

The filing address for the Board is Milk Marketing Board, Room 110, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA 17110.

Persons who require this information in an alternate format should call (717) 787-4194 or (800) 654-5984 (Pennsylvania Relay Service for TDD users).

KEITH BIERLY,
Secretary

[Pa.B. Doc. No. 04-878. Filed for public inspection May 14, 2004, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Natural Gas Service

A-125129 and A-125115F2000. Robert C. Wyant and Judith R. McCrea t/a Corsica Gas Company. Application of Robert C. Wyant and Judith R. McCrea t/a Corsica Gas Company for approval of: (1) the transfer, by sale, of the Corsica Gas Company, formerly owned by Kenneth Songer, to Robert C. Wyant and Judith R. McCrea; (2) the right of Robert C. Wyant and Judith R. McCrea t/a Corsica Gas Company to begin to offer, render, furnish or supply natural gas service to the public in portions of Union and Elder Townships, Jefferson County; and (3) the right of Kenneth Songer t/a Corsica Gas Company to abandon its certificate of public convenience as a natural gas supplier to the public in portions of Union and Elder Townships, Jefferson County.

Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). Filings must be made with the Secretary, Pennsyl-

vania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant, on or before June 1, 2004. The documents filed in support of the application are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the applicant's business address.

Applicants: Robert C. Wyant and Judith R. McCrea t/a Corsica Gas Company and Kenneth Songer t/a Corsica Gas Company

Through and By: Robert C. Wyant, Judith R. McCrea, P. O. Box 4, Fenelton, PA 16034.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-879. Filed for public inspection May 14, 2004, 9:00 a.m.]

Order

Public Meeting held
April 29, 2004

Commissioners Present: Terrance J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzingrilli; Wendell F. Holland

Joint Application of Laurel Pipeline Company, LP and Buckeye Pipeline Company, LP for approval of the transfer, by sale, of all the outstanding equity interest in Glenmoor, Ltd., parent of the general partner of the applicants, to BPL Acquisition, LP; Doc Nos. A-140000F0002 and A-140110F0003

Order

By the Commission:

Laurel Pipeline Company, LP (Laurel) and Buckeye Pipeline Company, LP (Buckeye) (together, the applicants or the utilities) filed the previously captioned joint application on March 10, 2004, under Chapter 11 of the Public Utility Code (66 Pa.C.S. §§ 1102, et seq.) seeking approval of the transfer, by sale, of 100% of the equity ownership of the entity controlling the general partner of Laurel and Buckeye.

I. The Parties

Buckeye and Laurel are pipeline utilities transporting a variety of petroleum-based products in the western and eastern portions, respectively, of this Commonwealth. Currently, Glenmoor, Ltd. (Glenmoor) indirectly controls 100% of Buckeye Pipe Line Company (BPL Co.), a corporation. BPL Co. owns a 1% general partnership interest in, and is the sole general partner of, each of Buckeye and Laurel. In addition, BPL Co. owns a 1% interest in, and is the sole general partner of, Buckeye Partners, LP, which owns a 99% limited partnership interest in each of Buckeye and Laurel.

II. The Proposed Transaction

By their filing, the applicants propose the acquisition of all the equity of Glenmoor by BPL Acquisition, LP. The latter is a limited partnership controlled by a private equity fund, Carlyle Riverstone Global Energy and Power Fund II, L. P. (Carlyle Riverstone), a joint venture between Riverstone Holdings LLC and the Carlyle Group that is focused on investing in the energy and power sectors. Glenmoor's stock, held by members and related entities of one family, will be purchased by Carlyle Riverstone as another in a series of investments in

energy-related industries. The applicants have furnished a detailed description of Carlyle Riverstone and its affiliates, and it supports the applicants' averments that the acquirer possesses the managerial, technical and financial fitness to operate Buckeye and Laurel.

In summary, Carlyle Riverstone is a joint venture between two private investors. Riverstone Holdings LLC is a private equity firm specializing in energy investments. The Carlyle Group is an international private equity investor that participates in a variety of buyouts, venture investments and turnarounds in North America, Europe and Asia. The senior principals of Carlyle Riverstone are two former managing directors at a prominent New York investment banking firm. Both have spent their careers investing in and managing energy companies.

While the existing management of Buckeye and Laurel is to be retained, the applicants point to Carlyle Riverstone's ability to add management depth as an advantage, and similarly identify the acquirer's greater access to capital as a benefit. The promise of improvement in managerial and financial resources allows the proposed transaction to meet the standard set by *City of York v. Pennsylvania Public Utility Commission*, 446 Pa. 136, 295 A.2d 825 (1972), that the change in control provide an affirmative public benefit.

The applicants have also noted that the change in control will not result in any change in rates or diminution of service, and that service will continue to be provided by Buckeye and Laurel under their currently effective tariffs.

III. Jurisdiction

We turn now to a jurisdictional question which arose in our consideration of this case. As previously noted, BPL Co., the general partner of the Buckeye and Laurel limited partnerships, owns both a direct 1% general partnership interest and indirectly, a 0.99% limited partnership interest in the two utilities, for a total equity and voting interest of 1.99%. In 1994, we adopted a Policy Statement entitled Utility Stock Transfers that addressed our jurisdiction over these transfers under section 1102(a)(3) of the Public Utility Code, and which is published at 52 Pa. Code § 69.901.¹ In that Statement, we defined controlling interest solely in terms of voting interest, and chose as the lower limit at which de facto control is reached as the holding of at least 20% of the voting interest, where that is also the largest voting interest extant.

In the instant case, the limited partners other than BPL Co. own 98.01% of the equity interest in the two jurisdictional pipelines, but do not have any voting interest over operational matters. This gives the general partner, BPL Co., complete voting control over operational matters of Buckeye and Laurel.

On April 21, 2004, the utilities filed a letter supplementing their application. In it, they stated that the organization of the Laurel and Buckeye partnerships provides the limited partners voting power only in very limited circumstances, such as the sale of all the partnerships' assets or in changes in the partnership agreement. "In all other matters," including operational matters, "100% voting control lies in the general partner." Letter, ¶3.

¹ Our rationale and intent in adopting the Policy Statement is set forth in our Order at M-00930490, entered September 13, 1994, and published at 24 Pa.B. 5328 (October 22, 1994).

We accept the expanded explanation of the Laurel and Buckeye partnerships structure, specifically that voting control over operational matters of Buckeye and Laurel resides in BPL Co., the general partner. Consequently, we recognize that the instant transaction is jurisdictional and consistent with our 1994 Policy Statement.

IV. Conclusion

We have reviewed the application of Laurel and Buckeye regarding the change in control of their common general partner, and thereby control of the two utilities. We find that the proposed transaction is jurisdictional, and that it is necessary or proper for the service, accommodation, convenience or safety of the public; *Therefore,*

It Is Ordered That:

1. The joint application of Laurel Pipeline Company, L. P. and Buckeye Pipeline Company, L. P. for approval of the transfer to BPL Acquisition, LP of all the outstanding voting interest in Glenmoor, Ltd., the ultimate owner of the general partner of the two utilities, be and is hereby approved.

2. Certificates of public convenience be issued evidencing our approval, and that the case be marked closed for both applicants.

3. Notice of the date of the consummation of the transaction approved in Ordering Paragraph No. 1 be filed within 30 days of consummation.

4. A copy of this order be published in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-880. Filed for public inspection May 14, 2004, 9:00 a.m.]

Proposed Modifications to the Review of Interconnection Agreements

Public Meeting held
April 29, 2004

Commissioners Present: Terence J. Fitzpatrick, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzingrilli; Wendell F. Holland

Proposed Modifications to the Review of Interconnection Agreements; M-00960799

Final Order

By the Commission:

Before the Commission for consideration are the Comments filed in response to the Tentative Order entered on July 1, 2003, in the previously captioned proceeding. Specifically, on August 18, 2003, The United Telephone Company of Pennsylvania and Sprint Communications Company, L. P. (Sprint) filed Joint Comments (Sprint Comments) and Verizon Pennsylvania Inc. and Verizon North Inc. filed Joint Comments (Verizon Comments). No reply comments were filed.

Also before the Commission is the motion for appearance Pro Hac Vice filed on August 18, 2003, by Zsuzsanna

E. Benedek, a member of the Pennsylvania Bar, for admission of Craig D. Dingwall to appear as an attorney on behalf of Sprint.¹

I. History of the Proceeding

On June 3, 1996, the Commission entered an Order at Docket No. M-00960799 for the purpose of implementing the Federal Telecommunications Act of 1996 (TA-96) in Pennsylvania.² The Implementation Order, *inter alia*, established specific procedures and requirements relating to the consideration and approval of interconnection agreements. See 47 U.S.C. § 252.

As noted in the Tentative Order, *supra*, during the time that has elapsed since the entry of the Implementation Order, a number of issues arose in the context of processing interconnection agreements. The Tentative Order reviewed the specific requirements and procedures contained in the Implementation Order and, where new issues have been identified, the Tentative Order proposed procedural modifications to address those issues.

Prior to the issuance of the Tentative Order, in an attempt to involve the affected telecommunications company entities in this process, on November 1, 2002, the Commission served a copy of Proposed Modifications on all incumbent local exchange carriers (ILECs) and competitive local exchange carriers (CLECs), as well as the Pennsylvania Telephone Association. Notice of the proposed modifications was also published at 32 Pa.B. 5485 (November 2, 2002).

In response to the published notice, original Comments were filed by the following Parties: ALLTEL/North Pittsburgh Telephone Company; MCI WorldCom Network Services, Inc. (MCIW); Sprint Communications Company L. P./United Telephone Company of Pennsylvania (Sprint); Verizon PA; and Level 3 Communications LLC. Original Reply Comments were filed by Verizon PA.

In the Tentative Order, we first addressed the failure of companies to notify the Commission about the initial interconnection request date (Day 1). After considering the original Comments of the Parties regarding this issue, we required, as a tentative resolution, that the ILECs be responsible for notifying this Commission that a request for an interconnection has been filed. Tentative Order at 6-10.

The second concern addressed in the Tentative Order was the failure of the companies to file an executed interconnection agreement with this Commission within 30 days after the agreement is signed. After considering the positions of the Parties in their original Comments, we tentatively adopted, instead of our initially proposed resolution, Sprint's proposal, that the Parties either be permitted to file the agreement under a cover letter rather than a joint petition, as well as Verizon's proposal that the ILEC individually be permitted to file a Petition for approval of a jointly signed agreement instead of a joint petition. We also stated that the issue of penalties does not need to be addressed in the Tentative Order, but should be addressed on a case-by-case basis. Tentative Order at 10-15.

The third matter we tentatively addressed was whether we should continue our current policy of approving an interconnection agreement between an ILEC and a CLEC prior to granting a certificate of public convenience to the

¹ We note that none of the Parties has objected to the admission of Mr. Dingwall to appear on behalf of Sprint. Our review of the Motion reveals nothing objectionable regarding the appearance. Accordingly, we shall grant the Motion.

² See *In Re: Implementation of the Telecommunications Act of 1996*, Doc. No. M-00960799 (Order entered June 3, 1996) (hereinafter, Implementation Order) (Order on Reconsideration entered on September 9, 1996).

CLEC. After considering the original Comments of the Parties, we tentatively decided against requiring that a CLEC obtain a certificate of public convenience prior to filing an interconnection agreement. Tentative Order at 15-18.

The fourth issue we addressed was the failure to file "true and correct" copies of interconnection agreements with the Commission. After considering the original Comments of the Parties, we tentatively decided to eliminate ordering paragraphs from our Orders approving interconnection agreements that require Parties to file a true and correct paper copy of the agreement after it is approved. We further tentatively determined that an acceptable compromise to requiring the ILECs to include a copy of all interconnection agreements on their websites would be for the ILECs to file an electronic true and correct copy of all interconnections agreements, including any amendments, for inclusion on the Commission website. Tentative Order at 18-21.

The Tentative Order was entered on July 1, 2003, and provided the Parties with an opportunity to file comments and reply comments. As previously mentioned, Sprint and Verizon filed timely Comments, to which no replies were filed.

II. Implementation Order Overview

As noted in the Tentative Order (at 4-6), in the Implementation Order, we stated as follows:

The development of an interconnection agreement commences on the day a carrier receives a request for interconnection from another carrier (day 1). It is absolutely essential, and through this order we will require that each carrier requesting an interconnection agreement from another carrier shall file a copy of the request with the Commission at the requesting carrier's A-docket.

Implementation Order at 24.

TA-96 established a 160-day period, beginning with Day 1, as defined in the Implementation Order (that is, the day a carrier receives a request for interconnection from another carrier), within which the Parties may negotiate the terms of interconnection. During the first 135 days, any party may request that the Commission mediate the interconnection request. If mediation is requested, the Commission appoints a mediator who proceeds in accordance with the procedures outlined in the Implementation Order. (See Implementation Order at 26-28 and Order on Reconsideration at 16).

Included in the 160-day negotiation period is a 25-day period, from Day 135 through Day 160, during which any of the Parties may request arbitration of any or all unresolved issues whenever negotiation and/or mediation fails. Section 252(b)(1). TA-96 specifies that the Commission must resolve all outstanding issues within 9 months of the date that interconnection is first requested (Day 1).³ Section 252(b)(4)(C). TA-96 further specifies that the Commission must then act within 30 days of the date that an executed agreement resulting from arbitration proceedings is filed. Section 252(e)(4).

In the Implementation Order, the Commission recognized that TA-96 does not place any time constraints on the Parties after Day 160 with respect to negotiated and/or mediated interconnection agreements. As a result, the Implementation Order established a 30-day period

after the close of the negotiation period (Day 160), or by Day 190, within which the Parties to a negotiated and/or mediated agreement must file an executed agreement with the Commission. Implementation Order at 33. Once filed, the Commission, as required by TA-96, must then complete review within 90 days. Section 252(e)(4).

Likewise, in the case of arbitrated agreements, TA-96 does not specify when an executed agreement that results from arbitration proceedings must be filed with the Commission. In the Implementation Order, we specified that an executed agreement resulting from arbitration must be filed with the Commission within 30 days of the date of entry of the Order resolving the arbitration proceedings. Implementation Order at 33. The Commission, in accordance with TA-96, then has 30 days within which it must complete its review of the filed agreement. Section 252(e)(4).

In summary, the time period established by TA-96 and our Implementation Order for an interconnection agreement arrived at through negotiation and mediation is as follows. During the first 160 days, the parties voluntarily negotiate the terms of the Agreement. At any point during the first 135 days of the negotiation period, either party may request the Commission to participate in the negotiations and to mediate any differences arising in the course of the negotiations. An agreement arrived at through either negotiation or mediation is then filed with the Commission and the Commission must then either approve or reject the agreement within 90 days from the filing date; otherwise the agreement is deemed approved. For agreements arrived at through arbitration (that is, if the parties are unsuccessful in negotiating an interconnection agreement, with or without mediation) either party may file a petition with the Commission between Day 135 and Day 160 to arbitrate the contractual dispute. Responses to the arbitration petition must be filed with the Commission within 25 days. The arbitrator will issue a recommended decision no later than 220 days from Day 1, or the date of the original request for interconnection. Exceptions must be filed within 15 days from the date of issuance of the recommended decision and no reply exceptions are permitted. The Commission must then issue an arbitration order within 270 days of the date of the interconnection request. (See Arbitration Order at 28-33.) After the compliance interconnection agreement is filed, the Commission must act within 30 days to either reject or approve the compliance agreement; otherwise it is deemed approved under section 252(e)(4).

In both of the previous cases, if the Commission fails to meet its responsibility under TA-96 to act within the prescribed 90 days (in the case of negotiated and/or mediated agreements), and 30 days (in the case of arbitrated agreements), the Interconnection Agreement is deemed approved under section 252(e)(4) of TA-96, and the Federal Communications Commission may assume jurisdiction under section 252(e)(5).

III. Issues Relative to TA-96 and the Implementation Order

As previously noted, since entry of the Implementation Order in 1996, several issues have arisen with respect to the foregoing time-related requirements regarding the review of interconnection agreements. What follows is the presentation of those issues as identified in our November 1, 2002, Notice of Proposed Modifications; a statement of our tentative resolution of those issues in the Tentative Order based on the original Comments of the Parties; a

³ Under TA-96, the Commission must act on any Interconnection Agreement filed as a result of negotiation and/or mediation within 90 days of an executed agreement being filed with the Commission, and within 30 days after submission of an agreement adopted by arbitration. Section 252(e)(4).

summary of the current Comments filed in response to the Tentative Order; and the final resolution of those issues.

A. Failure to Notify Commission about the Initial Interconnection Request Date (Day 1)

As noted in the Tentative Order, this has been a recurring problem since entry of the Implementation Order. Routinely, the requesting interconnection carrier⁴ has not been advising the Commission of the date that it initially requested interconnection with an ILEC as required by the Implementation Order. This results in the Commission not knowing when any of the time periods prescribed either by TA-96 or by the Implementation Order actually begin.

1. Initially Recommended Solution

The solution initially recommended in our Proposed Modifications was to require that ILECs formally notify the Commission of the date (Day 1) on which another carrier first requests interconnection. It was proposed that notification be in writing and submitted to the Secretary within 20 days after a request for interconnection. It was also suggested that the notification state whether the Day 1 date pertains to a new interconnection agreement (that is, the first time the ILEC is interconnecting with the requesting carrier), an amended or revised interconnection agreement, a replacement interconnection agreement or an "opt-in" request regarding an existing interconnection agreement. In all instances, except when the Commission has not established an A-docket for the requesting carrier, the ILEC would be required to reference in the notice the Commission A-docket assigned to the requesting carrier. Where the requesting carrier has no A-docket assigned, the ILEC would be required to note that fact and the Secretary would then assign an A-docket as noted in the Implementation Order.

This represents a departure from the current requirements of the Implementation Order. The Implementation Order states that it is the obligation of the requesting carrier to notify the Commission of the date when interconnection is requested. However, since we do not have jurisdiction over all requesting carriers, enforcement of this requirement is problematic. As a result, we proposed placing the notice requirement on the ILEC.

2. Tentative Resolution

After reviewing the originally filed comments regarding the Day 1 notice issue, we tentatively determined that the ILECs should be responsible for notifying this Commission that a request for an interconnection has been filed. This is because in section 252(b)(4)(c), TA-96 expressly mandates that the interconnection request process take no longer than 9 months. We further noted that if we are to adhere to TA-96, some form of enforceable requirement to notify the Commission of the Day 1 date is required. For these reasons, we tentatively required that the ILEC notify the Commission of a request for interconnection within 20 days of the date interconnection is requested by a party. Tentative Order at 6-10, 21.

3. Comments to Tentative Order

Regarding the Day 1 issue, Sprint objects to the Tentative Order's requirement that the ILEC be the responsible entity to file notice with the Commission of the request for an interconnection agreement. Sprint

⁴ The requesting interconnection carrier may or may not be subject to this Commission's jurisdiction. However, the ILEC providing interconnection to the requesting interconnection carrier is currently subject to this Commission's jurisdiction.

argues that the Commission should eliminate this requirement altogether or at least require the requesting carrier to give the notice. Sprint asserts that this requirement would needlessly inundate the Commission with filings that may never amount to an arbitrated or negotiated agreement or an arbitration or mediation. Sprint argues that this requirement may also produce a flood of readjusted Day 1 requests in light of the fact that the carriers often "re-start the clock" multiple times during the course of interconnection negotiations to give themselves more negotiating time, while avoiding premature and unnecessary litigation. Sprint Comments at 2-4.

Verizon also does not agree with our tentative resolution of this issue. Verizon contends that the Commission's proposed modification would not solve the problem as intended. Verizon further argues that making it Verizon's (or another ILEC's) responsibility to give the Commission Day 1 notice would only serve to slow an already cumbersome task. Verizon submits that the responsibility should remain with the requesting CLECs. Verizon Comments at 1-5.

4. Final Resolution

We are persuaded by Sprint's comments that we reconsider our determination in the Tentative Order that requires ILEC to file a "Day 1 notice" with the Commission within 20 days of the date interconnection is requested. We agree with Sprint's concern that putting this obligation on the ILEC presumes that the ILEC can determine whether or not the carrier is certificated and what, if any, A-docket has been assigned to the requesting carrier. (See Sprint Comments at 3.)

It is not our intent to create an undue, administrative burden on the ILECs and we are concerned that our tentative decision may increase the administrative burdens on both the ILECs and this Commission with unnecessary filings and inquiries. In light of the fact that "Day 1 notices" are more pertinent to interconnection agreements requests that may go to arbitration rather than for interconnection agreements arrived at through direct negotiations, we are of the opinion that instead of requiring the filing of "Day 1 notices" by ILECs (as recommended in our Tentative Order) or the CLECs (as is our current policy under the Implementation Order) with the Commission, it would be less burdensome if we were just to require that the ILECs maintain a log of the dates of the "Day 1 requests" and any readjusted "Day 1 requests" for each interconnection agreement request. That information would then be made available upon request by an ALJ or a member of the Commission in the case of arbitrated proceedings or whenever it would be necessary to know when "Day 1" began. After the interconnection agreement is approved or the proceeding involving a request for arbitration has been concluded, the ILEC would be permitted to discard the log. This would alleviate the administrative burdens of having the ILEC determine the docket number of a requesting carrier as well as having to make a paper filing of the "Day 1 notices" and any relevant subsequent updates of those "Day 1 notices" where the Parties mutually agree to "restart the clock." Therefore, we shall modify the Implementation Order and our tentative resolution of this matter consistent with the above discussion.

B. Failure to File an Executed Interconnection Agreement With the Commission Within 30 Days After the Agreement is Signed

As we explained in the Tentative Order on page 10, this issue is probably the most significant, especially with

respect to negotiated or mediated agreements, since Parties have routinely been ignoring the directive in our Implementation Order to file the executed agreement within 30 days from the date it is signed. Parties have been taking several months, and even longer, after a negotiated agreement has been executed before filing the agreement with the Commission for approval.

In the interim, the Parties, in most cases, begin operating under the agreement as soon as it has been executed regardless of the fact that the agreement has not been either filed with, or approved by, the Commission. In several instances, the interconnection agreement actually expired either prior to, or during, the 90-day review period while it is pending before this Commission for approval. The concern here is that the Parties to the agreement are operating under an agreement that has not been filed with the Commission, has not been published for public comment, has not been approved by the Commission, and is not available to any other carrier to opt-in to should a carrier so desire.

1. *Initially Recommended Solution*

In the Proposed Modifications published in November 2002, we stated that any recommended solution to this problem must impose the requirement for compliance on both the requesting carrier and the ILEC providing interconnection, and must also take into consideration the fact that the Commission may not assert jurisdiction over all requesting carriers, for example, wireless carriers. In many instances where this problem has occurred, the ILEC in question has indicated that the requesting carrier delays signing the joint petition for approval of the agreement that is to be filed with the Commission under the Implementation Order. The initially recommended solution, therefore, was to permit and/or require the ILEC in question not to operate under the agreement until a time as the requesting carrier signs the joint petition requesting approval of the executed agreement.

It was also proposed that the Commission enforce the civil penalty provisions under section 3301 of the Public Utility Code (66 Pa.C.S. § 3301) against all jurisdictional carriers whereby a fine could be imposed on the ILEC and on any jurisdictional interconnecting carrier for each day filing is delayed beyond the initial 30-day grace period provided for filing an executed interconnection agreement by the Implementation Order.

2. *Tentative Resolution*

After reviewing the original comments filed by the Parties, we observed our grave concerns regarding the late-filed agreements. Rather than establishing firm guidelines on how penalties should be assessed on non-conforming Parties, we stated that the matter concerning penalties should be addressed on a case-by-case basis rather than in the context of the Tentative Order. We tentatively adopted, instead of our originally proposed resolution, the proposals by Sprint and Verizon that would: (1) permit the filing of the interconnection agreement under a cover letter instead of a joint petition; and (2) permit the ILEC to file a petition for approval of a jointly signed agreement instead of a joint petition. In this regard we stated the following:

Regardless of whether the submittal is via a "letter petition" or a formal pleading, the requirement to submit the agreement should be imposed upon a jurisdictional entity and need not require the requesting carrier to participate in a joint filing, which has been the cause for delay in many instances. Additionally, the thirty days within which the requesting

carrier would be allowed to notify the commission if the agreement submitted by the ILEC is not a true and correct copy would not cause any appreciable delay in the review process since the Commission staff could complete its review within that time period and simply await any objection by the requesting carrier. In the absence of any objection, the agreement could be approved at Public Meeting without further action. If a timely objection was filed, there would still be adequate time left in the 90-day review period to have the ILEC correct any deficiencies.

Tentative Order at 10-15.

3. *Comments to Tentative Order*

In its Comments, Sprint argues that the ILEC should not be the sole responsible party to file the interconnection agreement with the Commission within 30 days after it is signed. Sprint also submits that the 30-day time period is unreasonable and that the Commission should have adopted its suggestion for up to three 30-day extensions to file the signed, executed interconnection agreement. Finally, Sprint contends that the penalties should be clarified and not applied exclusively to ILECs.

Verizon agrees with the tentative resolution, but notes that until the Tentative Order becomes final, Verizon will still face the problem that many CLECs will fail or refuse to promptly sign the joint petition for approval currently required by the Implementation Order. Therefore, it observes that the Commission should not impose penalties for additional delayed filings during the interim period. Verizon Comments at 5.

4. *Final Resolution*

In our consideration of this matter, we note that Sprint's objection that the ILEC should not be the sole responsible party to file the interconnection agreement with the Commission within 30 days after it is signed is without merit. The ILEC and the requesting party have been working closely up to the point when the interconnection agreement is ready to be filed. Since the ILECs argued in the past that it was the requesting party that often led to the delay in filing the interconnection agreement with the Commission, we are of the opinion that the tentative recommendation will resolve their concerns. In this regard, we reiterate what we stated in our Tentative Order—"[o]nce the agreement has been executed, the parties have concluded negotiations, reduced the agreement in writing and have jointly signed the agreement. In most cases, the parties also begin operating under the at that point. At this point, there is no reason why the executed agreement cannot be filed with the Commission within thirty days."

We are also of the opinion that our tentative resolution to require a signed "true and correct" copy of the interconnection agreement at the time the request for approval is made will eliminate any problems we have had up to this point with regard to obtaining signed "true and correct" copies of interconnection agreements after we have entered an order approving the interconnection agreement.⁵ We clarify, however, that if we require any changes to the signed "true and correct" interconnection agreement, we will be specific in the order as to what and when the revised signed "true and correct" copy must be filed.

⁵ In our Tentative Order, we also noted that we agree with MCIW's argument that the cover letter accompanying an Interconnection Agreement is not the proper place for position statements by any Party. We stated that we have not perceived this issue to be a problem at this point in time but we will monitor the issue and make a determination at the time of the 1-year review if further action is warranted. No comments were filed on this issue. At any rate, it is not appropriate to include position statements in the cover letter and we discourage the Parties from doing so.

With regard to Sprint's comments that the penalties should be clarified and not just imposed on the ILECs, we note that our tentative determination to address penalties on a "case by case" basis should continue. It is also important to note, however, that it is not our intent to impose penalties only on the ILECs since ILECs and the requesting Parties are equally responsible for complying with our directives. However, as we stated before, if the other party is not under our jurisdiction, we have no way of imposing penalties on the Parties unless, and until, jurisdiction is duly established. Therefore, we remind all ILECs and CLECs that failure to comply with our Implementation Order, as well as this Order, could subject the jurisdictional Parties to civil penalties for violations under section 3301 of the Public Utility Code.

With respect to Verizon's concern that there may be continuing violations until this Final Order becomes effective and replaces the scheme presently in effect under the Implementation Order, we note that it is not our intent to enforce the requirements of the Implementation Order any more rigorously until this Final Order becomes effective and is published in the *Pennsylvania Bulletin*.

For these reasons, we shall adopt our tentative resolution in the Tentative Order as the final resolution. In this regard, we shall permit the ILEC or CLEC to file a letter or petition for approval of a jointly signed interconnection agreement. We shall, however, also require the filing Party to serve notice and a copy of the Interconnection Agreement on the other Party at the same time it files the Interconnection Agreement with the Commission. In these cases, the other Party would then have 30 days to notify the Commission if the interconnection agreement submitted by the ILEC was not a true and correct copy of the Parties' agreement.

C. Approval of an Interconnection Agreement Prior to a CLEC's Certification

In the Tentative Order on pages 15-18, we noted that neither TA-96 nor the Implementation Order requires that a requesting carrier have Commission or Federal authority to operate prior to requesting interconnection. The Implementation Order, in fact, recognizes that some carriers may not have the requisite authority as follows:

If the requesting carrier does not have an A-docket, an A-docket shall be assigned by the Commission's Secretary at the time of filing of the interconnection agreement.

Implementation Order at 25.

The previous language pertains to carriers that fall under this Commission's jurisdiction but have not yet been certificated (for example, CLECs), as well as carriers that, under Commonwealth law, are not subject to regulation by this Commission (for example, wireless carriers), and may not have received a Federal license to operate. The problem with dealing with uncertificated jurisdictional and nonjurisdictional carriers is that the Commission has no knowledge of the entity or requesting carrier until that entity files an interconnection agreement with the Commission. This further exacerbates the problem described earlier whereby Parties to an interconnection agreement may have been operating under interconnection agreements for months before filing the agreement with the Commission for review.⁶

⁶ All Orders that approve the initial interconnection agreements between ILECs and CLECs include the following language to ensure that CLECs obtain certification before attempting to operate under the interconnection agreement. This language is not included in Orders where the requesting carrier is not subject to Commission

1. Initially Recommended Solution

In the Tentative Order at pages 15-18, we noted that the Proposed Modifications observe that any requirement for certification of a carrier prior to seeking interconnection would only address those companies subject to our jurisdiction and not those we do not regulate. Any requirement would thus only address our current concerns about noncertificated jurisdictional carriers operating under approved executed interconnection agreements. Since we do not exercise jurisdiction over carriers such as wireless companies, they are not required to obtain Commonwealth certification. However, we noted that we can realistically require any nonjurisdictional carrier desiring to operate under an interconnection agreement in this Commonwealth to fill out a brief, nonutility application or registration form (similar to what is done for COCOTs).⁷ The nonutility application/registration form would be completed by the requesting entity and given to the ILEC at the time of an interconnection request. The ILEC would then file the applicant/registration form along with the Day 1 notification with the Commission. It would be important for Commission recordkeeping purposes that the requesting carrier include on this form the type of carrier it is, any trade name it uses and whether there have been any previous interconnection agreements approved by this Commission at a time when it has operated under a different name. The nonregulated carrier should also notify the Commission whenever it has undergone a name change during the tenure of any approved interconnection agreement.

2. Tentative Resolution

After considering the original Comments of the Parties regarding this issue, we tentatively decided against requiring CLEC authority prior to the filing of an interconnection agreement request. Further, we noted that since we are implementing the modification concerning the Day 1 issue and requiring the filing of an agreement within 30 days of execution, it was anticipated that this issue will, for the most part, be resolved. As a result, this proposed modification was withdrawn. Nonetheless, we noted that we will continue to monitor this issue and we will revisit it if appropriate.

3. Comments to Tentative Order

Sprint did not address this issue in its current Comments.

In its current Comments, Verizon objects to not requiring the requesting party to have full certificate authority to operate in this Commonwealth prior to approval of an interconnection agreement. Verizon disputes the Commission's conclusion that requiring full certificate authority prior to approval would cause a significant delay in a CLEC's entry into the market. Verizon Comments at 6-7.

4. Final Resolution

As previously noted, neither TA-96 nor our Implementation Order requires prior and full certification of both Parties before filing a joint petition for interconnection. We have permitted noncertificated CLECs to apply for authority and operate under "provisional authority" in this Commonwealth prior to the granting of the application so as not to delay the CLEC's entry into the markets

jurisdiction:

It is noted that, regardless of the types of services covered by this Interconnection Agreement, it would be a violation of the Public Utility Code if the Applicant began offering services or assessing surcharges, to end users, for which it has not been authorized to provide and for which tariffs have not been authorized.

⁷COCTs are customer-owned coin operated telephones. For further description of COCTs, see Tentative Order at 18-19.

in this Commonwealth. We are not persuaded by Verizon's arguments that CLECs should be fully certified prior to the approval of an interconnection agreement. For these reasons, we will adopt our tentative resolution, as the final resolution and thereby maintaining the status quo, which permits noncertificated CLECs to enter into interconnection agreements.

D. Filing of "True and Correct" Copies of Interconnection Agreements

In the Tentative Order (at 18-21), we noted that, currently, each order approving an interconnection agreement includes an ordering paragraph requiring that a "true and correct" copy of the interconnection agreement be filed as part of compliance obligations of the Parties. Routinely, the "true and correct" copy is not filed with the Commission primarily because the agreement has not changed since it was originally submitted for approval with the Commission. As a result, Parties to the agreement have been filing a letter indicating that the original executed copy filed at the beginning of the review process is a "true and correct" copy and requesting that this copy meet its compliance responsibility. A problem arises in that all Parties do not automatically file even a letter making this request. The Parties are sent a Secretarial letter, sometimes several letters, reminding them of their responsibility under the Order, but frequently a response is not forthcoming.

1. Initially Recommended Solution

The initially recommended solution to this issue was to eliminate the ordering paragraph requiring that a "true and correct" copy be filed with the Commission, with the exception of those instances when: (1) the Commission and/or a party makes a change to the original agreement; (2) the agreements are arrived at through the arbitration process; or (3) a copy was not filed at the beginning of the review process.

It was also recommended that ILECs be required to include a section on their respective websites that contains currently effective interconnection agreements that were either approved by this Commission or became effective by operation of law. This would: (1) more readily provide the public with access to interconnection agreements; (2) reduce the cost to the public in obtaining copies of agreements; (3) assist in reducing the number of inquiries as to which companies have approved agreements and how an official copy of an agreement can be obtained; and (4) assist in reducing the burden on the Secretary's Bureau in duplicating the voluminous copies.

2. Tentative Resolution

After considering the original Comments of the Parties, we tentatively decided to eliminate the requirement in the approving Order that directs the Parties to file a true and correct copy of the interconnection agreement (with the previously cited exceptions) within 30 days of the entry date of the approving Order. We also tentatively concluded that the ILECs need not include a copy of interconnection agreements on their websites but that an acceptable compromise would be for the ILECs to file an electronic true and correct copy of all interconnection agreements, including any amendments, with the Commission so that the Commission can include them on its own website. Tentative Order at 18-22.

3. Comments to Tentative Order

Sprint did not address this issue in its current Comments.

Verizon, in its Comments, does not oppose the tentative resolution. Verizon does however state that, consistent with the tentative resolution of this issue, it recommends that the electronic version of the agreement be submitted in ".pdf format" because this format is both universally accessible and provides for "read-only" text.

4. Final Resolution

As previously noted, none of the Parties who filed current comments objected to our tentative resolution regarding this matter. Regarding Verizon's suggestion that the electronic version to the agreement be submitted in ".pdf format," none of the Parties filed reply comments objecting to this suggestion either. We find Verizon's suggestion to have merit. The use of this read-only format should make the agreements more readily available to interested Parties, but at the same time, prevent those Parties from altering those forms in any way.

Accordingly, we concur with Verizon's suggestion and will modify the Tentative Order to require the use of this format. Also, consistent with the Tentative Order, we shall no longer include an ordering paragraph in the approving Order requiring Parties to file a "true and correct" paper copy of the interconnection agreement with the Commission, except in those instances when: (1) the Commission and/or a party makes a change to the original agreement; (2) the agreements are arrived at through the arbitration process; or (3) a copy was not filed at the beginning of the review process. In all other instances, "true and correct" copies have been filed as hard copies with the filing.

Therefore, consistent with the previous discussion, and the determination reached in our Tentative Order, we shall require all ILECs to file a true and correct, electronic copy of the interconnection agreement, and any amendment, with the Commission. We will then post each interconnection agreement and any associated amendments on the Commission's website for public access.

IV. Conclusion

Based on the foregoing, consistent with the requirements under 66 Pa.C.S. § 703(3), relating to notification of Commission orders, we adopt the revised procedures adduced in the body of the Tentative Order entered on July 1, 2003, as modified by this Final Order; *Therefore, It Is Ordered That:*

1. The Motion Pro Hac Vice filed on August 18, 2003, by Zsuzsanna E. Benedek, a member of the Pennsylvania Bar, for admission of Craig D. Dingwall to appear as an attorney on behalf of Sprint Communications Company, L. P. is granted.

2. The tentative resolutions adopted in the Tentative Order entered on July 1, 2003, are made final, except as modified by this Opinion and Order.

3. The Implementation Order at Docket No. M-00960799 entered on June 3, 1996, is modified relative to the filing and review of interconnection agreements.

4. Incumbent local exchange carriers, shall, upon receipt of a request for interconnection, maintain a log of the dates of the "Day 1 requests" and any readjusted "Day 1 requests." The information shall be made available at the request of the Commission and the log may be discarded after an interconnection agreement has been approved or an interconnection arbitration proceeding concluded.

5. The incumbent local exchange carrier is responsible for filing, on behalf of itself and the requesting entity, a

jointly signed interconnection agreement with the Commission, for Commission approval, within 30 days of the date that the agreement is signed.

6. The incumbent local exchange carrier, within 30 days of entry of an Order approving an Interconnection Agreement, shall file, in ".pdf format," an electronic true and correct copy of the agreement with the Commission for inclusion on the Commission website.

7. A copy of this Opinion and Order be served on all incumbent local exchange carriers and competitive local exchange carriers.

8. The Secretary shall deposit this Order with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-881. Filed for public inspection May 14, 2004, 9:00 a.m.]

Request for Proposals for Auditor of the Pennsylvania Universal Service Fund; RFP No. 172000017-2

A. General Information for Contractors

1. Rejection of Proposals

The Commonwealth reserves the right to reject any and all proposals received as a result of this request or to negotiate separately with competing contractors.

2. Incurring Costs

The Commonwealth is not liable for any costs incurred by contractors prior to issuance of a contract.

B. Procurement Description

The Pennsylvania Public Utility Commission (Commission) requests written proposals to serve as a third-party auditor (Auditor) of the Pennsylvania Universal Service Fund (Fund). The Auditor is responsible for auditing the Fund from January 1, 2003, through, and including, December 31, 2003. Following the audit, the Commission requires the Auditor to prepare and submit a report to the Commission and the Fund Administrator, the National Exchange Carrier Association, by July 1, 2004. The audit report should make recommendations regarding the finances of the Fund and should identify undercollections or overcollections experienced by the Fund from January 1, 2003, through December 31, 2003. The role of the Auditor is described in 52 Pa. Code § 63.168 (relating to auditor's duties) as follows:

§ 63.168. Auditor's duties.

(a) An independent external auditor chosen by the Commission will audit the Fund records covering both collections and disbursements for the fiscal year. The costs for conducting audits will be included in the computation of Fund requirements. Thereafter, an audit of the Fund collections and disbursements will be done annually.

(b) Following the audit, the Fund auditor will prepare and submit a report to the Commission and the administrator by July 1 of each year. The audit report should make recommendations regarding the finances of the Fund and should identify undercollections or overcollections experienced by the Fund in the previous year.

The Commission is seeking to hire an Auditor who will audit the Fund records covering both collections and disbursements from January 1, 2003, through, and including, December 31, 2003.

C. Purpose of the Fund

The Fund is currently intended to reduce and restructure access charges and intraLATA toll rates, and to encourage greater toll competition while enabling carriers to continue to preserve the affordability of local service rates. *Rulemaking Re Establishing Universal Service Fund Regulations at 52 Pa. Code §§ 63.161—171*, Final Rulemaking Order at L-00000148 (November 29, 2000). The regulations governing administration of the Fund are in 52 Pa. Code Chapter 63, Subchapter L (relating to universal service). They may be accessed along with other Orders and pertinent information regarding the Fund at the Commission's website: www.puc.paonline.com (choose "Competition and Choice," "Local Telephone Competition," "Universal Service Fund," "Pennsylvania Universal Service Fund").

D. The Fund and the Administrator

Commission regulations allow for an assessment which is computed annually under 52 Pa. Code § 63.165 (relating to calculation of contributions) at a rate calculated by dividing the contributing telecommunications provider's associated total intrastate end-user telecommunications retail revenues by Statewide total intrastate end-user telecommunications revenues. End-user revenues expressly do not include revenues received from access, resale (toll or local) of unbundled network elements or other services provided which are essentially wholesale in nature. Total end-user revenues shall include all revenues received from subscribers who actually consume the final service unadjusted for any expense or any other purpose.

Nearly 300 companies will contribute monthly to the Fund. These include 35 incumbent local exchange carriers. The rest of contributors are companies selling intrastate toll services and competitive local exchange carriers who are either offering local exchange services or are planning to do so in the near future. Wireless telecommunications carriers do not participate as either recipients or contributors in the Fund. Carriers are not allowed to pass through as a direct surcharge to their customers any contributions made to the Fund.

The Administrator functions as the "financial hub" of this system. The Administrator collects the contributions from the individual companies, manages the Fund's cash flow and disburses payments to 31 small rural companies and Sprint/United Fund recipients under the regulations. The Fund assessment rate is set annually by the Commission based on data submitted in annual reports by the Administrator. The Administrator also works with the Fund Auditor.

E. Contract for Services

The successful bidder will negotiate with the Commission a detailed contract that is generally consistent with the standard Commonwealth contract for personal services. The contract will be for a term beginning when the contract is fully executed and ending on September 1, 2004. The contract may be extended for subsequent years upon the written agreement of both parties and upon the same terms as set forth herein. Once selected, the Auditor will be terminated during this term only for good cause.

To the extent that any changes as a result of contract negotiations affect the cost of performing the contract,

adjustments to the compensation described in the bid will be negotiated with the winning bidder.

F. Proposal Submissions

An original and five copies of the proposals should be submitted directly to the Evaluation Committee Chairperson, Frank B. Wilmarth, Deputy Chief Counsel, Pennsylvania Public Utility Commission, Law Bureau, P. O. Box 3265, Harrisburg, PA 17105-3265. Proposals should be received by 5 p.m. on May 28, 2004. No late proposals will be considered. The proposal should be broken into three separate parts, two of which should be in separate sealed envelopes marked "price quotation" and "Disadvantaged Business Information," respectively.

Part 1—General Information

The first part of each proposal should include a general discussion of the approach the bidder will take and explain how the bidder will meet each requirement. In addition, this part of the bid should identify all individuals who will work on significant tasks and should explain the qualifications of each, as well as how many individuals will likely work on their respective tasks on a monthly basis. A single individual should be identified to serve as Auditor, and that individual's resume should be attached. Resumes for other identified persons with significant responsibility should also be attached.

If the bidder wishes to associate with another organization to provide the required services, the bid should include a separate statement from that organization describing its anticipated role.

In addition, if the bidder, or any of its associates, has an affiliate or representational relationship with a Commission-regulated telecommunications carrier, the bidder must disclose that relationship and explain, in detail, the measures that will be taken to avoid any conflict of interest that may arise as a consequence of this contract. Written documentation demonstrating, as deemed appropriate by the Commission, that measures have been taken to avoid any conflict of interest is required.

Part 2—Cost Information

The second part of the proposal document should be a price quotation, which should not be in the main text of the proposal but rather should be put in a sealed envelope marked "price quotation" and kept separate from the rest of the proposal. A cost data sheet should be submitted in this separate sealed envelope and it should include a breakdown of costs. Bidders are free to structure their price offerings in any way they choose.

Failure to submit the cost data sheet in a sealed envelope kept separate and apart from the rest of the proposal will result in automatic rejection of the proposal by the Evaluation Committee (Committee).

Part 3—Disadvantaged Business Information

The Commonwealth encourages participation by small disadvantaged businesses as prime contractors, joint ventures and subcontractors/suppliers and by socially disadvantaged businesses as prime contractors.

Small disadvantaged businesses are small businesses that are owned or controlled by a majority of persons, not limited to members of minority groups, who have been deprived of the opportunity to develop and maintain a competitive position in the economy because of social disadvantages. The term includes: (1) Department of General Services (Department), Bureau of Minority and Women Business Opportunities (BMWBO)-certified mi-

nority business enterprises (MBEs) and women business enterprises (WBEs) that qualify as small businesses; and (2) United States Small Business Administration-certified 8.a. small disadvantaged business concerns.

Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 persons and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for businesses in the information technology sales or service business).

Socially disadvantaged businesses are businesses in the United States that the BMWBO determines are owned or controlled by a majority of persons, not limited to members of minority groups, who are subject to racial or ethnic prejudice or cultural bias, but which do not qualify as small businesses. For a business to qualify as "socially disadvantaged," the offeror must include in its proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin or gender.

Questions regarding this program should be directed to the Department of General Services, Bureau of Minority and Women Business Opportunities, Room 502, North Office Building, Harrisburg, PA 17125, (717) 787-6708, fax: (717) 772-0021, Gs-cabidinternet@state.pa.us.

Program information and a database of BMWBO-certified minority and women-owned businesses can be accessed at the Department's website: www.dgs.state.pa.us (PA Keyword Search: BMWBO). The Federal vendor database can be accessed at www.ccr.gov (choose "Dynamic Small Business Search" (certified companies are as indicated)).

Information Concerning Small Business in Enterprise Zones. The Commonwealth encourages participation by small businesses, whose primary or headquarters facility are physically located in areas designated by the Commonwealth as designated enterprise zones, as prime contractors, joint ventures and subcontractors/suppliers.

Small businesses are businesses in the United States that are independently owned, are not dominant in their field of operation, employ no more than 100 persons and earn less than \$20 million in gross annual revenues (\$25 million in gross annual revenues for businesses in the information technology sales or service business).

There is no database or directory of small business in designated enterprise zones. Information on the location of designated enterprise zones can be obtained by contacting Aldona M. Kartoire, Center for Community Building, Department of Community and Economic Development, 4th Floor Keystone Building, 400 North Front Street, Harrisburg, PA 17120, (717) 720-7409, fax: (717) 787-4088, akartoire@state.pa.us.

To receive credit for being a small disadvantaged business or a socially disadvantaged business, entering into a joint venture agreement with a small disadvantaged business or subcontracting with a small disadvantaged business (including purchasing supplies and/or services through a purchase agreement), a company must include proof of Disadvantaged Business qualification in the Disadvantaged Business portion of the proposal:

- Small disadvantaged business qualifying as a result of MBE/WBE certification from the BMWBO must provide a photocopy of their BMWBO certificate.
- Disadvantaged businesses qualifying as a result of 8(a) certification from the United States Small Business

Administration must submit proof of Small Business Administration Certification. The owners of these businesses must also submit proof of United States citizenship.

- All companies claiming small disadvantaged business status, whether as a result of BMWBO certification or Small Business Administration certification as an 8(a) disadvantaged business, must attest to the fact that the business has 100 or fewer employees.

- All companies claiming small disadvantaged business status, whether as a result of BMWBO certification or Small Business Administration certification as an 8(a) disadvantaged business, must submit proof that their gross annual revenues are less than \$20 million (\$25 million for businesses in the information technology sales or service business). This can be accomplished by including a recent tax or audited financial statement.

Companies claiming status as a socially disadvantaged business must include in the Disadvantaged Business portion of the proposal clear and convincing evidence to establish that the business has personally suffered racial or ethnic prejudice or cultural bias stemming from the business person's color, ethnic origin or gender. The submitted evidence of prejudice or bias must:

- Be rooted in treatment which the business person has experienced in American society, not in other countries.

- Show prejudice or bias that is chronic and substantial, not fleeting or insignificant.

- Indicate that the businessperson's experience with the racial or ethnic prejudice or cultural bias has negatively impacted on his entry into and/or advancement in the business world.

The BMWBO shall determine whether the contractor has established that a business is socially disadvantaged by clear and convincing evidence.

In addition to these verifications, to receive credit for being a small disadvantaged business or a socially disadvantaged business, this portion of the proposal must include the following:

- (1) The name and telephone number of the project (contact) person for the small disadvantaged business or socially disadvantaged business.

- (2) The company name, address and telephone number of the prime contact person for each specific small disadvantaged business or socially disadvantaged business included in the proposal. The contractor must specify the small disadvantaged business or socially disadvantaged business to which it is making commitments. The contractor will not receive credit by stating that it will find a small disadvantaged business after the contract is awarded or by listing several companies and stating it will select one later.

- (3) The specific work, goods or services the small disadvantaged business or socially disadvantaged business will perform or provide.

- (4) The location where the small disadvantaged business or socially disadvantaged business will perform these services.

- (5) The timeframe for the small disadvantaged business or socially disadvantaged business to provide or deliver the goods or services.

- (6) The amount of capital, if any, the small disadvantaged business or socially disadvantaged business will be expected to provide.

- (7) The form and amount of compensation each small disadvantaged business or socially disadvantaged business will receive.

- (8) The percent of the total value of services or products purchased/subcontracted under the proposal that will be provided by the small disadvantaged business or socially disadvantaged business.

- (9) In the case of a joint venture agreement, a copy of the agreement, signed by all parties, must be included in the Disadvantaged Business portion of the proposal. If subcontracting, a signed subcontract or letter of intent must be included in the Disadvantaged Business portion of the proposal.

- (10) Include in the Disadvantaged Business submittal, any and all information concerning the contractor's proposed utilization of small businesses located in a designated enterprise zone.

The Disadvantaged Business portion of the proposal must be clearly identified as Disadvantaged Business information and sealed in an envelope separately from the remainder of the proposal. Only one copy of the Disadvantaged Business section is needed. The dollar value of the commitment to each small disadvantaged business or socially disadvantaged business must be sealed in the same envelope with the Disadvantaged Business portion of the proposal. The selected contractor's Disadvantaged Business commitment amount, name of a Disadvantaged Business and services to be provided, including timeframe for performing services, will be included as a contractual obligation when the contract is executed.

Enterprise Zone Small Business Utilization Response. To receive credit for being an enterprise zone small business or entering into a joint venture agreement with an enterprise zone small business or subcontracting with an enterprise zone small business, a company must include the following information in the Disadvantaged Business submittal of the proposal:

- Proof of the location of the business' headquarters (such as a lease, deed or Department of State corporate registration).

- Confirmation of the enterprise zone in which it is located (obtained from the local enterprise zone office).

- Proof of United States citizenship of the owners of the business.

- Certification that the business employs 100 or fewer employees.

- Proof that the business' gross annual revenues are less than \$20 million (\$25 million for businesses in the information technology sales or service business). This can be accomplished by including a recent tax or audited financial statement.

In addition to these verifications, this portion of the submittal should include the following information:

- The company name, address, name and telephone number of the primary contact person for each enterprise zone small business included in the proposal. The contractor must specify the enterprise zone small business to which it is making commitments. The contractor will not receive credit by stating that it will find an enterprise zone small business after the contract is awarded or by listing several companies and stating it will select one later.

- The specific work, goods or services the enterprise zone small business will perform or provide.

- The location where the enterprise zone small business will perform these services.
- The timeframe of the enterprise zone small business to provide or deliver the goods or services.
- The amount of capital, if any, the enterprise zone small business will be expected to provide.
- The form and amount of compensation each enterprise zone small business will be expected to provide.
- The form and amount of compensation each enterprise zone small business will receive. In the Disadvantaged Business portion of the proposal, provide the estimated dollar value of the contract to each enterprise zone small business.
- The percent of the total value of services or products purchased/subcontracted under the proposal that will be provided by the enterprise zone small business.
- In the case of a joint venture agreement, a copy of the agreement, signed by all parties, must be included in the Disadvantaged Business submittal of the proposal. If subcontracting, a signed subcontract or letter of intent must be included in the Disadvantaged Business submittal of the proposal.

The dollar value of the commitment to each enterprise zone small business must be sealed in the same envelope with the Disadvantaged Business submittal of the proposal. The selected contractor's enterprise zone small business commitment amount, name of enterprise zone small business and services to be provided including timeframe for performing services will be included as a contractual obligation when the contract is executed.

Disadvantaged Business Participation. The following options will be considered as part of the final criteria for selection:

Priority Rank 1. Proposals submitted by small disadvantaged businesses.

Priority Rank 2. Proposals submitted from a joint venture with a small disadvantaged business as a joint venture partner.

Priority Rank 3. Proposals submitted with subcontracting commitments to small disadvantaged businesses.

Priority Rank 4. Proposals submitted by socially disadvantaged businesses.

Each proposal will be rated for its approach to enhancing the utilization of disadvantaged businesses. Each approach will be evaluated with option number one receiving the greatest value and the succeeding options receiving values in accordance with the previously listed priority ranking.

To the extent that a proposal is submitted by a small disadvantaged business or a socially disadvantaged business and the small disadvantaged business or socially disadvantaged business cannot enter into subcontract arrangements for more than 40% of the total estimated dollar amount of the contract to other contractors, the Disadvantaged Business participation scoring shall be proportionally lower for that proposal.

Enterprise Zone Small Business Participation. The following options will be considered as part of the final criteria for selection.

Priority Rank 1. Proposals submitted by an enterprise zone small business will receive the highest score

Priority Rank 2. Proposals submitted by a joint venture with an enterprise zone small business as a joint venture partner will receive the next highest score for this criterion.

Priority Rank 3. Proposals submitted with a subcontracting commitment to an enterprise zone small business will receive the lowest score for this criterion.

Priority Rank 4. Proposals with no enterprise zone small business utilization shall receive no points under this criterion.

To the extent that a proposal is submitted as a prime contractor by an enterprise zone small business, the enterprise zone small business cannot enter into contract or subcontract arrangements for more than 40% of the total estimated dollar amount of the contract.

Contracts containing disadvantaged business participation and/or enterprise zone small business participation must also include a provision requiring the contractor to meet and maintain those commitments made to disadvantaged businesses and/or enterprise zone small businesses at the time of the proposal submittal or contract negotiation, unless a change in the commitment is approved by the BMWBO. Contracts containing disadvantaged business and/or enterprise zone small business participation must include a provision requiring small disadvantaged business subcontractors, enterprise zone small business subcontractors and small disadvantaged businesses or enterprise zone small businesses in a joint venture to perform at least 50% of the subcontract or small disadvantaged business/enterprise zone small business participation portion of the joint venture.

Commitments to disadvantaged businesses and/or enterprise zone small businesses made at the time of the proposal submittal or contract negotiation must be maintained throughout the term of the contract. A proposed change must be submitted to the BMWBO, which will make a recommendation as to a course of action to the contracting officer. If a contract is assigned to another contractor, the new contractor must maintain the disadvantaged business participation and/or enterprise zone small business participation of the original contract.

The contractor shall complete the Prime Contractor's Quarterly Utilization Report (or similar type of document containing the same information) and submit it to the contracting officer of the agency that awarded the contract and the BMWBO within 10 working days at the end of each quarter the contract is in force. If there was no activity, the form must also be completed stating "No activity in this quarter." This information will be used to determine the actual dollar amount paid to small disadvantaged business and/or enterprise zone small business subcontractors and suppliers and small disadvantaged businesses and/or enterprise zone small businesses involved in joint ventures. Also, it is a record of fulfillment of the commitment the firm made and for which it received disadvantaged business and enterprise zone small business points.

Note: Equal employment opportunity and contract compliance statements referring to company equal employment opportunity policies or past contract compliance practices do not constitute proof of disadvantaged business status or entitle a proposer to receive credit for disadvantaged business utilization.

G. Pre-Proposal Conference

There will not be a pre-proposal conference. However, potential bidders may seek answers to questions by

submitting questions in writing to Frank B. Wilmarth, Deputy Chief Counsel, Pennsylvania Public Utility Commission, Commonwealth Keystone Building, P.O. Box 3265, Harrisburg, PA 17105, (717) 772-8841, fax: (717) 783-3458, fwilmarth@state.pa.us. Questions regarding this Request for Proposals (RFP) must be received before May 28, 2004. Bidders can access prior audit reports at the "Pennsylvania Universal Service Fund" portion of the Commission's website.

H. Proposal Review

1. Evaluation Procedure

The Committee (which consists of at least five individuals with appropriate technical and managerial experience) will perform a preliminary evaluation based upon the criteria in this RFP and will score the technical portion of the proposals using an evaluation score sheet. Proposals that meet the RFP requirements are ranked in order of merit. A maximum point value for each criterion and a total point value for all criteria will have been established by the Committee before opening the proposals.

The Committee will review proposals according to four major criteria:

- *Price*

Price will be a principal consideration. Since bids may include one or more segments that are being bid at a monthly or otherwise variable price, bids may not be directly comparable in terms of a single dollar amount. However, the Commission will consider all of the fixed and variable prices contained in the bid in evaluating it. Compensation paid to the Auditor will be paid from the Fund, and the Commission will pay no compensation.

- *Quality of Performance*

The bidder's expected quality of performance will be the second principal consideration. Within this category, the Commission will consider the bidder's understanding of the duties of the Fund Auditor, the bidder's probable success in discharging the duties of Auditor and the bidder's prior experience with auditing other similar funds. The Commission will also consider the quality of each person expected to work, as well as the number of hours each person is expected to work, and on what specific tasks.

- *Neutrality*

The Commission is seeking a neutral, independent third-party. Independence from affiliated relationships with any telecommunications carriers is preferred. If the bidder, or any of its associates, has an affiliate or representational relationship with a Commission-regulated telecommunications carrier, the bidder must disclose that relationship and explain, in detail, the measures that will be taken to avoid any conflict of interest that may arise as a consequence of this contract.

- *Disadvantaged Business Status*

2. Best and Final Offers

The Commission will disqualify a bidder who the Commission believes cannot be expected to perform reliably as Auditor.

(a) Discussions and negotiations may be conducted with offerors for the purpose of obtaining best and final offers.

(1) Discussions are limited to responsible offerors. Responsible offerors are offerors that have submitted responsive proposals and possess the capability to fully

perform the contract requirements in all respects and the integrity and reliability which assure good faith performance.

(2) In conducting these discussions and negotiations, there shall be no disclosure of any information derived from proposals submitted by competing offerors.

(3) Offerors may be given the opportunity to revise their proposals.

(4) It is imperative that offerors be accorded fair and equal treatment with respect to any opportunity for discussion and revision of proposals.

(b) *Procedure.* The Committee chairperson will send a letter to each offeror inviting the offerors to discuss the technical and cost changes to the proposal desired by the agency. A list of the changes will be appended to each letter. The list should be based on the suggested changes by Committee members as documented during the tentative evaluation.

(1) The Committee chairperson or a designated member of the Committee will conduct the discussions and negotiations. All Committee members should be present and actively assist the negotiator. Discussions and negotiations involving Disadvantaged Business participation will be conducted by the BMWBO. The discussions/negotiations should be free, full and open. When appropriate, the offeror should be given an explanation of the agency's reason for a requested change. This is especially true when the offeror appears reluctant to accept the change. However, it is not expected that offerors will accept the agency's position on all issues. After discussions/negotiations of each issue, the Committee chairperson or designee should state the agreement reached on that issue. The agreement need not be precisely what either the agency or the offeror are willing to accept should a contract ensue. The discussions/negotiations should be tape recorded, if convenient. If not, a Committee member or a stenographer should record the substance of the agreement.

(2) At the conclusion of the discussions/negotiations, the contractor will be asked to confirm the agreements reached, in writing, in the form of formal amendments to its proposal.

3. Final Evaluation

The Committee will rank the offerors in descending order according to the total score assigned to each based upon the final Committee scores. The Committee recommendation and all working papers will then be forwarded to the Commission's Law Bureau and the Bureau of Administrative Services to ensure compliance with the Department's Contractor Responsibility Program (Management Directive 215.9) (66 Pa.C.S. § 501 et seq.).

J. Selection

The Commission will select for contract negotiation the offeror whose proposal is determined to be the most advantageous and notify that contractor in writing. The Commission will then notify the selected and nonselected offerors of the selection for contract negotiation. The Commission may hold a debriefing conference if it is requested by the nonselected offerors.

K. Negotiations with the Selected Offeror

Post-selection negotiations will be conducted by a negotiation team (consisting of individuals on the Committee or other individuals with technical, contracting, fiscal and legal expertise). The purpose of the negotiations is to ensure a clear understanding of the work statement, to

reach an agreement on the inclusion of the contract provisions, to reach an agreement on the type of contract and to determine a fair and reasonable price or reasonable cost estimate.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-882. Filed for public inspection May 14, 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 June 7, 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-00120710. Pittsburgh Information and Research Company t/d/b/a Onyshko Investigative Services (P. O. Box 99181, Pittsburgh, Allegheny County, PA 15233-4181), a corporation of the Commonwealth—persons in paratransit service, who are claimants of the State Workers Insurance Fund, between points in the Counties of Erie, Crawford, Warren, McKean, Venango, Forest, Elk, Cameron, Mercer, Lawrence, Beaver, Butler, Clarion, Armstrong, Washington, Greene, Westmoreland, Jefferson, Clearfield, Indiana, Cambria, Blair, Huntingdon, Fayette, Somerset, Bedford and Fulton, and from points in the County of Allegheny, to points in the aforementioned counties, and return.

A-00120706. Rock River and Trail Outfitters, Inc. (57 Bellefonte Avenue, Lock Haven, Clinton County, PA 17745), a corporation of the Commonwealth—persons in group and party service, in vehicles with a seating capacity of 11 to 15 passengers, including the driver, between points in Clinton County, and from points in said county, to points in this Commonwealth, and return.

A-00120701. Cetrionia Ambulance Corps Incorporated t/d/b/a Cetrionia Ambulance Corps (7355 William Avenue, Suite 700, Allentown, Lehigh County, PA 18106-9397), a corporation of the Commonwealth—persons in paratransit service, between points in the Counties of Berks, Bucks, Carbon, Lehigh, Monroe and Northampton, and from points in said counties, to points in this Commonwealth, and return. *Attorney:* Douglas M. Wolfberg, 5010 E. Trindle Road, Suite 202, Mechanicsburg, PA 17050.

A-00120700. Randall Faust t/d/b/a Faust Taxi Service (825 Fairmount Avenue, Pottsville, Schuylkill County, PA 17901)—persons upon call or demand in the City of Pottsville, Schuylkill County, and within an airline distance of 5 statute miles of the limits thereof.

A-00120713. Gittings Protective Security (110 West High Street, Ebsenburg, Cambria County, PA 15931), a corporation of the Commonwealth—persons in paratransit service, between points in the Borough of Ebsenburg, Cambria County, and within an airline distance of 60 statute miles of the limits thereof, and from points in said area, to points in this Commonwealth, and return; limited to the transportation of insurance claimants to scheduled medical appointments.

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 persons by transfer of rights as described under each application.*

A-00120712. Airport Orbit, Inc. (140 South Main Street, Slippery Rock, Butler County, PA 16057), a corporation of the Commonwealth—persons in airport transfer service: (1) from the Borough of Slippery Rock, Butler County, to the Greater Pittsburgh International Airport, located in the Township of Moon, Allegheny County, and vice versa; (2) from points in the Borough of Slippery Rock, Butler County, and within an airline distance of 25 statute miles of the limits thereof, to the Greater Pittsburgh International Airport, located in the Township of Moon, Allegheny County, and vice versa; (3) from points in the Counties of Mercer and Lawrence, to the Pittsburgh International Airport located in the Township of Moon, Allegheny County; and (4) from points in the Counties of Clarion, Crawford and Venango to the Pittsburgh International Airport, located in the Townships of Findlay and Moon, Allegheny County; which is to be a transfer of the rights of the rights authorized under the certificate issued at A-00105543 to Cultural Studies Academy, Inc. t/d/b/a Lenz Travel Airport Shuttle, subject to the same limitations and conditions. *Attorney:* David M. O'Boyle, 1450 Two Chatham Center, Pittsburgh, PA 15219-3427.

A-00120699. Rhoads Limousine Service, Inc. (96 Weavertown Lane, Douglassville, Berks County, PA 19518), a corporation of the Commonwealth—persons in limousine service, between points in this Commonwealth; which is to be a transfer of the rights authorized under the certificate issued at A-00107913, F.2 to Mary E. Klein t/d/b/a Klein Tours, subject to the same limitations and conditions. *Attorney:* J. Bruce Walter, P. O. Box 1146, Harrisburg, PA 17108-1146.

Application of the following for certificate of *public convenience approving the operation of motor vehicles as common carriers for the transportation of household goods by transfer as described under the application.*

A-00120717. Mildred A. Kissel t/d/b/a Kissel Moving & Storage (550 Pine Creek Road, Wexford, Allegheny County, PA 15090)—(1) property, between points in this Commonwealth; and (2) household goods in use, between points in Allegheny County, and from points in said county, to points in this Commonwealth, and vice versa; which is to be a transfer of the rights authorized under the certificate issued at A-00099886 to Patrick A. Kissel, Sr. (D), subject to the same limitations and conditions.

Application of the following for *amendment to the certificate of public convenience approval of the right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under the application.*

A-00117323, Folder 1, Am-A. Carl Corporation t/d/b/a Campbell Limousine (402 Club 21 Road, McClellandtown, Fayette County, PA 15458), a corporation of the Commonwealth—discontinuance of service—persons, in limousine service, between points in this Commonwealth. *Attorney:* William A. Gray, 2310 Grant Building, Pittsburgh, PA 15219.

Complaint

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. Exclusively Yours Transportation and Protective Services, Inc.; Doc. No. A-00117412C0301

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 Exclusively Yours Transportation and Protective Services, Inc., respondent, maintains a principal place of business at 504 Dogwood Circle, Havertown, PA 19083.

2. That respondent was issued a Certificate of Public Convenience by this Commission on November 16, 2001, at Application Docket No. A-00117412.

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 a Secretarial Letter which (1) cancels the Certificate of Public Convenience held by respondent at Docket No. A-00117412, 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,

Michael E. Hoffman, Director
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Michael E. Hoffman, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
Michael E. Hoffman

NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date as indicated at the top of the Secretarial cover letter for this complaint and notice, 52 Pa. Code § 1.56(a). 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 a Secretarial Letter 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 regulations 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. 04-883. Filed for public inspection May 14, 2004, 9:00 a.m.]

Telecommunications

A-310906F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and ACN Communication Services, Inc. Joint petition of The United Telephone Company of Pennsylvania d/b/a Sprint and ACN Communication Services, Inc. for approval of a master

interconnection, collocation and resale agreement under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and ACN Communication Services, Inc., by its counsel, filed on April 28, 2004, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a master interconnection, collocation and resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of The United Telephone Company of Pennsylvania d/b/a Sprint and ACN Communication Services, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-884. Filed for public inspection May 14, 2004, 9:00 a.m.]

Telecommunications

A-310804F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and dPi Teleconnect, LLC. Joint petition of The United Telephone Company of Pennsylvania d/b/a Sprint and dPi Teleconnect, LLC for approval of a master interconnection, collocation and resale agreement under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and dPi Teleconnect, LLC, by its counsel, filed on May 4, 2004, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a master interconnection, collocation and resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of The United Telephone Company of Pennsylvania d/b/a Sprint and dPi Teleconnect, LLC 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. 04-885. Filed for public inspection May 14, 2004, 9:00 a.m.]

Telecommunications

A-310749F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and Ernest Communications, Inc. Joint petition of The United Telephone Company of Pennsylvania d/b/a Sprint and Ernest Communi-

cations, Inc. for approval of a master interconnection, collocation and resale agreement under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and Ernest Communications, Inc., by its counsel, filed on May 4, 2004, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a master interconnection, collocation and resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of The United Telephone Company of Pennsylvania d/b/a Sprint and Ernest Communications, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-886. Filed for public inspection May 14, 2004, 9:00 a.m.]

Telecommunications

A-310633F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and Level 3 Communications, LLC. Joint petition of The United Telephone Company of Pennsylvania d/b/a Sprint and Level 3 Communications, LLC for approval of an opt-in master interconnection and resale agreement under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and Level 3 Communications, LLC, by its counsel, filed on May 4, 2004, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an opt-in master interconnection and resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of The United Telephone Company of Pennsylvania d/b/a Sprint and Level 3 Communications, LLC 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. 04-887. Filed for public inspection May 14, 2004, 9:00 a.m.]

Telecommunications

A-311213F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and Local Line America,

Inc. Joint petition of The United Telephone Company of Pennsylvania d/b/a Sprint and Local Line America, Inc. for approval of an opt-in master interconnection and resale agreement under section 252(a)(1) and (e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and Local Line America, Inc., by its counsel, filed on May 4, 2004, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of an opt-in master interconnection and resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of The United Telephone Company of Pennsylvania d/b/a Sprint and Local Line America, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-888. Filed for public inspection May 14, 2004, 9:00 a.m.]

Telecommunications

A-310482F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and Metro Teleconnect Companies, Inc. Joint petition of The United Telephone Company of Pennsylvania d/b/a Sprint and Metro Teleconnect Companies, Inc. for approval of a master interconnection, collocation and resale agreement under section 252(e) of The Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and Metro Teleconnect Companies, Inc., by its counsel, filed on April 29, 2004, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a master interconnection, collocation and resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of The United Telephone Company of Pennsylvania d/b/a Sprint and Metro Teleconnect Companies, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-889. Filed for public inspection May 14, 2004, 9:00 a.m.]

Telecommunications

A-310513F7002. The United Telephone Company of Pennsylvania d/b/a Sprint and Sprint Spectrum L. P. as agent for WirelessCo, L. P., Sprintcom, Inc., Cox Communications PCS, L. P., APC PCS, LLC and PhillieCo, L. P., entities jointly d/b/a Sprint PCS. Joint petition of The United Telephone Company of Pennsylvania d/b/a Sprint and Sprint Spectrum L. P. as agent for WirelessCo, L. P., Sprintcom, Inc., Cox Communications PCS, L. P., APC PCS, LLC and PhillieCo, L. P., entities jointly d/b/a Sprint PCS for approval of amendment no. 1 to commercial mobile radio services interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

The United Telephone Company of Pennsylvania d/b/a Sprint and Sprint Spectrum L. P. as agent for WirelessCo, L. P., Sprintcom, Inc., Cox Communications PCS, L. P., APC PCS, LLC and PhillieCo, L. P., entities jointly d/b/a Sprint PCS, by its counsel, filed on May 4, 2004, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment no. 1 to a commercial mobile radio services 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 United Telephone Company of Pennsylvania d/b/a Sprint and Sprint Spectrum L. P. as agent for WirelessCo, L. P., Sprintcom, Inc., Cox Communications PCS, L. P., APC PCS, LLC and PhillieCo, L. P., entities jointly d/b/a Sprint PCS 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. 04-890. Filed for public inspection May 14, 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:

- | | | |
|---------------|-----------------------------------------------------------|--------|
| June 23, 2004 | Matthew J. Taylor (D) (Death Benefit) | 1 p.m. |
| June 30, 2004 | Florence M. Pozda (Reimbursement of Nursing Home Care) | 1 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. 04-891. Filed for public inspection May 14, 2004, 9:00 a.m.]

STATE BOARD OF PSYCHOLOGY

**Bureau of Professional and Occupational Affairs v.
Richard Joseph Alapack; Doc. No. 0701-63-02**

On March 26, 2004, the State Board of Psychology (Board) revoked Richard Joseph Alapack's license for failing to understand the boundaries which he breached.

Individuals may obtain a copy of the adjudication by writing to Judith Pachter Schulder, Board Counsel, State Board of Psychology, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represent the final Board 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 Board with a copy of the petition for review. The Board contact for receiving service of appeals is the previously named Board counsel.

ALEX M. SIEGEL, J.D., Ph.D.,
Chairperson

[Pa.B. Doc. No. 04-892. Filed for public inspection May 14, 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.

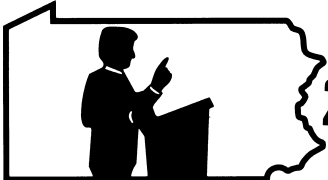
Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) 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



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.

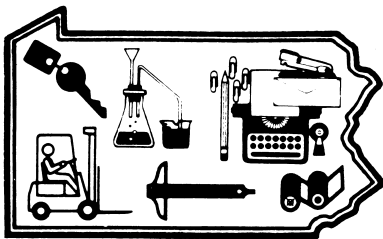
⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.
 (For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

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

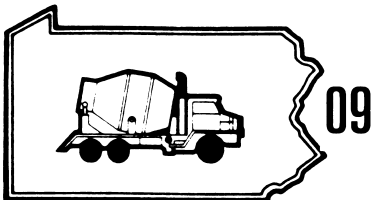
SU-03-19 Shippensburg University is seeking a vendor to furnish and install a turnkey non-linear video-editing lab consisting of Apple Power Mac G5s running Final Cut Pro 4.1 and DVD Studio Pro 2.0 software. In addition to the 12 editing stations, vendor will provide MediaXtreme Turnkey Multimedia Messaging System with Media Creator CG software. This project will include installation, on-site integration, 24-hour burn-in, testing and instruction on use. Vendor must be authorized distributor and installer of equipment. Vendor must be able to provide ongoing technical support. Anticipated delivery and installation will be beginning to mid July 2004. Vendors interested in receiving a bid package must fax or email a request to Pamela King, Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257; Fax (717) 477-1350; email: paking@wharf.ship.edu All responsible bidders are invited to participate including MBE/WBE firms.

Department: State System of Higher Education
Location: Shippensburg University, 1871 Old Main Dr., Shippensburg, PA 17257
Duration: Expected delivery and installation beginning to mid July 2004.
Contact: Pamela A. King, (717) 477-1386

SU-03-22 Shippensburg University is seeking a vendor to furnish a Hardened Linux OS Appliance with built-in-hardware redundancy to reduce junk e-mail load from mail infrastructure at gateway. Vendor must be able to provide ongoing technical/maintenance support. Anticipated delivery will be end of June to mid July 2004. Vendors interested in receiving a bid package must fax or email a request to Pamela King, Shippensburg University, 1871 Old Main Drive, Shippensburg, PA 17257; Fax (717) 477-1350; email: paking@wharf.ship.edu. All responsible bidders are invited to participate including MBE/WBE firms.

Department: State System of Higher Education
Location: Shippensburg University, 1871 Old Main Dr., Shippensburg, PA 17257
Duration: Delivery requested end of June to Mid July 2004.
Contact: Pamela A. King, (717) 477-1386

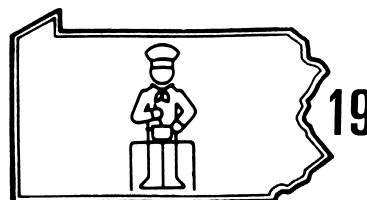
SERVICES



Construction & Construction Maintenance

011151 Service needed to crush a pile of roadway rubble. Vendor to supply all necessary equipment, operators and materials necessary to complete the job by August 15, 2004.

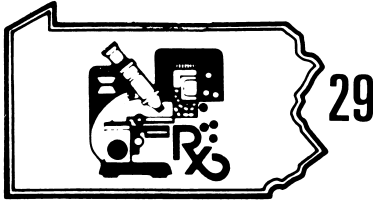
Department: Transportation
Location: Redevelopment Authority Stockpile 99
Duration: 6 months from date of award
Contact: Debbie Armel, (814) 332-6880



Food

CN 0000803 Coffee, concentrate, decaffeinated, non-frozen, liquid. Successful bidder to furnish, install and maintain at no additional cost to the Hospital all dispensing equipment as specified in bid. Please send a fax to 570-587-7108 with your company name, address, telephone and fax number, Federal ID Number and your PA vendor number to request a bid package. Bid packages cannot be faxed.

Department: Public Welfare
Location: Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, PA 18411-9505
Duration: July 1, 2004—June 30, 2005
Contact: Stanley Rygelski, PA, (570) 587-7291



Medical Services

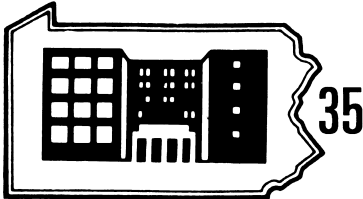
SP1345041023 Consultant will provide on-site podiatry service to resident veterans of the long-term care facility as required and requested. Professional services will be provided by a licensed podiatrist in the Commonwealth of PA. Services will include initial examinations of the foot and ankle, routine foot and nail care, ingrown/fungal nail care, skin integrity/wound care, bunion/hammer toe care, and other care as needed. Services will be provided in two (2), three-hour (3) on-site sessions to the facility weekly. (Details provided in RFQ/Bid Packet.) Vendor must have SAP Vendor Number to obtain RFQ/Bid Packet. To obtain SAP Vendor Number, please visit Commonwealth of PA website www.state.pa.us, PA Keyword: Imagine PA - Vendor Registration.

Department: Military Affairs

Location: Southeastern Veterans' Center, One Veterans Drive, Spring City, PA 19475

Duration: Contract to begin on or about July 1, 2004 and end June 30, 2005 with four (4) options to renew for one (1) year periods upon mutual consent of facility and consultant.

Contact: Joan A. Gutchen, PA3, (610) 948-2492



Real Estate Services

032245 Contemplated sale of land no longer needed for transportation purposes. Notice is hereby given that the Department of Transportation, pursuant to 71 P. S. § 513(e)(7), intends to sell certain land owned by it located in Montoursville Borough, Lycoming County. The parcel contains 49,896 square feet of unimproved land situated west of Loyalsock Ave. Estimated fair market value is \$10,000. Interested public entities are invited to express their interest in purchasing the site within 30 days from the date of publication of this notice to: Joel Hart, R/W Administrator, P. O. Box 218, Montoursville, PA 17754.

Department: Transportation

Contact: Joel Hart, (570) 368-4237

[Pa.B. Doc. No. 04-893. Filed for public inspection May 14, 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