

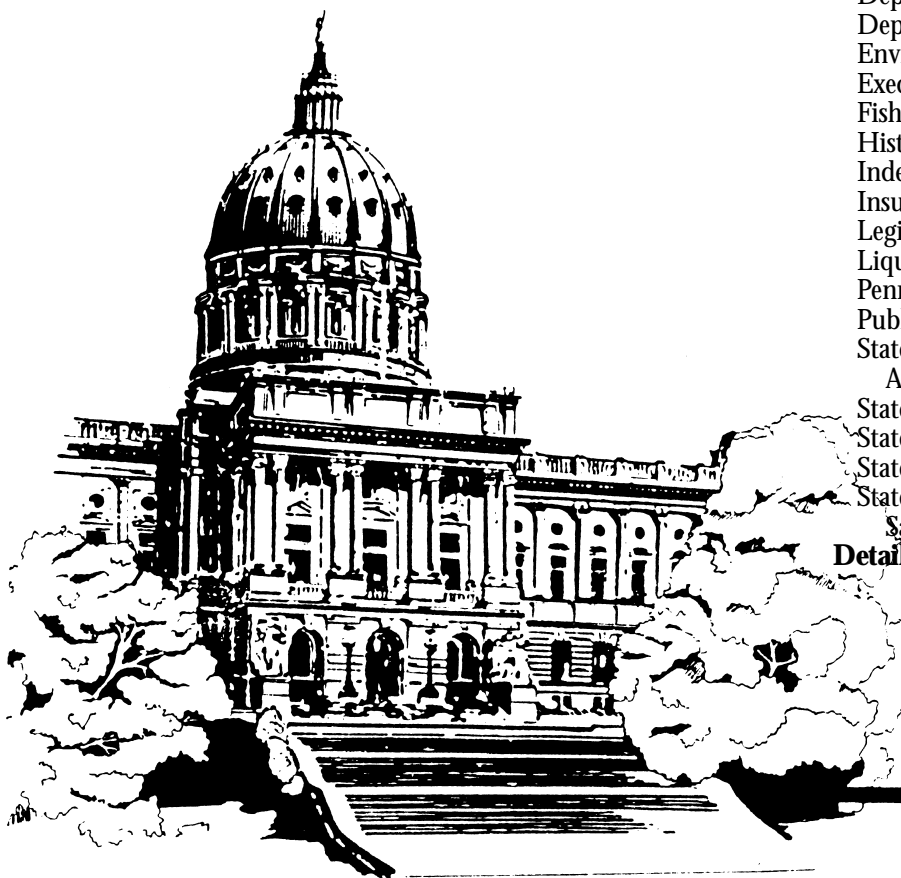
# PENNSYLVANIA BULLETIN

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Department of Community and Economic  
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Department of Environmental Protection  
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Department of Health  
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State Board of Vehicle Manufacturers, Dealers and  
Salespersons

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**No. 357, August 2004**

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

### Fiscal Notes

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

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

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# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

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

#### Amendments to the Pennsylvania Rules of Disciplinary Enforcement Relating to the Confidentiality of Disciplinary Proceedings; Notice of Change in Comment Due Date

Notice is hereby given that The Disciplinary Board of the Supreme Court of Pennsylvania previously published a notice of proposed rulemaking in the *Pennsylvania Bulletin* on June 26, 2004, Vol. 34, No. 26, concerning amending the Pennsylvania Rules of Disciplinary Enforcement to provide that disciplinary proceedings will not be confidential after the filing and service of a petition for discipline and the filing of an answer or the time to file an answer has expired or after the filing of a petition for reinstatement.

Interested persons were invited to submit written comments regarding the proposed amendments to the Office of the Secretary, The Disciplinary Board of the Supreme Court of Pennsylvania, First Floor, Two Lemoyne Drive, Lemoyne, PA 17043, on or before July 30, 2004. This period was extended by prior Notice to August 31, 2004.

In order to provide interested parties with additional time to submit written comments regarding these proposed amendments, The Disciplinary Board has determined that the period to respond shall be extended to September 30, 2004.

*By The Disciplinary Board of the Supreme Court of Pennsylvania*

ELAINE M. BIXLER,  
*Executive Director and Secretary*

[Pa.B. Doc. No. 04-1583. Filed for public inspection August 27, 2004, 9:00 a.m.]

## Title 255—LOCAL COURT RULES

### BEAVER COUNTY

[Correction]

#### Local Rules of Civil Procedure; No. 10130 of 2001

##### Amended Order

An error occurred in the document which appeared at 34 Pa.B. 4426 (August 14, 2004). The heading incorrectly stated that the document announced the adoption of criminal rules. The rules adopted were in fact civil rules. The correct version of the document is as follows:

### BEAVER COUNTY

#### Local Rules of Civil Procedure; No. 10130 of 2001

##### Amended Order

Local Rules L205.2(a) and (b), L206.1(a), L206.4(c), L208.2(e), L208.3(b), L210, L 1028(c), L1034(a) and L1035.2(a) are adopted pursuant to Pa.R.C.P. Nos. 239.1, 239.2, 239.3, 239.4, 239.5, 239.6 and 239.7, effective July 26, 2004. All local rules inconsistent with the foregoing local rules are suspended as of the effective date of the foregoing rules.

In accordance with Pa.R.C.P. No. 239, the Court Administrator of Beaver County shall transmit certified copies of this order and the foregoing Local Rules as follows:

A. Seven (7) certified copies with the Administrative Office of Pennsylvania Courts;

B. Two (2) certified copies and a diskette containing the rules to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*;

C. One (1) certified copy to the Civil Procedural Rules Committee of the Pennsylvania Supreme Court;

D. One (1) copy in the office of the Prothonotary of Beaver County to be kept continuously available for public inspection and copying. In addition, one (1) copy shall be delivered to the Beaver County Law Library.

In addition, the Court Administrator of Beaver County shall cause the foregoing rules to be published on the website of the Administrative Office of Pennsylvania Courts and on the Beaver County website.

*By the Court*

ROBERT E. KUNSELMAN,  
*President Judge*

[Pa.B. Doc. No. 04-1478. Filed for public inspection August 13, 2004, 9:00 a.m.]

### DELAWARE COUNTY

#### Amendment of Local Rule 208.2(e)—Motion, Certification of Good Faith. Attempt to Amicably Resolve Discovery Motion

##### Order

*And Now*, to wit, this 10th day of August, 2004, it is hereby *Ordered* that Delaware County Local Rule 208.2(e) is hereby *Amended* and shall read as follows:

(1) All motions relating to discovery shall include a certificate signed by counsel for the moving party that counsel for that party has conferred or attempted to confer with all interested parties in order to resolve the matter without Court action, and shall set forth the nature of the efforts made to resolve the matter. Failure to comply with the foregoing shall result in the refusal of the Court to hear the motion.

(2) The moving party shall attach a Certification of Good Faith, substantially in the following form to his or her motion.

*See attached Certification of Good Faith Form*

*By the Court*

KENNETH A. CLOUSE,  
*President Judge*

IN THE COURT OF COMMON PLEAS OF DELAWARE  
COUNTY, PENNSYLVANIA

CIVIL ACTION—LAW

ATTORNEY CERTIFICATION OF GOOD FAITH  
Pursuant to Delaware County Local R.C.P. 208.2(e)

The undersigned counsel for movant hereby certifies and attests that:

a. He or she has had the contacts described below with opposing counsel or unrepresented party regarding discovery matter contained in the foregoing discovery motion in an effort to resolve the specific discovery dispute(s) at issue and, further, that despite counsel's good faith attempts to resolve the dispute(s), counsel have been unable to do so without Court intervention.

*Description of effort to resolve discovery motion:*

b. He or she was unsuccessful in actually contacting opposing counsel or unrepresented party in an attempt to resolve the discovery dispute(s) despite his or her good faith efforts to do so.

*Description of effort to resolve discovery motion:*

CERTIFIED TO THE COURT BY:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attorney for Movant (name of party)

*Note: The signature of respondent's counsel or party is not required.*

[Pa.B. Doc. No. 04-1584. Filed for public inspection August 27, 2004, 9:00 a.m.]

**DELAWARE COUNTY**

**Rescission of Local Rule 1007—Commencement of Action, Automatic Certification Form**

**Order**

*And Now*, to wit, this 10th day of August, 2004, it is hereby *Ordered* that Delaware County Local Rule 1007 is *Rescinded*.

*By the Court*

KENNETH A. CLOUSE,  
*President Judge*

[Pa.B. Doc. No. 04-1585. Filed for public inspection August 27, 2004, 9:00 a.m.]

# RULES AND REGULATIONS

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

### STATE BOARD OF LANDSCAPE ARCHITECTS [49 PA. CODE CH. 15] Deletion of Examination Fees

The State Board of Landscape Architects (Board) amends §§ 15.1, 15.11, 15.12, 15.51, 15.53, 15.56 and 15.57 to read as set forth in Annex A.

#### A. *Effective Date*

The final-form rulemaking takes effect upon publication in the *Pennsylvania Bulletin*.

#### B. *Statutory Authority*

Section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a) and section 4 of the Landscape Architects' Registration Law (63 P. S. § 904) set forth the powers and duties of the Board with regard to the administration of examinations.

#### C. *Background and Purpose*

The final-form rulemaking deletes references to the fees for the licensing examination and makes clear the fees are set by the professional testing organizations. The final-form rulemaking also clarifies that examination applicants should apply directly to the professional testing organization and not to the Board. It also deletes Board testing protocols and recordkeeping practices that are obsolete.

In addition, the final-form rulemaking has been amended to include a definition of "examination" in § 15.1 (relating to definitions) and §§ 15.56 and 15.57 (relating to registration without examination; and registration by endorsement) have been amended to delete references to the specific title of the examination currently in use.

#### D. *Summary of Comments and Responses on Proposed Rulemaking*

Notice of proposed rulemaking was published at 33 Pa.B. 5740 (November 22, 2003). Publication was followed by a 30-day public comment period during which the Board received no comments.

The Independent Regulatory Review Commission (IRRC), the House Professional Licensure Committee (HPLC) and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not make any objections, comments or recommendations.

#### E. *Fiscal Impact and Paperwork Requirements*

This final-form rulemaking has no fiscal impact on the Board or its licensees. The final-form rulemaking has no fiscal impact on the private sector, the general public or political subdivisions. The final-form rulemaking avoids preparation of new regulations each time that an examination fee is changed and will not create additional paperwork for the private sector.

The final-form rulemaking will not impose any legal, accounting or reporting requirements on the regulated community.

#### F. *Sunset Date*

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

#### G. *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 22, 2003, the Board submitted a copy of the notice of proposed rulemaking, published at 33 Pa.B. 5740, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on June 9, 2004, the final-form rulemaking was approved by the HPLC. On June 14, 2004, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 15, 2004, and approved the final-form rulemaking.

#### H. *Contact Person*

Further information can be obtained by contacting Shirley Klinger, Administrative Assistant, State Board of Landscape Architects, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-1389.

#### I. *Findings*

The Board finds that:

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

(2) A public comment period was provided as required by law and no comments were received.

(3) The amendments to the final-form rulemaking do not enlarge the purpose of proposed rulemaking published at 33 Pa.B. 5740.

(4) The final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing acts identified in Part B of this preamble.

#### J. *Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 15, are amended by amending §§ 15.1, 15.11, 15.12, 15.51, 15.53, 15.56 and 15.57 and by deleting § 15.52 to read as set forth in Annex A.

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

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

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

DANIEL J. DAHLKEMPER,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 4082 (July 31, 2004).)*

**Fiscal Note:** Fiscal Note 16A-617 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 15. STATE BOARD OF LANDSCAPE ARCHITECTS**

**GENERAL PROVISIONS**

**§ 15.1. Definitions.**

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

*Act*—The Landscape Architects' Registration Law (63 P. S. §§ 901–913).

*Approved institution or college*—An institution accredited by the American Society of Landscape Architects' published list of accredited programs.

*Board*—The State Board of Landscape Architects.

*CLARB*—Council of Landscape Architects Registration Boards.

*Comprehensive work sample*—A work sample which the applicant submits to meet the experience requirements of the act. Work includes site and development plans, specifications and drawings, grading and drainage plans, layout plans, planting plans, stormwater management, plans and calculations, details and specifications and photographs of completed projects, cost estimating and supervision of construction.

*Design professional*—A landscape architect, a land surveyor, an architect or an engineer licensed by the Commonwealth.

*Examination*—The examination given by CLARB.

*Grade and character satisfactory to the Board*—A varied and increased level of experience and responsibility evidenced by a comprehensive work sample, technical knowledge and professional experience.

*Responsible charge*—Under section 2(5) of the act (63 P. S. § 902(5)), for experience to be satisfactory to the Board, it shall be progressive and of an increasing standard of quality and responsibility.

**APPLICATION PROCEDURES**

**§ 15.11. Filing procedures.**

(a) An application for registration shall be submitted to the State Board of Landscape Architects, Box 2649, Harrisburg, Pennsylvania 17105-2649.

(b) An application shall be submitted on forms provided by the Board along with the appropriate fee.

(c) An application for examination shall be submitted directly to the professional testing organization along

with the fee in accordance with the deadline provided by the professional testing organization.

(d) The Board may credit an applicant's experience requirements 4 months in advance of the administration of the examination, if the applicant submits satisfactory certification to the Board that the applicant has attained the required experience during the interim period between the date of application and the date of examination.

**§ 15.12. Fees.**

Following is the schedule of fees charged by the Board:

Application for licensure under § 15.54(b)(1), (2) and (3) or § 15.56(a)(3).....	\$60
Application for licensure and Board interview under § 15.54(b)(4) and 15.56(a)(1) or (2).....	\$350
Application for licensure by endorsement .....	\$45
Application for temporary permit .....	\$45
Verification of licensure .....	\$15
Certification of licensure or scores.....	\$25
Duplicate certificate fee .....	\$5
Biennial registration fee.....	\$125
Provider application for continuing education course approval under § 15.74 (relating to approval of continuing education courses).....	\$125
Licensee application for continuing education course approval under § 15.77 (relating to licensee application for approval of continuing education courses) .....	\$ 40 (per clock hour)

**EXAMINATIONS**

**§ 15.51. Eligibility.**

An applicant qualifying under section 6(b) of the act (63 P. S. § 906(b)) is eligible to take the regular examination which will be an examination administered on the dates and times and at the places established by the professional testing organization. A copy of the instructions will be furnished to the applicant.

(1) *Examination.* The examination will be given on dates selected by the professional testing organization.

(2) *Examination sites.* The examination will be given at locations as may be determined by the professional testing organization.

(3) *Due notice.* An applicant eligible to take the examination will be given notice of the date, time and place of examination and will be given specific preexamination instructions. An applicant shall immediately advise the professional testing organization specified on the preexamination instructions as to intent to sit or not to sit for the examination, once declared eligible.

(4) *Forfeiture.* An applicant who fails to sit for the examination, or any part of the examination, forfeits the examination fee and shall submit a new application fee.

**§ 15.52. (Reserved).**

**§ 15.53. Grading.**

(a) Test results will be recorded by the Board in a permanent record of the applicant.

(b) To qualify for registration, an applicant shall receive a passing grade on each part or division of the examination. An applicant will have unlimited opportunities to retake portions of the examination which were failed.

**§ 15.56. Registration without examination.**

(a) *Requirements.* An applicant who meets one or more of the following requirements is eligible for registration without examination:

(1) An individual who possesses 10 years of practical experience in landscape architecture, of a grade and character satisfactory to the Board, and who has graduated from an approved institution.

(2) An individual who possesses 15 years of practical experience in landscape architecture of a grade and character satisfactory to the Board.

(3) An individual who has passed the examination in another state with a score required by the Board and who has met the education experience requirements of the act.

**(b) Procedure.**

(1) Prior to issuing a license without examination, the Board will review the applicant's qualifications, and by a majority vote approve or disapprove the application.

(2) If an application has been disapproved, the Board may vote to allow the applicant to take the written examination.

**§ 15.57. Registration by endorsement.**

(a) *General requirements.* An applicant who has passed the examination, holds an unexpired license from another state or foreign country, has a graduate or undergraduate degree in landscape architecture from an approved institution or college and possesses 2 years of practical experience in landscape architecture of a grade or character satisfactory to the Board, may be granted registration by endorsement following the filing of an application and a Board review of the applicant's comprehensive work sample.

**(b) Endorsement.**

(1) An applicant who requests registration by endorsement shall submit with the application an official certification of registration in the applicant's home state, territory or country from the secretary of the examining or registration board or other certifying official, stating on what basis registration was granted, whether by oral or written examination or exemption, and whether the registration is in good standing at the time of the application for registration in this Commonwealth.

(2) An applicant who requests registration by endorsement shall submit with the application complete information relative to training, education and experience as may be required by the Board.

(c) *Exception.* An applicant who received a license from another jurisdiction, without having passed the examination, is not entitled to registration by endorsement.

[Pa.B. Doc. No. 04-1586. Filed for public inspection August 27, 2004, 9:00 a.m.]

STATE BOARD OF MEDICINE  
[49 PA. CODE CH. 16]  
Continuing Medical Education

The State Board of Medicine (Board) amends § 16.1 (relating to definitions) and adds § 16.19 (relating to continuing medical education) to read as set forth in Annex A.

**A. Effective Date**

The final-form rulemaking is effective upon publication in the *Pennsylvania Bulletin*.

**B. Statutory Authority**

Under section 910 of the Medical Care Availability and Reduction of Error (MCARE) Act (act) (40 P. S. § 1303.910), the Board is required to establish requirements for continuing medical education for physicians as a condition for renewal of their licenses.

**C. Background and Purpose**

The final-form rulemaking implements section 910 of the act, which requires completion of continuing medical education as a condition of biennial license renewal of physician licenses by the Board.

**D. Description of the Final-Form Rulemaking**

Section 16.1 is amended to include new definitions that relate to the continuing medical education requirement. Acronyms for the Accreditation Council for Continuing Medical Education (ACCME), the American Medical Association (AMA) and the American Medical Association Physician's Recognition Award (AMA PRA) have been included. The ACCME is the national oversight body for continuing medical education. The AMA PRA is the Nationally recognized standard for continuing medical education. Continuing medical education activities that adhere to the published standards of the AMA PRA are eligible for continuing medical education credit.

Because continuing medical education activities are much broader than typical didactic course work and may include activities such as rounds, research, independent study, teaching, and the like, the final-form rulemaking changes the definition of "approved course" to "approved activity." This definition also has been amended to more accurately reflect that in the field of continuing medical education activities are accepted for credit in a decentralized process by organizations designated by the ACCME. Definitions have also been added to identify that continuing medical education activities are delineated under the AMA PRA standard into Category 1 activities and Category 2 activities. "Category 1" and "Category 2" are terms of art in the continuing medical education field and are well understood by the physician and continuing medical education communities, accordingly, further defining these terms is unnecessary and likely to generate confusion rather than clarity.

Section 16.19 has been amended in final rulemaking in several respects. Because of the short time period remaining between publication of this final-form rulemaking and the January 1, 2005, deadline for renewal of license, the Board has determined to significantly reduce the continuing education requirement for this renewal period. However, the Board has determined that it is important to implement at least a minimum continuing education requirement. Accordingly, § 16.19 has been amended in the final-form rulemaking so that the licensure renewal period beginning January 1, 2005, proof of completion of 25 credit hours of continuing medical education in the preceding biennial period running January 1, 2003, through December 31, 2004, will be required. The 25 credit hours for the January 1, 2005, license renewal period may be completed in either AMA PRA Category 1 or AMA PRA Category 2 and must include 3 hours of patient safety and risk management.

Full implementation of the continuing education requirement has been delayed until the licensure renewal period beginning January 1, 2007. At that time, proof of

completion of 100 credit hours of continuing medical education in the preceding biennial period running January 1, 2005, through December 31, 2006, will be required for licensure renewal for medical doctors.

Under § 16.19(a), once full implementation occurs, at least 20 credit hours of the 100 will be required to be completed in AMA PRA Category 1 approved activities. Further, at least 12 credit hours of the 100 will be required to be completed in AMA PRA Category 1 or Category 2 activities related to the area of patient safety and risk management. Approved activities in the area of patient safety and risk management may include topics such as improving medical records and recordkeeping, reducing medical errors, professional conduct and ethics, improving communications, preventative medicine and healthcare quality improvement. Credit will not be granted for courses in office management or practice building.

Under § 16.19(b), physicians are required to retain documentation of participation for 2 years after renewal and shall certify they completed continuing medical education activities on a form provided by the Board for that purpose. Documentation proving completion of continuing medical education must be produced, upon Board demand, under random audits of reported credit hours. Electronic submission of documentation is permissible to prove compliance. Noncompliance may result in disciplinary proceedings under section 41(6) of the Medical Practice Act of 1985 (63 P. S. 422.41(6)). Section 16.19(b)(2) and (3) identifies acceptable forms of documentation evidencing completion of continuing medical activities.

Section 16.19(c) provides for exemption from the continuing medical education requirement for a physician who is applying for licensure in this Commonwealth for the first time; holds a current training license; is a retired physician providing care only to immediate family members or is on inactive status, except that a physician seeking to reinstate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennium. Section 16.19(d) provides that a physician suspended for disciplinary reasons is not exempt from the requirements of this section.

Section 16.19(e) authorizes the Board to grant discretionary waivers of the continuing medical education requirements in cases of serious illness, military service or other good cause provided that the granting of the waiver will not jeopardize the public's safety and welfare.

#### E. Public Comment

Proposed rulemaking was published at 34 Pa. B. 56 (January 3, 2004). In drafting and promulgating the final-form rulemaking, the Board solicited input and suggestions from the regulated community and other parties who have identified themselves as interested in the Board's regulatory agenda.

The Board entertained public comment for 30 days during which time the Board received comments from individuals and organizations including the Hospital and Healthsystem Association of Pennsylvania (HAP), several hospitals and the Pennsylvania Medical Society. Following the close of the public comment period, the Board received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC). The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment. The following is a summary of the comments and the Board's responses.

The comments were in the main supportive of the proposed rulemaking but expressed concern regarding the amount of time remaining in the renewal period and whether it would be practicable to fully implement the continuing medical education requirement for the January 1, 2005, renewal. The HPLC and IRRC echoed this concern. The Board agrees that full implementation is not practicable at this point in time and has amended the final-form rulemaking to delay full implementation until January 1, 2007. However, the Board has provided for a minimum continuing medical education requirement for the upcoming renewal.

The HAP also requested that the final-form rulemaking clarify that the existing Nationally recognized AMA PRA Category 1 and Category 2 system of accepting continuing medical education would continue. The Board agrees that the proposed rulemaking was not clear in this intent and has made the suggested amendments to the final-form rulemaking.

The HPLC and IRRC pointed out that the proposed rulemaking appeared in error in regard to the counting of patient safety and risk management activities in relation to the full 100-hour requirement. The Board corrected the final-form rulemaking to clarify that patient safety and risk management was part of the over 100 hours of required continuing medical education. The Board increased the number of required hours in patient safety and risk management from 10 to 12 in keeping with the Governor's Plan For Medical Malpractice Liability Reform of June 9, 2003.

#### F. Fiscal Impact and Paperwork Requirements

There is no adverse fiscal impact or paperwork requirement imposed on the Commonwealth, political subdivisions or the private sector. Citizens of this Commonwealth will benefit in that this final-form rulemaking promotes patient safety and welfare as a consequence of maintaining physician participation in continuing medical education activities.

#### G. Sunset Date

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

#### H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on January 3, 2004, the Board submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 56, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on June 30, 2004, the final-form rulemaking was approved by the HPLC. On July 28, 2004, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 29, 2004, and approved the final-form rulemaking.

#### I. Contact Person

Further information may be obtained by contacting Gerald S. Smith, Counsel, State Board of Medicine, P. O. Box 2649, Harrisburg, PA 17105-2649, gerasmith@state.pa.us.

J. Findings

The Board finds that:

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

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

(3) This final-form rulemaking does not enlarge the purpose of proposed rulemaking published at 34 Pa.B. 56.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing acts identified in Part B of this preamble.

K. Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 16, are amended by amending § 16.1 and by adding § 16.19 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

CHARLES D. HUMMER, Jr. M.D.,  
Chairperson

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 4528 (August 14, 2004).)*

**Fiscal Note:** Fiscal Note 16A-4914 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 16. STATE BOARD OF MEDICINE—GENERAL PROVISIONS**

**Subchapter A. BASIC DEFINITIONS AND INFORMATION**

**§ 16.1 Definitions.**

The following words and terms, when used in this chapter and Chapters 17 and 18 (relating to State Board of Medicine—medical doctors; and State Board of Medicine—practitioners other than medical doctors), have the following meanings, unless the context clearly indicates otherwise:

*ACCME*—The Accreditation Council for Continuing Medical Education.

*AMA*—American Medical Association.

*AMA PRA*—American Medical Association Physician's Recognition Award.

\* \* \* \* \*

*Approved activity*—A continuing medical education activity accepted for AMA PRA credit.

\* \* \* \* \*

*Category 1 activities*—Continuing medical education activities approved for AMA PRA Category 1 credit.

*Category 2 activities*—Continuing medical education activities approved for AMA PRA Category 2 credit.

\* \* \* \* \*

*Immediate family member*—A parent, spouse, child or adult sibling residing in the same household.

\* \* \* \* \*

**Subchapter B. GENERAL LICENSE, CERTIFICATION AND REGISTRATION PROVISIONS**

**§ 16.19 Continuing medical education.**

(a) Beginning with the licensure renewal period commencing January 1, 2005, proof of completion of 25 credit hours of continuing medical education in the preceding biennial period will be required for licensure renewal for medical doctors. The 25 credit hours for the January 1, 2005, license renewal period may be completed in either AMA PRA Category 1 or AMA PRA Category 2 activities, and must include 3 hours in patient safety and risk management.

(b) Beginning with the licensure renewal period commencing January 1, 2007, proof of completion of 100 credit hours of continuing medical education in the preceding biennial period will be required for licensure renewal for medical doctors.

(1) At least 20 credit hours shall be completed in AMA PRA category 1 approved activities. At least 12 credit hours shall be completed in AMA PRA Category 1 or AMA PRA Category 2 approved activities in the area of patient safety and risk management. Approved activities in the area of patient safety and risk management may include topics such as improving medical records and recordkeeping, reducing medical errors, professional conduct and ethics, improving communications, preventative medicine and healthcare quality improvement. The remaining credit hours shall be completed in AMA PRA Category 1 or AMA PRA Category 2 approved activities. Credit will not be granted for courses in office management or practice building.

(2) Physicians shall retain official documentation of attendance for 2 years after renewal, and shall certify completed activities on a form provided by the Board for that purpose, to be filed with the biennial renewal form. Official documentation proving completion of continuing medical education activities shall be produced, upon Board demand, under random audits of reported credit hours. Electronic submission of documentation is permissible to prove compliance with this subsection. Noncompliance may result in disciplinary proceedings under section 41(6) of the Medical Practice Act of 1985 (63 P. S. 422.41(6)).

(i) Acceptable documentation for Category 1 activities are:

(A) AMA PRA certificates.

(B) Certificate of completion of a Category 1 activity sponsored by an organization accredited by ACCME or designee of the ACCME.

(C) Certificates from a medical professional society or specialty certification by a member organization of the American Board of Medical Specialties.



- (D) Healthcare system credential certification.
- (E) Third party payor credentialing certification.
- (F) Certification by a CME organization whose standards meet or exceed those established by AMA PRA.

(ii) Acceptable documentation for Category 2 activities are:

- (A) Documentation from sources acceptable for Category 1 activities.
- (B) Documentation maintained by the physician contemporaneous to the CME activity such as personal log books, diaries, journal notes or applications for credentialing or certification by an organization recognized by the ACCME or designee of the ACCME. The documentation shall identify the activity and the amount of time spent in the activity.

(3) The following exemptions apply for certain physicians:

- (i) A physician applying for licensure in this Commonwealth for the first time shall be exempt from the continuing medical education requirement for the biennial renewal period following initial licensure.
- (ii) A physician holding a current temporary training license shall be exempt from the continuing medical education requirement.
- (iii) A retired physician who provides care only to immediate family members shall be exempt from the continuing medical education requirement.
- (iv) A physician who is on inactive status shall be exempt from the continuing medical education requirement, except that a physician who is seeking to reinstate an inactive or lapsed license shall show proof of compliance with the continuing education requirement for the preceding biennium.

(4) A physician suspended for disciplinary reasons is not exempt from the requirements of this section.

(5) Waiver of the CME requirements may be permitted, as follows:

- (i) The Board may grant a hardship waiver of all or a part of the continuing medical education requirement in cases of serious illness, military service or other good cause provided that the public's safety and welfare will not be jeopardized by the granting of the waiver.
- (ii) A request for waiver must be made in writing, with appropriate documentation, and include a description of circumstances sufficient to show why compliance is impossible.
- (iii) Waiver requests will be evaluated by the Board on a case-by-case basis. The Board will send written notification of its approval or denial of a waiver request.

[Pa.B. Doc. No. 04-1587. Filed for public inspection August 27, 2004, 9:00 a.m.]

*Description and Need for Rulemaking*

The final-form rulemaking adds § 19.17a to set forth the general rule that any location where a dealer has placed vehicles must be licensed and to set forth standards for determining whether a location where a dealer has placed vehicles is a storage lot or an advertisement, as opposed to the offering for sale of those vehicles, and need not be licensed.

*Summary of Comments and Responses to Proposed Rulemaking*

The Board published notice of proposed rulemaking at 33 Pa.B. 1124 (March 1, 2003) with a 30-day public comment period. The Board received comments from the Pennsylvania Automotive Association (PAA). The Board also received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC) as part of their review of the proposed rulemaking under the Regulatory Review Act (71 P. S. §§ 745.1—745.12). The Board did not receive comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) as part of its review of the proposed rulemaking under the Regulatory Review Act.

The PAA commented that it “is in agreement with the proposed regulations as presented.”

The HPLC and IRRC both suggested that the final-form rulemaking should be included under the heading of “dealership license” because it specifically addresses dealers, rather than under “general provisions.” The Board agrees and has renumbered the regulation as § 19.17a.

IRRC commented that the language used in subsection (b)(3), (4), (6) and (7) to distinguish a storage lot from a sales lot expresses the negative in the actor, although the negative should be with the action. The Board has revised these portions of the final-form rulemaking in accordance with this comment.

IRRC also commented that subsection (b)(8) should clarify that the dealer may not provide a telephone or other means for a customer to contact the dealer from the unlicensed location. The Board agrees and has revised subsection (b)(8) to preclude the dealer from providing potential customers at the unlicensed location with any means to communicate with the dealer about the vehicles stored there. Additionally, the Board has revised this subsection to express the negative with the action, as discussed in the previous comment.

The HPLC questioned the Board's authority to promulgate subsection (c). Subsection (c)(1) states that certain actions will not be considered to be “buying, selling or exchanging” vehicles, as defined in section 2 of the Board of Vehicles Act (act) (63 P. S. § 818.2). Because the definition of “buying, selling or exchanging” includes advertising and all sales activity is to occur at the licensed dealership facility, the HPLC questioned whether the Board has authority to create an exemption. In drafting subsections (b) and (c), the Board intended to create a safe harbor for dealers to know on what terms the display of a vehicle will be considered to be storage or merely advertising, respectively, (and may be done away from a licensed facility) and not the offering for sale (that must be done only at a licensed facility). The Board considers the display of a vehicle under subsection (c) to be merely a three-dimensional “billboard” that may be placed anywhere for public view of the advertising.

**STATE BOARD OF VEHICLE MANUFACTURERS,  
DEALERS AND SALESPERSONS**

**[49 PA. CODE CH. 19]  
Branch Lots**

The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) adds § 19.17a (relating to branch lots) to read as set forth in Annex A.

Both the HPLC and IRRC suggested that subsection (c) include a requirement that the dealer post a sign with the single vehicle display stating that the vehicle is for display only and that no sales transaction may occur at the display site. The Board has revised the final-form rulemaking to incorporate this suggestion.

Subsection (c)(1)(v) prohibits a single vehicle display from having "sales agreement forms or other documents routinely used in vehicle sales transactions." IRRC commented that the Board should identify these other documents. In response, the Board has revised this subsection to read "There are no sales forms present at the location." IRRC also commented that subsection (c)(1)(vi) should make clear that it is the dealer's responsibility to ensure that the vehicle is locked and that the public is unable to gain entry. The Board agrees that this is the dealer's responsibility and, in response to this comment, has revised subsection (c)(1)(vi) to read "The dealer has secured the vehicle so that it is not capable of being operated . . . ."

Finally, IRRC questioned why subsection (c)(2) explicitly excluded the display of recreational vehicles, mobile homes or manufactured housing from a regulation that is not applicable to these types of vehicles. Subsection (c)(2) was drafted to clearly demarcate those segments of the vehicle sales industry that are subject to this final-form rulemaking from those that are not.

#### *Fiscal Impact and Paperwork Requirements*

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions and will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

#### *Effective Date*

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

#### *Statutory Authority*

The final-form rulemaking is promulgated under section 2 and sections 4(4) and (9) and 5(e) of the act (63 P. S. §§ 818.4(4), 818.4(9) and 818.5(e)).

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 1, 2003, the Board submitted a copy of the notice of proposed rulemaking, published at 33 Pa.B. 1124, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on June 15, 2004, the final-form rulemaking was approved by the HPLC. On July 14, 2004, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 15, 2004, and approved the final-form rulemaking.

#### *Additional Information*

Persons who require additional information about the final-form rulemaking should submit inquiries to Teresa Woodall, Board Administrator, State Board of Vehicle Manufacturers, Dealers and Salespersons, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-1697, st-vehicle@state.pa.us.

#### *Findings*

The Board finds that:

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

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

(3) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the act.

(4) The final-form rulemaking does not enlarge the scope of proposed rulemaking published at 33 Pa.B. 1124.

#### *Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 19, are amended by adding § 19.17a to read as set forth in Annex A.

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

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

(d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

EDWIN K. GALBREATH, Jr.,  
Chairperson

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 4082 (July 31, 2004).)*

**Fiscal Note:** Fiscal Note 16A-605 remains valid for the final adoption of the subject regulation.

#### **Annex A**

### **TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

#### **PART I. DEPARTMENT OF STATE**

#### **Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

#### **CHAPTER 19. STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS**

#### **DEALERSHIP LICENSE**

#### **§ 19.17a. Branch lots.**

(a) *Facility.* Unless otherwise exempted by the act or this chapter, any location where a licensed vehicle dealer displays or offers vehicles for sale shall be licensed and comply with the facilities requirements set forth in the act and § 19.18 (relating to established place of business for dealers).

(b) *Storage of vehicles.* The storage of vehicles by a licensed vehicle dealer at an unlicensed location will not be considered to be the display or offer for sale of vehicles at that location if:

- (1) The lot is used solely for the storage of vehicles.
- (2) The lot is identified by a sign with the dealership name and a designation that the lot is for "storage only." The area may not otherwise be identified.
- (3) A salesperson is present at the lot only as necessary to repair, recondition, inspect or move any of the vehicles.
- (4) A salesperson present at the unlicensed location does not engage in any demonstration or discussion of product features of the vehicles and does not discuss any terms of sale.
- (5) The public is not permitted access to any of the vehicles at the lot and the vehicles are not capable of being entered or operated (other than by criminal acts).
- (6) A sign or other marking at the lot or on any of the vehicles at the lot (except for a Federally-mandated manufacturer's price sticker) does not indicate that any of the vehicles at the lot are available for sale at any other location.
- (7) Literature, such as business cards or brochures, is not available for potential customers to remove from the lot.
- (8) The dealer has provided a potential customer at the lot with no means, such as telephone, e-mail or Internet website, to negotiate the sale of, to obtain additional information concerning, or to otherwise discuss the vehicles at the unlicensed lot or other vehicles available for sale by the dealer.

(c) *Single vehicle display.*

- (1) The placement of a single vehicle before the public will not be considered the buying, selling or exchanging of the vehicle, as defined in section 2 of the act (63 P. S. § 818.2), if:
  - (i) The placement is by a vehicle dealer licensed in this Commonwealth.
  - (ii) No more than one vehicle is placed at the location.
  - (iii) A salesperson present at the location does not discuss the features of the vehicle or other vehicles handled by the dealership and does not negotiate or conclude the sale of the vehicle or another vehicle of the dealer.
  - (iv) There is no sales office at the location.
  - (v) There are no sales forms present at the location.
  - (vi) The dealer has secured the vehicle so that it is not capable of being entered or operated by potential customers or others (other than by criminal acts).
  - (vii) The location is not at the licensed premises of any vehicle dealer or vehicle auction.
  - (viii) A sign is posted that identifies the vehicle as for display only and not for sale at that location.
- (2) This subsection applies to the placement of automobiles, light trucks and motorcycles, but does not apply to the placement of recreational vehicles, mobile homes, manufactured housing, and other vehicles not identified in this paragraph.

[Pa.B. Doc. No. 04-1588. Filed for public inspection August 27, 2004, 9:00 a.m.]

**STATE BOARD OF VEHICLE MANUFACTURERS,  
DEALERS AND SALESPERSONS**  
[49 PA. CODE CH. 19]  
**Consignment Sales**

The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) adds § 19.18a (relating to consignment sales) to read as set forth in Annex A.

*Description and Need for Rulemaking*

The final-form rulemaking adds § 19.18a to establish requirements for licensed vehicle dealers who wish to sell vehicles on a consignment basis without holding a vehicle auction license, as authorized by section 5(f)(3) of the Board of Vehicles Act (act) (63 P. S. § 818.5(f)(3)). Previously, the Board had not adopted any regulations in this area. By the act of April 19, 1996 (P. L. 104, No. 27), the General Assembly made substantial amendments to the act. Among the changes, the General Assembly eliminated licensure for brokers and created a new class of licensure for public or retail auctions and wholesale auctions. In addition, the activities of brokering—selling at auction and selling on consignment—were divided between dealers and the new auction licensees. Specifically, section 5(f)(3) of the act now provides that a "dealer licensed under this act without possessing a wholesale auction or public or retail auction license shall be permitted to sell vehicles on consignment." The General Assembly did not specify consumer protection provisions that would apply to the new class of licensure.

Dealers did not previously sell vehicles on consignment. Thus, consumers may be unaware that a dealer does not own the consigned vehicles on display at the dealer's lot and that these vehicles do not have the same protections in title and warranty as vehicles owned by the dealer. The final-form rulemaking is necessary to address important consumer protection issues. The final-form rulemaking will require an exchange of information between a dealer and a consignor, which in turn will require an exchange of information between the dealer and a potential buyer, obviating title and warranty problems after purchase. Additionally, the final-form rulemaking will require that delivery of the vehicle will not occur until after execution of the title and other paperwork.

*Summary of Comments and Responses to Proposed Rulemaking*

The Board published notice of proposed rulemaking at 32 Pa.B. 6134 (December 14, 2002) with a 30-day public comment period. The Board received comments from Pennsylvania Automotive Association (PAA) and Pennsylvania Independent Automobile Dealers Association (PIADA), but not from any other members of the public. The Board received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC) as part of their review of proposed rulemaking under the Regulatory Review Act (71 P. S. §§ 745.1—745.12). The Board did not receive comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) as part of its review of proposed rulemaking under the Regulatory Review Act.

The HPLC and IRRC recommended that the Board adopt minimum size and clarity specifications for the written disclosure required by § 19.18a(d) that the vehicle is held on consignment and is not owned by the dealer to ensure proper notice to potential buyers. Because the Board finds this to be a reasonable require-

ment, the Board has revised the final-form rulemaking to require that the notice be in at least 20-point bold type.

The PIADA objected to the requirement of § 19.18a(b)(1), which requires a separate written consignment agreement to be maintained for each vehicle that is consigned, rather than permitting a dealer to include multiple vehicles on a single consignment agreement with a given consignor. The Board has not revised the final-form rulemaking in response to this comment. A separate consignment agreement permits simplified handling of the paperwork for each vehicle, as well as dealing with potential buyers, without any effect from the sale of, or failure to sell, any other vehicle from the same consignor. The Board believes that this benefit outweighs any benefit of the reduced number of consignment agreements that may result from including additional vehicles from the same consignor on a single consignment agreement.

The PIADA also commented on the requirement of § 19.18a(b)(1)(vii), which requires the consignment agreement to include an account number for each lien holder, objecting that this may violate the privacy of the consignor. The Board has not revised its regulation in response to this comment. This information is required to protect the dealer (and by extension, the buyer) by providing a readily verifiable means to confirm the existence and extent of any lien. The dealer is not obligated to provide this information to every potential buyer.

The PIADA commented on § 19.18a(b)(1)(viii), which requires the consignment agreement to include any material facts relative to the vehicle, including accident history, vehicle condition and odometer disclosure, objecting that this would impose upon the dealer strict liability to know the entire accident history of the vehicle. The PIADA suggested that the Board revise its final-form regulation to require disclosure of accident history and vehicle condition only if the dealer offers a warranty. By promulgating this rulemaking, the Board does not intend to prohibit any "as-is" sale by consignment or to make the dealer strictly liable for the condition of any vehicle sold on consignment. The Board included this requirement to provide a source of information to a potential buyer where the consigning seller is not involved in showing the vehicle or directly available to answer questions. The Board included this requirement also to provide additional information to the dealer because § 19.18a(c) requires that the dealer must, at least temporarily, become the owner of the vehicle prior to making the final sale. Accordingly, the Board has not revised its final-form rulemaking in response to this comment, other than to specify that the accident history to be disclosed is that history known to the consignment seller.

The PAA commented that Federal law does not permit the dealer to sign on behalf of the consigning seller on the back of the title, such as by the power of attorney required by § 19.18a(b)(3), as well as buyer, which results from the compliance with § 19.18a(c), which requires the dealer to have title assigned to the dealer prior to applying for title in the buyer's name. Accordingly, the Board has revised the final-form rulemaking to delete § 19.18a(b)(3) as previously proposed.

The PAA and the PIADA suggested that the Board remove from § 19.18a(b)(4) any requirement for a dealer to hold the title to a vehicle held on consignment. In proposing this rulemaking, the Board sought to protect a buyer from a consignor (or dealer) failing to provide the title by the time of sale. As the PAA has indicated, the requirement that the dealer notify potential buyers that the vehicle is being sold on consignment, rather than out

of the dealer's inventory, puts the buyer on notice that the sales process is different and may be slowed by involving a seller other than the dealer and the resultant need to delay the sales transaction until the seller has produced the title (or appropriate substitute) to the dealer. Accordingly, the Board has revised the final-form regulation to omit any requirement that the dealer must hold the unexecuted title. As part of making this revision, the Board has removed from § 19.18a(b)(2) the alternative of holding a copy of the title and instead, placed into § 19.18(b)(3) the requirement that the dealer hold a copy of the title or a printout of the electronic lien verification. Compliance with this requirement will establish the owner's identity and alert the dealer to any title brands or lien holders. Additionally, the Board has revised the final-form rulemaking to remove all requirements for lien satisfaction documentation, because compliance with § 19.18a(c) will result in satisfaction of all liens by the consignor.

Finally, the Board added to the final-form rulemaking a prohibition that a dealer may not deliver a vehicle sold on consignment until the paperwork associated with that transaction has been completed. Delaying the sale until title and other documents are provided will also serve the purpose of protecting the buyer from a consignor (or dealer) who is unable to provide the title. Because the vehicle cannot be delivered prior to providing the title, there is no need to require a dealer who fails to provide a title to the purchaser to accept return of the vehicle and refund the entire purchase price, less actual depreciation, as suggested by the PIADA. Moreover, the Board does not have the authority, under the act, to order a licensee to make restitution or otherwise provide a remedy.

#### *Fiscal Impact and Paperwork Requirements*

The final-form rulemaking has no adverse fiscal impact on the Commonwealth or its political subdivisions and imposes no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

#### *Effective Date*

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

#### *Statutory Authority*

The final-form rulemaking is promulgated under section 4(9) of the act (63 P. S. § 818.4(9)) and section 5(f)(3) of the act.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on December 14, 2002, the Board submitted a copy of the notice of proposed rulemaking, published at 32 Pa.B. 6134, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on June 15, 2004, the final-form rulemaking was approved by the HPLC. On July 14, 2004, the final-form rulemaking was deemed approved by

the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 15, 2004, and approved the final-form rulemaking.

*Additional Information*

Persons who require additional information about the final-form rulemaking should contact Teresa Woodall, Board Administrator, State Board of Vehicle Manufacturers, Dealers and Salespersons, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-1697, st-vehicle@state.pa.us.

*Findings*

The Board finds that:

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

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

(3) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the act.

(4) The final-form rulemaking does not enlarge the scope of proposed rulemaking published at 32 Pa.B. 6134.

*Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 19, are amended by adding § 19.18a to read as set forth in Annex A.

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

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

(d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

EDWIN K. GALBREATH, Jr.,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 4082 (July 31, 2004).)*

**Fiscal Note:** Fiscal Note 16A-607 remains valid for the final adoption of the subject regulation.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 19. STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS**

**DEALERSHIP LICENSE**

**§ 19.18a. Consignment sales.**

(a) A licensed dealer is permitted to engage in consignment sales without being licensed as a wholesale vehicle auction or public or retail vehicle auction, as defined in

section 2 of the act (63 P. S. § 818.2), if the dealer meets the requirements of this section.

(b) The dealer shall maintain the following documents at the lot where the vehicle is displayed:

(1) A copy of a separate written consignment agreement with the consignor for each vehicle. The written consignment agreement shall contain the following information:

(i) The name and signature of the consignor.

(ii) The make, model, year, vehicle identification number, and license plate number of the vehicle.

(iii) The length of the consignment period.

(iv) The terms of sale, including the minimum selling price, if any, and the amount of or formula for determining the dealer's commission.

(v) The terms of insurance coverage during the period of consignment, including the name, address and telephone number of the consignor's insurance agent, if any.

(vi) The express identification of any warranties extended by the consignor.

(vii) The name and address or telephone number of all current lien holders, together with the account number for each lien.

(viii) Any material facts relative to the vehicle, including accident history known to the seller, vehicle condition and odometer disclosure.

(2) A copy of the current registration card.

(3) A Copy of the title or a print-out of an electronic lien verification.

(c) The dealer shall have the title of the vehicle assigned from the consignor to the dealer prior to applying for title in the name of the buyer.

(d) Whenever a vehicle is displayed for sale on consignment, the dealer shall disclose in writing in at least 20-point bold type on or attached to the vehicle that the vehicle is held on consignment and is not owned by the dealer.

(e) A dealer may not deliver a vehicle on consignment sale without having all title, lien and registration documents signed by the buyer or consignor, or both, as appropriate.

[Pa.B. Doc. No. 04-1589. Filed for public inspection August 27, 2004, 9:00 a.m.]

**STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS**

**[49 PA. CODE CH. 19]**

**Vehicle Auction License**

The State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) adds §§ 19.19 and 19.20 (relating to standards of licensure for retail or public auction; and standards of licensure for wholesale auction) to read as set forth in Annex A.

*Description and Need for Rulemaking*

The final-form rulemaking adds §§ 19.19 and 19.20 to set forth standards of licensure and operation of retail or public auctions and wholesale auctions, respectively.

*Summary of Comments and Responses to Proposed Rule-making*

The Board published a notice of proposed rulemaking at 32 Pa.B. 5418 (November 2, 2002) with a 30-day public comment period. The Board received public comment from a representative of a public auction and a wholesale auction that auctions salvage vehicles. The Board received comments from the Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee (HPLC) as part of their review of proposed rulemaking under the Regulatory Review Act (71 P. S. §§ 745.1—745.12). The Board did not receive comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC).

The public commentator and IRRC questioned whether §§ 19.19(a)(2) and 19.20(a)(2), which prohibit an auction from conducting auction activities from other than its established place of business, prohibit an auction from receiving bids by telephone or the Internet. In response, the Board has revised the subsections to make clear that an auction may receive bids by telephone, Internet or other electronic means. However, to protect purchasers, both retail and wholesale, from the possibility of phantom vehicles being offered for auction, the Board also will require an auction to have each vehicle physically present at the auction's established place of business.

Because §§ 19.19(b)(1) and 19.20(b)(1) require the established place of business of an auction to include a permanent enclosed building for use as an auction facility, both the public commentator and IRRC questioned whether the proposed rulemaking permitted the auction sale to be conducted outside of the permanent enclosed building. In response, the Board has revised these subsections to state that "[their provisions do] not require that all auction activities be conducted within the permanent enclosed building."

The public commentator and IRRC also commented on the Board's reference in §§ 19.19(b)(5) and 19.20(b)(5) to the act of April 27, 1927 (P. L. 465, No. 299) (35 P. S. §§ 1221—1235), known as the Fire and Panic Act. Because the pertinent sections of the Fire and Panic Act were repealed by enactment of the Pennsylvania Construction Code Act (act) (35 P. S. §§ 7210.101—7210.1103), both suggested that the final-form rulemaking be updated to reference the act. Accordingly, the Board has revised these subsections to refer only to the act.

Section 19.19(b)(8) sets forth the requirement that a public or retail auction have a display area where potential buyers are permitted to inspect vehicles for auction. Because § 19.18(a)(3)(ii) requires that the display area of a dealership be properly graded and surfaced, the HPLC and IRRC questioned whether this requirement should also be applied to a public or retail auction. The Board believes that the display area of a public or retail auction should be properly graded and surfaced to ensure public protection and safety. The Board has revised § 19.19(b)(8) to set forth this requirement.

Finally, the public commentator noted that the act of December 9, 2002 (P. L. 1278, No. 152) (Act 152) amended 75 Pa.C.S. (relating to the Vehicle Code), including provisions regarding salvage sales, and suggested that the Board review the proposed rulemaking for consistency with Act 152. The Board has reviewed Act 152 and has found no need to further revise the final-form rulemaking.

*Fiscal Impact and Paperwork Requirements*

The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions and will impose no additional paperwork requirements upon the Commonwealth, political subdivisions or the private sector.

*Effective Date*

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

*Statutory Authority*

The final-form rulemaking is promulgated under sections 2 and 4(9) of the Board of Vehicles Act (63 P. S. §§ 818.2 and 818.4(9)).

*Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 2, 2002, the Board submitted a copy of the notice of proposed rulemaking, published at 32 Pa.B. 5418, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on June 15, 2004, the final-form rulemaking was approved by the HPLC. On July 14, 2004, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 15, 2004, and approved the final-form rulemaking.

*Additional Information*

Persons who require additional information about the final-form rulemaking should submit inquiries to Teresa Woodall, Board Administrator, State Board of Vehicle Manufacturers, Dealers and Salespersons, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-1697, st-vehicle@state.pa.us.

*Findings*

The Board finds that:

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

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

(3) The final-form rulemaking adopted by this order is necessary and appropriate for the administration of the Board of Vehicles Act.

(4) The final form regulations do not enlarge the scope of proposed rulemaking published at 32 Pa.B. 5418.

*Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 19, are amended by adding §§ 19.19 and 19.20 to read as set forth in Annex A.

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

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

(d) The final-form rulemaking shall take effect upon publication in the *Pennsylvania Bulletin*.

EDWIN K. GALBREATH, Jr.,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 4082 (July 31, 2004).)*

**Fiscal Note:** Fiscal Note 16A-603 remains valid for the final adoption of the subject regulations.

**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 19. STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS**

**AUCTION LICENSE**

**§ 19.19. Standards of licensure for retail or public auction.**

(a) *Auction activities.*

(1) Every public or retail auction shall have a business identity separate from other businesses owned or operated by the public or retail auction.

(2) A public or retail auction may not conduct auction activities other than from its established place of business. A retail or public auction may auction only those vehicles that are physically located at the established place of business of the public or retail auction. A retail or public auction may accept bids by telephone, Internet or other remote means.

(3) An auction license does not permit a public or retail auction to broker, other than the auctioning of vehicles.

(b) *Established place of business.*

(1) The established place of business for a public or retail auction must include a permanent enclosed building for use as an auction facility within this Commonwealth. This paragraph does not require that all auctioning of vehicles be conducted within the permanent enclosed building.

(2) The established place of business must include a private office, located within the permanent enclosed building, separate from display areas and auctioning areas, that has space for the storage of books and records.

(3) The established place of business must have a single business line telephone, located within the permanent enclosed building, that is used for the public or retail auction. The telephone number must be listed under the public or retail auction's licensed name.

(4) The established place of business must be in full compliance with applicable building codes, zoning ordinances and other land-use ordinances.

(5) A public or retail auction shall possess a certificate of occupancy issued by a building code official in accordance with the Pennsylvania Construction Code Act (35 P. S. §§ 7210.101—7210.1103).

(6) A public or retail auction shall post a sign indicating the days and hours that the public may attend for either inspection or auctioning of vehicles.

(7) A public or retail auction shall exhibit a sign, either permanently affixed to the building or erected outdoors in the display area, that shows the licensed name of the auction and that is visible to the public.

(8) A public or retail auction shall have a display area where potential buyers are permitted and invited in the regular course of business to inspect or test drive the vehicles that are being offered for sale by the auction. The display area must be at or adjacent to the auction's established place of business. The display area may be indoors, outdoors or partly indoors and partly outdoors. The outdoor portions of a display area must be properly graded and surfaced with concrete, asphalt, slag, brick, stone, aggregate, gravel, cinder or similar material.

**§ 19.20. Standards of licensure for wholesale auction.**

(a) *Auction activities.*

(1) Every wholesale auction shall have a business identity separate from other businesses owned or operated by the wholesale auction.

(2) A wholesale auction may not conduct auction activities other than from its established place of business. A wholesale auction may auction only those vehicles that are physically located at the established place of business of the wholesale auction. A wholesale auction may accept bids by telephone, Internet or other remote means.

(3) An auction license does not permit a wholesale auction to broker, other than the auctioning of vehicles.

(b) *Established place of business.*

(1) The established place of business for a wholesale auction must include a permanent enclosed building for use as an auction facility within this Commonwealth. This paragraph does not require that all auctioning be conducted within the permanent enclosed building.

(2) The established place of business must include a private office, located within the permanent enclosed building, separate from display areas and auctioning areas, that has space for the storage of books and records.

(3) The established place of business must have a single business line telephone, located within the permanent enclosed building, that is used for the wholesale auction. The telephone number must be listed under the wholesale auction's licensed name.

(4) The established place of business shall be in full compliance with applicable building codes, zoning ordinances and other land-use ordinances.

(5) A wholesale auction shall possess a certificate of occupancy issued by a building code official in accordance with the Pennsylvania Construction Code Act (35 P. S. §§ 7210.101—7210.1103).

(6) A wholesale auction shall post a sign indicating the auction's licensed name and that the auction is not open to the general public.

[Pa.B. Doc. No. 04-1590. Filed for public inspection August 27, 2004, 9:00 a.m.]

**STATE BOARD OF EXAMINERS OF NURSING  
HOME ADMINISTRATORS**

**[49 PA. CODE CH. 39]**

**Deletion and Correction of Fees**

The State Board of Examiners of Nursing Home Administrators (Board) amends § 39.72 (relating to fees) to read as set forth in Annex A.

*A. Effective Date*

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

*B. Statutory Authority*

The final-form rulemaking is authorized under section 812.1 of The Administrative Code of 1929 (71 P.S. § 279.3a) and section 7.1(a) of the Nursing Home Administrators License Act (act) (63 P.S. § 1107.1(a)).

*C. Background and Purpose*

The final-form rulemaking deletes the examination fees in § 39.72 for the National Association of Board of Examiners of Long-Term Care Administrators examination, the State rules and regulations examination and the combined examination, as these fees are set by the testing organization which develops and administers the examinations, not by the Board. To avoid the necessity of amending its regulations whenever the testing organization might change the fees, the Board proposes to delete references to the examination fees. The final-form rulemaking also corrects two fees regarding continuing education program applications, which were erroneously omitted or reduced by a regulation package concerning continuing education.

*D. Summary of Comments and Responses on Proposed Rulemaking*

Notice of the proposed rulemaking was published at 34 Pa.B. 55 (January 3, 2004). Publication was followed by a 30-day public comment period. The Board did not receive comments from the general public. Following the close of the public comment period, the House Professional Licensure Committee (HPLC) notified the Board that it was taking no formal action on the regulation as proposed, while the Independent Regulatory Review Commission (IRRC) notified the Board that it had no objection, comments or recommendations to offer on the proposed rulemaking.

*E. Fiscal Impact and Paperwork Requirements*

The final-form rulemaking regarding the deletion of examination fees will have no adverse fiscal impact on the Board or its licensees. The final-form rulemaking regarding continuing education fees will have fiscal impact on the Board and its licensees, but only insofar as it will reinstate the proper fees and permit the Board to charge the fees for continuing education approval which it has continuing authority to charge. The final-form rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The final-form rulemaking will impose no additional paperwork requirements upon the Commonwealth, its political subdivisions or the private sector.

*F. Sunset Date*

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

*G. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on May 26, 2004, the Board submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 55, to IRRC and the Chairpersons of the HPLC and the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC, the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on June 9, 2004, the final-form rulemaking was approved by the HPLC and deemed approved by the SCP/PLC on June 15, 2004. Under section 5(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved by IRRC, effective July 14, 2004.

*H. Contact Person*

Interested persons may obtain information regarding the final-form rulemaking by contacting to Christina Stuckey, Board Administrator, State Board of Examiners of Nursing Home Administrators, Post Office Box 2649, Harrisburg, PA 17105-2649.

*I. Findings*

The Board finds that:

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

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

(3) This final-form rulemaking is necessary and appropriate for administration and enforcement of the authorizing acts identified in Part B of this preamble.

*J. Order*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 39, are amended by amending § 39.72 to read as set forth in Annex A.

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

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

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

BARRY S. RAMPER, II, NHA,  
*Chairperson*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 4082 (July 31, 2004).)*

**Fiscal Note:** Fiscal Note 16A-628 remains valid for the final adoption of the subject regulation.



**Annex A**

**TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS**

**PART I. DEPARTMENT OF STATE**

**Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS**

**CHAPTER 39. STATE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS**

**RENEWAL**

**§ 39.72. Fees.**

The following is a schedule of fees charged by the Board:

Biennial renewal of nursing home administrators license .....	\$108
License application fee .....	\$40
Temporary permit fee .....	\$145
Certification of examination scores .....	\$25
Verification of licensure or temporary permit.....	\$15
Continuing education provider application fee.....	\$40
Continuing education program application fee per clock hour .....	\$15
Continuing education individual program application fee .....	\$20

[Pa.B. Doc. No. 04-1591. Filed for public inspection August 27, 2004, 9:00 a.m.]

**STATE BOARD OF PHYSICAL THERAPY**

**[49 PA. CODE CH. 40]**

**General Provisions**

The State Board of Physical Therapy (Board) amends Chapter 40 to read as set forth in Annex A.

*A. Effective Date*

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

*B. Statutory Authority*

The final-form rulemaking is adopted by the Board under the authority of section 3(a) of the Physical Therapy Practice Act (act) (63 P. S. § 1303(a)) and section 812.1 of The Administrative Code of 1929 (71 P. S. § 279.3a).

*C. Background and Purpose*

The final-form rulemaking was proposed because the regulations had not been amended since the mid-1980s. As a result, many of the Board's current provisions are either unnecessary or require clarification. Also, the educational requirements for physical therapists (PT) need to be updated to conform to National standards. The Board also recognizes the need to refine and clarify activities the performance of which may not be delegated to a PT assistant or to supportive personnel.

*D. Summary of Comments and Responses on Proposed Rulemaking*

Notice of the proposed rulemaking was published at 33 Pa.B. 1715 (April 5, 2003). The Board received public comments from 128 individuals, the Pennsylvania Physical Therapy Association, the Pennsylvania Affiliate Spe-

cial Interest Group (PASIG) Officers, the Pennsylvania Chiropractic Association (PCA), Chambersburg Hospital, Allied Services and the Pennsylvania Association of Rehabilitation Facilities (PARF). The Independent Regulatory Review Commission (IRRC) and the House Professional Licensure Committee submitted comments under the Regulatory Review Act (HPLC). The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment. Responses to these comments are organized by subject as follows.

*§ 40.11. License by examination; requirements for examination.*

IRRC identified an inconsistency in paragraph (1) in that the first sentence required applicants for licensure by examination to complete "an accredited physical therapy course approved by the American Physical Therapy Association . . ." and the second sentence required an applicant to graduate from a Commission on Accreditation in Physical Therapy Education (CAPTE) accredited program. IRRC suggested that the Board revise the first sentence to reflect the CAPTE accreditation requirement. The Board agreed with this suggestion and deleted the first sentence of paragraph (1). Also, because all physical therapy programs are currently accredited by the CAPTE, the Board deleted the 6-month effective date and will require compliance immediately. IRRC also suggested that paragraph (2) be deleted since the requirement of completion of an accredited program is already required under paragraph (1). The Board also deleted a reference to 120 semester hours because, as the HPLC pointed out in its comments, all CAPTE accredited programs are at least 120 semester hour programs.

*§ 40.17. Foreign-educated physical therapists applying to take the licensure examination and pursue a clinical experience.*

The Board has reworked this section in final-form rulemaking. In particular, the Board looked to a later revision of the Coursework Evaluation Tool for Foreign Educated Physical Therapists (tool) published by the Federation of State Boards of Physical Therapy (FSBPT) in January 2003. The tool reflects the content included in the first professional degree required of a CAPTE accredited program and required of a PT who wish to pursue licensure to practice in the United States. The FSBPT recommends that a foreign-educated applicant have a minimum of 120 semester credit hours with a minimum of 42 semester credit hours in general education courses and a minimum of 69 semester credit hours in professional education courses. The FSBPT also suggests that specific coursework or content be required to satisfy the minimum credit hour requirement in areas of general and professional education. The Board's revisions reflect the FSBPT recommendations as set forth in the tool.

In final-rulemaking, the Board also deleted specific references to the passing score requirements of the College Level Examination Program (CLEP) general examination subjects and CLEP subject examination subjects because the CLEP sets the passing scores and can change them at any time.

*§ 40.32. Functions of supportive personnel.*

A commentator suggested that paragraph (6) be revised to make it clear that supportive personnel are performing a clerical function of recording information rather than inferring that supportive personnel are engaged in the treatment of patients. The Board agreed with this comment and amended the language accordingly.

*§ 40.51. Administration of electromyography (EMG) and nerve conduction velocity (NCV) tests.*

*§ 40.51a. Transdermal administration of drugs.*

In the proposed rulemaking, the Board had combined the administration of EMG and NCV tests and transdermal administration of drugs into one section. Upon further review, the Board has determined that these procedures should be separated into two sections.

With respect to EMG and NVC tests, some commentators questioned the use of the word "administer" in proposed subsection (a). In reviewing this section, the Board decided to retain current subsection (a).

With respect to transdermal administration of drugs, the HPLC questioned why the storage requirement is included in the regulation if the drugs are to be disposed of or returned to the patient. IRRC also addressed this concern and commented that it is their understanding that the disposal provision is intended to allow the PT to store the medication between treatment sessions and also require the PT to return the medication or dispose of it after the patient is discharged from treatment. IRRC suggested that the handling of medication should be clarified in the final-form rulemaking. The Board took this advice and explained that between treatment sessions, drugs must be properly stored in a manner consistent with pharmaceutical practice and that after the patient is discharged, the remaining drugs must be disposed of by the PT or returned to the patient.

*§ 40.52. Unprofessional conduct; physical therapists.*

The Board received comments on proposed § 40.52(12) requiring that patient records include a discharge plan including results of intervention and sufficient information to identify the patient. The commentators expressed a concern that physical therapy services are provided in a variety of settings and documentation standards are site-specific and driven by the setting. Discharge summaries may not be feasible in some settings due to the quick pace of discharges from the facility, such as in acute care settings. In those settings, to be in compliance, the PT would have to retrieve medical records solely to write discharge notes. This would be unduly burdensome and unnecessary. The Board agrees with this concern and has agreed to delete the requirement that patient records include a discharge plan including results of intervention.

*§ 40.53. Nondelegable activities; accountability.*

IRRC, the PCA and others commented that the definition of "mobilization" in subsection (b)(7) is inconsistent with the statutory definition in section 2 of the act (63 P.S. § 1302). The Board agrees with this comment and has amended the definition to be consistent with section 2 of the act.

Many commentators also objected to the Board's proposal to prohibit delegating mobilization to physical therapist assistants (PTAs). They stated that many PTAs receive formal training in mobilization as part of their educational requirements and that those who do not receive training are offered the opportunity to develop these skills by attending continuing education courses. Others commented that, although it would be appropriate to permit experienced and skilled PTAs to perform mobilization, entry level PTAs should not be permitted to perform mobilization. The Board, in considering these comments, recognizes that the performance of mobilization requires significant skill, training and education. The Board believes it is in the interest of public safety to limit the performance of mobilization to PTs. As explained in

the proposed rulemaking, a PT may still delegate to a PTA gross passive movement throughout normal planes of joint motions. The Board notes that its regulation will not prohibit a PT from delegating to a PTA the performance of range of motion or the performance of exercises to restore the functional motion of the joint.

IRRC and the HPLC pointed out that the services included in proposed subsection (e) are duplicative of some of the services in subsection (b) and suggested that the Board consider deleting subsection (e) and including a comprehensive list of services in subsection (b). The Board has agreed with these suggestions and has deleted subsection (e) and added "the performance of consultations" to subsection (b).

Many commentators objected to the requirement in subsection (d) that when PTAs are providing patient-care services, PTs reevaluate and adjust the patient plan of care at intervals not to exceed 14 days. These commentators wrote that the 14-day period was overly restrictive. They stated that there are many instances where a patient may be progressing steadily and on course with the timeframes and plan of care established and to require a formal reevaluation realistically will limit time spent providing patient treatment and negatively impact a patient's progression. Commentators noted in other instances, particularly in outpatient settings, patients may be receiving care one time a week under physician orders and to reevaluate formally would be unwarranted and excessive after only two treatment sessions. The Board agrees with this sentiment. Accordingly, the Board has amended this provision to require a PT to document reevaluations and adjustments to a patient plan of care and goals at least every 30 calendar days or when there is a significant change in patient status warranting an earlier patient evaluation.

The PARF commented that subsection (f) would unduly restrict a qualified and competent PTA and would limit accessibility to care. However, the Board has determined that the procedures outlined in subsection (f) pertaining to screening require the skill and knowledge of a PT to evaluate the need for further intervention by a PT. For this reason, the Board believes that a PT cannot delegate the evaluation of a patient to a PTA or supportive personnel.

*Miscellaneous issues*

IRRC referred to the HPLC question as to why the word "district" was being deleted in § 40.16(a)(1) (relating to licensure by endorsement) when the same section previously refers to the "District of Columbia." The Board deleted this in error and has rectified it in the final-form rulemaking.

IRRC questioned whether the reference in § 40.16(a)(2) to section 6(d)(2) of the act (63 P.S. § 1306(d)(2)) is necessary since section (d) has been deleted. The Board does not believe the reference is necessary and has deleted it.

IRRC questioned the necessity of the word "in" in § 40.22(b) (relating to temporary license) which appears after "or" and before "6 months." The Board has agreed to delete it.

The PASIG Officers expressed its objection to the use of the definition of "direct on-premises supervision" in § 40.1 (relating to definitions) and to the reference to that term at all. It asked to have the requirement of "direct on-premises supervision" deleted from home health care and school based therapy services. In addition, Allied Services asked the Board to redefine the term to clarify

whether it means that a PT must be in the same room as the PTA. The Board notes that section 9.1(c) of the act (63 P.S. § 1309.1(c)) requires a PTA to work under the “direct on-premises supervision” of a licensed PT. Section 9.1(c) of the act also defines the term “direct on-premises supervision.” Section 40.1 reflects the statutory definition of the term.

IRRC noted that § 40.16(b)(1) requires an applicant for licensure by endorsement to submit “evidence” of authorization to practice without limitation in the country where the professional education occurred. Also, IRRC noted that § 40.17(1)—(4) requires a foreign educated PT applying to take the licensure examination to submit “evidence” or “written proof” of meeting certain conditions. IRRC asked that the Board specify what constitutes acceptable “evidence” in § 40.17(1)—(4). The Board has clarified this by requiring that the applicant submit written documentation to meet these requirements.

The Board recognizes a need to have PTs, PTAs and supportive personnel who provide care to patients identify themselves to the patient. Accordingly, the Board has added §§ 40.31a, 40.55 and 40.161(d) (relating to identification of supportive personnel; identification of physical therapists; and registration of physical therapist assistants; practice; exceptions) to provide for identification of supportive personnel, PTs and PTAs to the patient.

IRRC notes in its comments that the Board considered precluding delegation of wound care to PTAs, but decided this is a properly delegable service. The HPLC requested an explanation of the education and training of PTAs regarding wound care. In particular, IRRC and the HPLC requested information on the type of wound care activities PTAs are qualified to perform, whether there are aspects of wound care that only PTs are authorized to perform and if there are elements of wound care that a PT cannot delegate to a PTA.

In determining that wound care is a properly delegable function, the Board looked to the Evaluative Criteria for Accreditation of Education Programs for the Preparation of Physical Therapist Assistants (Evaluative Criteria) published by the Commission of Accreditation in Physical Therapy Education (CAPTE). The role of the CAPTE is to assure that accreditation criteria for judging education programs incorporate the education and training necessary for graduates to be effective as contemporary practitioners. The Evaluative Criteria, for purposes of accreditation, requires that the PTA comprehensive curriculum include many elements of wound care procedures. These elements include infection control procedures such as isolation techniques and sterile techniques. The curriculum must also include physical agents and mechanical agents including hydrotherapy (that is, whirlpools which are often used to cleanse and debride a wound) and superficial and deep thermal agents. Wound management including the application and removal of dressing or agents and the identification of precautions for dressing removal is also required. The PTA program curriculum must include data collection skills essential for carrying out the plan of care. In terms of integumentary integrity (that is, skin), the data collection skills include the following: recognizing absent or altered sensation; recognizing normal and abnormal integumentary changes; recognizing activities, positioning and postures that aggravate or relieve pain or altered sensations or that can produce associated skin trauma; and recognizing viable versus nonviable tissue. In consideration of the requirements for curricula for accreditation of PTA education and training programs, the Board believes that a PTA is

adequately trained and educated to perform wound care services delegated by a PT and performed under the direct on-premise supervision of the PT.

*E. Fiscal Impact and Paperwork Requirements*

There should be no adverse fiscal impact or additional paperwork requirements incurred by the Board, political divisions or the private sector.

*F. Sunset Date*

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

*G. Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 5, 2003, the Board submitted a copy of the notice of proposed rulemaking, published at 33 Pa.B. 1715, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the House and Senate Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P.S. § 745.5a(j.2)), on May 26, 2004, the final-form rulemaking was approved by the HPLC. On July 28, 2004, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on July 29, 2004, and approved the final-form rulemaking.

*H. Contact Person*

Interested persons can obtain information regarding the final-form rulemaking by writing to Robert Kline, Board Administrator, State Board of Physical Therapy, P.O. Box 2649, 2601 North 3rd Street, Harrisburg, PA 17105-2649.

*I. Findings.*

The Board finds that:

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

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

(3) The amendments to the final-form rulemaking do not enlarge the purpose of proposed rulemaking published at 33 Pa.B. 1715.

(4) The final-form rulemaking is necessary and appropriate for administration and enforcement of the authorizing act identified in Part B of this preamble.

*J. Order.*

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

(a) The regulations of the Board, 49 Pa. Code Chapter 40, are amended by amending §§ 40.1, 40.4, 40.11, 40.14—40.17, 40.22, 40.32, 40.52, 40.53, 40.161, 40.163 and 40.164; by adding §§ 40.31a, 40.51a and 40.55; and by deleting §§ 40.18, 40.21, 40.23 and 40.24 to read as set forth in Annex A.

(*Editor's Note:* The proposal to amend § 40.51, included in the proposal at 33 Pa.B. 1715, has been withdrawn by the Board.)

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

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

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

JAMES J. IRRGANG,  
*Chairperson*

(*Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 34 Pa.B. 4528 (August 14, 2004).)

**Fiscal Note:** Fiscal Note 16A-659 remains valid for the final adoption of the subject regulations.

#### Annex A

### TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

#### PART I. DEPARTMENT OF STATE

#### Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

#### CHAPTER 40. STATE BOARD OF PHYSICAL THERAPY

#### Subchapter A. PHYSICAL THERAPISTS

#### GENERAL PROVISIONS

#### § 40.1. Definitions.

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

*Act*—The Physical Therapy Practice Act (63 P. S. §§ 1301–1313).

*Board*—The State Board of Physical Therapy.

*Direct on-premise supervision*—The physical presence of a physical therapist on the premises where the physical therapist assistant or the supportive personnel is providing patient-care services, so that the physical therapist is immediately available to provide supervision, direction and control.

*Physical therapist*—A person licensed under the act and this chapter to provide physical therapy services without restriction in this Commonwealth.

*Supportive personnel*—Persons other than physical therapist assistants who aid and assist a physical therapist but whose activities do not require the formal education or knowledge of a physical therapist or physical therapist assistant. The term does not include secretarial, administrative and other personnel who are not involved in direct patient care.

#### § 40.4. Admission to practice of physical therapy.

Admission to the practice of physical therapy in this Commonwealth will be granted by the Board as follows:

(1) By the issuance of a license to an applicant who meets the requirements for licensure as set forth in sections 5 and 6 of the act (63 P. S. §§ 1305 and 1306).

(2) By the issuance of a license by endorsement to an applicant who is educated in another state or territory of the United States and who meets the licensing require-

ments in section 6 of the act (63 P. S. § 1306) and who holds a valid license by examination in another state or territory of the United States, providing the requirements were, at the time of receiving the license, substantially equal to the requirements as set forth in the act.

(3) By the issuance of a temporary license to an applicant who meets the licensing requirements as set forth in section 6 of the act.

(4) By the issuance of a license to an applicant educated in a jurisdiction other than a state or territory of the United States who meets the licensing requirements as set forth in sections 5 and 6(f) of the act.

(5) By the issuance of a license by endorsement to an applicant who is educated in a foreign country and who is authorized to practice as a physical therapist without limitations in the country where the professional education occurred and who holds a valid license by examination in another state or territory of the United States providing the requirements were, at the time of receiving the license, substantially equivalent to the requirements as set forth in the act.

#### LICENSURE

#### § 40.11. License by examination; requirements for examination.

An applicant for license by examination shall have graduated from a physical therapy program accredited by the Commission on Accreditation in Physical Therapy Education (CAPTE) which has provided adequate instruction in basic sciences, clinical science and physical therapy theory and procedures.

#### § 40.14. Examination; failure; reexamination.

(a) Applicants shall successfully pass, to the satisfaction of the Board, the examination approved by the Board. In cases of failure at the first examination, the applicant shall have, after the expiration of 6 months and within 2 years from the date of the first failure, the privilege of a second examination, with the payment of an additional examination fee charged by the vendor.

(b) After a second or successive failure to pass the examination, an applicant desiring to take a third or successive examination shall make a new application within the meaning of section 5 of the act (63 P. S. § 1305) within 6 months from the date of the last failure. However, prior to filing a new application for examination, the Board may require evidence of additional training. If the Board determines that the applicant will be permitted to take a third or successive examination, the Board may authorize in connection with a written examination an oral or practical examination, or both, to test the knowledge and competence of the applicant.

(c) The granting of permission by the Board to take a third or successive examination is at all times subject to the applicant otherwise qualifying under the requirements in force at the time permission to take the examination is sought.

#### § 40.15. Examinations.

(a) An application for licensure by examination may be obtained from the State Board of Physical Therapy, Post Office Box 2649, Harrisburg, Pennsylvania, 17105-2649.

(b) An applicant may not be admitted to examination who is unable to present, at the time of application, the required credentials of professional education from an approved institution.

**§ 40.16. Licensure by endorsement.**

(a) An applicant for licensure by endorsement who is educated in another state or territory of the United States is required to submit the professional credentials in § 40.11 (relating to license by examination; requirements for examination), and comply with the following:

(1) Submit a written application on forms provided by the Board, together with evidence satisfactory to the Board that the applicant is licensed or otherwise registered as a physical therapist in another state or territory of the United States, or in the District of Columbia, if the requirements for licensure or registration in the state, territory or district were, at the date of licensure or registration, substantially equal to the requirements for licensure or registration in this Commonwealth under the act.

(2) A fee prescribed in § 40.5 (relating to fees) must accompany each application for licensure by endorsement.

(b) An applicant for licensure by endorsement who received education in a country outside of the United States is required to meet the educational requirements as set forth in § 40.17(5) and (6) (relating to foreign-educated physical therapists applying to take the licensure examination and pursue a clinical experience) and comply with the following:

(1) The applicant shall submit documentary evidence that the applicant is authorized to practice as a physical therapist without limitation in the country where the professional education occurred.

(2) The applicant shall hold a valid license by examination in another state or territory of the United States providing the requirements were, at the time of receiving the license, substantially equivalent to the requirements as set forth in the act.

**§ 40.17. Foreign-educated physical therapists applying to take the licensure examination and pursue a clinical experience.**

To be eligible to take the examination for licensure, foreign-educated applicants for licensure shall comply with the following conditions:

(1) The applicant shall submit evidence, satisfactory to the Board, indicating that the applicant has met the requirements stated in § 40.12(a)(1)—(3) (relating to application for licensure).

(2) The applicant shall provide written documentation that the school of physical therapy is recognized by the authorizing agency or entity of the jurisdiction in which the school is situated.

(3) The applicant shall provide written documentation of authorization to practice as a physical therapist without limitations in the country where the professional education took place.

(4) The applicant shall provide documentation of legal authorization to seek employment in the United States or its territories.

(5) The applicant shall meet educational requirements by securing a credentials evaluation from a recognized and accredited evaluation agency approved by the Board. The credentials evaluation must demonstrate that the applicant has met the requirement of at least 120 semester credit hours of which at least 42 credit hours must be in general education subjects and 69 credit hours must be in professional education subjects. If an applicant has deficiencies in general education or professional education, the applicant can correct the deficiencies as follows:

(i) *General education.* A minimum of one semester course must be successfully completed in each of the following areas of general education unless otherwise noted:

- (A) Humanities.
- (B) Physical science (two courses each in chemistry and physics including laboratory sessions).
- (C) Biological science.
- (D) Social science.
- (E) Behavioral science.
- (F) Mathematics.

(ii) *Professional education.* The applicant shall complete 69 credit hours of professional education the content of which includes:

- (A) Basic health science including:
  - (I) Human anatomy (specific to physical therapy).
  - (II) Human physiology (specific to physical therapy).
  - (III) Neuroscience.
  - (IV) Kinesiology or functional anatomy.
  - (V) Pathology.

(B) Medical and clinical science coursework including the following:

(I) Clinical medicine pertinent to physical therapy including:

- (-a-) Neurology.
- (-b-) Orthopedics.
- (-c-) Pediatrics.
- (-d-) Geriatrics.
- (-e-) Cardiopulmonary.
- (-f-) Pharmacology.

(II) Physical therapist coursework must include:

- (-a-) Examination, evaluation and intervention pertaining to the integumentary system.
- (-b-) Examination, evaluation and intervention pertaining to the musculoskeletal system.
- (-c-) Examination, evaluation and intervention pertaining to the neuromuscular system.
- (-d-) Examination, evaluation and intervention pertaining to the cardiopulmonary system.

(iii) *Clinical education.* Clinical education must include physical therapist-supervised application of physical therapy theory, examination, evaluation and intervention. The applicant shall have a minimum of two full-time clinical internships of at least 800 hours total, which are supervised by a physical therapist. The maximum number of full-time clinical education credits is 23.

(iv) *Related professional coursework.* Content is required in the following nine areas:

- (A) Professional behaviors.
- (B) Administration.
- (C) Community health.
- (D) Research and clinical decision making.
- (E) Educational techniques.
- (F) Medical terminology.
- (G) Communication (related to client/patient care).

(H) Legal and ethical aspects of physical therapy practice.

(I) Psychosocial aspects in physical therapy practice.

(6) *General educational deficiencies.* The applicant may correct general educational deficiencies in the areas specified in paragraph (5)(i) by either:

(A) Pursuing studies in an accredited college or university. Upon completion of studies, the applicant shall submit an official transcript to the Board.

(B) Attaining college credit through successful completion of the following examinations offered by the College Level Examination Program (CLEP). No more than 30 credits may be obtained through CLEP.

(I) The CLEP General Examination may be used to satisfy the requirements in paragraph (5)(i) for credit hours if passing scores are received in the following subjects:

<i>General Examination</i>	<i>College Level Credit</i>
English Composition with Essay	6
Mathematics	3
Humanities	6
Natural Sciences	
Biological Sciences (subscore)	3
Physical Sciences (subscore)	3
Social Sciences	6

(II) The CLEP Subject Examination may be used to satisfy the requirements in paragraph (5) for credit hours if passing scores are received in the following subjects:

<i>Subject Examination</i>	<i>College Level Credit</i>
Analysis and Interpretation of Literature	3
College Algebra	3
English Literature	3
Foreign Language	
French—Levels I and II	6
German—Levels I and II	6
Spanish—Levels I and II	6
Freshman English	3
English Composition	4
General Biology	3
General Chemistry	3
General Psychology	2
Human Growth & Development	2
Introduction to Management	2
Introduction to Sociology	2
Statistics	2
Trigonometry	2
Western Civilization	3

(III) The applicant is responsible for directing that CLEP report his examination scores to the Board.

(7) *Clinical experience.* The applicant shall complete, at the Board's discretion, up to 1 year of supervised clinical experience in the United States, as approved by the Board.

(i) To apply for approved supervised clinical experience the applicant shall:

(A) Submit a notarized application signed by the sponsoring physical therapist who will supervise the applicant in the institution in which the applicant will be pursuing the clinical experience.

(B) Arrange for and have a personal interview with a member of the Board and have the application forms signed and approved by the Board member.

(C) Submit a passport-size photograph for the purpose of identification. The applicant and a sponsor shall both sign either the photograph or the paper on which the photograph is mounted.

(ii) The applicant may obtain the required clinical experience while pursuing studies to correct educational deficiencies in the areas specified in paragraph (5).

(iii) The applicant shall submit a letter from the supervising physical therapist in the institution where the supervised clinical experience was completed, certifying the applicant's clinical competence.

**§ 40.18. (Reserved).**

#### TEMPORARY LICENSES

**§ 40.21. (Reserved).**

**§ 40.22. Temporary license.**

(a) An applicant for temporary license under section 6(g) of the act (63 P. S. § 1306(g)) shall apply to the Board on forms provided by the Board and meet the following requirements:

(1) Fulfill to the satisfaction of the Board the requirements set forth under section 6(a) of the act.

(2) Have made application to take the examination set forth in section 6(b) of the act or have taken the examination and be awaiting the results of the examination.

(3) Received the temporary license from the Board, work only under the direct on premises supervision of a licensed physical therapist with at least 2 years of experience.

(b) A temporary license issued under 6(g) of the act must be surrendered to the Board immediately upon the failure of the first examination or 6 months after the date of issuance, whichever occurs first.

**§ 40.23. (Reserved).**

**§ 40.24. (Reserved).**

#### SUPPORTIVE PERSONNEL

**§ 40.31a. Identification of supportive personnel.**

Supportive personnel shall identify themselves to patients as supportive personnel.

**§ 40.32. Functions of supportive personnel.**

(a) The physical therapist may only allow supportive personnel to perform patient-related activities which do not require the formal education or training and the skill and knowledge of a physical therapist or physical therapist assistant, and only while the supportive personnel are under the direct on-premise supervision of a physical therapist.

(b) The physical therapist may not permit supportive personnel to provide physical therapy services. The physical therapist may permit supportive personnel to perform the following:

(1) Patient assistance in preparation for treatment, as necessary during treatment and at the conclusion of treatment.

(2) Application of superficial heat or cold as an adjunct to the treatment program.

(3) Assembly, disassembly and maintenance of equipment and accessories.

(4) Transportation of patients.

(5) Assistance to patients with nontreatment aspects of activities and attending the personal needs of patients.

(6) Recording information through the use of flow sheets and checklists which identify activities performed by the patient.

(c) The physical therapist may not permit supportive personnel to interpret referrals, perform evaluation procedures, conduct tests, initiate or adjust treatment programs, assume responsibility for patient care or document physical therapy treatment.

**SCOPE OF PRACTICE**

**§ 40.51a. Transdermal administration of drugs.**

A physical therapist may perform transdermal administration of drugs through the use of modalities such as ultrasound and electrical stimulation. If a prescriptive medication is used, the medication must be prescribed by the referring physician and dispensed in the name of the patient by the referring physician or pharmacist. Between treatment sessions, drugs must be properly stored in a manner consistent with pharmaceutical practice. After the patient is discharged, the remaining drugs must be disposed of by the physical therapist or returned to the patient.

**§ 40.52. Unprofessional conduct; physical therapists.**

A physical therapist who engages in unprofessional conduct is subject to disciplinary action under section 11(a)(6) of the act (63 P. S. § 1311(a)(6)). Unprofessional conduct includes the following:

- (1) Harassing, abusing or intimidating a patient.
- (2) Revealing information obtained as a result of the therapist-patient relationship to a third party who is not involved in the patient's care, without the prior written consent of the patient, except as authorized or required by statute.
- (3) Failing to exercise appropriate supervision over a person who is authorized to render services only under the supervision of the physical therapist.
- (4) Accepting a patient for treatment or continuing treatment if benefit cannot reasonably be expected to accrue to the patient, or misleading a patient as to the benefits to be derived from physical therapy.
- (5) Unconditionally guaranteeing the results of physical therapy treatment.
- (6) Practicing physical therapy while the ability to practice is impaired by alcohol, drugs or a physical or mental disability.
- (7) Charging a patient or a third-party payor for a physical therapy service which is not performed.
- (8) Receiving a fee for referring a patient to a third person.
- (9) Advertising physical therapy services in a false, misleading or deceptive manner.
- (10) Assigning or delegating to physical therapist assistants or supportive personnel activities prohibited from assignment or delegation under §§ 40.32, 40.53 and 40.171 (relating to functions of supportive personnel; nondelegable activities; accountability; and functions of physical therapist assistants).
- (11) Violating a provision of the act or this chapter which establishes a standard of conduct.

(12) Failure to maintain adequate patient records. Adequate patient records include at a minimum sufficient information to identify the patient, a summary of the findings of the examination, an evaluation, a diagnosis, the plan of care including desired outcomes, and the treatment record.

**§ 40.53. Nondelegable activities; accountability.**

(a) A physical therapist may delegate to a physical therapist assistant or supportive personnel that which he is educated to perform subject to the limitations in this section.

(b) A physical therapist may not assign or delegate to physical therapist assistants or supportive personnel functions which require the formal education or training and the skill and knowledge of a licensed physical therapist, including the following functions:

- (1) Interpretation of referrals.
- (2) Initial evaluation or reevaluation.
- (3) Determination or modification of a patient plan of care.
- (4) Final discharge assessment/evaluation or establishment of discharge plan.
- (5) Therapeutic techniques and procedures beyond the skill and knowledge of the physical therapist assistant.
- (6) Duties, the delegation of which is inconsistent with minimum standards of acceptable physical therapy practice embraced by the physical therapy community in this Commonwealth.

(7) Mobilization. Mobilization is defined as a group of techniques comprising a continuum of skilled passive movements to the joints or related soft tissues, or both, throughout the normal physiological range of motion that are applied at varying speeds and amplitudes, without limitation.

(8) The performance of consultations.

(c) A physical therapist may not assign or delegate to supportive personnel activities which require the formal education or training and skill and knowledge of a licensed physical therapist or registered physical therapist assistant.

(d) When patient-care services are provided by the physical therapist assistant, the physical therapist shall document reevaluations and adjustments to a patient plan of care and goals at least every 30 calendar days or when there is a significant change in patient status warranting an earlier patient evaluation.

(e) A physical therapist may not assign or delegate to a physical therapist assistant or supportive personnel screenings to determine the need for the following:

- (1) Primary, secondary or tertiary services.
- (2) Further examination or intervention.
- (3) Consultation by a physical therapist.
- (4) Referral to another health care practitioner.

(f) For purposes of this section, screening is defined as determining the need for further examination or intervention, or both, by a physical therapist or for referral to another health professional.

**§ 40.55. Identification of physical therapists.**

Physical therapists shall identify themselves to patients as physical therapists.

**Subchapter C. PHYSICAL THERAPIST ASSISTANTS**

**REGISTRATION**

**§ 40.161. Registration of physical therapist assistants; practice; exceptions.**

(a) A person may not perform or hold himself out as being able to perform as a physical therapist assistant in this Commonwealth unless the person is registered by the Board under section 9.1 of the act (63 P. S. § 1309.1) and this subchapter or exempted under this section.

(b) A person or business entity may not use in connection with a business name or activity the words "physical therapist assistant," the letters "P.T.A." or similar words and related abbreviations to imply that physical therapist assistant services are being provided, unless the services are provided by a physical therapist assistant registered under the act and this subchapter.

(c) This subchapter does not prohibit physical therapist assistant students from assisting a physical therapist licensed to practice without restriction in this Commonwealth under the direct on-premises supervision of the physical therapist as is incidental to their course of study in a program which has been approved for the education and training for physical therapist assistants by the Commission on Accreditation in Physical Therapy Education (CAPTE).

(d) Physical therapist assistants shall identify themselves to patients as physical therapist assistants.

**§ 40.163. Requirements for registration.**

(a) Under section 9.1(a) of the act (63 P. S. § 1309.1(a)), an applicant for registration by examination shall submit evidence of the following:

(1) Graduation from a physical therapist assistant program which has been approved for the education and training for physical therapist assistants by the Commission on Accreditation in Physical Therapy Education (CAPTE).

(2) A passing grade on the physical therapist assistant registration examination.

(b) Under section 6(d.1) of the act (63 P. S. § 1306(d.1)), an applicant for reciprocal registration shall submit evidence of a valid license, certificate or registration as a physical therapist assistant issued by another state,

territory or the District of Columbia, where the requirements for licensure, certification or registration were on the date of issuance substantially the same as those required by this Commonwealth, and which accords similar privileges to persons registered as physical therapist assistants in this Commonwealth.

**§ 40.164. Physical therapist assistant registration examination.**

(a) *Application procedure.* An applicant applying for registration by examination shall take the physical therapist assistant registration examination. The applicant who is taking the examination within this Commonwealth shall comply with the following:

(1) The applicant shall complete application forms for admission to the examination obtained from the Board and return the completed form with a check or money order for the appropriate fee.

(2) The applicant shall present the required credentials of professional education at the time of application.

(b) *Failure and reexamination.* In the case of failure of examination, the following apply:

(1) After failing the first examination, the applicant has, after the expiration of 6 months and within 2 years of the date of the first failure, the privilege of a second examination upon the filing of a new application under subsection (a) and upon payment of the appropriate fee.

(2) After a second or successive failure to pass the examination, an applicant desiring to take a third or successive examination shall file a new application. The Board may require evidence of additional training prior to allowing a candidate to take a third or successive examination.

(3) The granting of permission to take a third or successive examination is subject to:

(i) Authorization by the Board at its discretion to include an oral or practical examination, or both, in connection with the written examination to further test the knowledge, skills and competence of the applicant.

(ii) The applicant otherwise qualifying under requirements in force at the time that permission to take the examination is sought.

[Pa.B. Doc. No. 04-1592. Filed for public inspection August 27, 2004, 9:00 a.m.]



# PROPOSED RULEMAKING

## DEPARTMENT OF TRANSPORTATION

[67 PA. CODE CH. 94]

### Alcohol Highway Safety Schools and Driving Under the Influence Program Coordinators

The Department of Transportation (Department), Bureau of Highway Safety and Traffic Engineering, under 75 Pa.C.S. §§ 1549 and 6103 (relating to establishment of schools; and promulgation of rules and regulations), proposes to adopt Chapter 94 (relating to alcohol highway safety school and driving under the influence program coordinators), to read as set forth in Annex A.

#### *Purpose of this Chapter*

The purpose of Chapter 94 is to implement 75 Pa.C.S. § 1549(b) which requires each county, multicounty judicial district or group of counties combined under a single driving under the influence (DUI) program to establish and maintain a course of instruction regarding the problems associated with alcohol or controlled substance use, or both, and driving.

#### *Purpose of this Proposed Rulemaking*

The purpose of this proposed rulemaking is to provide rules and procedures for the establishment and ongoing operation of Alcohol Highway Safety Schools (AHSS) in each county, multicounty judicial district or group of counties combined under a single DUI program within this Commonwealth. This chapter establishes uniform curriculum standards for an AHSS as well as rules governing the selection, training, certification and recertification of AHSS instructors. Additionally, this rulemaking establishes procedures governing the appointment of DUI program coordinators for each county, multicounty judicial district or group of counties combined under a single DUI program within this Commonwealth.

This proposed rulemaking has been developed with the cooperation of the Pennsylvania DUI Association. DUI program coordinators, court reporting network evaluators, AHSS instructors, adult and juvenile probation officers, single county authorities, drug and alcohol program administrators, district magistrates, common pleas court judges and police officers have aided in the development of these regulations. The knowledge gleaned from the experiences of such a diverse group has also helped to create a standardized curriculum for an AHSS, thereby further assuring that the goals of an AHSS can better be realized with some uniformity. This proposed rulemaking also serves to codify informally adopted existing rules and procedures, which have been implemented since the beginning of the Commonwealth's Alcohol Highway Safety Countermeasure System (AHSCS) in 1978.

Each AHSS has been established to educate participants concerning the effects of alcohol or controlled substance use on an individual's ability to safely operate a motor vehicle on Commonwealth highways. Moreover, each AHSS endeavors to provide participants with insights into the overall effects of alcohol-related behavior, as those effects apply to the participant's home and work environment. The goal of the AHSS is to encourage positive behavioral outcomes, which will contribute to a

decreased likelihood of the participants operating a motor vehicle while under the influence of alcohol or a controlled substance. This proposed rulemaking also outlines provisions for administering both oral and written notification of possible fine and imprisonment to every AHSS participant regarding the consequences of driving a motor vehicle while their operating privilege is suspended or revoked.

#### *Summary of Significant Provisions*

Section 94.3(a) (relating to general requirements and objectives) provides that each county, multicounty judicial district or group of counties combined under a single DUI program is to establish and maintain an AHSS which follows a uniform curriculum, is taught by certified AHSS instructors, has sufficient classroom space and provides participants with notification of possible fine and imprisonment under 75 Pa.C.S. § 1543(b) (relating to driving while operating privilege is suspended or revoked). Subsection (a) also requires each county, multicounty judicial district or a group of counties combined under a single DUI program to appoint a DUI program coordinator to oversee the administration of the AHSS. Section 94.3(b) provides that the objectives of the AHSS are to include, but not be limited to, providing students with a basic knowledge and understanding of alcohol and controlled substances and their effects, alcoholism and addiction, and highway safety, which will encourage a positive change in the students' attitude concerning driving under the influence of alcohol or a controlled substance.

Section 94.5 (relating to curriculum) provides the content requirements and specific objectives for the AHSS curriculum and requires that the AHSS contain at least 12 1/2 hours of instruction.

Section 94.6 (relating to AHSS approval; revocation and refusal of approval) provides the process for obtaining Department approval of an AHSS as well as for the refusal or revocation of approval of an AHSS. The section provides that DUI program coordinators with an existing AHSS have 12 months from the effective date of these regulations to apply for a letter of approval. The section provides that the letter of approval has a term of 24 months and must be renewed before expiration in order for the AHSS to continue in operation. This section authorizes the Department or its designee to visit and inspect any AHSS operating within the Commonwealth and to revoke or refuse to issue an AHSS letter of approval if the AHSS is not in compliance with the provisions of this chapter or with a Department directive issued pursuant to an on-site visit of an AHSS.

Section 94.9 (relating to notification of possible fine and imprisonment) sets forth the procedures for providing written and oral notice of the provisions 75 Pa.C.S. § 1543(b), to be given to all AHSS participants during their first session of AHSS. This section specifies the wording of the notice to be given and requires the participant's signed acknowledgement that the notice was given.

Section 94.10 (relating to AASS instructor qualification, selection, certification and recertification) provides for the qualification and certification of AHSS instructor candidates. The section requires that instructors be at least 21 years of age, possess a valid driver's license, have obtained a bachelor's degree or its equivalent, attend a 2-day instructor certification training workshop and score 85% or better on tests, and student teach a complete

AHSS class cycle under supervision of the DUI program coordinator. This section also requires instructor recertification every 2 years and includes continuing education requirements. The section also requires that the DUI program coordinator monitor every AHSS instructor during one complete 12 1/2 hour AHSS course cycle during the last 12 months of the AHSS instructor's certification period.

Section 94.12 (relating to DUI program coordinators) provides, in subsection (a), that each county, multicounty judicial district or group of counties combined under a single DUI program shall have a DUI program coordinator. Subsection (b) gives the president judge the authority to appoint a DUI program coordinator. Subsection (c) requires that candidates for the DUI program coordinator position either have a bachelor's degree with a major in business administration, business management, chemical additions, criminal justice, public administration, psychology, sociology, social sciences, social work, education or other closely related field or be able to demonstrate at least 2 years of related management or administrative experience or any suitable combination of education or relevant experience. Subsection (d) delineates the DUI program coordinator's responsibilities, which consist of:

- (1) Acting as a liaison between the county, multicounty judicial district or group of counties combined under a single DUI program and the Department to help plan, implement and monitor all DUI related activities.
- (2) Providing all DUI services described in the Vehicle Code.
- (3) Recommending candidates for certification as AHSS instructors.
- (4) Supervising AHSS instructor candidates.
- (5) Insuring that all AHSS instructors are currently certified.
- (6) Maintaining documentation of all currently certified AHSS instructors.
- (7) Submitting any data and information requested to the Department of Transportation.
- (8) Attending AHSS instructor certification workshops.
- (9) Earning 12 credits every 2 years. Subsection (e) provides for Department sanctions for coordinator misconduct.

#### *Persons and Entities Affected*

This proposed rulemaking affect all persons who are convicted of violating 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance) and former § 3731 (relating to driving under the influence of alcohol or controlled substance) required to attend an AHSS under 75 Pa.C.S. § 1548(b). This proposed rulemaking also affects court of common pleas judges, county adult and juvenile probation officers, district attorneys, DUI program coordinators, AHSS instructors, candidates for certification as AHSS instructors and every county, multicounty judicial district or group of counties combined under a single DUI program within this Commonwealth. Any other private, for-profit or nonprofit business entity that is contracted by a county, multicounty judicial district or group of counties combined under a single DUI program for the purpose of operating an AHSS is also affected by this proposed rulemaking.

#### *Fiscal Impact*

This proposed rulemaking will not require the expenditure of any additional funds by the Commonwealth since the Pennsylvania AHSCS has been operational since 1978. The Federal Department of Transportation, National Highway Traffic Safety Administration administers the State and Community Highway Safety Program that is funded in accordance with 23 U.S.C.A. § 402. The purpose of these funds is to provide Federal financial assistance to State agencies and local political subdivisions' highway safety programs, which are designed to reduce incidences of driving after drinking, alcohol or controlled substance, or both, related crashes and the fatalities, injuries and property damage resulting from these crashes. These Federal funds also support the Department program managers who monitor and provide technical assistance to the local AHSCS. Further, although the regulations require every county, multicounty judicial district or group of counties combined under a single DUI program to establish and maintain a local AHSCS, each system is designed to be self-supporting. Each AHSCS includes a DUI program coordinator and an AHSS. Every county, multicounty judicial district or group of counties combined under a single DUI program currently has an operational AHSS that is self-supporting. DUI offenders who are court ordered to attend an AHSS are responsible under 75 Pa.C.S. § 1548(e) to pay the cost of attending an AHSS. Each AHSS program's board of directors or county commissioners independently sets the fee for attending the AHSS. Fees are also approved by the president judge of the court of common pleas in the county where the AHSS is located. AHSS fees completely offset any costs incurred in the operation of a local AHSCS, thereby rendering the AHSCS self-supporting.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 17, 2004, the Department submitted a copy of this proposed rulemaking to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees. In addition to submitting the proposed rulemaking, the agency has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form. A copy of this material is available to the public upon request.

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

#### *Sunset Date*

The Department is not establishing a sunset date for these regulations, since these regulations are needed to administer provisions required by 75 Pa.C.S. (relating to the Vehicle Code). The Department, however, will continue to closely monitor these regulations for their effectiveness.

#### *Public Comments*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Louis R. Rader, Bureau of Highway Safety

and Traffic Engineering, Commonwealth Keystone Building, 400 North Street, 6th Floor, Harrisburg, PA 17120-0064, within 30 days of publication of this notice in the *Pennsylvania Bulletin*.

*Contact Person*

The contact person is Louis Rader, Manager, Pennsylvania Alcohol Highway Safety Program, Bureau of Highway Safety and Traffic Engineering, Commonwealth Keystone Building, 400 North Street, 6th Floor, Harrisburg, PA 17120-0064, (717) 787-6853.

ALLEN D. BIEHLER, P.E.  
Secretary

**Fiscal Note:** 18-377. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 67. TRANSPORTATION**

**PART I. DEPARTMENT OF TRANSPORTATION**

**SUBPART A. VEHICLE CODE PROVISIONS**

**ARTICLE IV. LICENSING**

**CHAPTER 94. ALCOHOL HIGHWAY SAFETY SCHOOLS AND DRIVING UNDER THE INFLUENCE PROGRAM COORDINATORS**

Sec.	Purpose.
94.1.	Definitions.
94.2.	General requirements and objectives.
94.3.	Mandatory attendance.
94.4.	Curriculum.
94.5.	AHSS approval; revocation and refusal of approval.
94.6.	Conduct of courses.
94.7.	Student records.
94.8.	Notification of possible fine and imprisonment.
94.9.	AHSS instructor qualification, selection, certification and recertification.
94.10.	Suspension or revocation of certification.
94.11.	DUI program coordinators.
94.12.	Confidentiality.
94.13.	Cost.
94.14.	

**§ 94.1. Purpose.**

The purpose of this chapter is to implement 75 Pa.C.S. § 1549(b) (relating to establishment of schools), which requires every county, multicounty judicial district or group of counties combined under a single DUI program to establish and maintain a course of instruction regarding the problems associated with alcohol or controlled substance use and driving.

**§ 94.2. Definitions.**

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

*AHSCS—Alcohol Highway Safety Countermeasure System*—A system of deterrence, prevention and intervention strategies used in combination with drug and alcohol treatment programs and legal sanctions to combat DUI.

*AHSS—Alcohol Highway Safety School*—A structured educational program with a standardized curriculum to teach DUI offenders about the problems of alcohol and drug use and driving. Attendance at which is mandatory for all convicted DUI first and second offenders and for every person placed on ARD or other preliminary disposition as a result of an arrest for violation of 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance).

*ARD—Accelerated Rehabilitative Disposition*—A pre-trial diversion program which offers a person arrested for

DUI the opportunity to earn dismissal of the charges, provided the person agrees to certain conditions.

*Alcohol*—Ethanol or ethyl alcohol.

*CRN—Court Reporting Network*—A uniform prescreening evaluation procedure for all DUI offenders to aid and support clinical treatment recommendations offered to the judiciary, prior to sentencing.

*Controlled substance*—Any substance so defined or classified under:

(i) The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-143).

(ii) Section 102(6) of the Controlled Substances Act (21 U.S.C.A. § 802(6)).

(iii) 21 CFR Part 1308.11—1308.15 (relating to schedules of controlled substances).

(iv) Any revisions to subparagraphs (ii) or (iii) which are published by the Department of Health as notices in the *Pennsylvania Bulletin*.

*DUI—Driving under the influence*—Driving, operating or being in actual physical control of the movement of any vehicle while under the influence of alcohol or any controlled substance to a degree which renders the person incapable of safe driving as prohibited and punishable under 75 Pa.C.S. §§ 3802, 3803 and 3804 (relating to driving under influence of alcohol or controlled substance; grading; and penalties).

*DUI program coordinator*—An individual who serves as the liaison between a county, multicounty judicial district, or group of counties combined under a single DUI program and the Department of Transportation or its designee.

*Department*—The Department of Transportation of the Commonwealth.

**§ 94.3. General requirements and objectives.**

(a) *General requirements.* Each county, multicounty judicial district, or group of counties combined under a single DUI program shall establish and maintain an AHSS which provides a course of instruction regarding problems associated with the use of alcohol and controlled substances, and driving. The school program must include the following:

(1) A uniform curriculum as further prescribed by § 94.5 (relating to curriculum), which has as its objective to educate students concerning the following:

(i) The relationship of the use of alcohol or controlled substances, or both, to highway safety.

(ii) The effects of the use of alcohol or controlled substances, or both, on social relationships and the family.

(iii) The effects of the use of alcohol or controlled substances, or both, on economic functioning.

(iv) The availability of alcohol and substance abuse programs and counseling.

(2) AHSS instructors who are trained, certified and recertified as prescribed in § 94.10 (relating to AHSS instructor qualification selection, certification and recertification).

(3) A means of notifying all AHSS students, both orally and in writing, of the provisions of 75 Pa.C.S. § 1543(b) (relating to driving while operating privileges are suspended or revoked).

(4) A DUI program coordinator as specified in § 94.12 (relating to DUI program coordinators).

(5) Classroom space that is conducive to learning, and which is of adequate size to accommodate a maximum of 50 people. The maximum number of students per class may not exceed 25. A building that houses an AHSS classroom must have all of the appropriate local certificate of occupancy permits.

(b) *Objectives.* The AHSS must provide students with a basic knowledge and understanding of alcohol and controlled substances and their effects on metabolism and judgment, alcoholism and drug addiction, as well as highway safety, to encourage a positive change in the students' attitude concerning driving under the influence of alcohol or a controlled substance.

#### § 94.4. Mandatory attendance.

Every person convicted of a first or second offense violation of 75 Pa.C.S. § 3802 (relating to driving under influence of alcohol or controlled substance), or placed on ARD or other preliminary disposition as a result of an alleged violation of 75 Pa.C.S. § 3802, shall be required to attend, pay all costs and successfully complete an approved AHSS program whether it be as a part of sentencing, as a condition of parole or probation or as a part of ARD, in accordance with 75 Pa.C.S. § 3807 (relating to accelerated rehabilitative disposition).

#### § 94.5 Curriculum.

(a) The AHSS curriculum must consist of a minimum of 12 1/2 hours of instruction and include the following core components:

(1) *Component one.* Component one must introduce the course content, rules, regulations and requirements for successful completion. Administration of the knowledge inventory and an overview of the Commonwealth's health/legal approach to implementation of an AHSS shall be presented. The instructional objectives must include:

(i) Providing an understanding of the purpose of the AHSS.

(ii) Explaining the rules, regulations and expectations to the participants for successful completion of the program, as well as the consequences of failure to comply with the rules.

(iii) Creating a classroom environment, that fosters active participation and appropriate structure.

(iv) Providing an understanding of the Pennsylvania AHSS.

(v) Explaining the role of AHSS as a part of the AHSS.

(vi) Examining Pennsylvania laws regarding DUI.

(vii) Establishing the relationship between driving after drinking alcohol or using drugs, and automobile crashes.

(2) *Component two.* Component two must address basic drug and alcohol information. How drugs and alcohol affect the human body should be presented in an uncomplicated manner. Information about alcohol and drugs that are more frequently combined with driving shall be emphasized during this component. The instructional objectives must include:

(i) Understanding the physiological process of drug and alcohol absorption, metabolism and elimination.

(ii) Examination of the effects of drugs and alcohol on the central nervous system, judgment, muscular control and vision.

(iii) Explanation of behavioral changes associated with the consumption of alcohol and various drugs.

(iv) Description of tests for determining the presence of alcohol and drugs in the human body.

(3) *Component three.* The focus of this component must be to examine how alcohol and drug use affects driving decisions and skills. This component also must provide the opportunity to explore the DUI arrest as a possible warning sign of a substance abuse problem. Characteristics of alcohol and drug abuse and addiction must be discussed during this component. The instructional objectives must include:

(i) Examination of how alcohol and drug use affects driving skills.

(ii) Recognition that a DUI arrest may be a warning sign of a substance abuse problem.

(iii) Understanding the characteristics of alcohol and drug abuse and addiction.

(4) *Component four.* Component four must provide students the opportunity to further examine alcohol and drug abuse, addiction and the broad impact of a DUI arrest on family, friends and employment. Local drug and alcohol counseling and treatment services must be identified. The instructional objectives must include:

(i) Recognition of the impact of a DUI arrest on family, employment and friends.

(ii) Understanding the disruption that alcohol and drug abuse has on one's lifestyle.

(iii) Recognition of the value of family as a support system.

(iv) Identification of local drug and alcohol counseling and treatment services.

(v) Recognition of the importance of alcohol and drug abstinence for some individuals.

(5) *Component five.* The final component must address the need for each course participant to develop realistic plans to avoid future DUI behavior. Evaluation of AHSS content and quality of instruction must occur at the conclusion of the component. The instructional objectives must include:

(i) Identification of realistic steps to prevent a future DUI.

(ii) Measurement of any knowledge gained or attitudinal changes among participants since the inception of the class.

(iii) Reinforcement of the purpose, availability and locale of treatment or counseling services, or both.

(iv) Provisions of an opportunity to evaluate the AHSS and the instructor.

#### § 94.6. AHSS approval; revocation and refusal of approval.

(a) *General requirement.* Prior to the operation of an AHSS, the DUI program coordinator or the coordinator's designee shall apply to the Department or its designee, for a letter of approval for each AHSS in the county, multicounty judicial district, or group of counties combined under a single DUI program.

(1) An AHSS which is fully operational on \_\_\_\_\_ (*Editor's Note:* The blank refers to the

effective date of adoption of this proposal.) shall be permitted 12 months from that date to obtain a letter of approval.

(2) An AHSS must comply with this chapter to receive a letter of approval. Failure to comply will result in notification to the appropriate court officials, including the president judge and the court administrator, of the failure to comply.

(3) Application for a letter of approval must be made using forms and procedures prescribed by the Department or its designee.

(b) *Expiration of approval.* The approval of an AHSS will expire 24 months from the date of issuance of the approval letter, unless a request to renew a letter of approval is filed by the DUI program coordinator or the coordinator's designee 6 months prior to the lapse.

(c) *Entry and inspection.* The Department or its designee will have the right to enter upon the premises and inspect an AHSS at any time for the purpose of determining compliance with this chapter. The Department will have free access to the records of the AHSS and all of its students' records, not covered under confidentiality laws or regulations, including § 94.13 (relating to confidentiality), as part of the entry and inspection process.

(d) *Revocation or refusal.* The Department or its designee may revoke or refuse to issue a letter of approval to operate an AHSS for any of the following:

(1) Failure to comply with any provision of this chapter.

(2) Failure to comply with a directive issued by the Department or its designee following an onsite inspection of an AHSS.

(3) Failure to comply with a directive issued by the Department or its designee as a condition of approval or renewal of a letter of approval.

(e) *Corrective measures.* Each county, multicounty, judicial district or group of counties combined under a single DUI program shall have 6 months to satisfy directives or conditions issued by the Department or its designee to meet approval to operate an AHSS.

(f) *No operation without approval.* An AHSS may not operate without a currently valid letter of approval from the Department, except as specified in this section or as otherwise directed, in writing, by the Department.

#### § 94.7. Conduct of courses.

(a) *Attendance.* AHSS students shall complete the AHSS classroom instruction, as described in § 94.5 (relating to curriculum).

(b) *Repeating AHSS courses.* AHSS students shall repeat the entire AHSS curriculum if they do not satisfy the requirements of subsection (a), except that, with approval of the AHSS instructor, a student may be excused for one component, but not the first component. A student excused from attendance at a component will be required to attend that component during the next available AHSS. If the student fails to attend that component at the subsequent AHSS, the student will be required to repeat the entire curriculum.

(c) *Scheduling.* Whenever possible AHSS classes will be scheduled at times that do not conflict with the work schedules of the majority of the students, with classes scheduled for evenings and weekends, if appropriate.

(d) *Break periods.* Each component of AHSS classroom instruction will have a 15-minute break period or recess, which may not be counted toward the 12 1/2 hour requirement.

#### § 94.8. Student records.

The DUI program coordinator or the coordinator's designee shall keep a complete student record on file for every student attending an AHSS.

(1) *Content of student records.* A student record must include:

(i) A summary of fees remitted or payments made in conjunction with the AHSS.

(ii) Record of the student's attendance.

(iii) Court referral documentation or referral recommendations, or both.

(iv) Any correspondence related to the student.

(v) A copy of the 75 Pa.C.S. § 1543(b)(1) (relating to driving while operating privilege is suspended or revoked) notification that is signed and dated by the student.

(2) *Custody of AHSS student records.* The DUI program coordinator or the coordinator's designee shall maintain all AHSS student records.

#### § 94.9. Notification of possible fine and imprisonment.

AHSS instructors shall provide oral and written notice of the provisions of 75 Pa. C.S. § 1543(b) (relating to driving while operating privilege is suspended or revoked) to all AHSS students during the first component of AHSS, in the following manner:

(1) Two copies of a written notice provided in this section shall be distributed to every student during the first component.

(2) The notice shall be read aloud by the AHSS instructor in the presence of all the AHSS students in attendance.

(3) All AHSS students shall sign and date both copies of the notice.

(4) The AHSS instructor shall collect one copy of the signed and dated notice from each AHSS student.

(5) The AHSS instructor shall file the signed and dated copy of the notice in each AHSS student's record.

(6) The written notice must state the following:

You are hereby notified that, either as a result of your conviction for DUI, or as a condition of acceptance of ARD, Section 1543(b) of the Pennsylvania Consolidated Statutes, Title 75, Vehicles (Vehicle Code) now applies to you.

Section 1543(b) provides that any person who drives a motor vehicle on any highway or trafficway of this Commonwealth at a time when their operating privilege is suspended or revoked either—

(1) as a condition of acceptance of Accelerated Rehabilitative Disposition,

(2) for a violation of Section 3802 or the former section 3731 (relating to driving under the influence of alcohol or controlled substance),

(3) because of a violation of section 1547(b)(1) (relating to suspension for refusal) or

(4) suspended under section 1581 (relating to Driver's License Compact) for an offense substantially similar to a violation of section 3802 or former section 3731—

shall, upon conviction, be guilty of a summary offense, and shall be sentenced to pay a fine of \$500 and be imprisoned for a period of not less than 60 days nor more than 90 days.

In addition to the penalty above, any person who drives a motor vehicle on any highway or trafficway of the Commonwealth when their operating privilege is suspended or revoked for any of the reasons noted above, AND whose blood alcohol by weight is equal to or greater than 0.02% at the time of testing OR whose blood has any amount of a Schedule I or non prescribed Schedule II or III controlled substance or its metabolite at the time of testing—

(1) for the first conviction shall be guilty of a summary offense and shall be sentenced to pay a fine of \$1,000 and be imprisoned for a period of not less than 90 days.

(2) for a second conviction shall be guilty of a misdemeanor of the third degree and shall be sentenced to pay a fine of \$2,500 and be imprisoned for a period of not less than six months.

(3) for a third or subsequent conviction shall be guilty of a misdemeanor of the first degree and shall be sentenced to pay a fine of \$5,000 and be imprisoned for a period of not less than two years.

These provisions shall apply whether the person is currently serving a suspension, whether the effective date of the suspension or revocation has been deferred, or otherwise until the person has had his/her operating privilege restored. They shall also apply to a revocation under the habitual offenders provisions of section 1542 if any of the enumerated offenses was for a violation of section 3802 or former section 3731 or a substantially similar out of state offense under section 1581.

This signature verifies that I have read and understood the above and have been notified verbally of the consequences of violating Section 1543(b) of the Vehicle Code (75 Pa.C.S. § 1543(b)).

\_\_\_\_\_  
(Signature)

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

#### § 94.10. AHSS instructor qualification, selection, certification and recertification

(a) *Qualifications.* Candidates for AHSS instructor certification shall meet the following qualifications and requirements. The candidate shall:

- (1) Be at least 21 years of age.
- (2) Possess a bachelor's degree from an accredited college or university.
- (3) Possess a valid driver's license.
- (4) Attend and observe the teaching of a complete 12 1/2 hour AHSS course cycle by a certified AHSS instructor.
- (5) Be sponsored by the DUI program coordinator or the coordinator's designee of the county, multicounty, judicial district or group of counties combined under a single DUI program, in which the candidate will be instructing.

(b) *Submission of the names of qualified candidates.* The sponsoring DUI program coordinator or the coordinator's designee shall submit a list of the names of qualified candidates to the Department or its designee utilizing forms and procedures prescribed by the Department or its designee.

(c) *AHSS instructor certification.* Candidates who are accepted into the AHSS instructor certification process shall complete the following requirements before certification. A candidate shall:

(1) Participate in an approved 2-day AHSS Instructor Certification Training Workshop sponsored by the Department.

(2) Teach a full AHSS curriculum, as prescribed in § 94.5 (relating to curriculum), while under the direct supervision of the DUI program coordinator or the coordinator's designee. The DUI program coordinator or the coordinator's designee shall administer pretests and posttests to the AHSS students. The instructor candidate shall document the results of these tests by using standardized reporting forms issued by the Department or its designee.

(3) Document compliance with the uniform AHSS curriculum by the submission of a course outline meeting the minimum core components described in § 94.5 or on standardized forms as deemed appropriate by the Department or its designee.

(4) Send the completed standardized reporting forms to the Commonwealth's Alcohol Highway Safety Program office of the Department, or to its designee.

(5) Participate in the 1-day AHSS Performance Analysis Workshop when all candidates demonstrate their knowledge of alcohol highway safety by scoring 85% or better on tests developed by the Department or its designee.

(6) Complete any additional reporting requirements established by the Department or its designee following completion of the requirements outlined in paragraphs (1)–(5).

(d) *DUI program coordinator verification.* The sponsoring DUI program coordinator or the coordinator's designee shall verify the AHSS instructor candidate's satisfactory completion of all requirements on reporting forms issued by the Department or its designee prior to the candidate's participation in the 1-day AHSS Performance Analysis Workshop.

(e) *Recertification.*

(1) AHSS instructors shall be recertified every 2 years, in accordance with the following:

(i) Prior to recertification, every AHSS instructor shall have completed 12 credit hours of instruction at Department-approved workshops during the previous 24 months.

(ii) During the second 12 months of an instructor's existing certification period, the DUI program coordinator or the coordinator's designee shall observe the instructor teach one complete 12 1/2 hour AHSS course cycle.

(iii) The DUI program coordinator or the coordinator's designee shall verify that the instructor is adhering to the uniform AHSS curriculum, as prescribed by § 94.5.

(iv) The AHSS instructor shall administer an approved pretest and posttest to the AHSS class during the class cycle which is being observed by the DUI program coordinator or the coordinator's designee. The results of

both tests must be submitted to the DUI program coordinator or the coordinator's designee.

(v) The DUI Program Coordinator or the coordinator's designee shall submit to the Department or its designee, on standardized reporting forms issued by the Department or its designee, verification of the instructor's satisfaction of, or the failure to satisfy, all of the requirements for recertification, together with a recommendation to grant or deny recertification of the AHSS instructor.

(2) The Department or its designee may waive, substitute or give credit toward any or all requirements for AHSS instructor recertification as specified in this section by offering suitable preannounced programs and workshops for AHSS instructors who qualify for recertification.

#### § 94.11. Suspension or revocation of certification.

The Department may, upon good cause shown, suspend or revoke the certification of an AHSS instructor and restrict or prohibit an instructor from participating in a DUI program. The Department will provide notice and an opportunity for administrative hearing under Chapter 491 (relating to administrative practice and procedure) within a reasonable time after any action is taken under this provision. This provision does not prevent any county, multicounty judicial district, or group of counties combined under a single DUI program from also taking any appropriate action in response to any claim of instructor disqualification or misconduct.

#### § 94.12. DUI program coordinators.

(a) *Requirement.* Each county, multicounty judicial district or group of counties combined under a single DUI program shall designate a person to function as a DUI program coordinator.

(b) *Appointment.* Designation of a DUI program coordinator shall be made by the president judge of the county or multicounty judicial district, or by a consensus of the president judges within a single DUI program area.

(c) *Qualifications.* DUI program coordinators shall either possess a bachelor's degree with a major in business administration, business management, chemical addictions, criminal justice, public administration, psychology, social sciences, social work, sociology, education, or a closely related field, or be able to demonstrate at least 2 years of related management or administrative experience, or be able to demonstrate a suitable combination of education and relevant experience to the Department or its designee.

(d) *Responsibility for administration of AHSS.* The DUI program coordinator shall be responsible for administration of the AHSS, including the following:

(1) The DUI program coordinator shall serve as a liaison between the AHSS and the Department, its designee, or both, for the purposes of planning, implementing and monitoring all DUI related activities which are occurring within the coordinator's county, multicounty judicial district, or group of counties combined under a single DUI program which are related to the operation of an AHSS.

(2) The DUI program coordinator shall insure that all of the DUI services which are required by 75 Pa.C.S. (relating to Vehicle Code) in conjunction with the operation of the AHSS are made available and are provided in their respective DUI program areas, and that those services are in compliance with applicable State and local regulations.

(3) The DUI program coordinator shall recommend candidates for certification as AHSS instructors.

(4) The DUI program coordinator shall supervise AHSS instructor candidates during the certification process.

(5) The DUI program coordinator shall ensure that all AHSS instructors are currently certified and administering the AHSS curriculum in compliance with the requirements of this chapter.

(6) The DUI program coordinator shall maintain documentation relating to the certification of all AHSS instructors within the coordinator's jurisdiction.

(7) The DUI program coordinator shall submit any AHSS information and data requested by the Department or its designee using forms and procedures specified by the Department.

(8) The DUI program coordinator, within 1 year of appointment to the position as described in subsection (b), shall participate in an approved 2-day AHSS Instructor Certification Training Workshop sponsored by the Department.

(9) The DUI Program Coordinator shall earn 12 credits every 2 years through the Department's Alcohol Highway Safety Program sponsored workshops. Six of these credits shall be earned by attending an annual DUI Program Coordinators' Conference designed and hosted by the Department or its designee specifically for the DUI program coordinators. One hour of class time shall equal one credit. An all-day workshop will provide six credits and a 1/2 day workshop will provide three credits.

(e) *DUI program coordinator misconduct.* The Department may, upon good cause shown, recommend to the president judge of the court overseeing a DUI program that any DUI program coordinator should be removed, restricted or otherwise prohibited from participating in any activity under this chapter. This provision does not prevent any county, multicounty judicial district or group of counties combined under a single DUI program from taking any appropriate action in response to any claim of DUI program coordinator misconduct.

#### § 94.13. Confidentiality.

The AHSS shall keep all student records confidential and may not disclose them to any person other than the student and the Department. This section does not apply to any notification to the sentencing court, county probation department or State Parole Board. An individual AHSS student may waive these rights by a written explicit and knowing waiver signed by the student in the presence of the DUI program coordinator or the coordinator's designee.

#### § 94.14. Cost.

Cost of attendance at an AHSS shall be in addition to any other penalty required or allowed by law and shall be the responsibility of the attendee. The fee charged for attendance at an AHSS shall be determined independently by each county, multicounty judicial district or group of counties combined under a single DUI program. A Statewide listing of the fee charged for AHSS in jurisdictions throughout this Commonwealth is available from the Department upon request at no charge. Prospective students of an AHSS may verify the fee for attendance by contacting the particular school for its fee schedule.

[Pa.B. Doc. No. 04-1593. Filed for public inspection August 27, 2004, 9:00 a.m.]

[67 PA. CODE CHS. 201, 203, 204, 211, 212 AND 217]

**Official Traffic Control Devices**

The Department of Transportation (Department), Bureau of Highway Safety and Traffic Engineering, under the authority of 75 Pa.C.S. §§ 3353, 3354, 6103, 6105, 6121, 6122, 6123 and 6123.1, proposes to delete Chapters 201, 203, 204, 211 and 217 and to add Chapter 212 (relating to official traffic control devices) to read as set forth in Annex A. Included as part of Chapter 212, the Department will adopt the *National Manual on Uniform Traffic-Control Devices* (MUTCD) as published by the Federal Highway Administration (FHWA).

*Purpose of Chapter 212*

The purpose of Chapter 212 is to adopt the MUTCD to establish new rules regarding additional study requirements, warrants, principles and guidelines not included in the MUTCD and to establish greater uniformity for the design, location and operation of all official traffic signs, signals, markings and other traffic-control devices in this Commonwealth.

*Purpose of the Proposed Rulemaking*

With the promulgation of this proposed rulemaking, the most recent edition of the MUTCD will become the standard for traffic-control in this Commonwealth. As provided in 75 Pa.C.S. §§ 6103(c) and 6121 (relating to promulgation of rules and regulations by department; and uniform system of traffic-control devices), the proposed rulemaking will also establish additional rules regarding study requirements, warrants, principles and guidelines and insure uniformity for the design, location and operation of all official signs, signals, markings and other traffic-control devices in this Commonwealth, incorporating, revising and adding to provisions now found in Chapters 201, 203, 204, 211 and 217.

Traffic-control devices are defined as all signs, signals, markings and devices placed on, over or adjacent to a street or highway by authority of a public body or official having jurisdiction to regulate, warn or guide traffic. The purpose of traffic-control devices and warrants is to safeguard highway safety by providing for the orderly and predictable movement of all traffic, motorized and nonmotorized, throughout National, state and local highway transportation systems. This chapter provides guidance and standards needed to insure the safe and uniform operation of individual elements in the traffic stream. Traffic-control devices are used to direct and assist vehicle operators in the guidance and navigation tasks required to safely traverse any facility open to public travel. Guide and information signs are solely for the purpose of traffic-control; advertising media and attraction signs are not generally considered to be traffic-control devices.

The need for uniform standards for traffic-control devices was recognized many years ago. In 1927, the American Association of State Highway and Transportation Officials (AASHTO) published a manual for use on rural highways. The National Conference on Street and Highway Safety followed with a manual for urban streets in 1929. Even at that time, the need for unification of the standards applicable to the different classes of road and street systems was obvious. To meet this need, a joint committee of the AASHTO and the National Conference on Street and Highway Safety developed, and in 1935 published, the original edition of the MUTCD. The joint committee, though changed from time to time in organi-

zation and personnel, has been in continuous existence since its origin and has contributed to periodic revisions of the MUTCD. The joint committee's name has now been formally changed to the National Committee on Uniform Traffic Control Devices.

Federal directives and Commonwealth statutes dictate implementation of the standards in the MUTCD. The Department expects to obtain basic uniformity in the visible features and functioning of traffic-control devices on all highways through implementation of the MUTCD, which sets forth the basic principles that govern the design and use of traffic-control devices. These principles appear throughout the text of the proposed rulemaking in discussion of the devices to which they apply, and it is important that they be given primary consideration in the selection, application and use of each device.

The MUTCD presents traffic-control device standards for all streets and highways open to public travel, regardless of type or class or governmental agency having jurisdiction. Where a device is intended for limited application only, or for use on a specific system, the text of the MUTCD specifies the restrictions on its use.

The study procedures and warrants for the establishment, revision and removal of traffic restrictions, as well as the basic principles and guidelines for the control of traffic within construction, maintenance and utility/permit work zones are, with few exceptions, included in the MUTCD. All procedures, warrants and standards, either in addition to or exclusive of those in the MUTCD, are also included in Chapter 212. When the MUTCD is silent regarding the establishment of certain traffic restrictions, work zone traffic-control standards, or in instances where the Department has additional study procedures, warrants, standards or guidelines in addition to those in the MUTCD, those procedures, warrants and standards are included in Chapter 212. Chapter 212 also contains additional requirements for some official traffic-control devices used in this Commonwealth. The incorporation of these additional regulatory requirements in Chapter 212 may require slight departure from some of the text in certain parts of the MUTCD.

Chapters 201, 203, 204, 211 and 217 are being deleted with the establishment of the Chapter 212:

- Chapter 201 (relating to engineering and traffic studies) contains required study procedures and warrants for the establishment, revision and removal of all traffic restrictions on public highways in this Commonwealth.
- Chapter 203 (relating to work zone traffic control) defines the basic principles and guidelines for the control of traffic within construction, maintenance and utility/permit work zones on highways in this Commonwealth.
- Chapter 204 (relating to guidelines to implement Act 229 of 2002 additional traffic-control devices in highway work zones-statement of policy) defines which projects are active work zones and what additional actions are required in work zones to comply with the recent change in the law.
- Chapter 211 (relating to official traffic control devices).
- Chapter 217 (relating to posting of private parking lots) defines the specific signs required in private parking lots to allow owners to have vehicles towed.

The subject matter in the deleted chapters is addressed in the MUTCD, this proposed rulemaking or in Department publications referenced in this proposed rulemaking.



The significant provisions of the proposed rulemaking include:

1. Section 212.3 (relating to Pennsylvania's Supplement to the MUTCD) provides for a supplement to the MUTCD. This supplement will include the requirements of Chapter 212 and additional information designed to assist in doing engineering and traffic studies, including resource materials, crash rates and so forth.

2. Section 212.5 (relating to installation and maintenance responsibilities) is intended to clarify that local authorities are responsible to maintain Stop Signs and Yield Signs on local road approaches to State-designated highways, in accordance with usual practice. Codifying this responsibility is appropriate since employees of the Department do not normally traverse local roads and would not consequently be able to easily verify whether the signs are in place and positioned at the appropriate location.

This section is also intended to relieve local authorities of the regulatory responsibility of installing and maintaining railroad grade crossing markings on State-designated highways as currently required in § 211.6 (relating to application). Other current Department manuals already identify the Department as having responsibility for maintaining railroad grade crossing markings, and the Department has been routinely maintaining them.

3. Section 212.8 (relating to use, test, approval and sale of official traffic-control devices) will now require the following devices to be approved by the Department to ensure compliance with Federal standards: barricades, citizen band traffic alert radios, speed display signs, stop/slow paddles, temporary pavement marking tapes, temporary traffic barriers, variable speed limit signs and vertical panels.

4. Section 212.11 (relating to metric measurements) permits the use of hard metric dimensions as an alternative to those with English dimensions when designing and placing traffic-control devices. Current Federal law (the Omnibus Trade and Competitiveness Act of 1988) encourages the use of metric dimensions for the design and deployment of all traffic-control devices.

5. Section 212.116 (relating to No Turn on Red Sign (R10-11 sign series)) includes a warrant for the No Turn on Red Signs that was previously included in Chapter 201, but is not included in the MUTCD. The warrant specifically addresses the operational needs to require no-turn-on-red movements when: (1) less than a specific minimum sight distance is available to safely make the turn; (2) more than four intersection legs exist; (3) more than one turn lanes for that movement are present; (4) it conflicts with a high number of at-risk pedestrian movements; and (5) when other unique situations exist.

6. Section 212.123 (relating to tourist-oriented directional signs) stipulates a slightly larger tourist oriented directional sign than is included in the MUTCD. The "Pennsylvania standard" is the same size used for the last 10 years and because it is slightly taller than the MUTCD size, it eliminates the crowding of the two lines of legend and improves the sign legibility.

7. Section 212.202 (relating to no-passing zones) contains additional situations where no-passing zones may be warranted, but are not currently included in the MUTCD. These additional warrants were previously included in § 201.53 (relating to no-passing zones). Additional criteria defining where no-passing zones should physically start is also included in this section.

8. Section 212.203 (relating to delineation) provides more flexibility in the height of delineation the MUTCD. It was determined that for practicality purposes, it is difficult to always comply with the 4-foot height specified in the MUTCD since the elevation of highway shoulders are not always uniform and it would be difficult to always install delineation at an elevation exactly 4 feet above the near edge of the road surface.

9. Section 212.302(b) (relating to traffic-control signals) adopts the MUTCD's eight warrants for traffic-control signals. While the Commonwealth's warrants are generally similar to the warrants in the MUTCD, the warrant numbers were different. The adoption of the MUTCD numbers will bring Commonwealth's warrants and warrant numbering into conformity with those in other states. The MUTCD does not have provisions that address traffic signal studies at intersections not yet constructed (that is, future intersections). The "ADT Volume Warrant" currently in Chapter 201 is proposed for inclusion in Chapter 212.

10. Subchapter E (relating to temporary traffic control) will bring the Commonwealth's requirements for traffic-control in work zones into general conformity with practices in other states, and add the additional signs in work zones required to comply with the act of December 23, 2002 (P. L. 1982, No. 229).

#### *Persons and Entities Affected*

The proposed rulemaking affects the Commonwealth, the Turnpike Commission, local authorities, contractors, consultants, utility companies, vendors and the motoring public.

#### *Fiscal Impact*

Elimination of current Department Publications Nos. 68, 201 and 203 is projected to annually reduce publication costs by approximately \$30,000. Although these savings will be passed on to the consultants, contractors, local authorities and other end users, these savings will be offset by the need of some users to purchase the MUTCD.

Contractors and highway agencies may have some modest savings since fewer traffic-control devices will be required in some construction and maintenance projects. In addition, consultants and suppliers of traffic-control devices should be able to be more efficient due to increased uniformity from state to state.

#### *Regulatory Review*

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on August 17, 2004, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House and Senate Transportation Committees. A copy of this material is available to the public upon request.

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

*Sunset Date*

The Department is not establishing a sunset date for these regulations, since the regulations are needed to administer provisions required under 75 Pa.C.S. (relating to Vehicle Code). The Department, however, will continue to closely monitor the regulations for their effectiveness.

*Public Comments*

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to Arthur H. Breneman, P. E., Chief, Traffic Engineering and Operations Division, Commonwealth Keystone Building, 6th Floor, 400 North Street, Harrisburg, PA 17120-0064 within 30 days of publication of this proposed rulemaking in the *Pennsylvania Bulletin*.

*Contact Person*

The contact person is Arthur H. Breneman, P. E., Chief, Traffic Engineering and Operations Division, Commonwealth Keystone Building, 6th Floor, 400 North Street, Harrisburg, PA 17120-0064, (717) 787-3620.

ALLEN D. BIEHLER, P. E.,  
Secretary

**Fiscal Note:** 18-392. No fiscal impact; (8) recommends adoption.

*(Editor's Note:* The Department has withdrawn the proposal regarding official traffic control devices which appeared at 33 Pa.B. 1930 (April 19, 2003).)

**Annex A****TITLE 67. TRANSPORTATION****PART I. DEPARTMENT OF TRANSPORTATION****Subpart A. VEHICLE CODE PROVISIONS****ARTICLE VIII. ADMINISTRATION AND ENFORCEMENT****CHAPTER 201. (Reserved)**

*(Editor's Note:* The Department is proposing to delete Chapter 201 in its entirety. The present text of Chapter 201 appears at 67 Pa. Code pages 201-1—201-56, serial pages (296247), (296248), (212955) to (212960), (245565) to (245567), (221377) to (221378) and (212965) to (213008).)

§§ 201.1—201.6. (Reserved).

§ 201.21. (Reserved).

§ 201.22. (Reserved).

§§ 201.31—201.33. (Reserved).

§ 201.35. (Reserved).

§ 201.51—201.55. (Reserved).

§ 201.61. (Reserved).

§ 201.62. (Reserved).

§ 201.71. (Reserved).

§ 201.72. (Reserved).

§§ 201.81—201.83. (Reserved).

§ 201.91. (Reserved).

**CHAPTER 203. (Reserved)**

*(Editor's Note:* The Department is proposing to delete Chapter 203 in its entirety. The present text of Chapter 203 appears at 67 Pa. Code pages 203-1—203-127, serial pages (300655), (300656), (216503) to (216508), (250971) to (250974), (216513) to (216544), (253437) to (253438), (216547) to (216548), (253439) to (253440), (216551) to

(216552), (253441) to (253442), (216555) to (216556), (253443) to (253444) and (216559) to (216629).)

§ 203.1. (Reserved).

§§ 203.3—203.9. (Reserved).

§§ 203.21—203.24. (Reserved).

§§ 203.41—203.44. (Reserved).

§§ 203.51—203.61. (Reserved).

§ 203.71. (Reserved).

§ 203.72. (Reserved).

§§ 203.81—203.87. (Reserved).

§§ 203.101—203.106. (Reserved).

§§ 203.121—203.131. (Reserved).

**Appendix A. (Reserved).**

**CHAPTER 204. (Reserved)**

*(Editor's Note:* The Department is proposing to delete Chapter 204 in its entirety. The present text of Chapter 204 appears at 67 Pa. Code pages 204-1—204-8, serial pages (300657) to (300663).)

§§ 204.1—204.6. (Reserved).

**CHAPTER 211. (Reserved)**

*(Editor's Note:* The Department is proposing to delete Chapter 211 in its entirety. The present text of Chapter 211 appears at 67 Pa. Code pages 211-1—211-654, serial pages (218051) to (218052), (210497) to (210500), (236851) to (236853), (210503) to (210504), (246765) to (246768), (210509) to (210658), (282251) to (282252), (210661) to (210666), (222465) to (222470), (210673) to (211060), (221379) to (221380), (211063) to (211082), (226957) to (226958), (211085) to (211086), (288357) to (288360) and (211091) to (211148).)

§§ 211.1—211.12. (Reserved).

§§ 211.21—211.32. (Reserved).

§§ 211.41—211.43. (Reserved).

§§ 211.51—211.57. (Reserved).

§§ 211.71—211.81. (Reserved).

§§ 211.91—211.98. (Reserved).

§§ 211.111—211.133. (Reserved).

§ 211.141. (Reserved).

§§ 211.151—211.153. (Reserved).

§§ 211.155—211.167. (Reserved).

§§ 211.181—211.193. (Reserved).

§§ 211.201—211.206. (Reserved).

§§ 211.221—211.223. (Reserved).

§§ 211.231—211.245. (Reserved).

§§ 211.251—211.256. (Reserved).

§ 211.271. (Reserved).

§ 211.272. (Reserved).

§ 211.274. (Reserved).

§ 211.275. (Reserved).

§§ 211.291—211.297. (Reserved).

§§ 211.301—211.307. (Reserved).

§§ 211.322—211.329. (Reserved).

§§ 211.341—211.345. (Reserved).

§§ 211.351—211.357. (Reserved).  
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§§ 211.751—211.760. (Reserved).  
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 §§ 211.991—211.1017. (Reserved).  
 §§ 211.1031—211.1042. (Reserved).  
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 §§ 211.1071—211.1075. (Reserved).  
 §§ 211.1081—211.1085. (Reserved).  
 §§ 211.1091—211.1095. (Reserved).  
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 §§ 211.1131—211.1141. (Reserved).  
 §§ 211.1151—211.1185. (Reserved).  
 § 211.1201. (Reserved).  
 §§ 211.1211—211.1214. (Reserved).

**CHAPTER 217. (Reserved)**

*(Editor's Note: The Department is proposing to delete Chapter 217 in its entirety. The present text of Chapter 217 appears at 67 Pa. Code pages 217-1—217-3, serial pages (260031), (260032) and (282253).)*

§§ 217.1—217.4. (Reserved).

**CHAPTER 212. OFFICIAL TRAFFIC-CONTROL DEVICES**

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 B. SIGNS  
 C. MARKINGS  
 D. HIGHWAY TRAFFIC SIGNALS  
 E. TEMPORARY TRAFFIC CONTROL  
 F. TRAFFIC CONTROLS FOR SCHOOL AREAS

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## § 212.1. Definitions.

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

*ADT—Average daily traffic*—The total volume of traffic during a number of whole days—more than 1 day and less than 1 year—divided by the number of days in that period.

*Active work zone*—The portion of a work zone where construction, maintenance or utility workers are on the roadway or on the shoulder of the highway, and workers are adjacent to an active travel lane. Workers are not considered adjacent to an open travel lane if they are protected by a traffic barrier and no ingress or egress to the work zone exists through an opening in the traffic barrier.

*Advisory speed*—The recommended speed for vehicles operating on a section of highway based on the highway design, operating characteristics and conditions. When posted, the speed is displayed as a warning sign; that is, either a black-on-yellow or a black-on-orange sign.

*Angle parking*—Parking, other than parallel parking, which is designed and designated so that the longitudinal axis of the vehicle is not parallel with the edge of the roadway.

*Assemblage*—

(i) An organized gathering of people without vehicles, or with vehicles that are stationary, which encroaches onto a street or highway and interferes with the movement of pedestrian or vehicular traffic.

(ii) The term includes street fairs, block parties and other recreational events.

*Bureau*—The Bureau of Highway Safety and Traffic Engineering, which is the office of the Department responsible for traffic regulations and statewide policies regarding traffic-control devices.

*City of the first and second class*—A city so classified in accordance with section 1 the act of June 25, 1895 (P. L. 275, No. 188) (53 P. S. § 101), known as the City Classification Law.

*Conventional highway*—A highway other than an expressway or a freeway.

*Corner sight distance*—

(i) *Available corner sight distance*—The maximum measured distance along a crossing highway which a driver stopped at a side road or driveway along that highway can continuously see another vehicle approaching. For the purpose of measuring the available sight distance, the height of both the driver's eye and the approaching

vehicle should be assumed to be 3.5 feet above the road surface. In addition, the driver's eye should be assumed to be 10 feet back from the near edge of the highway or the near edge of the closest travel lane if parking is permitted along the highway.

(ii) *Minimum corner sight distance*—The minimum required corner sight distance based on engineering and traffic studies, to ensure the safe operation of an intersection. The minimum value is a function of the speed of the approaching vehicles and the prevailing geometrics.

*Crash*—

(i) A collision involving one or more vehicles.

(ii) Unless the context clearly indicates otherwise, the term only includes those collisions that require a police report; that is, the collision involves one of the following:

(A) Injury to or death of any person.

(B) Damage to any vehicle involved to the extent that it cannot be driven under its own power in its customary manner without further damage or hazard to the vehicle, to other traffic elements, or to the roadway, and therefore requires towing.

*Department*—The Department of Transportation of the Commonwealth.

*Delineator*—A retroreflective device mounted on the road surface or at the side of the roadway in a series to indicate the alignment of the roadway, especially at night or in adverse weather.

*85th percentile speed*—The speed on a roadway at or below which 85% of the motor vehicles travel.

*Engineering and traffic study*—An orderly examination or analysis of physical features and traffic conditions, conducted in accordance with this chapter and conforming to generally accepted engineering standards and practices, for the purpose of ascertaining the need or lack of need for a particular action by the Department or local authorities.

*Expressway*—A divided arterial highway for through traffic with partial control of access and generally with grade separations at major intersections.

*Freeway*—A limited access highway to which the only means of ingress and egress is by interchange ramps.

*Grade*—The up or down slope in the longitudinal direction of the highway, expressed in percent, which is the number of units of change in elevation per 100 units of horizontal distance. An upward slope is a positive grade; a downward slope is a negative grade.

*Highway*—

(i) The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(ii) The term includes a roadway open to the use of the public for vehicular travel on grounds of a college or university, or public or private school, or public or historical park.

*Local authorities*—

(i) County, municipal and other local boards or bodies, and State agencies, boards and commissions other than the Department, having authority to enact regulations relating to traffic.

(ii) The term includes governing bodies of colleges, universities, public and private schools, public and his-

torical parks and airport authorities except when those authorities are within counties of the first class or counties of the second class.

*MUTCD*—The current edition of the Manual on Uniform Traffic Control Devices, as adopted by the Federal Highway Administration (FHWA), and available on the FHWA website.

*Narrow bridge or underpass*—A bridge, culvert or underpass with a two-way roadway clearance width of 16 to 18 feet, or any bridge, culvert or underpass having a roadway clearance less than the width of the approach travel lanes.

*Night or nighttime*—The time from 1/2 hour after sunset to 1/2 hour before sunrise.

*Numbered traffic route*—A highway that has been assigned an Interstate, United States or Pennsylvania route number, consisting of one, two, or three digits, sometimes with an additional designation such as business route, truck route or other similar designation.

*Private parking lot*—A privately owned parking lot open to the public for parking with or without restriction or charge.

*Procession*—

(i) An organized group of individuals, or individuals with vehicles, animals or objects, moving along a highway on the roadway, berm or shoulder in a manner that interferes with the normal movement of traffic.

(ii) The term includes walks, runs, parades and marches.

*Roadway*—That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the sidewalk, berm or shoulder. If a highway includes two or more separate roadways, the term refers to each roadway separately but not to all roadways collectively.

*Safe-running speed*—The average speed for a portion of highway determined by making a minimum of five test runs while periodically recording the speed at different locations while driving at a speed which is reasonable and prudent, giving consideration to the available corner and stopping sight distance, spacing of intersections, roadside development and other conditions.

*Sales Store*—The Department facility that sells maps and publications.

*School*—A public, private or parochial facility for the education of students in grades kindergarten through 12.

*School zone*—A portion of a highway that at least partially abuts a school property or extends beyond the school property line that is used by students to walk to or from school or to or from a school bus pick-up or drop-off location at a school.

*Secretary*—The Secretary of the Department.

*Special activity*—

(i) An organized vehicle race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or any other type of event conducted for the purpose of making a speed record.

(ii) The term includes those races defined in 75 Pa.C.S. § 3367 (relating to racing on highways).

*State-designated highway*—A highway or bridge on the system of highways and bridges over which the Department has assumed or has been legislatively given jurisdiction.

*Stopping sight distance*—The length of highway over which a 2-foot high object on the roadway is continuously visible to the driver, with the driver's eye height assumed to be 3.5 feet above the road surface.

*TTC—Temporary traffic control*—An area of a highway where road user conditions are changed because of a work zone or incident by use of temporary traffic-control devices, flaggers, police officers or other authorized personnel.

*TTC plan*—A plan for maintaining traffic through or around a work zone.

*Through highway*—

(i) A highway or portion of a highway on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way in obedience to a Stop Sign (R1-1), Yield Sign (R1-2) or other traffic-control device when the signs or devices are erected as provided in this chapter.

(ii) The term includes all expressways and freeways.

*Traffic calming*—The combination of primarily physical measures taken to reduce the negative effects of motor vehicle use, alter driver behavior and improve conditions for nonmotorized street users. The primary objectives of traffic calming measures are to reduce speeding and to reduce the volume of cut-through traffic on neighborhood streets.

*Traffic-control devices*—Signs, signals, markings and devices consistent with this chapter placed or erected by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic.

*Traffic restriction*—A restriction designated by a traffic-control device to regulate the speed, direction, movement, placement or kind of traffic using any highway.

*Traffic signal*—

(i) A power-operated traffic-control device other than a sign, warning light, flashing arrow panel or steady-burn electric lamp.

(ii) The term includes traffic-control signals, pedestrian signals, beacons, in-roadway warning lights, lane-use-control signals, movable bridge signals, emergency traffic signals, firehouse warning devices, ramp and highway metering signals and weigh station signals.

*Warrant*—A description of the threshold conditions to be used in evaluating the potential safety and operational benefits of traffic-control devices based upon average or normal conditions.

*Work zone*—The area of a highway where construction, maintenance or utility work activities are being conducted, and in which traffic-control devices are required in accordance with this chapter.

## § 212.2. Adoption of Federal standards.

(a) *General provisions.* Consistent with the authority contained in 75 Pa.C.S. §§ 6103(c) and 6121 (relating to promulgation of rules and regulations by the Department; and uniform system of traffic-control devices), the Department hereby adopts the MUTCD, as published by the Federal Highway Administration. The MUTCD is adopted in its totality except where this chapter clearly indicates that it is not being adopted, or that additional warrants or criteria are being provided.

(b) *Modification of Federal statutes, regulations or provisions.* As provided in 75 Pa.C.S. § 6103(d), if the

MUTCD is amended or modified by the Federal Highway Administration, the amendment will take effect 60 days after the effective date specified by the Federal Highway Administration unless the Department publishes a notice in the *Pennsylvania Bulletin* stating that the amendment or modification does not take effect.

### § 212.3. Pennsylvania's Supplement to the MUTCD.

The Department will publish a supplement to the MUTCD.

(1) The supplement will include the requirements for official traffic-control devices contained in this chapter, and additional guidance information, including the following:

- (i) How to determine various elements associated with engineering and traffic studies.
- (ii) How to obtain crash rates for various types of roads.
- (iii) How to measure the various types of sight distance, where national study data is located.
- (iv) Other guidance.

(2) The supplement will be called *Official Traffic-Control Devices* (Department Publication 212).

### § 212.4. Application.

(a) *General.* This chapter applies to the approval, location, installation, revision, operation, maintenance and removal of all traffic signs, signals, markings and other traffic-control devices on all streets and highways in this Commonwealth. All signs, signals, markings and other traffic-control devices erected shall conform to this chapter. Traffic restrictions which were previously posted or erected in accordance with the regulations in effect at that time are not subject to this chapter, provided the Department or local authorities have on file evidence that the traffic restrictions were so posted or erected in accordance with then-current regulations.

(b) *New restrictions.*

(1) The establishment or revision of a traffic restriction may be warranted if one of the following applies:

(i) One or more of the engineering and traffic study warrants covered in this chapter justifies the traffic restriction.

(ii) Sound engineering judgment based upon a combination of all data sources substantiates the need for the restriction.

(2) The fact that a warrant for a particular traffic-control device is met is not in itself conclusive justification for the installation of the device.

(c) *Removal of an existing restriction.* The removal of an existing traffic restriction may be warranted if one of the following applies:

(1) A study indicates that none of the engineering and traffic study warrants covered in this chapter justify the existing traffic restriction.

(2) The condition that originally justified the restriction no longer exists.

(d) *Warrants no substitute for engineering judgment.* Warrants established under this chapter provide the threshold for consideration of the installation of a traffic-control device, but are not a substitute for engineering judgment. The fact that a warrant for a particular traffic-control device is met is not conclusive justification for the installation of the device.

(e) *Traffic-control during emergencies.* During National, State or local emergencies including floods, fires, hurricanes, tornadoes, earthquakes, sink holes and bridge collapses, the Department on State-designated highways and local authorities on highways under their jurisdiction may suspend existing restrictions or effect temporary restrictions without an engineering and traffic study as provided in 75 Pa.C.S. §§ 6108 and 6109(a)(20) (relating to power of Governor during emergency; and specific powers of department and local authorities). These temporary restrictions expire at the end of the emergency.

### § 212.5. Installation and maintenance responsibilities.

(a) *Authority to erect traffic-control devices.* The delegation of responsibilities for the installation and maintenance of traffic-control devices is in accordance with 75 Pa.C.S. §§ 6122 and 6124 (relating to authority to erect traffic-control devices; and erection of traffic-control devices at intersections).

(b) *Traffic-control devices on State-designated highways.*

(1) *Conventional highways.*

(i) Local authorities may not revise or remove any traffic-control device installed by the Department or by a contractor for the Department without written approval of the Department.

(ii) Cities of the first and second class are responsible for the installation, revision, removal, maintenance and operation of all traffic-control devices on the highways within their city boundaries. Department approval is not required, except as follows:

(A) As may be required in an agreement between the city and the Department.

(B) Department approval is required for traffic signals if the city does not have municipal traffic engineering certification in accordance with Chapter 205 (relating to municipal traffic engineering certification).

(iii) Local authorities other than cities of the first and second class shall obtain written Department approval before installing any new, or revising or removing any existing traffic-control device unless noted otherwise in this chapter or as provided in an agreement with the Department.

(iv) Local authorities are responsible for the installation, revision, maintenance and removal of the following devices, and Department approval is not required:

(A) Stopping, standing or parking signs (R7 and R8 Series).

(B) Street name signs (D3 Series).

(C) Crosswalk markings.

(D) Parking stall markings, except written Department approval is required prior to creating new angle parking.

(E) Curb markings.

(F) Parking meters.

(v) Local authorities, or other agencies as indicated, are responsible for installing, maintaining and operating the following traffic-control devices, subject to Department approval prior to any change in the traffic restriction:

(A) Traffic signals, and all associated signs and markings included on the Department-approved traffic signal plan.

(B) Speed Limit Signs (R2-1) for speed limits of 35 miles per hour or less. The Department will be responsible for all hazardous grade speed limits and bridge speed limits, and for all speed limits at Department rest areas, welcome centers and weigh stations.

(C) Stop lines and yield lines at intersections.

(D) Pedestrian group signs (R9 Series).

(E) Traffic signal group signs (R10 Series).

(F) Street Closed (\_\_\_\_) to (\_\_\_\_) Sign (R11-10).

(G) Snowmobile Road (\_\_\_\_) Closed to All Other Vehicles Sign (R11-11).

(H) All Trucks Must Enter Weigh Station Sign (R13-1-1) and Weigh Station signs (D8 Series) for weigh stations not owned or operated by the Department.

(I) Railroad Crossbuck Sign (R15-1), Track Sign (R15-2), Emergency Notification Sign (I-13a), and other signs, gates, or lights that are within the railroad company's right-of-way, shall be installed by the railroad company.

(J) Signal Ahead Sign (W3-3).

(K) Entrance and crossing signs (W11 Series), which warn of possible crossings by pedestrians, hikers, cattle, farm equipment, ATVs, fire apparatus, and so forth, except the Deer Crossing Sign (W11-3), Elk Crossing Sign (W11-3A), Horsedrawn Vehicle Sign (W11-11), Left Turns and Cross Traffic Sign (W11-21), Left Turns Sign (W11-21-1) and Watch for Turns Sign (W11-21-2) will be the responsibility of the Department.

(L) Children group signs (W15 Series).

(M) Parking Area Sign (D4-1).

(N) Telephone directional signs (D9-1 series), which shall be installed by the telephone company.

(O) Bicycle Route Sign (D11-1).

(P) Traffic Signal Speed Sign (I1-1).

(Q) Trail group signs (I4 Series).

(R) Snowmobile and all terrain vehicles group signs (I12 Series).

(S) School zone speed limits, and all school signs (S Series).

(T) Pavement markings for mid-block crosswalks.

(U) Pavement markings for bicycles such as the bicycle lane symbol.

(2) *Expressways and freeways.* Local authorities may not install, revise or remove a traffic-control device on expressways or freeways without written Department approval. This also applies to traffic-control devices at intersections with these highways unless noted otherwise in this chapter.

(c) *Traffic-control devices on local highways.* As provided in 75 Pa.C.S. § 6122 (relating to authority to erect traffic-control devices), local authorities are responsible for the installation, revision, maintenance, operation, and removal of any traffic-control device on highways under their jurisdictions, except local authorities shall obtain written Department approval for the following two items:

(1) Installing, revising or removing any school zone speed limit or traffic signal on local highways, except Department approval is not required for cities of the first and second class, and other local authorities that have municipal traffic engineering certification in accordance with Chapter 205 (relating to municipal traffic engineering certification).

(2) Revising or removing a traffic-control device installed in accordance with an agreement between the local authorities and the Department.

(d) *Traffic-control devices on local highway approaches to intersections with State-designated highway.*

(1) The Department is responsible to establish the traffic control at intersections of local highways and State-designated highways, including the local highway approaches, but local authorities are responsible to maintain traffic-control devices required to control traffic on the local highway approaches. At new intersections, local authorities or developers are responsible for installing and maintaining these devices as required by a highway occupancy permit issued in accordance with Chapter 441 (relating to access to and occupancy of highways by driveways and local roads).. The traffic-control devices to be maintained on local roadways include, as applicable the following:

(i) Stop Signs (R1-1) and Yield Signs (R1-2).

(ii) Stop lines and yield lines.

(iii) No Right Turn Signs (R3-1), No Left Turn Signs (R3-2), No Turns Signs (R3-3), Left Turn Signs (R3-5), Left Lane Must Turn Left Signs (R3-7L), Do Not Enter Signs (R5-1), One-Way Signs (R6 Series) and other similar type traffic restriction, prohibitions or lane control signs.

(2) Local authorities are responsible to determine the need for any Stop Ahead Signs (W3-1) and Yield Ahead Signs (W3-2) on local highway approaches to State-designated highways, and for installing and maintaining any warranted signs.

(e) *Police authority.* Police officers may install temporary traffic-control devices on any highway without approval from the Department or the local authorities. These traffic-control devices may be used to close highways during emergencies, to weigh or inspect vehicles, to establish sobriety checkpoints or to conduct other enforcement programs or activities.

#### § 212.6. Removal of traffic hazards.

(a) *Interfering signs, lights or markings.* The Secretary and local authorities, under their respective jurisdictions, have the authority to cause the removal of all colored or flashing lighted signs or other lights, signs or markings so located as to interfere with traffic or to be confused with or to obstruct the view or effectiveness of traffic-control devices.

(b) *Trees, plants, shrubs or other obstructions.* The Department on State-designated highways, and local authorities on any highway within their boundaries, may require a property owner to remove or trim a tree, plant, shrub or other obstruction or part thereof which constitutes a traffic hazard. The following are examples of traffic hazards:

(1) The obstruction restricts the stopping sight distance for drivers of through vehicles or the available corner sight distance for drivers entering from side roads or driveways to distances less than the appropriate minimum stopping sight distance or minimum corner sight distance values.

(2) The obstruction critically restricts the sight distance to a traffic-control device.

(3) Vehicle crash records indicate that a crash has involved the obstruction or that the obstruction contributed to one or more of the vehicle crashes.

**§ 212.7. Signs and banners across or within the legal limits of a State-designated highway.**

(a) *Prohibition.* It is unlawful to place any sign, marking or banner containing advertising matter of any kind on, across or within the right-of-way of any State-designated highway without the written consent of the Department.

(b) *Abatement.* A sign, marking or banner containing advertising matter placed without the written consent of the Department will be declared to be a public nuisance and may be removed by the Department with or without notice to the persons responsible for the placing of the sign, marking or banner containing advertising matter.

**§ 212.8. Use, test, approval and sale of traffic-control devices.**

(a) *Statutory requirements.* Under 75 Pa.C.S. § 6127 (relating to dealing in nonconforming traffic-control devices), it is unlawful for a person to manufacture, sell, offer for sale or lease for use on the highway, any traffic-control device unless it has been approved and is in accordance with this title.

(b) *Devices requiring Department approval.* Department approval is required prior to the sale or use of the following types of traffic-control devices on any highway:

(1) Delineation devices, including flexible delineator posts, guide rail and barrier-mounted delineators and raised pavement markers.

(2) Pavement marking materials including paint, epoxy, polyesters, methyl methacrylate, thermoplastic, pre-formed tapes and glass beads.

(3) Retroreflective sheeting materials used for traffic-control devices.

(4) Traffic signal equipment, including the following:

(i) Controller units.

(ii) Signal heads—lane-use traffic-control, pedestrian, and vehicle.

(iii) Detectors—pedestrian and vehicle.

(iv) Load switches.

(v) Flasher units.

(vi) Time clocks.

(vii) Relays.

(viii) Preemption and priority control equipment.

(ix) Electrically-powered signs—variable speed limit signs, blank-out signs and internally illuminated signs, including School Speed Limit Signs.

(x) Portable traffic-control signals.

(xi) Local intersection coordinating units.

(xii) Dimming devices.

(xiii) In-roadway warning lights.

(xiv) Auxiliary devices and systems.

(5) Traffic signs and the associated breakaway sign supports.

(6) Work zone traffic-control devices, including the following:

(i) Arrow panels.

(ii) Barricades.

(iii) Citizen band traffic alert radios.

(iv) Cones.

(v) Crash cushions.

(vi) Drums.

(vii) Portable changeable message signs.

(viii) Portable traffic sign supports.

(ix) Speed display signs, as used to inform motorists of the speed of their vehicles.

(x) Stop/slow paddles.

(xi) Temporary pavement marking tapes.

(xii) Temporary traffic barrier.

(xiii) Tubular markers.

(xiv) Variable speed limit signs.

(xv) Vertical panels.

(xvi) Warning lights.

(7) Yield to pedestrian channelizing devices, which are designed for placement between lanes of traffic to remind motorists to yield to pedestrians in crosswalks.

(c) *Approval procedure.* A manufacturer or person desiring approval for the sale, use or lease of one or more of the devices listed in subsection (b) shall contact the Bureau of Highway Safety and Traffic Engineering.

(d) *Listing of approved traffic-control devices.* Approved traffic-control devices will be listed in the Department's *Approved Construction Materials* (Department Publication 35), available from the Department's Sales Store or through the Department's website.

**§ 212.9. Traffic calming.**

(a) *General policy.* The Department on State-designated highways, and local authorities on any highway within their boundaries, may implement traffic calming measures in conformance with *Pennsylvania's Traffic Calming Handbook* (Department Publication 383).

(b) *Department approval.* Local authorities shall obtain approval of the Department prior to implementing a traffic calming measure on a State-designated highway, except when the Department's handbook provides otherwise or when the Department has entered into an agreement with local authorities that provides otherwise.

**§ 212.10. Requests for changes, interpretations or permission to experiment.**

A municipality or other agency may submit a request to the Department for a change or an interpretation of the provisions of this chapter, or for approval to use an alternate device or to experiment with a device in a way not provided for in this chapter.

(1) The request must be submitted in writing to the Bureau of Highway Safety and Traffic Engineering.

(2) The request must include sufficient information to allow the Department to make a ruling, or to forward the request to the Federal Highway Administration as may be necessary, in accordance with Section 1A.10 of the MUTCD (relating to interpretations, experimentation, changes and interim approvals).

(3) The type of information to be compiled during any experiment must be identified in the request, and the collection of any data and the development of any follow-up report will be a conditional part of the request.

**§ 212.11. Metric measurements.**

(a) *General policy.* The following conversion factors may be used for the design and placement of traffic-control devices as included in this chapter:



- (1) One inch equals 25 millimeters.
- (2) One foot equals 0.30 meter.
- (3) One mile equals 1.6 kilometers.

(b) *Metric sign messages.* Unless authorized in writing by the Secretary, sign messages on regulatory, warning and guide signs, except for auxiliary signs used for educational purposes, may not display metric units of measurement.

**§ 212.12. Department publications.**

The Department will publish or make available documents to assist those persons responsible for conducting engineering and traffic studies; manufacturing traffic signs and other traffic-control devices; erecting, maintaining and operating traffic-control devices; and maintaining traffic in work zones. The following documents will be available from the Department's Sales Store:

- (1) *Approved Construction Materials* (Department Publication 35) which contains listings of approved suppliers of specific materials.
- (2) *Official Traffic-Control Devices* (Department Publication 212) which contains this chapter, and an appendix containing additional guidance related to elements of appropriate engineering and traffic studies and the provisions of this chapter.
- (3) *Pennsylvania Handbook of Approved Signs* (Department Publication 236M) which contains the design and application details of official traffic signs.
- (4) *Signing and Marking Standards, TC-8700 Series* (Department Publication 111M) which contains the traffic standards that provide detailed guidance for sign legends, expressway and freeway signs, sign spacing and location criteria and sign posts. The publication also includes detailed drawings of pavement marking lines and symbols, and the placement of delineation devices at on-ramps, off-ramps and lane drops.
- (5) *Traffic Signal Design Handbook* (Department Publication 149M) which contains information for use in the design and operation of a traffic signal installation.
- (6) *Traffic Signal Standard Drawings, TC-8800 Series* (Department Publication 148M) which contains detailed guidance for the construction of traffic signals, controller assemblies, traffic signal supports, electrical distribution, signal heads and detectors.
- (7) *Temporary Traffic-Control Guide* (Department Publication 213) which provides additional guidance and suggested temporary traffic-control plans for maintaining traffic through highway construction, maintenance and utility work zones to supplement various situations not included in the MUTCD.

**Subchapter B. SIGNS**

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**§ 212.101. Official signs.**

(a) *Approved signs.* Official traffic signs are identified in the *Pennsylvania Handbook of Approved Signs* (Department Publication 236M) which includes sign standards that show the shape, color, dimensions, legends, application and placement of official signs. When sign messages are required other than those provided for in the *Pennsylvania Handbook of Approved Signs*, the Bureau of Highway Safety and Traffic Engineering may authorize new sign standards. When approved by the Secretary, through the Chief, Traffic Engineering and Operations Division, these signs shall also be regarded as official signs.

(b) *Existing nonstandard signs.* Official signs must replace existing signs of nonstandard design or application as rapidly as is economically feasible.

(c) *Unacceptable variations.* Variations in the proportion of symbols, stroke width and height of letters, width of borders or layout of word or symbol messages will be sufficient cause for the Secretary to order the removal or replacement of a sign, but will not be a defense in prosecution for violation of any mandatory traffic control provided by the sign.

**§ 212.102. Sign manufacturers.**

Only signs manufactured by the Department or a Department-approved sign manufacturer must be used on any highway. Commercial or municipal sign manufacturers who wish to obtain Department approval to manufacture signs shall request an application from the Bureau of Highway Safety and Traffic Engineering.

**§ 212.103. Sign size.**

Signs smaller than the minimum size or larger than the largest size specified on the sign standards in the *Pennsylvania Handbook of Approved Signs* (Department Publication 236M) are not permitted without written approval from the Department.

**§ 212.104. Retroreflectorization.**

Retroreflective sheeting or other approved retroreflective materials must be used on all signs that do not have sign illumination, unless the sign standard as included in the *Pennsylvania Handbook of Approved Signs* (Department Publication 236M) indicates that the sign does not need to be retroreflective. Type III or higher type retroreflective sheeting is encouraged to improve nighttime visibility of signs, especially for older drivers.

**§ 212.105. Sign posts and mountings.**

Unless physically protected by guide rail or a barrier, or installed beyond the clear zone as defined in the Department's *Design Manual, Part 2* (Department Publication 13M), all sign posts shall be of a Department-approved breakaway design as listed in the *Approved Construction Materials* (Department Publication 35), and in accordance with the *Signing and Marking Standards, TC-8700 Series* (Department Publication 111M).

**§ 212.106. Additional warrants for Stop Signs (R1-1) and Yield Signs (R1-2).**

(a) *Through highways.* The Department and local authorities may designate highways as through highways to permit more continuous movement and less delay to the major flow of traffic.

(1) Stop Signs (R1-1) or Yield Signs (R1-2) may be installed at all approaches to the through highway to provide preferential right-of-way at intersections.

(2) The designation of a highway as a through highway does not prevent modification of the right-of-way assignment at intersections of the through highway.

(3) The justification for the modification at a particular intersection will be based on the warrants in the MUTCD and the additional warrants in subsection (b), (c) or (d).

(b) *Stop Signs (R1-1) at intersections.* In addition to the warrants for stop signs in the MUTCD (relating to stop sign applications), a Stop Sign (R1-1) may be installed on a channelized right-turn roadway at a signalized intersection where the traffic-control signals are not readily visible, and the right-turn roadway does not have separate signals, and a Yield Sign (R1-2) is not appropriate.

(c) *Multiway stop applications.* In addition to the criteria and options warranting multiway stop applications in the MUTCD, the following apply:

(1) The five or more reported crashes in a 12-month period for Warrant B may include both reportable crashes, and nonreportable crashes that are documented in the police files, that occurred during a 12-month period during the most recent 3 years of available crash data.

(2) Multiway stop applications may not be used because of limited available corner sight distance unless there is no practical method of improving the sight distance or reducing the speed limit to satisfy the minimum corner sight distance values.

(d) *Stop and yield control at locations other than intersections.*

(1) *One-lane bridges and underpasses.* Stop Signs (R1-1) are warranted in advance of a one-lane bridge or underpass when roadway geometry is such that drivers cannot see an approaching vehicle in sufficient time for both vehicles to stop prior to entering the bridge or underpass. If sight distance is not a problem, a Yield Sign (R1-2) with the supplemental To Oncoming Traffic Sign (R1-2a) may be installed at both ends of a one-lane bridge or underpass.

(2) *Crossings.* Stop Signs (R1-1) may be installed on highways on a temporary basis at officially designated crossings such as construction haul roads. These Stop Signs (R1-1) should only be visible and in effect during the time periods the crossing is being used and should be supplemented with a flashing red light for added visibility.

(3) *Private roads and driveways.* Stop Signs (R1-1) or Yield Signs (R1-2) may be installed to control traffic exiting from a private road or driveway onto a highway or to control traffic on the highway at a private road or driveway if the warrants applied at highway intersections are satisfied.

(4) *Truck pulloffs on hazardous grades.* A Stop Sign (R1-1) may be installed within an officially designated truck pull-off area in advance of a hazardous grade indicating the location that trucks are to stop within the pulloff.

(5) *Temporary traffic control.* Stop Signs (R1-1) may be installed at both ends of short one-lane construction, maintenance or utility operation to provide self-regulating traffic control providing the one-lane section excluding the tapers is less than 250 feet, the ADT is less than 1,500, and the sight distance is sufficient.

#### § 212.107. Except Right Turn Sign (R1-1-1).

When a major traffic movement at an intersection is a right turn, the Except Right Turn Sign (R1-1-1) may be placed below the Stop Sign (R1-1) on that approach to minimize the total delay at the intersection. When this sign is used, Stop Signs (R1-1) are required on all other intersection approaches except for the approach with a corresponding left-turn movement.

#### § 212.108. Speed limits.

(a) *General.* This section applies to maximum speed limits established according to 75 Pa.C.S. §§ 3362 and 3363 (relating to maximum speed limits; and alteration of maximum limits).

(b) *Engineering and traffic studies.* Speed limits established in accordance with 75 Pa.C.S. § 3363 may be established in multiples of 5 miles per hour up to the maximum lawful speed. The speed limit should be within 5 miles per hour of the average 85th percentile speed or the safe-running speed on the section of highway, except the speed limit may be reduced up to 10 miles per hour below either of these values if one or more of the following conditions are satisfied:

(1) A major portion of the highway has insufficient stopping sight distance if traveling at the 85th percentile speed or the safe-running speed.

(2) The available corner sight distance on a number of side roads is less than the necessary stopping sight distance values for through vehicles.

(3) The majority of crashes are related to excessive speed and the crash rate during a minimum 12-month period is greater than the applicable rate in the most recent high-crash rate or high-crash severity rate table included in the appendix of Official Traffic-Control Devices (Department Publication 212). Crashes related to excessive speed include those crashes with causation factors of driving too fast for conditions, turning without clearance or failing to yield right-of-way.

(c) *Variable speed limits.* To improve safety, speed limits may be changed as a function of traffic speeds or densities, weather or roadway conditions or other factors.

(d) *Special speed limits.*

(1) Within a rest area or welcome center, a 25 mile per hour speed limit may be established without the need for an engineering and traffic study if pedestrians walk across the access roadways between the parking lot and the rest facilities.

(2) Within a toll plaza or a truck weight station, an appropriate speed limit may be established without an engineering and traffic study by the authorities in charge to enforce the safety of the operations or to protect the scales.

(e) *Posting of speed limits.* A Speed Limit Sign (R2-1) or variable speed limit sign showing the maximum speed limit shall be placed on the right side of the highway at the beginning of each numerical change in the speed limit, but an additional sign may also be installed on the left side of the highway. If the new speed limit begins at an intersection, the first sign should be installed within 200 feet beyond the intersection. The placement of this sign must satisfy both the requirement to post the beginning of the new speed limit and the requirement to post the end of the previous speed limit. Additional requirements for posting are as follows:

(1) Speed limits of 50 miles per hour or less must be posted as follows:

(i) A Reduced Speed (\_\_\_\_) Ahead Sign (R2-5), or a Speed Reduction Sign (W3-5 or W3-5a), shall be placed on the right side of the highway 500 to 1,000 feet before the beginning of every speed reduction unless one of the following applies:

(A) The speed reduction is 10 miles per hour or less.

(B) The speed reduction begins at an intersection and all traffic entering the roadway with the speed reduction has to either stop at a Stop Sign (R1-1) or make a turn.

(C) The new speed limit is posted on variable speed limit signs.

(ii) Speed Limit Signs (R2-1) or a variable speed limit sign showing the maximum speed must be placed on the right side of the highway at the beginning of the speed limit and at intervals not greater than 1/2 mile throughout the area with the speed limit.

(iii) The end of a speed limit is typically identified by the placement of a sign indicating a new speed limit, but the End Plaque (R2-10) may be placed above a Speed Limit Sign (R2-1) at the end of the zone if the appropriate speed limit is not known on the following section of roadway.

(2) On freeways, a Speed Limit Sign (R2-1) must be installed after each interchange unless insufficient space exists for the signs.

**§ 212.109. Bridge speed limits.**

(a) *Establishment.* A bridge speed limit must be established under 75 Pa.C.S. § 3365(a) (relating to special speed limitations) if an engineering investigation by a structural engineer establishes the need to reduce the vibration and impact of vehicles due to a structural condition of the bridge or elevated structure.

(b) *Posting.* An established bridge speed limit must be posted similar to other speed limits in § 212.108(e) (relating to speed limits), except that a Bridge Sign (R12-1-2) must be mounted directly above each Speed Limit Sign (R2-1) and Reduced Speed (\_\_\_\_) Ahead Sign (R2-5). The sign indicating the beginning of the bridge speed limit should be installed within 50 feet of the beginning of the structure. The end of the bridge or elevated structure must be the end of the bridge speed limit.

**§ 212.110. Hazardous grade speed limits.**

(a) *Establishment.* A hazardous grade speed limit may be established under 75 Pa.C.S. § 3365(c) (relating to special speed limitations) if an engineering and traffic study establishes the need for all vehicles or vehicles having a gross weight in excess of a designated weight to be limited to a maximum speed on a downgrade.

(1) The designated weight should be 26,000 pounds unless the engineering and traffic study determines that a different weight should be used.

(2) When a hazardous-grade speed limit is established, it should be consistent with the speed that similar vehicles can climb the hill or other Department-approved methodology, except that a hazardous-grade speed limit should not be greater than the lowest advisory speed or legal speed limit either on the hill or at the base of the hill.

(3) A hazardous-grade speed limit may be established when one or more of the following conditions exist:

(i) The length of grade exceeds the value set forth in the following table:

Average Grade (percent)	Length of Grade (feet)	
	Condition A*	Condition B**
-3	20,000	—
-4	8,000	16,000
-5	5,000	10,000
-6	3,000	6,000
-7	2,000	4,000
-8	1,800	3,600
-10	1,500	3,000
-12	1,250	2,500
-15	1,000	2,000

\* Condition A applies if vehicles are required to stop or reduce speed at or before the bottom of the hill or if there is an urbanized area at the base of the hill.

\*\* Condition B pertains to all other locations.

(ii) A crash has occurred on the downgrade that can be attributed to the speed of a vehicle having a gross weight in excess of the designated weight.

(iii) A verified report has been received during the past 3 years of an operator losing control of a vehicle on the grade, and the vehicle is a type having a gross weight in excess of the designated weight.

(b) *Posting.* A hazardous grade speed limit must be posted with traffic-control devices as follows:

(1) A Reduced Speed (\_\_\_\_) Ahead Sign (R2-5), advising of the maximum hazardous grade speed limit, with a Truck Marker (M4-4), or other marker as applicable, mounted directly above the Reduced Speed (\_\_\_\_) Ahead Sign (R2-5), must be placed on the right side of the highway at a distance of 500 to 1,000 feet before the hazardous grade speed limit, except that this advance sign is not required if the hazardous grade speed limit begins at a vehicle pull-off where all applicable vehicles are required to stop.

(2) A Trucks Over (\_\_\_\_) Lbs. Speed Sign (R2-2-1), or other sign as applicable, must be erected at the beginning of the hazardous grade speed zone and at intervals not greater than 1/4 mile throughout the zone.

(3) A Trucks Over (\_\_\_\_) Lbs. Speed Sign (R2-2-1), or other sign as applicable, with an End Sign (R2-10) mounted above the Trucks Over (\_\_\_\_) Lbs. Speed Sign (R2-2-1) or other sign, must be installed at the end of the hazardous grade speed limit.

**§ 212.111. Turn restriction warrants.**

A straight-through or turning movement may be restricted if the movement can be made at an alternate location, and if one or more of the following conditions are present:

(1) A review of vehicle crashes shows that ten crashes have occurred during the previous 3 years, or five crashes have occurred during any 12-month period in the previous 3 years that can be attributed to vehicles making or attempting to make the movement.

(2) When a capacity analysis or field review of the intersection indicates that turning or crossing vehicles are causing unreasonable delays or creating a potential crash situation for through vehicles.

(3) When a field review of the intersection indicates that significant conflicts occur between vehicles making or attempting to make a particular movement and other vehicular or pedestrian movements.

(4) When a field review of the intersection indicates that a turn or straight-through movement delays the platoon of vehicles through a progressive signal system.

(5) When a field review of the intersection indicates that the geometric design or the available corner sight distance does not adequately provide for the movement or the movement frequently cannot be safely executed.

(6) A study shows that the turning movement is frequently being made by through traffic onto a residential street to avoid downstream congestion.

**§ 212.112. Signs to prohibit passing.**

The No Passing Zone Pennant (W14-3) is the primary sign to identify the beginning of a no-passing zone on a two-lane highway and shall be installed on the left side of the road. The Do Not Pass Sign (R4-1) may be installed on the right side of the roadway to supplement the No Passing Zone Pennant Sign (W14-3). The Pass With Care Sign (R4-2) may be installed at the end of the no-passing zone. Warrants for no-passing zones are included in § 212.202 (relating to no-passing zones).

**§ 212.113. One-way streets.**

A one-way street may be established if the following conditions are satisfied:

(1) The traffic flow can be accommodated in both directions. Whenever possible, an adjacent parallel street should be used to form a one-way couplet.

(2) The street has a reasonable number of intersections for entrance to or exit from the one-way street or one-way system.

(3) The roadways at the terminal points of the one-way street provide satisfactory transitions to and from the two-way operation.

(4) There will be a reduction of intersection delays.

(5) Existing bus routes can be satisfactorily accommodated.

(6) Emergency vehicles can reasonably and expeditiously reach their destinations.

**§ 212.114. Stopping, standing and parking restrictions.**

(a) *General.* Stopping, standing or parking may be restricted along the curb or edge of a roadway when one or more of the following conditions exist:

(1) The distance between the center of the center line pavement markings (or the center of the roadway if center line pavement markings are not present) and the curb or edge of roadway is less than 19 feet on major arterial highways, or less than 18 feet on other roadways.

(2) The street width is such that, if vehicles are parked along one or both curb faces or edges of the roadway, two vehicles cannot move abreast of one another in the same or the opposite direction without one yielding to allow the other vehicle to pass.

(3) A capacity analysis indicates that parking should be removed at all times or during certain hours to accommodate the traffic volume.

(4) At an intersection, the available corner sight distance for a driver on the minor road is less than the necessary minimum stopping sight distance value for the driver on a through roadway.

(5) An analysis of vehicle crashes indicates that at least three crashes during the previous 3-year period have been directly or indirectly attributed to one of the following primary causes:

(i) Vehicles parking on the roadway.

(ii) Vehicles entering or leaving the parked position.

(iii) Drivers or passengers getting out of parked vehicles on the street side.

(iv) Reduced sight distance due to the parked vehicles.

(6) The area is designated as an official bus stop or as a loading and unloading zone.

(7) The area is adjacent to or opposite of a fire station driveway or any other type driveway or intersection where turning maneuvers would be restricted if parking were present.

(8) The width of the shoulder is not sufficient to allow a vehicle or its load to park completely off the roadway.

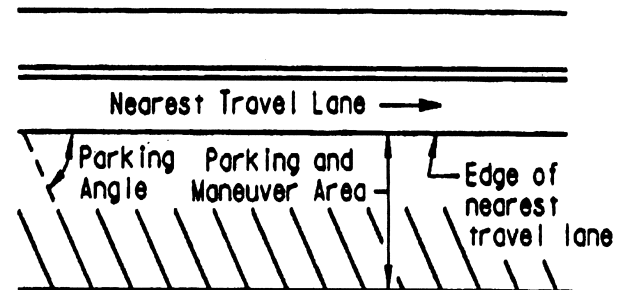
(9) Along roadways having three or more lanes and speed limits of 40 miles per hour or above, parking may be restricted to allow vehicles to use the berm or shoulder as a clear recovery area.

(b) *Angle parking.* As defined in § 212.1 (relating to definitions), angle parking will only be authorized as follows:

(1) New angle parking may be established only along streets where the following criteria are satisfied:

(i) The parking and maneuver area, as shown in the diagram which follows, adjacent to the near edge of the nearest travel lane equals or exceeds the distance indicated in the following table:

<i>Parking Angle (degrees)</i>	<i>Parking and Maneuver Area (feet)</i>
30	26
45	30
60	37
90	43



(ii) Parked vehicles do not adversely affect the available corner sight distance.

(iii) Additional travel lanes are not required for the existing traffic volumes to achieve a satisfactory level of operation.

(iv) Parking stalls will be adequately marked and spaced.

(v) Pedestrian activity is minimal within the parking maneuver area.

(2) It is recommended that existing angle parking be eliminated if an analysis of vehicle crashes indicates that the parking-related crash rate within the area of existing angle parking is greater than the rate on similar portions of the same street or other streets within the same municipality which have parallel parking.

(c) *Parking meters.* When parking is permitted, local authorities may install parking meters and appropriate pavement markings to designate parking stalls. The hours of effectiveness of parking meters must be indicated either on the meter or within the dome of the meter, but official traffic signs must be erected to indicate hours when parking is prohibited.

(d) *Prohibition of kinds and classes.* When parking is permitted, local authorities or the Department may prohibit certain kinds and classes of vehicles from parking for safety, capacity or environmental reasons. Official signs must indicate the prohibitions.

(e) *Parking reserved for persons with disabilities.* The Reserved Parking Penalties Sign (R7-8f) must be installed below all Reserved Parking Signs (R7-8), as provided in 75 Pa.C.S. § 3354(d) (relating to handicapped persons and disabled veterans).

(f) *Miscellaneous restrictions.*

(1) Local authorities or the Department may restrict or regulate parking without an engineering and traffic study to accomplish the following:

(i) Facilitate construction, maintenance or utility operations.

(ii) Eliminate long-term parking or parking in excess of a specified time limit

(iii) Provide for reserved parking spaces.

(iv) Provide for snow emergency routes.

(v) Provide for mail delivery or pickup.

(2) Restrictions for the elimination of long-term parking must apply only during short periods of time such as early morning hours when it will not seriously inconvenience local residents.

(g) *Double parking.* When parking is permitted, local authorities may, by local ordinance without an engineering and traffic study, authorize double parking (standing or parking on the roadway side of a vehicle stopped or parked at the edge or curb of a roadway) for the purpose of loading or unloading persons or property. On State-designated highways, double parking is not permitted without written approval of the Department.

(h) *Authority.* Local authorities may establish, revise or remove stopping, standing or parking restrictions on State-designated highways within their physical boundaries, except Department approval is required prior to revising or removing any of the following:

(1) Established in conjunction with a State or Federal aid project.

(2) Requested or posted by the Department for safety or capacity reasons.

(3) Included as a condition on a traffic signal permit.

### § 212.115. Posting of private parking lots.

(a) *General.* Posting of private property, including parking lots, giving notice to the public of parking restrictions as required by 75 Pa.C.S. §§ 3353(b)(2) and 3354(d)(3) (relating to prohibition in specified places; and additional parking regulations) shall be in accordance with this section.

(b) *Public notice signs.*

(1) The legend on public notice signs at private parking lots must indicate the restrictions which apply. In addition to a primary restriction such as those contained in subparagraph (i), the sign may contain one or more supplemental restrictions or messages of the type included in subparagraph (ii).

(i) Primary restrictions include messages such as PRIVATE PARKING, PARKING BY PERMIT ONLY, AUTHORIZED PARKING ONLY, PRIVATE PARKING FOR (\_\_\_\_) APARTMENT and PARKING ONLY FOR PATRONS OF (\_\_\_\_).

(ii) Secondary restrictions or messages may include applicable hours of the day, applicable days of the week, applicable charges and warnings that unauthorized vehicles may be towed.

(iii) The name and telephone number of the owner or other person in control or possession of the property should also be included on the legend.

(2) Public notice signs should generally be erected at each entrance to the private parking lot and positioned so as to face traffic entering the lot. If there are no designated entrances—such as when a lot has one or more sides continuously open to a roadway—one or more signs should be erected so as to be readily visible to an ordinarily observant driver. Minimum message size shall be as follows:

(i) A primary restriction as defined in paragraph (1)(i) must have a minimum height of 3 inches. Signs erected at a distance of more than 75 feet from an entrance point must have legend which is at least one additional inch in height for each 25-foot interval in the distance. The stroke width of the legend must be a minimum of 1/8 of the required height of the legend.

(ii) A secondary restriction as defined in paragraph (1)(ii) must have minimum dimensions equal to one-half of the minimum dimensions required for the primary restriction, except the height of the message must be at least 2 inches.

(3) Signs which have application during hours of darkness must have a retroreflectorized sign message or background and be positioned so as to be illuminated by the headlight beams of entering vehicles, or the sign may be illuminated during applicable hours of darkness so as to be readily visible to an ordinarily observant driver.

(4) Under 75 Pa.C.S. § 3353(b), the prosecution of an owner or towing a vehicle from a private parking lot is prohibited unless restrictions are posted in accordance with this subsection.

(c) *Reserved parking signs or markings.*

(1) Special signs may be used to reserve designated parking stalls for named persons or classes of people, for particular vehicles, or for persons with special placards or assigned permit numbers. When used, these signs may be erected at the front of each parking stall or, in the case of parallel parking, at intervals not exceeding 100 feet along

the side of the stalls. The minimum size sign shall be 12 inches by 12 inches, and the minimum size message shall be 2 inches in height.

(2) In lieu of signs to designate parking stalls as noted in subsection (a), pavement markings may be used on the pavement or an applicable curb for this purpose if:

(i) The public notice sign indicates that a permit is required.

(ii) The markings are readily visible to an ordinarily observant driver.

(3) The Reserved Parking Sign (R7-8) must be used to designate reserved parking stalls for handicapped persons or severely disabled veterans. The Reserved Parking Penalties Sign (R7-8f), which indicates the minimum and maximum fine for violators and that violators may be towed, must be installed below the Reserved Parking Sign (R7-8).

(4) Parking stalls designated under paragraph (3) for handicapped persons or severely disabled veterans may only be used by vehicles bearing a handicapped person or severely disabled veteran registration plate or displaying a handicapped person or severely disabled veteran parking placard issued by the Commonwealth or another state.

(5) Whenever signs required to implement the provisions of paragraph (3) become either obsolete or missing, they must be replaced with new official signs as rapidly as is feasible. The costs associated with the installation and replacement of the required signs for a particular location must be borne by the owner or person in control or possession of the property on which the signs are to be erected.

**§ 212.116. No Turn on Red Sign (R10-11 sign series).**

(a) *Warrants for no-turn-on-red restrictions.* The following warrants may be used in addition to the warrants for no-turn on red restrictions in the MUTCD (relating to traffic signal signs).

(1) A right turn on red, or left turn on red from a one-way highway to another one-way highway, may be prohibited from an intersection approach where an engineering and traffic study indicates that one or more of the following conditions exist:

(i) The available corner sight distance between a driver desiring to turn on red and an approaching vehicle on the cross street is less than the minimum shown on the following table:

<i>Cross Street Speed Limit (mph)</i>	<i>Minimum Sight Distance* (feet)</i>
20	120
25	150
30	190
35	220
40	270
45	320
50	360
55	410

\* Sight distance is measured from a location 10 feet before a marked pedestrian cross walk, or, if none, 10 feet from the edge of the cross street roadway or curb line.

(ii) The intersection has more than four approaches or has restrictive geometry that is likely to cause vehicular conflicts which are not easily recognized by drivers.

(iii) The turning movement is allowed from more than one lane on a specific approach.

(iv) The vehicular turning movement would result in significant vehicular and pedestrian conflicts, such as locations where the crosswalk is designated as a school crossing or is used by large numbers of children, senior citizens or persons with physical disabilities. A no-turn-on-red restriction at these locations may only apply during the time periods that significant vehicular-pedestrian conflicts would occur, in accordance with paragraph (3).

(v) Opposing traffic has unusual movements, such as double left turns, which would not be expected by drivers turning on a red signal.

(vi) An analysis of vehicle crash data indicates that the turn-on-red movement has created an unsafe condition.

(2) Part-time or intermittent prohibition of the turn-on-red movement must be used at locations where a potential safety concern exists for only a portion of the day. These restrictions must be implemented by the use of one or more of the following:

(i) A Restricted Hours Panel (R3-20) under the No Turn On Red Sign.

(ii) A supplemental message incorporated directly into the No Turn On Red Sign.

(iii) A sign designating the hours the restriction is effective.

(iv) A blank-out No-Turn-On-Red Sign.

(3) A part-time or intermittent prohibition of the turn-on-red movement may be used at an intersection approach where vehicles turning on red would cross an at-grade railroad crossing within 200 feet and the traffic signal controller is preempted during train movements during the time the signal controller is preempted in accordance with paragraph (2).

(b) *Application.* This section applies to signalized roadway and driveway intersections along all highways.

(c) *Engineering and traffic studies.* Engineering and traffic studies required by subsection (a)(1) must be conducted by local authorities. The Department will be responsible for conducting the study at the following locations:

(1) At intersections where the traffic signal controller is preempted during train movements for a nearby crossing.

(2) At new or revised traffic signal installations when the traffic signal is designed by the Department.

(d) *Department approval.* Written approval of the Department's district executive must be obtained prior to installation of a No Turn on Red Sign (R10-11 Series) at any intersection where the Department has issued the traffic signal permit.

**§ 212.117. Weight, size and load restrictions.**

(a) *Weight restriction based on condition of bridge.* Traffic on a bridge may be prohibited or restricted by weight of vehicle, number of vehicles, or kinds or classes of vehicles when warranted by an engineering evaluation. Engineering evaluation of a bridge or bridge component

may be based on structural analysis and rating computations, testing, engineering judgment or a combination thereof. Restriction is warranted when one or more of the following conditions are present:

(1) The safe load capacity of the bridge, as determined in accordance with Department standards, is exceeded by the load effect of any of the legal load configurations.

(2) Engineering judgment indicates that the condition or material of construction of one or more portions or components of a bridge is such that further use by heavy vehicles may damage the bridge because of severe impact, fatigue or other reasons.

(3) The bridge is damaged due to fire, a vehicle crash or environmental deterioration, and engineering judgment indicates that a vehicle weight restriction is necessary to ensure an adequate level of safety.

(b) *Weight restriction based on condition of highway.* Traffic on a highway may be prohibited or restricted by weight of vehicle, or kinds or classes of vehicles when warranted by an engineering evaluation. Engineering evaluation may be based on structural analysis, testing, engineering judgment or a combination thereof. Restriction is warranted when one or more of the following conditions are present:

(1) The highway pavement or shoulders have inadequate structural capacity or have been weakened due to deterioration, high traffic volumes or climatic condition, and may be seriously damaged unless a restriction is imposed.

(2) An engineering evaluation of previous similar climatic conditions on the highway or on similar highways indicates that vehicles over a certain weight should have been prohibited.

(c) *Size restriction based on condition of bridge or highway.* Traffic on a bridge or highway may be restricted by size of vehicle or kinds or classes of vehicles when, after an engineering evaluation, one or more of the following conditions are found to be present:

(1) A bridge has poor alignment, inferior bridge rails or guide rails, substandard horizontal or vertical clearance, or creates problems for vehicles with low ground clearance, or the restriction is otherwise necessary to protect the bridge from vehicle crashes or damage.

(2) A highway has inadequate turning radii, horizontal width or creates concerns for vehicles with low ground clearance at one or more locations.

(d) *Weight and size restrictions based on traffic conditions.* Traffic on a highway or bridge may be prohibited or restricted by weight or size of vehicle, or kinds or classes of vehicles when, an engineering evaluation of the horizontal and vertical alignment, prevailing traffic speeds, compatibility of the various types of traffic, history of vehicle crashes or vehicular characteristics, indicates that the movement of certain vehicles constitutes a safety hazard. Restrictions may include weight; height, width or length of vehicles or their loads; types of cargo; speed or gearing; stopping requirements; specified travel lanes; and hours of operation.

(e) *Erection of signs.* Appropriate signs must be erected within 25 feet of each end of a restricted portion of a highway or bridge whenever vehicles are prohibited under subsection (a), (b), (c) or (d). In the case of a restriction on a highway or bridge which does not begin or end at an

intersection with an unrestricted highway, an advance information sign must also be erected at the intersection nearest each end of the restricted highway or bridge to allow drivers to avoid the restricted highway or bridge.

(f) *Alternate routes.* An alternate route must be established whenever vehicles are prohibited under subsection (a) or (b) on either a numbered traffic route or a State-designated highway on the National Highway System, as established by the Federal Highway Administration, when the following apply:

(1) A reasonable alternate route exists which is not readily perceived by drivers.

(2) The alternate route can legally, safely, structurally and physically accommodate the weight and size of vehicles and their loads that are being detoured.

(3) Five or more vehicles per day are estimated to be prohibited from using the original route.

#### § 212.118. Street name signs.

For street name signs, white lettering on a green background is recommended, but local authorities may use other contrasting colors provided the same colors are used systematically throughout the municipality. To improve sign legibility, upper and lower case lettering is recommended.

#### § 212.119. Signing of named highways.

Signs carrying the name of the highway will be permitted at intervals of at least every 15 miles on conventional highways.

#### § 212.120. General motorist service signs.

The application of general motorist service signs must be in accordance with the Department's Statewide policy, and will generally be limited to expressways and freeways, except trailblazers from expressways and freeways will be permitted on conventional highways, and hospital symbol signs are permitted on all highways. Symbols must be as specified in the *Signing and Marking Standards, TC-8700 Series* (Department Publication 111M).

#### § 212.121. Specific service signs.

(a) The Department may enter into an agreement with a private agency to administer a program for specific service signs for gas, food, lodging, camping and attractions. Specific service signs must only be installed in accordance with Department policy and only on expressways and freeways, except trailblazers will be authorized on conventional highways as necessary. If a trailblazer is required on a local roadway to direct motorists to a specific business, and the local authority refuses to install or allow others to install the trailblazer on their local highway, specific service signs may not be provided for that business on the expressway, freeway or conventional highway.

(b) Airports may be signed on either major guide signs or on specific service signs at freeway-to-freeway interchanges.

#### § 212.122. Recreational and cultural interest area signs.

Recreational and Cultural Interest Area Signs, as described in Chapter 2H of the MUTCD, that is, relating to the RG, RM, RA, RL, RW and RS Series signs, will be authorized for use within any State park, State forest picnic area, Federal recreation area, National forest or public park.

**§ 212.123. Tourist-oriented directional signs.**

Tourist-Oriented Directional Signs (D7-4) must be of the size and type specified in the Department's *Handbook of Official Signs* (PennDOT Publication 236M) or as specified in an agreement with the Department, instead of the design included in Chapter 2G of the MUTCD relating to tourist-oriented directional signs). The Department may enter into an agreement with an outside entity to administer a program for tourist-oriented directional signs.

**Subchapter C. MARKINGS**

Sec.

- 212.201. Pavement marking standards.  
212.202. No-passing zones.  
212.203. Delineation.

**§ 212.201. Pavement marking standards.**

The *Signing and Marking Standards, TC-8700 Series* (Department Publication 111M) contains additional design details for pavement markings. Pavement markings for lane drops, expressways, freeways, on-ramps and off-ramps, and all pavement marking words and symbols must conform to the *Signing and Marking Standards*.

**§ 212.202. No-passing zones.**

(a) *Additional warrants on two-lane, two-way highways.* In addition to the sight distance warrant in Section 3B.02 of the MUTCD (relating to no-passing zone pavement marking and warrants), no-passing zones may be established at the following locations on two-lane, two-way highways with center line pavement markings:

- (1) In advance of a divided highway or an obstruction such as a bridge support pillar, a channelizing island or a safety zone, which separates the two lanes of traffic.
- (2) On or within, and in advance of any bridge, tunnel or underpass designated as a narrow bridge or underpass in accordance with § 212.1 (relating to definitions).
- (3) In advance of a Stop Sign (R1-1), Yield Sign (R1-2) or traffic signal.
- (4) On the approach to an intersection where passing may be undesirable due to the high number of crossing or turning movements.
- (5) Within a school zone.
- (6) In areas where an analysis of vehicle crashes shows an unusually high number of passing-related crashes.
- (7) In areas where the roadside development includes many driveways and intersections where passing would create frequent potential conflicts.
- (8) At locations where the roadway width is very restrictive, shoulders are nonexistent or in poor condition, the roadway cross-section has an excessive crown, or obstacles are close to the roadway.
- (9) In areas where a capacity analysis indicates Level of Service D.
- (10) At locations where a passing zone would otherwise be less than 600 feet in length.
- (11) At locations where engineering judgment indicates that allowing passing is undesirable because a better passing area exists farther ahead.

(b) *Minimum advance distance.* No passing zones established according to subsection (a)(1)–(5) must precede the location by the minimum distance noted in the following table:

<i>Speed Limit or 85th Percentile Speed (mph)</i>	<i>Distance (feet)</i>
35 or less	300
40	350
45	400
50	450
55	500

**§ 212.203. Delineation.**

The 4-foot mounting height for delineators specified in the MUTCD (relating to delineator placement and spacing) is not applicable for guide rail and barrier-mounted delineators. In addition, post-mounted delineators may be 4 feet above the ground instead of 4 feet above the near edge of pavement as specified in the MUTCD.

**Subchapter D. HIGHWAY TRAFFIC SIGNALS**

Sec.

- 212.301. Purpose.  
212.302. Traffic-control signals.  
212.303. Pedestrian-control signals.

**§ 212.301. Purpose.**

This subchapter sets forth additional guidance and criteria relating to the design, application and operation of traffic signals within this Commonwealth. The *Traffic Standards—Signals TC-8800 Series* (Department Publication 148M) and the *Traffic Signal Design Handbook* (Department Publication 149M) contain additional design details, specifications, checklists and forms.

**§ 212.302. Traffic-control signals.**

(a) *Flashing operation of traffic-control signals.* During flashing operation, a minimum of two vehicular signal heads on each approach must be flashed for the through movement. Any other signal heads may be blanked out.

(b) *Warrants.* In addition to the criteria in the MUTCD, the following applies:

- (1) *Traffic volumes.* The traffic volume for channelized right-turn movements may not be included in any warrant analysis.
- (2) *Vehicle crashes.* The five or more reported crashes within a 12-month period for Warrant 7 in the MUTCD (relating to Warrant 7, crash experience) may include both reportable crashes, and nonreportable crashes that are documented in the police files, that occurred within a 12-month period during the most recent 3 years of available crash data.

(3) *ADT volume warrant.* An “ADT volume warrant” is added as “Warrant 9” and may be used in addition to the eight warrants contained Sections 4C.02 through 4C.09 of the MUTCD (relating to Warrants 1 through 8). This warrant must apply at a proposed intersection, an intersection revised by a highway construction project, or at the driveway of a proposed commercial or residential development where vehicle counts cannot be taken. If a traffic signal is installed under this warrant, a traffic count must be taken within 6 months of the opening of a development or within 2 years of the opening of a highway. If the traffic volumes do not satisfy this warrant, or one or more of the other eight warrants, the traffic signal must be removed. This warrant is satisfied when:

- (i) The projected ADT volumes on the major street and on the higher volume minor street or driveway approach



to the intersection, when estimated using an accepted procedure such as put forth in the Trip Generation Manual published by the Institute of Transportation

Engineers, equals or exceeds the values in the following table:

<i>Lanes for Moving Traffic on Each Approach</i>		<i>Estimated ADT*</i>	
<i>Major Street</i>	<i>Minor Street</i>	<i>Major Street (both approaches)</i>	<i>Minor Street (one approach)</i>
1	1	10,000	3,000
2 or more	1	12,000	3,000
2 or more	2 or more	12,000	4,000
1	2 or more	10,000	4,000
1	1	15,000	1,500
2 or more	1	18,000	1,500
2 or more	2 or more	18,000	2,000
1	2 or more	15,000	2,000

\* Based on the volume projected to be present within 6 months of the opening of the development or within 2 years of the opening of the highway.

(ii) If the 85th percentile speed of the major street traffic exceeds 40 miles per hour or the intersection lies within the built-up area of an isolated community having a population of less than 10,000, this warrant may be met with 70% of the volume requirements of subparagraph (i).

**§ 212.303. Pedestrian-control signals.**

Pedestrian-control signals provide special types of traffic signal indications for the exclusive purpose of controlling pedestrian traffic. These indications consist of the illuminated symbols of a walking person (symbolizing WALK) and an upraised hand (symbolizing DON'T WALK) or the illuminated words WALK and DON'T WALK.

(1) New pedestrian-control signals must use symbolized messages.

(2) Signals using word messages may be retained for their useful service life and new replacement signal indications with word messages may be used for maintenance of existing installations with word messages.

**Subchapter E. TEMPORARY TRAFFIC CONTROL**

- Sec.
- 212.401. General.
- 212.402. Exempt work.
- 212.403. Temporary traffic-control plans.
- 212.404. Sign supports.
- 212.405. Regulatory speed limits.
- 212.406. Channelizing devices.
- 212.407. Markings.
- 212.408. Impact attenuators.
- 212.409. Rumble strips.
- 212.410. Delineators.
- 212.411. Flaggers.
- 212.412. Flagger signaling devices.
- 212.413. Portable traffic-control signals.
- 212.414. Emergency work.
- 212.415. Type D arrow panels.
- 212.416. Shadow vehicles.
- 212.417. Flashing warning lights.
- 212.418. Good management principles.
- 212.419. Special controls in work zones.

**§ 212.401. General.**

This subchapter supplements the criteria in the MUTCD, and applies to highway construction, maintenance operations and utility work or incident management, either on a highway or so close to a highway that workers, equipment or materials encroach on the highway. Compliance with this subchapter does not relieve the

contractor or others of their general responsibility for the protection of the public and the employees in work zones.

**§ 212.402. Exempt work.**

(a) *General.* The following types of work are exempt from the requirements contained in this chapter and in the MUTCD:

- (1) Snow plowing and other snow or ice control operations.
- (2) Refuse collection, trash collection, leaf pick-up, street cleaning, municipal street sweeping and residential lawn care.
- (3) Operations which do not involve construction, maintenance operations or utility work, such as mail, newspaper, home fuel or other local deliveries.
- (4) Studies or inspections of highway or utility features which may be completed without blocking any part of a travel lane.
- (5) Construction, maintenance operations or utility work in areas outside the highway right-of-way; except when the work is so close to the highway that workers, equipment or materials encroach on the highway.
- (6) Construction, maintenance operations or utility work where all workers, equipment or materials are behind a guide rail, more than 2 feet behind a curb or 15 feet or more from the edge of a roadway.
- (7) Mowing operations on roads with less than 10,000 vehicles per day and where equipment does not encroach on the roadway.
- (8) Traffic data collection.

(b) *Safety considerations.* While the types of work in subsection (a) are exempt from the specific traffic-control guidelines of this subchapter, they must be accomplished in a manner that will provide an adequate degree of safety for the workers and the public.

**§ 212.403. Temporary traffic-control plans.**

Plans for construction projects must either reference or include a temporary traffic-control (TTC) plan, which must consist of one of the following:

- (1) A reference to a specific figure either in the MUTCD or in the *Temporary Traffic-Control Guide* (Department Publication 213) that properly depicts actual site conditions.

(2) A copy of a specific figure either in the MUTCD or the *Temporary Traffic-Control Guide* (Department Publication 213) which has been modified to depict actual site conditions and the necessary traffic-control requirements for the specific project.

(3) One or more detailed plan sheets or drawings showing the actual site conditions and the TTC requirements for the specific project.

**§ 212.404. Sign supports.**

(a) *Post-mounted signs.* Post-mounted signs or signs on fixed supports must be installed in accordance with the *Signing and Marking Standards, TC-8700 Series* (Department Publication 111M).

(1) Post-mounted sign installations must be of a breakaway or yielding design unless they are adequately placed behind guide rail or median barrier.

(2) Signs may not be mounted on existing utility poles or other structures unless the owner grants written permission and the signs can be properly positioned to convey their messages effectively.

(b) *Portable sign supports.* Portable sign supports must be of a type approved by the Department.

**§ 212.405. Regulatory speed limits.**

(a) *General.* Regulatory speed limits in temporary traffic-control zones and in the area in advance of a work zone where traffic queues are anticipated may be established as follows:

(1) A regulatory speed limit up to 10 miles per hour below the normal speed limit may be established without an engineering and traffic study, provided the reduced regulatory speed limit is at least 25 miles per hour. Regulatory speed limits less than 25 miles per hour or more than 10 miles per hour below the normal speed limit require an engineering and traffic study and the prior approval of the Department for State-designated highways and approval of local authorities for local highways. To qualify for an additional speed limit reduction, the engineering and traffic study must indicate that traffic queues, erratic maneuvers, high vehicle crash rates or undesirable working conditions exist on the project or have existed on similar projects.

(2) Regulatory speed limits for temporary traffic control must be signed with either Speed Limit Signs (R2-1), Work Area Speed Limit Signs (R2-2-2) or variable speed limit signs. For speed limits that are 50 miles per hour or less, the signs must be spaced not greater than 1/2 mile apart throughout the limits of the reduced speed limit zone. Conflicting regulatory or warning signs must be removed, covered, folded or turned so that they are not readable by oncoming traffic whenever the reduced regulatory speed limit is in effect.

(3) A Speed Limit Sign (R2-1) showing the speed limit on the section of highway immediately after the work zone must be positioned at the end of the reduced regulatory speed limit, except an R2-1 sign is not necessary if a Work Area Speed Limit Sign (R2-2-2) is used and an End Road Work Sign (G20-2) or End Work Area Sign (G20-3) is in place at the end of the regulatory speed limit.

(b) *Variable speed limits.* In an effort to avoid unnecessary speed restrictions, variable speed limits are encouraged in lieu of static signs. These speed limits may be remotely controlled, either manually or by a computer using hardware and software to monitor functions such as traffic speeds, volumes, densities and queues.

**§ 212.406. Channelizing devices.**

(a) *Device consistency.* Channelizing devices used to form a particular taper or a particular longitudinal line of devices must all be of a single type. For example, cones, drums, barricades and vertical panels may not be intermixed within the same taper or line, but the type of device being used in a taper may differ from the type of device being used in a longitudinal section.

(b) *Cones.* Cones may only be used as a channelizing device for operations where work is in active progress. Cones that are 18 inches high may only be used to protect new pavement markings.

**§ 212.407. Markings.**

When lane line and center line pavement markings on more than 250 linear feet of highway are covered or destroyed by construction, maintenance, utility, permit or other work, they must be replaced, before ending work each day, with standard pavement markings, or with temporary pavement markings as included in the MUTCD (relating to temporary pavement markings), unless one of the following conditions is present:

(1) The roadway surface has loose aggregate or a surface texture that will not retain pavement markings including raised pavement markers authorized to be used alone in work zones.

(2) The roadway or portion of a roadway will not be opened to traffic until a later date and pavement marking patterns will be installed on the roadway or portion of a roadway before reopening the roadway.

(3) The work is on a two-lane, two-way highway that has an ADT of 5,000 or less, and Do Not Pass Signs (R4-1) and No Pavement Marking Signs (W21-16) are installed at the beginning of the work zone and alternating at intervals not greater than 1/4 mile within the work zone in both directions.

(4) For approximately 2 weeks during which time both of the following occur:

(i) A strip of white temporary pavement marking tape with minimum dimensions of 4 inches wide and 24 inches long, is placed at 40-foot intervals for all lane lines.

(ii) Two strips of yellow temporary pavement marking tape with minimum dimensions of 4 inches wide and 24 inches long, are placed side by side at 40-foot intervals for all center line markings on two-lane, two-way roadways, and Do Not Pass Signs (R4-1) are installed at the beginning of the work zone and at intervals not greater than 1/2 mile throughout the work zone where the interim markings are used.

**§ 212.408. Impact attenuators.**

The design and application of temporary impact attenuators must comply with the *Roadway Construction Standards* (Department Publication 72M) for concrete median barrier and other obstructions.

**§ 212.409. Rumble strips.**

Temporary bituminous rumble strips may be used to provide an audible warning to alert drivers of a potentially dangerous situation including a median crossover, lane reduction and congested area. Recommended rumble strip designs are available from the Bureau of Highway Safety and Traffic Engineering. When rumble strips are used, it is desirable to extend the rumble strip patterns onto the shoulder whenever possible to discourage drivers from making erratic maneuvers in an attempt to bypass or avoid the rumble patterns.

**§ 212.410. Delineators.**

The application of delineators must comply with the *Signing and Marking Standards TC-8700 Series* (Department Publication 111M).

**§ 212.411. Flaggers.**

(a) *Helmet.* In addition to the requirements of the MUTCD, flaggers shall wear a protective helmet.

(b) *Mechanical flaggers.* Mechanical flaggers or mannequins, which look and act somewhat like flaggers, may not be used to alert, slow or stop traffic.

**§ 212.412. Flagger signaling devices.**

A red flag must only be used to control traffic in emergencies when a Stop/Slow Paddle (R21-10) is not available or at intersections where a single flagger is used within an intersection.

**§ 212.413. Portable traffic-control signals.**

Portable traffic-control signals may be used to control one-lane, two-way traffic. They may also be used for other special applications such as a highway or street intersection with a temporary haul road or equipment crossing. The design and application of portable traffic-control signals must conform with the applicable requirements of the Department's certificate of approval issued to the manufacturer for portable traffic-control signals, and with any special requirements defined in the TTC Plan. For these applications, it may be desirable to use traffic-actuated or manual control to compensate for unbalanced traffic flows.

**§ 212.414. Emergency work.**

(a) *General.* Emergency work may be initiated without prior compliance with the traffic-control provisions specified by this subchapter, provided the foreman or lead worker implements all available safety measures, and the traffic control is brought into compliance with this subchapter as soon as possible. The foreman or lead worker may use flares as attention-getting and warning devices.

(b) *Utility work.* Emergency repair for utility work may be initiated under this section or repair to a utility facility undertaken under Chapter 459 (relating to occupancy of highways by utilities) to repair damage resulting from a vehicle crash or collision with the facility, a failed component or storm damage. Utility service connections or disconnections unrelated to a vehicle crash, a failed component, or storm damage must otherwise comply with this subchapter.

(c) *Expediting emergency work.* Emergency work may be completed without installation of work zone traffic-control devices required by this subchapter, if one of the following conditions are met:

(1) Review of the condition indicates that the emergency work can be completed in less time than it would take to install the temporary traffic-control devices, and the work or condition would not create a significant potential hazard.

(2) Temporary traffic control has been set up and it is found that additional traffic-control devices are desirable, but that it would take longer to obtain and install additional traffic-control devices than it would to complete the work.

**§ 212.415. Type D Arrow Panels.**

Type D Arrow Panels must only be used on vehicles during short-term stationary, short duration or mobile operations.

**§ 212.416. Shadow vehicles.**

When used with a truck-mounted attenuator (TMA), the shadow vehicle must be loaded to a weight recommended by the manufacturer of the TMA.

**§ 212.417. Flashing warning lights.**

If used, flashing warning lights may not be used in a series unless the spacing between successive flashing lights is at least 250 feet.

**§ 212.418. Good management principles.**

Agencies administering highway construction, utility work and maintenance operations shall mandate the application of the following good management principles:

(1) Keep the temporary traffic-control zones as short as practical to avoid long stretches with no work activity.

(2) Minimize lane restrictions.

(3) Remove all traffic-control devices as soon as practical after the construction, maintenance or utility operation is complete.

**§ 212.419. Special controls in work zones.**

(a) *General.* Special signing required in 75 Pa.C.S. §§ 3326, 3365, 4309, 6123 and 6123.1 will be in addition to the traffic-control devices required by the MUTCD and must be installed in accordance with this section.

(b) *Application.* Signing under this section is discretionary in the following work zones:

(1) Short duration work, where the operation will be completed in less than 1 hour.

(2) Mobile operations, where the work moves intermittently or continuously.

(3) Stationary work where the daily duration of the construction, maintenance or utility operation is less than 12 hours and all traffic-control devices are removed from the highway at the completion of the daily operation, including all advance warning signs.

(4) Work along highways where the speed limit is less than 40 miles per hour.

(5) Work in response to emergency work or conditions such as a major storm.

(c) *Work Zone—Turn on Headlights Sign (R22-1).* The Work Zone—Turn on Headlights Sign (R22-1) must be erected as the first sign on each primary approach to the work zone, generally at a distance of 250 to 1,000 feet prior to the first warning sign. On high-speed roadways including all expressways and freeways, the larger advance distances should be used. If work begins at or near a border to this Commonwealth, the R22-1 signs should be installed within this Commonwealth.

(d) *Active Work Zone When Flashing Sign (W21-19).* The Active Work Zone When Flashing Sign (W21-19) must be erected as close as practical to the beginning of the active work zone.

(1) The sign should not be erected within a transition or at a location where workers are put at risk when they may need to turn the light on and off.

(2) When a construction, maintenance or utility project has more than one active work zone and the active work zones are separated by a distance of more than 1 mile, signs for each active work zone must be erected.

(3) The W21-19 signs must be installed on temporary sign posts or on Type III barricades, and a white Type B high-intensity flashing light must be attached to the

upper portion of each W21-19 sign. The light must be activated only when workers are present, and deactivated when workers are not anticipated during the next 60 minutes.

(e) *End Active Work Zone Sign (W21-20)*. The End Active Work Zone Sign (W21-20) must be erected immediately at the end of each active work zone, except this sign is not necessary if either the End Road Work Sign (G20-2a) or the End Work Area Sign (G20-3) is installed at the end of the active work zone.

(f) *Work zones on expressways or freeways*. When the work zone is on an expressway or freeway, appropriate signs and lights identified in subsections (c), (d) and (e) at on-ramp approaches to the work zone must be installed.

(g) *Portable changeable message sign*. A portable changeable message sign (PCMS) may be used in lieu of the R22-1, W21-19 or W21-20 signs.

(h) *Speed display sign*. In Interstate highway work zones with a project cost exceeding \$300,000, a speed display sign must be installed on each mainline approach to the work zone to inform motorists of their speed.

(1) The speed display sign must display the motorist's speed in numerals at least 18 inches in height.

(2) As an alternative, a portable changeable message sign (PCMS) may be equipped with radar and programmed to display vehicles speeds.

(3) PCMSs may also flash appropriate messages such as "YOU ARE SPEEDING" or "SLOW DOWN." The signs must be placed 1/2 to 1 mile in advance of the physical work zone.

#### **Subchapter F. TRAFFIC CONTROLS FOR SCHOOL AREAS**

Sec.  
212.501. School zone speed limits.

##### **§ 212.501. School zone speed limits.**

(a) *Establishment*. A 15 miles per hour school zone speed limit may be established in a school zone during the normal hours that students are arriving at or leaving school, under 75 Pa.C.S. § 3365(b) (relating to special speed limitations).

(1) To establish a school zone, local authorities shall be responsible to prepare and submit a drawing showing the locations where students walk along or across roadways that are adjacent to school property, the hours that students are going to or from school and the proposed limits for the school zone to the Department for approval.

(2) The Department is responsible for approving the establishment of all school zones, including the locations and hours of operation, except local authorities shall be responsible for approving school zones at the following locations:

(i) On local highways when the municipality has received municipal traffic engineering certification under Chapter 205 (relating to municipal traffic engineering certification).

(ii) On State-designated highways when the municipality has entered into an agreement with the Department thereby transferring to the local authorities the authority to install traffic-control devices without specific Department approval.

(iii) On highways in cities of the first and second class, except not on expressways.

(b) *Posting*. A school zone speed limit must be posted on official traffic-control devices as follows:

(1) At the beginning of the school zone speed limit, one of the following signs or groups of signs must be posted either on the right side of the roadway or over the roadway:

(i) A Speed Limit Sign (R2-1) with the appropriate school zone speed limit, with a School Panel (S4-3) mounted above the Speed Limit Sign (R2-1) and a When Flashing Sign (S4-4) mounted below the Speed Limit Sign (R2-1), with two flashing speed limit sign beacons.

(ii) A Speed Limit Sign (R2-1) with the appropriate school zone speed limit, with a School Panel (S4-3) mounted above the Speed Limit Sign (R2-1) and a Restricted Hours Panel (R3-20) mounted below the Speed Limit Sign (R2-1).

(iii) A School Speed Limit When Flashing Sign with a blank-out "15" and flashers as illustrated in the *Traffic Signal Design Handbook* (Department Publication 149M).

(2) An End School Zone Sign (S5-2) must be posted on the right side of the roadway to define the end of the school zone speed limit.

(3) The limits of a school zone may extend beyond the school property lines to improve the sight distance or to encompass a school crosswalk, except that the length of the zone may not be greater than 1,600 feet.

#### **Subchapter G. TRAFFIC CONTROLS FOR BICYCLE FACILITIES**

Sec.  
212.601. Shared road facilities.

##### **§ 212.601. Shared road facilities.**

Where there is a need to warn motorists to watch for bicyclists traveling along the highway, the Share the Road Sign (W15-3) sign may be used instead of the Bicycle Warning Sign (W11-1) and the Share the Road Plaque (W16-1) as provided in the MUTCD.

#### **Subchapter H. SPECIAL EVENTS**

Sec.  
212.701. Processions, assemblages and special activities.

##### **§ 212.701. Processions, assemblages and special activities.**

(a) *Criteria*. The closure or partial closure of a highway for a procession, assemblage or a special activity, may be permitted on local roadways by local authorities and on State-designated highways by the Department if the following criteria are satisfied:

(1) *Conventional highways and expressways*.

(i) An alternate route, which is not more than 5 miles longer or five times greater in length than the normal travel distance, is established to detour traffic around any closed routes, except an alternate route is not required if one of the following exists:

(A) The highway to be closed is not a numbered traffic route and is primarily used by local drivers who are familiar with the alternate route.

(B) The highway is only partially or periodically closed and police control can safely maintain traffic on the remainder of the highway.

(C) The highway closing is for less than 20 minutes and excessive traffic backup will not occur during the closing.

(ii) The local authorities provide adequate detour signing or police controls for the rerouting of traffic along the alternate route if required.

(iii) The highway closure or partial closure will not adversely affect adjacent properties.

(iv) A review of previous, similar closures shows no substantial problems or citizen complaints.

(2) *Freeways.*

(i) The freeway has a minimum of two lanes to move traffic in each direction of flow.

(ii) If a procession, it will orderly and uniformly move along the highway and will be easy to control and regulate by police officers.

(iii) If a procession or assemblage, it will use a maximum of one lane of the highway and police officers can safely maintain traffic on the remainder of the highway.

(iv) Delays for traffic entering or leaving the highway at ramps will not be more than 5 minutes and uniformed police officers will control all delayed traffic.

(v) The Secretary and the Commissioner of the State Police have determined that the procession, assemblage or special activity is in the National, State or regional interest or has National, State or regional significance and can be conducted with greater safety for motorists and procession or special activity participants by using the freeway.

(b) *Use of State-designated highways.* The Department may issue a permit for a procession, assemblage or special activity on a State-designated highway if the criteria in subsection (a) and the following requirements are satisfied:

(1) On conventional highways and expressways, the district executive may issue a permit for processions, assemblages or special activities. The permit request must be made in writing by the sponsor, and be received by the district executive at least 3 weeks before the proposed event. The request must include the following items as applicable, a copy of which the sponsor must also submit to the Commissioner of the State Police:

(i) A map of the proposed routing showing all State Route (SR) numbers and the names of all highways, including terminal points for the special activity.

(ii) The known or anticipated number and type of vehicles or pedestrians that will be in the event.

(iii) The purpose, the proposed date and rain date and the time and duration.

(iv) A statement that the sponsor will agree to reimburse the Commonwealth for all costs for police escort and traffic-control services.

(v) A copy of the letter sent from the sponsor of the event to each municipality in which the event is to occur, requesting permission to allow the event.

(vi) A copy of a letter from each municipality in which the event is to occur indicating the following:

(A) Approval of the municipality allowing the sponsor to conduct the event.

(B) A statement that the municipality will agree to fully indemnify, save harmless and, if requested, defend

the Commonwealth, Commonwealth departments and their officers, agents and employees from and against claims, suits or actions for injury, death or property damage arising from or because of the acts or omissions of the sponsor, its officers, agents or employees.

(vii) A statement that the sponsor will fully indemnify, save harmless and, if requested, defend the Commonwealth, Commonwealth departments, and their officers, agents and employees from and against claims, suits or actions for injury, death or property damage arising from or because of the acts or omissions of the sponsor, its officers, agents or employees. The sponsor shall also name the Department as an additional insured on its liability policies. The liability insurance policies must be occurrence based and the insurance certificate must indicate that the insurance is occurrence based.

(2) On freeways, the Secretary may issue a permit for processions, assemblages or special activities. The permit request must be made in writing by the sponsor, and be received by the Secretary at least 3 weeks before the proposed partial highway closure. The request must include the following items as applicable, a copy of which the sponsor also submits to the Commissioner of the State Police:

(i) A map showing the location of the assemblage or the proposed routing of the procession or special activity.

(ii) The known or anticipated number and type of vehicles or pedestrians that will be in the event.

(iii) The estimated speed of travel of the procession or special activity.

(iv) The purpose, the proposed date and rain date, and the time and duration.

(v) The reasons the special event should use a freeway, including the safety aspects to both motorists and procession participants.

(vi) A statement that the sponsor of the procession will agree to reimburse the Commonwealth for all costs for police escort and traffic-control services.

(vii) A statement that the sponsor of the special event will fully indemnify, save harmless and, if requested, defend the Commonwealth, Commonwealth departments and their officers, agents and employees from and against claims, suits or actions for injury, death or property damage arising from or because of the acts or omissions of the sponsor, its officers, agents or employees. The sponsor shall also name the Department as an additional insured on its liability policies. The liability insurance policies must be occurrence based and the insurance certificate must indicate that the insurance is occurrence based.

(c) *Use of local roadways.* Requests to close a local roadway for a procession, assemblage or special activity must be made in writing to the local authorities at least 3 weeks before the anticipated road closure. If the procession, assemblage or special activity also requires the closure of State-designated highways, the request must be made in writing to the local authorities at least 2 months before the anticipated road closure.

[Pa.B. Doc. No. 04-1594. Filed for public inspection August 27, 2004, 9:00 a.m.]

# STATEMENTS OF POLICY

## Title 4—ADMINISTRATION

### PART II. EXECUTIVE BOARD

#### [4 PA. CODE CH. 9]

#### Reorganization of the Department of Education

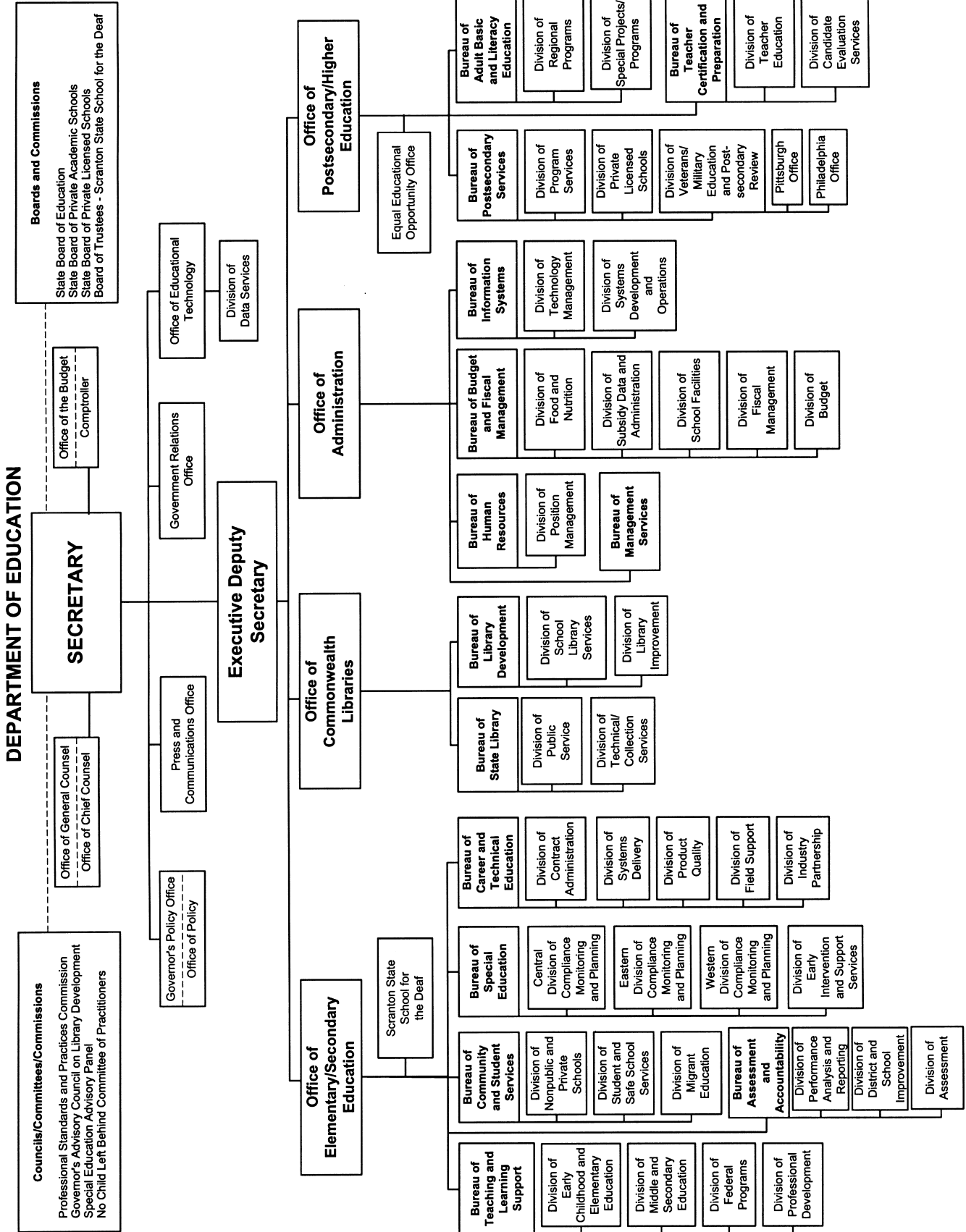
The Executive Board approved a reorganization of the Department of Education effective August 17, 2004.

The organization chart at 34 Pa.B. 4735 (August 28, 2004) is published at the request of the Joint Committee on Documents under 1 Pa. Code § 3.1(a)(9) (relating to contents of Code).

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

[Pa.B. Doc. No. 04-1595. Filed for public inspection August 27, 2004, 9:00 a.m.]

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# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending August 17, 2004.

#### BANKING INSTITUTIONS

##### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
8-16-04	Sterling Financial Corporation, Lancaster, to acquire 100% of the voting shares of The Pennsylvania State Banking Company, Camp Hill, and thereby indirectly acquire Pennsylvania State Bank, Camp Hill, which will become a wholly-owned subsidiary of Sterling Financial Corporation	Lancaster	Filed

##### New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-16-04	Bucks County Bank Doylestown Bucks County	350 South Main Street Doylestown Bucks County	Commenced Operations

##### Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
8-9-04	EBS Bank Ellwood City Lawrence County	3360 Wilmington Road New Castle Lawrence County	Opened

#### SAVINGS INSTITUTIONS

No activity.

#### CREDIT UNIONS

No activity.

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 04-1596. Filed for public inspection August 27, 2004, 9:00 a.m.]

## DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

### FY 2004 Emergency Responders Resources and Training Program

The Department of Community and Economic Development announces the availability of guidelines for the FY 2004 Emergency Responders Resources and Training Program (program). The program provides grants for facilities and equipment to support the operation of fire, ambulance and emergency medical services, operational support for fire, ambulance and emergency medical ser-

vices that enhances the health, safety and welfare of citizens in this Commonwealth, emergency services training activities and projects that improve the stability and public safety of the community.

Assistance from the program is in the form of grants from the Commonwealth to eligible applicants for projects which conform to the eligibility criteria detailed in the program guidelines.

Grants are made in three funding rounds during the fiscal year. Application deadline and tentative announcement dates for each round are as follows.

<i>Funding Round</i>	<i>Application Deadline Date</i>	<i>Target Announcement Date</i>
Round 1	September 30, 2004	November 2004
Round 2	December 30, 2004	February 2005
Round 3	March 31, 2005	May 2005



Applications and requests for guidelines should be sent to the Department of Community and Economic Development, Customer Service Center, Commonwealth Keystone Building, 400 North Street, Fourth Floor, Harrisburg, PA 17120-0225, (800) 379-7448, ra-dcedcs@state.pa.us.

DENNIS YABLONSKY,  
*Secretary*

[Pa.B. Doc. No. 04-1597. Filed for public inspection August 27, 2004, 9:00 a.m.]

### FY 2004 Local Municipal Resources and Development Program

The Department of Community and Economic Development announces the availability of guidelines for the FY 2004 Local Municipal Resources and Development Program (program). The program provides grants that promote community and/or economic development, improve the stability of the community, enhance the delivery of local government services through intermunicipal approaches to service delivery, improve existing and/or develop new civic, cultural, recreational, industrial, infrastructure and other facilities, assist in business retention, expansion, creation or attraction, promote the creation of jobs and employment opportunities and/or enhance the health, welfare and quality of life of citizens in this Commonwealth.

Assistance from the program is in the form of grants from the Commonwealth to eligible applicants for projects which conform to the eligibility criteria detailed in the program guidelines.

Grants are made in three funding rounds during the fiscal year. Application deadline and tentative announcement dates for each round are as follows.

<i>Funding Round</i>	<i>Application Deadline Date</i>	<i>Target Announcement Date</i>
Round 1	September, 30, 2004	November 2004
Round 2	December 30, 2004	February 2005
Round 3	March 31, 2005	May 2005

Applications and requests for guidelines should be sent to the Department of Community and Economic Development, Customer Service Center, Commonwealth Keystone

Building, 400 North Street, Fourth Floor, Harrisburg, PA 17120-0225, (800) 379-7448, ra-dcedcs@state.pa.us.

DENNIS YABLONSKY,  
*Secretary*

[Pa.B. Doc. No. 04-1598. Filed for public inspection August 27, 2004, 9:00 a.m.]

### FY 2004 Urban Development Program

The Department of Community and Economic Development announces the availability of guidelines for the FY 2004 Urban Development Program (program). The program provides grants to promote and encourage the prosperous development of business, industry and commerce in this Commonwealth, to expand markets and promote and develop new markets for products made in this Commonwealth, encouraging the location and development of new business, industry and commerce in this Commonwealth, to aid in restoring employment in communities affected by unemployment and to assist persons, firms, associations, political subdivisions, corporations, cooperative associations and other organizations to assist various public safety, recreation, senior citizens or other community service organizations.

Assistance from the program is in the form of grants from the Commonwealth to eligible applicants for projects which conform to the eligibility criteria detailed in the program guidelines.

Grants are made in three funding rounds during the fiscal year. Application deadline and tentative announcement dates for each round are as follows.

<i>Funding Round</i>	<i>Application Deadline Date</i>	<i>Target Announcement Date</i>
Round 1	September, 30, 2004	November 2004
Round 2	December 30, 2004	February 2005
Round 3	March 31, 2005	May 2005

Applications and requests for guidelines should be sent to the Department of Community and Economic Development, Customer Service Center, Commonwealth Keystone Building, 400 North Street, Fourth Floor, Harrisburg, PA 17120-0225, (800) 379-7448, ra-dcedcs@state.pa.us.

DENNIS YABLONSKY,  
*Secretary*

[Pa.B. Doc. No. 04-1599. Filed for public inspection August 27, 2004, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

#### APPLICATIONS

#### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT

#### APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a

general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the EPA Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for a public hearing on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

## **I. NPDES Renewal Applications**

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0057801	J. Brad Bennington 520 Ridge Valley Road Sellersville, PA 18960	Bucks County West Rockhill Township	UNT to Ridge Valley Creek	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0062405 Minor	Scott Tech Park R. R. 1, Box 457 Olyphant, PA 18447	Scott Township Lackawanna County	Unnamed tributary to South Branch Tunkhannock Creek 4F	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0088048 SEW	Borough of New Morgan Building D, Room 3 Grace Boulevard Morgantown, PA 19543	Berks County New Morgan Borough	Conestoga River 7-J	Y

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0088072 (IW)	Stericycle (formerly Bridgeview, Inc.) 1525 Chestnut Hill Road Morgantown, PA 19543	Berks County Robeson Township	Tributary to Hay Creek 3-C	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0028606 Sewerage	Delaware Township Municipal Authority P. O. Box 80 Dewart, PA 17730-0080	Delaware Township Northumberland County	West Branch Susquehanna River 10D	Y
PA0009318 IW	Alcan Cable 409 Reighard Avenue Williamsport, PA 17701-4195	Williamsport Lycoming County	Fox Hollow Run 10-A	Y
PA0114308 Sewerage	Orange Township Supervisors 2028 SR 487 Orangeville, PA 17859	Orange Township Columbia County	Fishing Creek 5-C	Y
PA0100161 IW	Triangle Suspension Systems, Inc. P. O. Box 425 DuBois, PA 15801	Sandy Township Clearfield County	Pentz Run 17-C	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0222844	Ellwood Industrial Facilities Company Oxygen Generation Plant 700 Moravia Street New Castle, PA 16101	City of New Castle Lawrence County	Shenango River 20-A	Y
PA0102385	Springfield Restaurant Group Iron Bridge Inn 1438 Perry Highway Mercer, PA 16137-3738	Springfield Township Mercer County	Neshannock Creek 20-A	Y
PA0003573	Schry Water Conditioning 128 Portersville Road Ellwood City, PA 16117	Ellport Borough Lawrence County	Connoquenessing Creek 20-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.*

**NPDES Permit No. PA0011002**, Industrial Waste, **American Inks and Coatings Corporation**. This proposed facility is in Schuylkill Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge into the Schuylkill River in Watershed 3D.

**NPDES Permit No. PA0051071**, Industrial Waste, **Schramm Incorporated**, 800 East Virginia Avenue, West Chester, PA 19380-4206. This proposed facility is in West Goshen Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge in Goose Creek in Watershed 3H.

**NPDES Permit No. PA0053376**, Sewage, **Strawberry Family Restaurant**, 3773 Layfield Road, Pennsburg, PA 18073. This proposed facility is in Upper Hanover Township, **Montgomery County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge into an unnamed tributary to West Branch to Perkiomen Creek in Watershed 3E.

**NPDES Permit No. PA0058343**, Sewage, **Bedminster Municipal Authority**, P. O. Box 92, Bedminster, PA 18910-0092. This proposed facility is in Pennsbury Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge into an unnamed tributary to Deep Run in Watershed 2D-Three Mile.

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

**PA0228818**, Industrial Waste (SIC 2621), **First Quality Tissue LLC**, 599 South Highland Street, Lock Haven, PA 17745-3431. This proposed/existing facility is in Castanea Township, **Clinton County**.

Description of Proposed Activity: First Quality Tissue has purchased the former International Paper site and will begin making paper products in late Fall 2004. The applicant has applied for a permit to authorize the discharge of treated process wastewater. The industrial waste treatment plant will be upgraded to meet the needs of the new processes onsite.

The receiving stream, Bald Eagle Creek, is in the State Water Plan watershed 9C and classified for WWF. The nearest downstream public water supply intake for the Pennsylvania American Water Company is on the West Branch Susquehanna River, 60.29 miles below the point of discharge.

The proposed effluent limits for Outfall 003 are based on a design flow of 3.95 MGD.

Parameter	Mass (lb/day)		Concentration (mg/L)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
BOD <sub>5</sub>	3,550	7,308	108	222	333
TSS	2,714	6,264	82	190	285
Total P			Report		
Total N			Report		
pH			within the range of 6.0 to 9.0		

Outfalls 001, 002 and 004 are proposed stormwater outfalls.

In addition to the effluent limits, the permit contains the following major special conditions: management of chemical usage additives; stormwater management; and prohibition of chlorophenolic compounds.

**PA0111929**, Sewage, SIC 4952, **Lawrenceville Borough Authority**, P. O. Box 115, Lawrenceville, PA 16929-0115. This existing facility is in Lawrenceville Borough, **Tioga County**.

Description of Proposed Activity: The Authority is applying to renew the existing NPDES permit.

The receiving stream, Tioga River, is in the State Water Plan watershed 4A and classified for WWF. The nearest downstream public water supply considered during this review is the PA-NY border, 1.1 river miles below the point of discharge.

The existing effluent limits for Outfall 001 are based on a design flow of 0.1 MGD:

Parameter	Average Monthly (mg/l)	Average Weekly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
TSS	30	45		60
CBOD <sub>5</sub>	25	40		50
Total Chlorine Residual	1.0			2.3
pH			within the range 6.0 to 9.0	
Fecal Coliform (5-1 to 9-30)		200 per 100 mL as a geometric average		
(10-1 to 4-30)		2,000 per 100 mL as a Geometric Average		

The EPA waiver is in effect.

**PAS214801**, Industrial Waste SIC, 3273, **Little Lisa Inc. d/b/a Wayne Concrete**, 262 Route 44, Coudersport, PA 16915. This existing facility is in Eulalia Township, **Potter County**.

Description of Proposed Activity: Issuance of an NPDES permit for an existing discharge of stormwater.

The receiving stream, storm drain to Mill Creek, is in the State Water Plan watershed 16C and classified for HQ-CWF. The nearest downstream public water supply intake is assumed to be the NY/PA border on the Allegheny River, 48 miles below the point of discharge.

The proposed effluent limits for Outfall 001 based on a design flow of 0.018 MGD.

Parameter	Mass (lbs/day)		Concentration (mg/l)		
	Average Monthly	Daily Maximum	Average Monthly	Daily Maximum	Instantaneous Maximum
CBOD <sub>5</sub>				Report	
COD				Report	
Oil and Grease				Report	
TSS				Report	
Total Kjeldahl Nitrogen				Report	
Total Phosphorous				Report	
Total Iron				Report	

Best Management Practices

1. Diversion of offsite stormwater to prevent run on of stormwater from neighboring properties.
2. Isolation of truck wash water from the stormwater by pumping the truck wash water to the detention basin and regular cleaning of the solids in truck wash water sump.
3. Utilize a stormwater sediment trap before discharging to a grassy swale.

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

**PA000361**, Industrial Waste, SIC, 4941, **Municipal Authority of Westmoreland County**, P. O. Box 730, Greensburg, PA 15601. This application is for renewal of an NPDES permit to discharge treated process water and stormwater from water treatment plant operations in Bell and Washington Townships, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, Beaver Run, classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first existing/proposed downstream potable water supply is the Buffalo Township Water Authority at Freeport, 21.2 miles below the discharge point.

*Outfall 001: existing discharge, design flow of 0.397 mgd.*

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	Monitor and Report				
TSS			30	60	
Iron			2	4	
Aluminum			1.8	3.6	
Manganese			1	2	
TRC			0.5	1.0	
pH	not less than 6.0 nor greater than 9.0				

*Outfall 002: existing discharge.*

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Flow	Monitor and Report				
TSS			30		60
Iron			2		4
Aluminum			4		8
Manganese			1		2
pH	not less than 6.0 nor greater than 9.0				

The EPA waiver is in effect.

**PAI136133**, MS4, **City of Pittsburgh**, 441 Smithfield Street, Pittsburgh, PA 15222. This facility is in City of Pittsburgh, **Allegheny County**.

Description of Proposed Activity: New NPDES permit for an existing discharge of stormwater.

The receiving waters, Allegheny River, Chartiers Creek, Monongahela River, Ninemile Run and Ohio River, are in the Act 167 Watersheds, Monongahela River, Allegheny River, Ohio River and are classified for WWF, WWF, WWF, TSF, WWF, aquatic life, water supply and recreation.

The MS4 permittee will implement and enforce a stormwater management program approved by the Department, which is designed to reduce the discharge of pollutants from its MS4 to the maximum extent practicable, with the goal of protecting water quality and satisfying the appropriate water quality requirements of the Federal Clean Water Act and The Clean Streams Law. The program must contain a schedule, best management practices and measurable goals for the following minimum control measures and approved by the Department.

1. Public education and outreach.
2. Public participation and involvement.
3. Illicit discharge detection and elimination.
4. Construction site runoff control.
5. Post-construction stormwater management in new development and redevelopment.
6. Pollution prevention and good housekeeping or municipal operations and maintenance.

The EPA waiver is in effect.

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

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

**WQM Permit No. 2804404**, Sewerage, **Roger A. Wingert**, 4546 Philadelphia Avenue, Chambersburg, PA 17201. This proposed facility is in Greene Township, **Franklin County**.

Description of Proposed Action/Activity: Authorization to construct a small flow treatment facility.

**WQM Permit No. 2204407, West Hanover Township Water and Sewer Authority**, 7901 Jonestown Road, Harrisburg, PA 17112. This proposed facility is in West Hanover Township, **Dauphin County**.

Description of Proposed Action/Activity: Authorization for the construction of a wastewater pumping station and force main.

**WQM Permit No. WQG013501**, Sewerage, **Noah Lee Stoltzfus**, 307 Newville Road, Newburg, PA 17240. This proposed facility is in Upper Mifflin Township, **Cumberland County**.

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

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

**WQM Permit No. 1804401**, Sewerage 4952, **East Nittany Valley Joint Municipal Authority**, 216 Spring Run Road, Mill Hall, PA 17751. This proposed facility is in Lamar Township, **Centre County**.

Description of Proposed Action/Activity: The applicant proposes to construct and operate a sewer extension to the Lamar Township Business Park.

**WQM Permit No. 5504402**, Sewerage 4952, **Middleburg Municipal Authority**, 13 North Main Street, Middleburg, PA 17842. This proposed facility is in Middleburg Borough, **Snyder County**.

Description of Proposed Action/Activity: The applicant proposes to modify the sewage plant influent pump station, yard piping and UV disinfection chamber and add a sludge basin decant pump.

**WQM Permit No. 4704401**, Sewerage 4952, **Doris F. Phillips**, 26 Strick Road, Danville, PA 17821. This proposed facility is in Limestone Township, **Montour County**.

Description of Proposed Action/Activity: The applicant proposes to construct and operate a single residence sewage plant. The sewage plant will be a septic tank, buried filter and chlorination.

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

**WQM Permit No. 2604404**, Sewerage, **Yough Sanitary Authority**, c/o L Wayne Cable, P. O. Box 168, Dawson, PA 15428. This proposed facility is in Dunbar Township, **Fayette County**.

Description of Proposed Action/Activity: Application for the construction and operation of the Yough Sanitary Authority Wastewater Treatment Plant.

**WQM Permit No. 3004402**, Sewerage, **Center Township**, P. O. Box 435, 100 Municipal Drive, Rogersville, PA 15359. This proposed facility is in Center Township, **Greene County**.

Description of Proposed Action/Activity: Application for the construction and operation of the Rogersville Sewage Treatment Plant.

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

**WQM Permit No. 6504402**, Sewerage, **C Harper Ford**, P. O. Box 748, Belle Vernon, PA 15012. This proposed facility is in Rostraver Township, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the construction and operation of the C Harper Autoplex Sewage Treatment Plant.

**WQM Permit No. 6504403**, Sewerage, **Oak Farm Estates Partners**, 27 Barri Drive, Irwin, PA 15642. This proposed facility is in Penn Township, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewer extension and pump station to serve Oak Farm Estates Phase 5.

**WQM Permit No. 6504404**, Sewerage, **The Borough of Ligonier**, 120 East Main Street, Town Hall, Ligonier, PA 15658. This proposed facility is in Ligonier Borough, **Westmoreland County**.

Description of Proposed Action/Activity: Application for the construction and operation of a relief sewer to serve Bunger Street.

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

**WQM Permit No. 6104404**, Sewerage, **Cranberry Venango County General Authority**, 3726 SR 257, Seneca, PA 16346. This proposed facility is in Cranberry Township, **Venango County**.

Description of Proposed Action/Activity: This project is for the construction of a pressure sewer system and sewer extension along Route 322, through Victory Heights and ending west of Astral Road.

#### **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**

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032904001	Crystal Spring, LLC 5305 Kings Court Frederick, MD 21701	Fulton	Brush Creek Township	Brush Creek HQ-CWF

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

*Lycoming County Conservation District: 542 County Farm Road, Suite 202, Montoursville, PA 17754, (570) 433-3003.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI044104004	Ray Eck 2862 Gap Road Allenwood, PA 17810	Lycoming	Washington Township	White Deer Hole Creek HQ-CWF

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

PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

**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>
PAG132276	Pottsville City 401 North Centre Street Pottsville, PA 17901	Schuylkill	Pottsville City	Schuylkill River CWF West Branch of Schuylkill River CWF Norwegian Creek CWF	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**

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

**Application, Minor Amendment.**

Applicant	<b>Aqua Pennsylvania, Inc.</b>
Township or Borough	Palmyra Township, <b>Pike County</b>
Responsible Official	Roswell S. McMullen, P. E., Manager, Northeast Operations HC 6, Box 6040 Hawley, PA 18428 (570) 226-1528
Type of Facility	Community Water System
Consulting Engineer	Douglas E. Berg, P. E. Entech Engineering, Inc. P. O. Box 32 Reading, PA 18603 (610) 373-6667
Application Received Date	August 5, 2004

Description of Action      Application for modification of the community water system serving the Tanglewood North Development to allow for a change in the pH adjustment chemical from soda ash to caustic soda.

#### WATER ALLOCATIONS

#### Applications received under the act of June 24, 1939 (P. L. 842, No. 365) (32 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth

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

**WA 27-1000, Water Allocations, Aqua Pennsylvania, Inc.**, 644 North Water Avenue, Sharon, PA 16146, Jenks Township, **Forest County**. Application request for all available flow from three springs used for water supply. Request is result of agreement between Aqua Pennsylvania and Marienville Water Supply Company reached under pending transfer of ownership to Aqua Pennsylvania.

### 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 pub-

lished 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:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Former SPS Technologies, Inc. Facility**, Upper Dublin Township, **Montgomery County**. Kate Gibbons, Environmental Strategies Corp., 334 Elizabeth Ave., Suite B, Somerset, NJ 08873 on behalf of Philip L. Hinerman, Esq., 135 Commerce, Inc., Fort Washington, PA 19634 has submitted a Notice of Intent to Remediate. Groundwater at the site has been impacted by release of chlorinated solvents. A summary of the Notice of Intent to Remediate was reported to have been published in the *Ambler Gazette* on July 7, 2004.

**Quan Residence and Mercedes Residence**, Abington Township, **Montgomery County**. Richard D. Trimpi, CHMM, P. G., Trimpi Assoc., Inc., 1635 Old Plains Rd., Pennsburg, PA 18073 on behalf of Duchan Quan and Joe Mercedes, 3022 Turner Ave. and 3018 Turner Ave., Roslyn, PA 19001 has submitted a Notice of Intent to Remediate. Approximately 10-30 gallons of no. 2 fuel oil was released from a leaking furnace in the basement of the 3022 Turner Rd. It flowed into a nearby sump pit and was pumped outside and onto the grass of 3018 Turner Ave. and then downgradient onto the lawn. The soil was contaminated with benzene, toluene, ethylbenzene, total xylenes, fluorine, naphthalene and phenanthrene. The Quan and Mercedes sites are currently residential. A summary of the Notice of Intent to Remediate was reported to have been published in the *Intelligencer* on July 21, 2004.

**Proposed Wendy's Site**, Upper Darby Township, **Delaware County**. Samuel Kucia, Environmental Consulting, Inc., 500 East Washington St., Suite 375, Norristown, PA 19401 on behalf of Benjamin Willner, Willner Realty and Development Co., 140 S. 69th St., 2nd Floor, Upper Darby, PA 19082 has submitted a Notice of Intent to Remediate. The consultant was retained to excavate and dispose of a limited volume of contaminated soil that was discovered during a previous geotechnical investigation completed on property. Soil at the site has been impacted with benzene. The future use of the site is a Wendy's Restaurant. A summary of the Notice of Intent to Remediate was reported to have been published in the *Delaware County Daily Times* on July 14, 2004.



## HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

### Applications received, 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

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit ID No. 301193. United States Steel Corporation**, 600 Grant Street, Pittsburgh, PA 15219-4776. South Taylor Environmental Park Landfill, 555 Delwar Road, Pittsburgh, PA 15236. Application for the renewal of a captive residual waste landfill permit in West Mifflin Borough, **Allegheny County** was received in the Regional Office on August 10, 2004.

### ISSUANCE OF MUNICIPAL WASTE GENERAL PERMIT

### Determination of Applicability for General Permit under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and municipal waste regulations for a general permit to operate municipal waste processing facilities and/or the beneficial use of municipal waste.

*Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**General Permit No. WMGM007SC001, Associated Products Services, Inc.**, 14 Long Lane, Mechanicsburg, PA 17055, Silver Springs Township, **Cumberland County**. The Department issued a general permit to Associated Products Services on July 23, 2004. The general permit allows the temporary storage of residential septage at the previous address to facilitate the transfer of the septage to offsite processing facilities.

Questions concerning the general permit should be directed to John Krueger, Program Manager, Department of Environmental Protection, 909 Elmerton Ave., Harrisburg, PA 17110. Persons interested in obtaining more information about the general permit should contact the Southcentral Regional Office at (717) 705-4706. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

### OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

### Applications received under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act and regulations to operate solid waste processing or disposal area or site.

*Southcentral Region: Regional Solid Waste Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.*

**Permit Application No. 100944, Lanchester Landfill**, Honeybrook Township, **Chester County**. The permit modification approves the Area D expansion. Compliance with the terms and conditions set forth in the permit is mandatory. Individuals have the right to file an appeal as to these terms and conditions.

Comments concerning the application should be directed to John Krueger, Program Manager, Waste Management Program, 909 Elmerton Avenue, Harrisburg, PA 17110. Persons interested in obtaining more information about the general permit application should contact the

Waste Management Program, (717) 705-4706. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to and approval or denial of the application.

*Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**Permit ID No. 301307. US Liquids**, RJ Casey Industrial Park, 1800 Columbus Avenue, Suite 5, Pittsburgh, PA 15233. **Perma-Fix of Pittsburgh, Inc.**, RJ Casey Industrial Park, 1800 Columbus Avenue, Suite 5, Pittsburgh, PA 15233. Application for a change of name and ownership of a residual waste processing facility in the City of Pittsburgh, **Allegheny County**, was received in the regional office on August 16, 2004.

## AIR QUALITY

### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

#### NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior to the date of the hearing.

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

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

**35-318-087: Milso Industries, Inc.** (8 River Street, Jermyn, PA 18433) for reactivation of paint spray operations and associated air cleaning devices at their facility in Jermyn Borough, **Lackawanna County**.

**45-317-001A: CHS, Inc.** (Horizon Milling LLC, P. O. Box 147, Harvest Lane, Route 940, Mount Pocono, PA 18344) for modification of a flour milling operation and associated air cleaning devices at their facility in Tobyhanna Township and Mount Pocono Borough, **Monroe County**.

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

**06-05002E: Lehigh Cement Co.** (537 Evansville Road, Fleetwood, PA 19522-8541) for installation of a mid-kiln blower on Portland cement kiln no. 1 at their Evansville Plant in Maiden Creek Township, **Berks County**. The device is for the control of CO, NO<sub>x</sub> and SO<sub>2</sub>. The kiln is subject to 40 CFR Part 63, Subpart LLL, National Emission Standards for Hazardous Air Pollutants from the Portland Cement Manufacturing Industry.

**36-03141A: Kellogg USA, Inc.** (2050 State Road, Lancaster, PA 17604) for modifications of an existing coating line in their facility in East Hempfield Township, **Lancaster County**.

**36-05027D: RR Donnelley and Sons Co.** (216 Greenfield Road, Lancaster, PA 17601-5885) to install a 66.4 mmBtu/hour natural gas and no. 6 fuel oil boiler at their Lancaster East facility in Lancaster City, **Lancaster County**. This application is subject to 40 CFR Part 60, New Source Performance Standard Subpart Dc, Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units.

**38-05032: Lebanon Valley Aluminum, Inc.** (33 Keystone Drive, Lebanon, PA 17042) for installation of a secondary aluminum smelting facility in South Lebanon Township, **Lebanon County**.

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

**62-174A: Warren County Humane Society** (212 Elm Street, Warren, PA 16356) for construction of a small animal crematory in the City of Warren, **Warren County**.

**10-030A: Concast Metal Products Co., Inc.** (Myoma Road, Mars, PA 16046) to install an additional bag-house to supplement existing controls on the induction melting furnaces in Adams Township, **Butler County**.

**Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollu-**

**tion 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.*

**35-322-007: Alliance Sanitary Landfill, Inc.** (398 South Keyser Avenue, Taylor, PA 18517) for installation and operation of one 1,600 scfm capacity enclosed flare system to destroy landfill gas collected from uncapped, active areas of the landfill in Taylor and Old Forge Boroughs and Ransom Township, **Lackawanna County**. This action does not represent any additional waste being introduced into the landfill, or an expansion of the landfill, merely the installation of control devices. No additional gas is being generated since the gas generation is based on the size and volume of the landfill. The company has proposed no other changes. Alliance Sanitary Landfill is a major facility subject to Title V permitting requirements. The VOC emissions from the landfill will be controlled by enclosed landfill gas flares and will continue to be less than 50 tons per year. 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. For further details, contact Mark Wejkszner.

**39-309-015: Eastern Industries, Inc.** (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034) for construction and operation of a drum mix asphalt plant at 500 Walnut Street, North Whitehall Township, **Lehigh County**. The facility will utilize waste derived liquid fuel (WDLF) and no. 2 fuel oil as fuels. The plant is also capable of utilizing recycled asphalt pavement material. WDLF will be heated in a preheater prior to being used. 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 equipment 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, that are designed to keep the facility operating within all applicable air quality requirements.

**45-302-074: Aventis Pasteur, Inc.** (Discovery Drive, Swiftwater, PA 18370) for their facility in Pocono Township, **Monroe County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department intends to issue Plan Approval 45-302-074 to Aventis Pasteur, Inc. for their facility in Pocono Township, Monroe County. This plan approval will be incorporated into Title V Operating Permit 45-00005 through an administrative amendment at a later date. The action will be published as a notice in the *Pennsylvania Bulletin*.

Plan Approval 45-302-074 is for installation and operation of two natural gas/no. 2 fuel oil fired Johnston boilers 9 and 10, conversion of existing boiler 1—3 and permanent shutdown of boilers 4 and 5 at their existing facility in Pocono Township, Monroe County. The designed rated heat input to each new boiler 9 and 10 will be 30.98 mmBtu/hr for no. 2 oil and 32.3 mmBtu/hr for natural gas. Each boiler will fire no. 2 fuel oil as a primary fuel and natural gas as a backup and using a forced draft low NO<sub>x</sub> burner with internal flue gas recirculation (IFGR). Also the company will convert three existing boilers,

boilers 1—3 from no. 6 fuel oil to no. 2 fuel oil with low NOx burners and IFGR. One additional fuel oil storage tank is also proposed.

The facility is in an area designated as a marginal nonattainment area for O<sub>3</sub>. The project area is also included in the northeast Ozone Transport Region. The facility is currently a major source for NOx emissions only. The Federally enforceable limit chosen by the company for the NOx emission will keep the proposed emission increase from the facility below the NSR applicability triggering thresholds from the proposed new and modified sources. Thus, the addition and modification of sources will not subject the facility to the provisions of NA NSR for NOx, emissions of SO<sub>2</sub>, CO, NOx, TSP, PM10, lead, asbestos, beryllium, mercury, vinyl chloride, fluorides, sulfuric acid mist, hydrogen sulfide, total reduced sulfur and reduced sulfur compounds associated with the proposed project will be below the PSD significant emission rates as the company will maintained the emissions from the entire facility below the PSD PALS level and thus are not subject to PSD review. The following emission limitations are set for each new and modified boiler.

NOx emissions	From BAT, 30 PPM @ 3%O <sub>2</sub> when firing with natural gas 90 PPM @ 3% O <sub>2</sub> when firing with no. 2 fuel oil
CO emission	From BAT, 100 PPM at 3% O <sub>2</sub>

Copies of the application, the Department's analysis and other documents used in the evaluation of the application are available for public review during normal business hours at Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711.

Persons who wish to provide the Department with additional information they believe should be considered prior to the issuance of this permit should submit the information to the previous address. Written comments must contain the name, address and telephone number of the person submitting the comments, identification of proposed Permit 45-302-074 and a concise statement regarding the relevancy of the information or objections to the issuance of the permit.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the comments received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a newspaper, the *Pennsylvania Bulletin* or by telephone, when the Department determines notification by telephone is sufficient. Written comments or requests for a public hearing should be directed within 30 days after the publication date to Mark J. Wejkszner, P.E., Chief, New Source Review Section, Air Quality Program, 2 Public Square, Wilkes-Barre, PA 18711, (570) 826-2531.

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

**ER-36-05031: Bollman Hat Co.** (Route 272 and Willow Street, Adamstown, PA 19501) for an Emission Reduction Credit (ERC) approval of 14.34 tons of VOCs from the shutdown of the company's Willow Street manufacturing plant in Adamstown Borough, **Lancaster County**. The ERCs resulted from the October 3, 2003, permanent shutdown of the facility.

**44-03014: Barr Funeral Home, Inc.** (120 Logan Street, Lewistown, PA 17044) for installation of a natural gas operated human crematory controlled by a secondary

chamber afterburner in Lewistown Borough, **Mifflin County**. The unit will have a rated capacity of 100 pounds per hour. Expected NOx emissions will be 1.5 tons, or less, per year and particulate emissions will be less than 0.50 ton per year. The Plan Approval and Operating Permit will contain recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

**31-03033A: Stone Valley Welding** (R. R. 2, Box 213, Huntingdon, PA 16652) for operation of a metal surface coating booth using solvent coatings in Jackson Township, **Huntingdon County**. The primary emissions from the source are VOCs which will be limited to 20.5 tons per year. The Plan Approval will contain restrictions, monitoring, recordkeeping, work practice and reporting requirements designed to keep the source operating within all applicable air quality requirements.

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

**10-027E: Penreco** (138 Petrolia Street Karns City, PA 16041) for replacement of existing coal fired boiler 5 with a new boiler rated at 91 mmBtu/hr in Karns City, **Butler County**. The facility was issued Title V Permit TV-10-00027 on May 4, 2000, which was revised on July 18, 2003. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Title V operating permit through an administrative amendment at a later date.

Plan Approval 10-0027E is for the replacement of existing coal fired boiler 5 with a new boiler rated at 91 mmBtu/hr. The new boiler will be capable of firing natural gas, distillate oil, residual oil and off specification oil, which is currently fired in the no. 1 boiler. The new boiler will be equipped with low NOx burners and flue gas recirculation. This replacement is intended to be an environmental improvement that will reduce emissions and provide a dependable supply of steam for processing needs. This boiler is identical to the new gas/oil boiler that was constructed earlier this year. The project will decrease emissions of PM10, NOx, SO<sub>2</sub> and VOCs by 66.77 tpy, 82.89 tpy, 99.01 tpy and 31.57 tpy, respectively. CO emissions will increase by 6.81 tpy. This is a net result of combining the decreases from the no. 5 and no. 6 coal boilers along with other increases and decreases that have occurred at the facility since 1991 (including the new emissions for the two new boilers based on the permit limits). The Plan Approval will include the emission limits for firing natural gas, distillate oil and residual oil as well as off-specification oil and will also include all applicable conditions to ensure compliance with Subpart Dc of the Standards of Performance for New Stationary Sources. The Approval also requires stack tests to demonstrate compliance with the emission limits. The permit contains limitations pertaining to fugitive, odor and visible emissions. 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.

**10-345A: Allegheny Mineral Corp.** (SR 4013, Harrisville, PA 16038) for construction of a limestone processing facility in Marion Township, **Butler County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department intends to issue a plan approval for the construction of a limestone processing facility in Marion Township, Butler County. This plan approval will, in accordance with 25 Pa. Code § 127.450,

be incorporated into the State-only operating permit through an administrative amendment at a later date. Issuance of the plan approval is recommended with the appropriate conditions in the plan approval:

1. The source shall comply with 25 Pa. Code §§ 123.1, 123.31 and 123.41 for fugitive, odor and visible emissions, respectively.

2. The sources maximum hours of operation are limited to 4,800 hours per year. The amount of limestone processed per calendar year shall not exceed 1 million tons.

3. The permittee shall control process emissions through wet suppression on an as needed basis.

4. The permittee shall perform daily visible emissions monitoring with discrepancies noted on a facility log.

5. The permittee shall maintain the following records:

a. The amount of limestone processed per month. This number will be added to the previous 11 months for a rolling twelve month total.

b. The number of hours operation per day for the facility.

6. The permittee shall comply with 25 Pa. Code § 127.25 as follows:

No person shall cause or permit the operation of the source unless the source is operated and maintained in accordance with specifications in the Plan Approval application and conditions listed previously. A person may not cause or permit the operation of this source in a manner inconsistent with good operating practices.

#### OPERATING PERMITS

#### Intent to Issue Title V Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**15-00022: Columbia Gas Transmission Corp.** (1700 MacCorkle Avenue, SE, Charleston, WV 25325-1273) for operation of their natural gas transmission facility in West Vincent Township, **Chester County**. This action is a renewal of the Title V Operating Permit. The initial permit was issued on August 22, 1997. The facility's major emission points include four reciprocating engine/internal compressors and one reciprocating engine/generator. As a result of potential emissions of VOCs and NOx, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act amendments and is therefore subject to the Title V permitting requirements in 25 Pa. Code Chapter 127, Subchapter G. The proposed Title V Operating Renewal does not adopt any new regulations and does not reflect any change in air emissions from the facility. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

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

**33-00002: Owens-Brockway Glass Container, Inc.—Plant No. 19** (Route 219N, Brockway, PA 15824) for reissuance of a Title V Permit to operate a glass containers manufacturing facility in Snyder Township, **Jefferson County**. The facility's major emission sources include boiler, raw material handling, batch gathering and mixing, glass melting furnaces, cullet handling and storage,

two refiners, six forehearth, six lehrs, miscellaneous combustion sources, six container forming machines, road fugitives and four degreaser units. The facility is a major facility due to its potential to emit NOx and SOx.

**10-00001: AK Steel Corp.** (Route 8 South, Butler, PA 16003) for a Title V Operating Permit Re-issuance to operate a steel manufacturing facility in Butler Township, **Butler County**.

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

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**09-00102: Soil Technologies, Inc.** (7 Steel Road East, P. O. Box 847, Morrisville, PA 19067) for operation for operation of a facility that uses thermal remediation to clean contaminated soils/aggregates of hydrocarbon contamination is in Falls Township, **Bucks County**. The permit is for a non-Title V (State-only) facility. The major sources of air emissions are the rotary kiln dryer, a storage building where the contaminated soil/aggregate is handled, a pugmill mixer and associated control devices. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**46-00056: Hale Products, Inc.** (700 Spring Mill Avenue, Conshohocken, PA 19428) for operation of their facility to test pumps and operate two paint booths in the Borough of Conshohocken, **Montgomery County**. The permit is for a non-Title V (State-only) facility. The major sources of air emissions are three pump test engines; two emergency generators and two paint booths and associated control devices. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**23-00086: Engineered Systems Co.** (2250 Market Street, Aston, PA 19014) for operation of their assembly facility in Upper Chichester Township, **Delaware County**. The permit is for a non-Title V (State-only) facility. Major sources of air emissions include two spray paint booths and a natural gas-fired curing oven. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

**06-05030A: Carastar Mill Group, Inc.** (3110 Paper Mill Road, Sinking Spring, PA 19608) for modification of the dual fuel boiler at their facility in Spring Township, **Berks County**. The modification changes the method of limiting the emissions of sulfur oxides from the boiler. The method limits the amount of fuel fired based on the type of fuel and the sulfur content. The facility's emissions will be limited to less than 100 tons of SOx per year. The approval will include monitoring, recordkeeping, reporting and work practices designed to keep the source operating within all applicable air quality requirements.

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

**04-00600: Rosebud Mining Co.** (301 Market Street, Kittanning, PA 16201) a renewal for operation of coal crushing and screening plant at Mine No. 1 in Greene Township, **Beaver County**.

**56-00291: RoxCoal Inc.** (P. O. Box 149, Friedens, PA 15541) for operation of a coal processing plant at the Miller Mine in Lincoln Township, **Somerset County**.

**COAL AND NONCOAL MINING  
ACTIVITY APPLICATIONS**

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the district mining office indicated before an application within 30 days of this publication, or within 30 days

after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

*Coal Applications Received*

*Effluent Limits*—The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0mg/l	6.0mg/l	7.0mg/l
Manganese (total)	2.0mg/l	4.0mg/l	5.0mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

\* The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas, active areas disturbed by coal refuse disposal activities and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

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

**03980107 and NPDES Permit No. PA0202495. State Industries, Inc.** (P. O. Box 1022, Kittanning, PA 16201). Renewal application for continued operation and reclamation of an existing bituminous surface mine in Washington Township, **Armstrong County**, affecting 355.6 acres. Receiving stream: unnamed tributary to Allegheny River (WWF). The first potable water supply intake within 10

miles downstream from the point of discharge is Allegheny Power. Renewal application received July 29, 2004.

**03890109 and NPDES Permit No. PA0591700. Rosebud Mining Company** (301 Market Street, Kittanning, PA 16201) renewal application for reclamation only to an existing bituminous surface mine in Perry Township, **Armstrong County**, affecting 56.0 acres. Receiving stream: unnamed tributary to Allegheny River (WWF). The first portable water supply intake within 10 miles downstream from the point of discharge is the Pennsylvania American Water Co. Renewal application received August 5, 2004.

**03940110 and NPDES Permit No. PA0200999. Seven Sisters Mining Company, Inc.** (200 Route 22, P. O. Box 300, Delmont, PA 15626). Renewal application for continued operation and reclamation of an existing bituminous surface mine in Wayne Township, **Armstrong County**, affecting 55.5 acres. Receiving streams: un-

named tributaries to the North Branch of the South Fork of Pine Creek (CWF). There is no potable water supply intake within 10 miles from the point of discharge. Renewal application received August 16, 2004.

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

**56980106 and NPDES Permit No. PA0234842. Marquis Mining Corporation**, 3889 Menoher Blvd., Johnstown, PA 15905, surface mining permit renewal for reclamation only in Quemahoning and Jenner Townships, **Somerset County**, affecting 139 acres. Receiving streams: unnamed tributary to/and Two Mile Run; unnamed tributaries to/and Higgins Run (CWF). The first downstream potable water supply intake from the point of discharge is the Cambria Somerset Authority Quemahoning surface water intake. Application received July 29, 2004.

**56940104 and NPDES Permit No. PA0212849. Mountaineer Mining Corporation**, 1010 Garrett Shortcut Road, Berlin, PA 15530-8822, surface mining permit renewal in Brothersvalley Township, **Somerset County**, affecting 107.2 acres. Receiving streams: unnamed tributaries to Tubs Run and Laurel Run; and to Tubs Run and Laurel Run (WWF). There are no potable water supply intakes within 10 miles downstream. Application received July 29, 2004.

**56880103 and NPDES Permit No. PA0598143. Future Industries, Inc.**, P. O. Box 157, Meyersdale, PA 15552, permit revision to obtain a stream variance to one unnamed tributary to Bigby Creek and three unnamed tributaries to the Casselman River in Summit Township, **Somerset County**, affecting 785.0 acres. Receiving streams: unnamed tributary to Casselman River, Casselman River, two unnamed tributaries to Bigby Creek and unnamed tributary to Cranberry Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received August 3, 2004.

*California District Mining Office: 2 Technology Drive, Coal Center, PA 15423, (724) 769-1100.*

**02851602. NPDES Permit No. PA0214396, Mon Valley Transportation Center, Inc.** (P. O. Box 135, 1060 Ohio Avenue, Glassport, PA 15045-0135), to renew the permit for the Glassport Tipple in Glassport and Lincoln Boroughs, **Allegheny County** and related NPDES permit. No additional discharges. Application received July 22, 2004.

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

**24020102 and NPDES Permit No. PA0242080. P. and N. Coal CO., Inc.** (P. O. Box 332, Punxsutawney, PA 15767). Revision to an existing bituminous surface strip and coal ash use application in Benezette Township, **Elk County** affecting 118.9 acres. Receiving streams: unnamed tributary to Porcupine Run to Porcupine Run, unnamed tributary to Chase Hollow and unnamed tributary to Trout Run (CWF). There are no potable surface water supply intakes within 10 miles downstream. Revision to add coal ash as a beneficial use to the site. Application received August 9, 2004.

**33940102 and NPDES Permit No. PA0211923. Mahoning Mining, Inc.** (P. O. Box 44, New Bethlehem, PA 16242). Renewal of an existing bituminous surface strip and auger operation in Knox Township, **Jefferson County**, affecting 101.0 acres. Receiving streams: Two unnamed tributaries to Licking Run (CWF). There are no potable surface water supply intakes within 10 miles

downstream. Application for reclamation only. Application received August 9, 2004.

**33990113 and NPDES Permit No. PA0241679. Cookport Coal Co., Inc.** (425 Market Street, Kittanning, PA 16201). Renewal of an existing bituminous surface strip operation in Perry Township, **Jefferson County** affecting 50.1 acres. Receiving streams: unnamed tributary to Rose Run (CWF). There are no potable surface water supply intakes within 10 miles downstream. Application for reclamation only. Application received August 11, 2004.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**17040106 and NPDES Permit No. PA0243809. Waroquier Coal Company** (P. O. Box 128, Clearfield, PA 16830). Commencement, operation and restoration of a bituminous surface mine permit in Chest Township, **Clearfield County** affecting 50 acres. Receiving streams: Chest Creek (CWF). There are no downstream surface water supply intakes from the point of discharge. Application received August 4, 2004.

**17000109 and NPDES Permit No. PA0242985. Kenneth K. Rishel & Sons, Inc.** (1229 Turnpike Avenue, Clearfield, PA 16830). Revision to an existing bituminous surface mine permit for a change in permit acreage from 25 to 49.2 acres. The permit is in Lawrence Township, **Clearfield County**. Receiving streams: Orr's Run and unnamed stream to Orr's Run. Application received July 30, 2004.

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

**49851605R4. Twin Creek Coal, Inc.** (R. R. 1, Box 308, Paxinos, PA 17860), renewal of an existing underground mine operation in Ralpho Township, **Northumberland County** affecting 9.0 acres, receiving stream: none. Application received August 4, 2004.

**54851315T2. Summit Anthracite, Inc.** (196 Vista Road, Klingerstown, PA 17941), transfer of an existing underground mine operation from Nowacki Coal Company in Schuylkill and Blythe Townships, **Schuylkill County** affecting 8.7 acres, receiving stream: none. Application received August 5, 2004.

**54890102R3 and NPDES Permit No. PA0594504. White Pine Coal Co., Inc.** (P. O. Box 119, Ashland, PA 17921), renewal of an existing anthracite surface mine, coal refuse reprocessing and refuse disposal operation in Reilly, Cass and Foster Townships, **Schuylkill County** affecting 729.7 acres, receiving streams: Muddy Branch Creek. Application received August 11, 2004.

**54040202. Frederick Consulting** (P. O. Box 524, 50 Big Diamond Road, Minersville, PA 17954), commencement, operation and restoration of an anthracite coal refuse reprocessing operation in Cass Township, **Schuylkill County** affecting 30.0 acres, receiving stream: none. Application received August 10, 2004.

*Noncoal Permit Applications Received*

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**08040809. Robert C. Seeley** (R. R. 2, Box 1685, Mansfield, PA 16933), commencement, operation and restoration of a small industrial minerals (flagstone) permit in Columbia Township, **Bradford County** affecting 5 acres. Receiving streams: unnamed tributary, tributary to North Branch Sugar Creek. Application received July 2, 2004.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931-4119, (814) 472-1900.*

**11940301 and NPDES Permit No. PA0212873. Pheasant & Shearer**, 1922 Ohio Street, Johnstown, PA 15904, renewal of NPDES Permit in East Taylor Township, **Cambria County**. Receiving streams: Hinckston Run (WWF). There are no potable water supply intakes within 10 miles downstream. Application received July 22, 2004.

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

**5677SM1C7 and NPDES Permit No. PA0223263. Watsontown Brick Company** (P. O. Box 68, Route 405, Watsontown, PA 17777), renewal of NPDES permit for discharge of treated mine drainage from a quarry operation in Delaware Township, **Northumberland County**, receiving stream: West Branch of Susquehanna River (WWF). The first potable downstream water supply intake from the point of discharge is the Pennsylvania American Water Company. Application received August 9, 2004.

## FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing, of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act**

**(32 P. S. § 679.302) and requests for certification under section 401 of the FWPCA (33 U.S.C.A. § 1341(a)).**

## WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E39-441. The Atlantic Companies, LLC**, 485 Route 1 South, Iselin, NJ 08830 in Upper Macungie Township, **Lehigh County**, U. S. Army Corps of Engineers, Philadelphia District.

To remove the existing structure and to construct and maintain a 72-foot long triple cell concrete box culvert having cell dimensions of 24-foot by 8-foot across Iron Run (HQ-CWF). The project is immediately west of Route 100 and Certronia Road (Allentown West, PA Quadrangle N: 9.8 inches; W: 15.2 inches).

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

**E05-326: Colerain Township**, 3017 Centennial Road, Bedford, PA 15522 in Colerain Township, **Bedford County**, ACOE Baltimore District.

To construct and maintain two upstream and downstream concrete abutment extensions and a reinforced concrete Cobel type extension on the upstream side of the pier on Colerain Township Bridge No. 2 over Cove Creek (EV) at a site (Rainsburg, PA Quadrangle N: 5.4 inches; W: 4.9 inches) in Colerain Township, Bedford County for the purpose of increasing the bridge's bearing capacity.

**E28-319: Department of Transportation, District 8-0**, 2140 Herr Street, Harrisburg, PA 17103 in Quincy Township, **Franklin County**, ACOE Baltimore District.

To remove the existing structure and then to construct and maintain an 8-foot by 4-foot box culvert with a 1-foot depression at the channel of an unnamed tributary to West Branch Antietam Creek (CWF) on SR 0997, Section 012, Segment 0180, Offset 0004 to improve the traffic conditions about 1,000 feet north of Quincy High School (Waynesboro, PA Quadrangle N: 12.2 inches; W: 10.2 inches) in Quincy Township, Franklin County.

**E22-480: Department of Transportation, District 8-0**, 2140 Herr Street, Harrisburg, PA 17103 in Jackson Township, **Dauphin County**, ACOE Baltimore District.

To remove the existing bridge and then to construct and maintain a single-span bridge with a clear span of 34.5 feet with an underclearance of 6.75 feet across Armstrong Creek (CWF) on SR 1004, Section 004, Segment 0030, Offset 0000, about 2.8 miles southwest of Elizabethville Borough (Elizabethville, PA Quadrangle N: 1.6 inches; W: 10.8 inches) in Jackson Township, Dauphin County.

**E22-481: Department of Transportation, District 8-0**, 2140 Herr Street, Harrisburg, PA 17103 in Washington Township, **Dauphin County**, ACOE Baltimore District.

To remove the existing two-span bridge and then to construct and maintain a two-span bridge with a total centerline clear span of 106.34 feet on an 80 degree skew with a minimum underclearance of 8.35 feet over Wiconisco Creek (WWF) on SR 1021, Section 003, Segment 0050, Offset 2708 about 1.4 miles north of Elizabeth Borough (Elizabethville, PA Quadrangle N: 12.5 inches; W: 10.65 inches) in Washington Township, Dauphin County.

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

**E17-399. Clearfield Municipal Authority**, 107 East Market Street, Clearfield, PA 16830. Moose Creek Public Water Supply Project in Lawrence Township, **Clearfield County**, ACOE Baltimore District (Clearfield, PA Quadrangle N: 10.25 inches; W: 13.5 inches).

Applicant proposes to remove a roadway crossing of Moose Creek (HQ-CWF, WT, TSF), restore EV palustrine emergent wetland systems impacted by roadways and permit a water line crossing of EV palustrine emergent wetlands along Moose Creek. This application has been submitted under compliance action initiated by the Department.

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

**E02-1475. Camp Guyasuta**, Flag Plaza, 1275 Bedford Avenue, Pittsburgh, PA 15219. McGinnis Education Center at Camp Guyasuta outfall structure in Ohara Township, **Allegheny County**, Pittsburgh ACOE District (Pittsburgh East, PA Quadrangle N: 22.4 inches; W: 5.0 inches—Latitude: 40° 29' 54" and Longitude: 79° 54' 39"). The applicant proposes to construct a water line across the channel of Guyasuta Run (HQ-WWF) and two outfall structures (36-inch diameter and 12-inch diameter) on the right bank of said stream for the purpose of providing water to the proposed McGinnis Education Center and to transport water from the existing detention basin. The project is on the north side of SR 28, approximately 2,500 feet north from the Highland Park Bridge.

**E02-1477. Penn Hills Properties, L.P.**, One Atlantic Avenue, Pittsburgh, PA 15202-1707. Wetland fill in the Borough of Penn Hills, **Allegheny County**, Pittsburgh ACOE District (Braddock, PA Quadrangle N: 17.7 inches; W: 4.2 inches—Latitude: 40° 28' 35" and Longitude: 79° 46' 50"). The applicant proposes to place and maintain fill in two wetlands, wetland A—0.02 acre (PEM) and wetland C—0.01 acre (PEM) for a total impact of 0.03 acre. The applicant also proposes to impact approximately 389 feet of a tributary to Thompson Run, which meets the Department's waiver 105.12(a)(2). The proposed impacts are for a proposed development to be known as Penn Hills Retail Center in the southeast corner of the intersection of Saltsburg and Reiter Roads. The total proposed wetland impact is 0.03 acre and stream impact is 389 feet to a tributary to Thompson Run.

**E26-320. Fairchance-Georges Joint Municipal Sewage Authority**, 141 Big Six Road, Smithfield, PA

15478. Wetland fill in Georges Township, **Fayette County**, Pittsburgh ACOE District (Smithfield, PA Quadrangle N: 10.5 inches; W: 2.6 inches—Latitude: 39° 48' 28" and Longitude: 79° 46' 7"). The applicant proposes to place and maintain fill in 0.1 acre of wetlands associated with construction of buildings to increase the capacity of the sewage treatment plant along the right bank of Georges Creek (WWF). The project's length is approximately 300 feet and is just downstream of the Big Six Road Bridge.

**E30-210. Pamela Snyder, Greene County Board of Commissioners**, 93 East High Street, Waynesburg, PA 15370. Bridge rehabilitation in Greene Township, **Greene County**, Pittsburgh ACOE District (Garards Fort, PA Quadrangle N: 10.3 inches; W: 8.5 inches—Latitude: 39° 48' 24" and Longitude: 80° 3' 24"). The applicant proposes to rehabilitate and maintain Green County Bridge No. 18 having a clear span of 67 feet and an underclearance of 7.5 feet across Whiteley Creek (TSF) on T-604.

**E30-211. Debra G. Haring, Rices Landing Borough**, Rices Landing, PA 15357. Construct boat docks in Rices Landing Borough, **Greene County**, Pittsburgh ACOE District (Mather, PA Quadrangle N: 13.6 inches; W: 0.05 inch—Latitude: 39° 57' 00" and Longitude: 80° 0' 1"). The applicant proposes to construct and maintain boat docks 1,350 feet by 6 feet along the left bank of the Monongahela River (WWF), Mile 68.5 in four phases and 102 feet by 6 feet boat docks along the left bank of Pumpkin Run (WWF) at the confluence with the Monongahela River for the use of the community and other organizations.

**E65-853. Donald A. Paulone Custom Built Homes, Inc.**, One Corporate Circle, Suite 1000, Greensburg, PA 15601. To construct two pipe culverts and fill in wetland in Unity Township, **Westmoreland County**, Pittsburgh ACOE District (Latrobe, PA Quadrangle N: 8.0 inches; W: 14.0 inches—Latitude: 40° 17' 40" and Longitude: 79° 28' 30"). The applicant proposes to construct and maintain two pipe culverts and to place and maintain fill in 0.92 acre of wetlands for the purpose of construction of a residential development known as Villas of Grayhawk: (1) a 57-foot long pipe culvert having three 4 feet diameter pipes in an unnamed tributary to Slate Creek (WWF), under Grayhawk Road; and (2) a 300-foot long stream enclosure having an opening diameter of 4 feet in another unnamed tributary to Slate Creek, under the proposed houses and Grayhawk Road. The project is approximately 200 feet east of the intersection of SR 30 and Johnson Road.

## 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



<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
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**

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0057568	Robert Stetson 1422 Hilltown Pike Hilltown, PA 18927	Bucks County Hilltown Township	UNT to Neshaminy Creek (Reading Creek) 2F-Neshaminy Watershed	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0020834 Amendment 1 Sewerage	Borough of Greencastle 60 North Washington Street Greencastle, PA 17225-1230	Franklin County Antrim Township	UNT Conococheague Creek 13-C	Y
PA0080594 IW	Bristolpipe Corporation 88 Newport Road Leola, PA 17540	Lancaster County Upper Leacock Township	UNT Mill Creek 7-J	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0112445 IW	P & N Packing, Inc. R. R. 2 Box 180 Wyalusing, PA 18853	Terry Township Bradford County	North Branch Susquehanna River 4-D	Y
PA0042722 Sewerage Public	Dushore Sewer Authority P. O. Box 248 Dushore, PA 18614	Sullivan County Dushore Borough	Little Loyalsock Creek 10B	Y
PA0033162 Sewerage	David L. Burns P. O. Box 6 Boalsburg, PA 16827	Huston Township Centre County	UNT Bald Eagle Creek 9-C	Y

NPDES Permit No. (Type)	Facility Name and Address	County and Municipality	Stream Name (Watershed No.)	EPA Waived Y/N ?
PA0007854 Industrial Waste	Pennsylvania American Water 105 Sodom Road Milton, PA 17847-9762	Northumberland County Milton Borough	West Branch Susquehanna River 10D	Y

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

NPDES Permit No. (Type)	Facility Name and Address	County and Municipality	Stream Name (Watershed No.)	EPA Waived Y/N?
PA0024163	Cambria Township Sewer Authority P. O. Box 247 Revloc, PA 15948	Cambria County Cambria Township	South Branch Blacklick Creek	Y
PA0037818	Saltsburg Borough 320 Point Street P. O. Box 104 Saltsburg, PA 15681	Indiana County Saltsburg Borough	Conemaugh River	Y

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

NPDES Permit No. (Type)	Facility Name and Address	County and Municipality	Stream Name (Watershed No.)	EPA Waived Y/N ?
PA0101737	Wilderness Mobile Home Park P. O. Box 924 Warren, PA 16365	Pleasant Township Warren County	Unnamed tributary to Morrison Run 16-B	Y
PA0102717	Sandy Hill Estates P. O. Box 2 Curtisville, PA 15032	Middlesex Township Butler County	Glade Run 20-C	Y
PA0222780	Scott W. Zimmerman SFTF 4822 Glen Hazel Road Wilcox, PA 15870	Jones Township Elk County	Unnamed tributary to East Branch Clarion River 17-B	Y
PA0210820	Michael P. and Cheryl L. Nass 2670 Old State Road Waterford, PA 16441	Waterford Township Erie County	Unnamed tributary to Little Conneauttee Creek	Y

*Northwest Region: Oil and Gas Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481, (814) 332-6860.*

NPDES Permit No. (Type)	Facility Name and Address	County and Municipality	Stream Name (Watershed No.)	EPA Waived Y/N ?
PA0105295	Minard Run Oil Company Dent Water Treatment Facility P. O. Box 18 Bradford, PA 16701	McKean County Lafayette Township	Lewis Run 16-C	Y

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

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

**NPDES Permit No. PA0026743, Amendment No. 3, Sewage, Charlotte Katzenmoyer, Director of Public Works, City of Lancaster, 120 North Duke Street, P. O. Box 1599, Lancaster, PA 17608-1599.** This proposed facility is in Lancaster City, **Lancaster County**.

Description of Proposed Action/Activity: Authorization to discharge to Conestoga River in Watershed 7-J.

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

**NPDES Permit No. PA0095087-A1, Sewage, Chippewa Township Sanitary Authority, Municipal Building, 2568 Darlington Road, Beaver Falls, PA 15010.** This proposed facility is in Chippewa Township, **Beaver County**.

Description of Proposed Action/Activity: Re-locate the monitoring point for total residual chlorine from the effluent flume to the outfall pipe.

**NPDES Permit No. PA0252654, Sewage, Yough Sanitary Authority, P. O. Box 168, Dawson, PA 15428.** This proposed facility is in Dunbar Township, **Fayette County**.

Description of Proposed Action/Activity: Discharge of sewage from the Yough Sanitary Authority Wastewater Treatment Facility to the Youghiogheny River.

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

**NPDES Permit No. PA0021598, Sewage, Conneaut Lake Joint Municipal Authority, First Street Extension, Conneaut Lake, PA 16316.** This proposed facility is in Sadsbury Township, **Crawford County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to the Conneaut Outlet in Watershed 16-D.

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

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

**WQM Permit No. 5204401**, Sewerage, **Aqua PA, Inc.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010. This proposed facility is in Lackawaxen Township, **Pike County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit. Construction of a low pressure sewage collection system for 21 lots.

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

**WQM Permit No. 3603204**, CAFO, **Mike Brubaker, Brubaker Farms Partnership**, 493 Musser Road, Mount Joy, PA 17552. This proposed facility is in East Donegal Township, **Lancaster County**.

Description of Proposed Action/Activity: This permit authorizes the construction and operation of manure storage facilities at Brubaker Farms, a 1,324 AEU dairy, broiler and swine CAFO.

**WQM Permit No. 3604412**, Sewerage, **Robert Tucci, Chairperson, Northwestern Lancaster County Authority**, 97 North Penryn Road, Manheim, PA 17545. This proposed facility is in Penn Township, **Lancaster County**.

Description of Proposed Action/Activity: This permit authorizes the relocation and expansion of pump station no. 3.

**WQM Permit No. 2204405**, Sewerage, **Clifford Lewis, South Hanover Township Sewer Authority**, 111 West Third Street—Union Deposit, Hershey, PA 17033. This proposed facility is in South Hanover Township, **Dauphin County**.

Description of Proposed Action/Activity: This permit approves the construction of sewerage facilities consisting of the construction of a 94 gpm pump station and 1,029 feet of 4-inch force main to serve Phases 9 and 13 of the Meadows of Hanover development.

**WQM Permit No. 2888407, Amendment 04-1, Borough of Greencastle**, 60 North Washington Street, Greencastle, PA 17225-1230. This proposed facility is in Antrim Township, **Franklin County**.

Description of Proposed Action/Activity: Construction of modifications to the existing plant to increase the hydraulic and organic capacities.

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

**WQM Permit No. 1404405**, Sewage, **Spring-Benner-Walker Joint Authority**, 170 Irish Hollow Road, Bellefonte, PA 16823. This proposed facility is in Walker Township, **Centre County**.

Description of Proposed Action/Activity: The applicant proposes to construct a sewer extension and pump station serving the Springfield Subdivision Phase VI.

**WQM Permit No. 1400403-T2**, Sewerage 4952, **David L. Burns**, P. O. Box 6, Boalsburg, PA 16827. This existing facility is in Huston Township, **Centre County**.

Description of Proposed Action/Activity: Issuance of a WQM Part II Permit for the sewage treatment plant

serving Martha's Furnace MHP, LLC. This permit is being transferred due to a change in ownership.

**WQM Permit No. 1404403**, Sewerage 4952, **Spring-Benner-Walker Joint Authority**, 170 Irish Hollow Road, Bellefonte, PA 16823. This proposed facility is in Spring Township, **Centre County**.

Description of Proposed Action/Activity: Construction of a pump station and force main to serve the White Rock Quarry.

**WQM Permit No. 4904401**, Sewerage 4952, **Noah and Rebecca Peachey**, 3350 SR 54, Turbotville, PA 17772. This proposed facility is in Lewis Township, **Northumberland County**.

Description of Proposed Action/Activity: The applicant proposes the respective permit for a small flow treatment facility to serve a residence. The treatment facility will discharge to an unnamed tributary of Beaver Run (WWF).

**WQM Permit No. 1903404**, Sewage 4952, **Mifflin Township**, P. O. Box 170, Mifflinville, PA 18631. This proposed facility is in Mifflin Township, **Columbia County**.

Description of Proposed Action/Activity: The applicant proposes to construct and operate a sewage collection system. The sewage will be pumped to the Berwick sewerage for treatment and discharge.

**WQM Permit No. 4104402**, Sewerage 4952, **Jersey Shore Borough**, 232 Smith Street, Jersey Shore, PA 17740. This facility is in Jersey Shore Borough, **Lycoming County**.

Description of Proposed Action/Activity: Replacement of 14-inch pipe with a new 18-inch line and a new bypass pipe with metering manhole at the Jersey Shore Borough wastewater treatment plant.

**WQM Permit No. 1795408-A45**, Sewerage 4952, **Bradford Township**, 2289 Barrett Road, Suite B Road, Woodland, PA 16881. This proposed facility is in Bradford Township, **Clearfield County**.

Description of Proposed Action/Activity: Construction of small flow sewage treatment system to serve the Gospel Church of Clearfield County.

**WQM Permit No. 1499406-T1**, Sewerage 4952, **Joseph W. Charnick**, 148 Guenot Lane, Port Matilda, PA 16870. This facility is in Worth Township, **Centre County**.

Description of Proposed Action/Activity: Transfer of a WQM Part II Permit for a small flow sewage treatment plant serving a single residence.

**WQM Permit No. 1404406**, Sewage 4952, **Centre Hall-Potter Sewer Authority**, P. O. Box 497, Centre Hall, PA 16828. This proposed facility is in Potter Township, **Centre County**.

Description of Proposed Action/Activity: The applicant proposes to construct and operate a sewer and pump station serving Ashford Manor Housing Development.

**WQM Permit No. 0804201**, Industrial Waste 2011, **Taylor Packing Company, Inc.**, P. O. Box 188, Wyalusing, PA 18853. This proposed facility is in Wyalusing Township, **Bradford County**.

Description of Proposed Action/Activity: The applicant proposes to construct and operate an anaerobic lagoon biogas collection system. The biogas fuel will be used in the plant boiler.

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

**WQM Permit No. 6304403**, Sewerage, **Washington-East Washington Joint Authority**, 66 East Beau Street, P. O. Box 510, Washington, PA 15301. This proposed facility is in Canton Township, **Washington County**.

Description of Proposed Action/Activity: Construction of approximately 3,500 feet of new interceptor sewer and inverted sewer to provide relief capacity to existing sewers.

**WQM Permit No. 6304405**, Sewerage, **John Navrat**, 111 Beallsville Road, Bentleyville, PA 15314. This proposed facility is in Somerset Township, **Washington County**.

Description of Proposed Action/Activity: to construct a small flow sewage treatment plant.

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

**WQM Permit No. WQG018311**, Sewerage, **Thomas E. Mook**, P. O. Box 1077, Saegertown, PA 16433. This proposed facility is in Cussewago Township, **Crawford County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

**WQM Permit No. WQC018304**, Sewerage, **Kris Risto**, 9595 Donation Road, Waterford, PA 16441. This proposed facility is in Summit Township, **Erie County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

**WQM Permit No. 6204407**, Sewerage, **Carol L. and James M. Lopez**, 191 Scott Run Road, Warren, PA 16365. This proposed facility is in Conewango Township, **Warren County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

**WQM Permit No. WQG018312**, Sewerage, **Michael Fargiorgio**, 9850 Townline Road, North East, PA 16428. This proposed facility is in North East Township, **Erie County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

**WQM Permit No. WQG018314**, Sewerage, **Laura M. Royer**, 272 Tower Road, Jamestown, PA 16134. This proposed facility is in Greene Township, **Mercer County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

**WQM Permit No. WQG018308**, Sewerage, **Fred Seibel**, 1409 Pittsburgh Road, Valencia, PA 16059. This proposed facility is in Clinton Township, **Butler County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

**WQM Permit No. 6204408**, Sewerage, **Carol and Kenneth A. Johnson**, 38 Peterson Hollow Road, Russell, PA 16345. This proposed facility is in Pine Grove Township, **Warren County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

**WQM Permit No. 3704201**, Industrial Waste, **Castle Cheese, Inc.**, Route 19, Box 378, Portersville, PA 16051. This proposed facility is in Scott Township, **Lawrence County**.

Description of Proposed Action/Activity: This project is for the construction of a wastewater treatment facility to treat washdown from floors and equipment and sewage from the restrooms.

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#### IV. NPDES Stormwater Discharges from MS4 Permit Actions

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAI136132	Sewickley Hills Borough 1165 Fairhill Playground Road Sewickley, PA 15143	Allegheny	Sewickley Hills Borough	Kilbuck Run CWF Little Sewickley Creek HQ-TSF	Y

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#### V. NPDES Waiver Stormwater Discharges from MS4 Actions

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#### VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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*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>
PAI023903044	Temple Beth El of Allentown, Inc. 1702 Hamilton St. Allentown, PA 18104	Lehigh	South Whitehall Township	Little Cedar Creek HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041404009	Joseph DeMartino Wiltree Properties LLC 2056 Incinal Ave., No. 4 Alameda, CA 94501	Centre	College Township	UNT Slab Cabin Run (locally known as Thompson Run) HQ-CWF

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

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

### List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site
PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

#### *General Permit Type—PAG-2*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
City of Bethlehem Northampton County	PAG2004804021	John Blair Turnbridge Partnership Rt. 378S and Walter Ave. Bethlehem, PA 18015	Saucon Creek CWF	Northampton County Conservation District (610) 746-1971
Lower Nazareth and Palmer Townships Northampton County	PAG2004803009-1	Andrew Kolb Prologis Development Services, Inc. One Capital Dr., Suite 103 Cranbury, NJ 08512	Shoeneck Creek WWF	Northampton County Conservation District (610) 746-1971
Lehigh Township Northampton County	PAG2004804026	Kemmerer Corp. 3220 Valley View Dr. Bath, PA 18014	Hokendauqua Creek CWF	Northampton County Conservation District (610) 746-1971
Bradford County Columbia Township	PAG2000804007	James Van Blarcom R. R. 2, Box 50 Columbia Cross Roads, PA 16914	Wolfe Creek TSF	Bradford County Conservation District R. R. 5, Box 5030C Towanda, PA 18848 (570) 264-5539x205

<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>
Snyder County Penn Township	PAG2005504006	Forest Homes R. R. 1, Box 131K Selinsgrove, PA 13870	Middle Creek TSF	Snyder County Conservation District 403 W. Market St. Middleburg, PA 17842 (570) 837-0007x112
Fayette County City of Connellsville	PAG2002604020	The Wide Waters Group 5786 Widewaters Parkway DeWitt, NY 13214	Opposum Run WWF	Fayette County Conservation District (724) 438-4497
Fayette County Perryopolis Borough	PAG2002604025	Mark Simpson 1019 Bush Road Saltsburg, PA 15681	Washington Run WWF	Fayette County Conservation District (724) 438-4497
Indiana County Brush Valley Township	PAG2003204001	Neil W. Hedrick Robindale Energy Services, Inc. 7 Riverside Plaza Blossburg, PA 16912	Unnamed tributary of Blacklick Creek CWF	Indiana County Conservation District (724) 463-8547
Westmoreland County Murrysville	PAG2006504032	John Nicklas P. O. Box 1730 Cranberry, PA 16066	Turtle Creek WWF	Westmoreland County Conservation District (724) 837-5271
Mercer County Farrell City	PAG2004304011	PBL Associates LP 1625 Dutch Lane Hermitage, PA 16148	Tributary Shenango River WWF	NWRO 230 Chestnut Street Meadville, PA 16335 (814) 332-6945

*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>
Bethlehem City Northampton County	PAR202237	Tecumseh Redevelopment, Inc. Bethlehem Works 3250 Interstate Drive Richfield, OH 44286-9000	Lehigh River WWF	NERO Water Mgmt. Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511
Bethlehem City Northampton County	PAR202236	Tecumseh Redevelopment, Inc. Bethlehem Commerce Center 3250 Interstate Drive Richfield, OH 44286-9000	Lehigh River WWF Saucon Creek CWF Laubach Creek CWF	NERO Water Mgmt. Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511
Susquehanna County Auburn Township	PAR212228	S & K Stone R. R. 3, Box 179 Meshoppen, PA 18630	Tributary to Meshoppen Creek, Susquehanna Watershed CWF	NERO Water Mgmt. Program 2 Public Square Wilkes-Barre, PA 18711-0790 (570) 826-2511
Berks County Muhlenberg Township	PAR803661	Berks Fuel Storage, Inc. 1248 Wayne Avenue Reading, PA 19601	Laurel Run WWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

**NOTICES**

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<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Berks County Reading City	PAR803568	Dana Corporation P. O. Box 13459 Reading, PA 19612	Schuylkill River WWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Berks County Laureldale Borough	PAR113505	Yuasa Battery, Inc. 2901 Montrose Avenue Laureldale, PA 19605-2752	Bernhart Creek WWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
York County Spring Garden Township	PAR143524	American Rock Salt Company LLC 5520 Rt. 63 P. O. Box 190 Mt. Morris, NY 14510-0190	Codorus Creek WWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lycoming County Muncy Creek Township	PAR224850	Muncy Homes Inc. 1567 Route 442 Muncy, PA 17756-0246	Little Muncy Creek CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Sandy Township Clearfield County	PAR804872	Greg B. Murray Murrays Freightliner 1844 Rich Highway Route 219 North DuBois, PA 15801-3970	Slab Run CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Point Township Northumberland County	PAR124809	Tulpehocken Spring Water Co., Inc. R. R. 1 Box 114-T Northumberland, PA 17857	UNT Lithia Springs Creek CWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
<i>General Permit Type—PAG-4</i>				
<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Berks County Amity Township	PAG043614	Barry C. Templin 577 Monocacy Hill Road Birdsboro, PA 19508	UNT Monocacy Creek WWF	SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707
Cumberland County Upper Mifflin Township	PAG043720	Noah Lee Stoltzfus 307 Newville Road Newburg, PA 17240	UNT Three Squares Hollow Run	SCRO 909 Elmerton Ave. Harrisburg, PA 17110 (717) 705-4707

<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>
Bradford Township Clearfield County	PAG045179 Sewerage	Gospel Chapel Church 300 Pleasant Valley Road P. O. Box 165 Woodland, PA 16881	UNT Sulphur Run CWF	Water Management Program 208 West Third Street Williamsport, PA 17701 (570) 327-3666
Lewis Township Northumberland County	PAG045181	Mr. and Mrs. Noah Peachey 3350 SR 54 Turbotville, PA 17772	UNT to Beaver Run WWF	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3666
Worth Township Centre County	PAG045071 Sewerage	Joseph Charnick 148 Guenot Lane Port Matilda, PA 16870	Ardery Hollow CWF	Water Management Program 208 West Third Street Williamsport, PA 17701 (570) 327-3666
Westmoreland County Fairfield Township	PAG046283	Mount Carmel Hermitage R. R. 1 Box 330-C Bolivar, PA 15923	UNT of Hypocrite Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
Washington County Somerset Township	PAG046285	John Navrat 111 Beallsville Road Bentleyville, PA 15314	UNT of North Branch Pigeon Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000
North East Township	PAG048990	Michael Fargiorgio 9850 Townline Road North East, PA 16428	Unnamed tributary to Scott Run	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Greene Township Mercer County	PAG049004	Laura M. Royer 272 Tower Road Jamestown, PA 16134	Unnamed tributary to Little Shenango River	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Clinton Township Butler County	PAG048996	Fred Seibel 1409 Pittsburgh Road Valencia, PA 16059	Bull Creek	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942



NOTICES

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<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Hamlin Township McKean County	PAG048333	Dale W. Howard P. O. Box 193 Hazel Hurst, PA 16733-0193	Kane Creek	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Liberty Township McKean County	PAG048646	Tracy L. Kio 604 Lower Portage Road Port Allegany, PA 16743-9431	Unnamed tributary to Allegheny Portage Creek	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Pine Grove Township Warren County	PAG049005	Carol and Kenneth A. Johnson 38 Peterson Hollow Road Russell, PA 16345	Unnamed tributary to Rhine Run	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Vernon Township Crawford County	PAG048648	James C. and Katherine A. Rothbrust 14799 Middle Road Meadville, PA 16335	Unnamed tributary to Conneaut Outlet	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
City of St. Marys Elk County	PAG048624	Robert T. Nasoni 1293A South Michael Road Saint Marys, PA 15857	Unnamed tributary of Trout Run	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-8*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
Toles Hollow Road Eulalia Township Potter County	PAG084833	Coudersport Area Municipal Authority P. O. Box 82 Coudersport, PA 16915-0820	Coudersport Area Municipal Authority Wastewater Treatment Plant	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3655
Deerfield Township Tioga County	PAG084804	Knoxville Borough P. O. Box 191 Knoxville, PA 16928	Knoxville Borough Wastewater Plant	Northcentral Regional Office Water Management Program 208 West Third Street Suite 101 Williamsport, PA 17701 (570) 327-3655

*General Permit Type—PAG-9*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
West Chillisquaque Township Northumberland County	PAG094836	Mark Cromley 69 Campbelmill Road Lewisburg, PA 17837	Mark Crumley Septic Service	Northcentral Regional Office (570) 327-3655

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Site Name and Location</i>	<i>Contact Office and Telephone No.</i>
Perry Township Jefferson County	PAG098303	Clifford Neal Neal Septic Tank Service 1570 Sportsburg Road Punxsutawney, PA 15767-1103	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942	

*General Permit Type—PAG-9 (SSN)*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Contact Office and Telephone No.</i>
West Chillisquaque Township Northumberland County	PAG084836	Mark Cromley 2055 Shakespeare Road Milton, PA	NCRO (570) 327-3655

*General Permit Type—PAG-13*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAG136341	East Taylor Township 2402 William Penn Avenue Johnstown, PA 15909	Cambria	East Taylor Township	Little Conemaugh River WWF Hinckston Run CWF and WWF	Y

**PUBLIC WATER SUPPLY (PWS) PERMITS**

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**SAFE DRINKING WATER**

**Actions taken under the Pennsylvania Safe Drinking Water Act.**

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

**Operations Permit** issued to **Shady Grove Menno-nite School**, Antrim Township, **Franklin County** on September 11, 2004, for the operation of facilities approved under Construction Permit No. 2803508.

**Operations Permit** issued to **New Oxford Municipal Authority**, 7010025, Oxford Township, **Adams County** on August 12, 2004, for the operation of facilities approved under Construction Permit No. 0103501.

**Operations Permit** issued to **United Water Pennsylvania**, 7220015, Susquahanna Township, **Dauphin County** on August 12, 2004, for the operation of facilities approved under Construction Permit No. 2204507 MA.

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

<b>Permit No. 262W5</b> , Public Water Supply.	
Applicant	<b>Centre Hall Borough Water System</b>
Township or Borough	Centre Hall Borough
County	<b>Centre</b>
Responsible Official	Lynn Dutrow, Operator/Manager Centre Hall Borough Water System 253 West Fourth Street P. O. Box 54 Centre Hall, PA 16828
Type of Facility	PWS—Cancellation.
Application Issued Date	August 13, 2004

**Description of Action** Wells 1, 2 and 10 and the old reservoir have been physically disconnected from the public water system. Permit 262W5 was issued on June 20, 1962 and approved springs 4 and 5, wells 6 and 7 as additional sources for supply 1, disinfecting equipment for all water from supply 1 and approval of supply 2 which included Sharer Run 1, Sharer Run 2, wells 3 and 4 as sources of supply, reservoir 2 and disinfecting equipment for all the water from supply 2. Permit 262W5 is hereby cancelled in its entirety.

**Permit No. 262W15**, Public Water Supply.  
**Applicant** Centre Hall Borough Water System  
**Township or Borough** Centre Hall Borough  
**County** Centre  
**Responsible Official** Lynn Dutrow, Operator/Manager  
 Centre Hall Borough Water System  
 253 West Fourth Street  
 P. O. Box 54  
 Centre Hall, PA 16828  
**Type of Facility** PWS—Cancellation.  
**Application Issued Date** August 12, 2004

**Description of Action** Permit 265W15 issued on July 20, 1965, approved the use of wells 9 and 10 as sources of supply and 3,015 feet of 6-inch cast iron transmission main from well 10 to reservoir 1. Permit 265W15 is hereby partially cancelled. Well 10 is no longer a permitted source.

**Permit No. Minor Amendment**, Public Water Supply.  
**Applicant** Centre Hall Borough Water System  
**Township or Borough** Centre Hall Borough  
**County** Centre  
**Responsible Official** Lynn Dutrow, Operator/Manager  
 Centre Hall Borough Water System  
 253 West Fourth Street  
 P. O. Box 54  
 Centre Hall, PA 16828  
**Type of Facility** PWS—Operation.  
**Application Issued Date** August 13, 2004

**Description of Action** Operation of the transmission lines and the finished water storage tank.

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

**Permit No. 6286502-T1-MA1**, Minor Amendment.  
**Applicant** Valley View Village MHP

**Borough or Township** Pittsfield Township  
**County** Warren  
**Type of Facility** PWS  
**Permit to Construct Issued** August 13, 2004

**Operations Permit** issued to **Aqua Pennsylvania, Inc.**, 762 West Lancaster Ave., Bryn Mawr, PA 19010-3420, PWS ID 6270008, Jenks Township, **Forest County**, on August 13, 2004, for the operation of Well 1A as an additional source of supply, as approved under Construction Permit No. 2703502.

**STORMWATER MANAGEMENT**

**Action on plans submitted under the Storm Water Management Act (32 P. S. §§ 680.1—680.17)**

*Bureau of Watershed Management, P. O. Box 8555, Harrisburg, PA 17105-8555.*

**Plan No 079:53, Coxes Creek Stormwater Management Plan**, as submitted by **Somerset County**, was approved on August 11, 2004.

**Plan No 100:09, East Branch Perkiomen Creek Stormwater Management Plan**, as submitted by **Bucks County**, was approved on August 11, 2004.

**Plan No 305:22, Susquehanna River, Clarks Creek, Stony Creek and Powell's Creek Stormwater Management Plan**, as submitted by **Dauphin County**, was approved on August 11, 2004.

**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>
North Annville Township	1929 Thompson Ave. Jonestown, PA 17038	Lebanon

**Plan Description:** The approved plan provides for a gravity sewer extension to serve the existing Hill Farm at Annville retirement community consisting of 65 beds, 7 independent living units and up to 84 new units. This project provides for a new sewerage service area near Kreider. The Department's review of the sewage facilities minor 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.

**SEWAGE FACILITIES ACT PLAN DISAPPROVAL**

**Plan Disapprovals Granted under the Pennsylvania Sewage Facilities Act**

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
West Rockhill Township	1028 Ridge Road, Sellersville, PA 18960	Bucks

Plan Description: On August 17, 2004, the Southeast Regional office disapproved the sewage facilities planning module for the Benson Property, code number 1-09952-197-3s, APS ID 513231, Site ID 631781. The project is in West Rockhill Township, Bucks County. The project was disapproved for the following reasons:

1. The submitted alternative analysis indicated that the Bucks County Health Department investigated the soils on the site, but the results of this testing were not included with the planning module submission. Therefore, adequate documentation was not provided to demonstrate that the soils on the site are not suitable for the installation of an on-lot sewage disposal systems.

2. The submitted site plan did not depict the location of any soil testing, the slopes at each test area and the types of soils present and their boundaries.

3. The public notice included with the submission did not meet the requirements of 25 Pa. Code §§ 71.31(c), 71.53(d)(6) and 93.4c(c)(3). Specifically, the public notice included with the submission did not indicate the antidegradation classification of Ridge Valley Creek.

4. The planning module submission did not adequately evaluate nondischarge sewage disposal alternatives. The project's alternative analysis indicated that the site is unsuitable for the placement of either a conventional onlot sewage disposal system or an individual residential spray irrigation sewage disposal system. However, there was no indication in the submission of whether any alternate or experimental onlot sewage disposal technologies were considered. The Department was therefore unable to determine whether the site is unsuitable for all on-lot sewage disposal methods.

5. The proposed discharge would have had an adverse impact on the quality of Ridge Valley Creek (HQ). Under 25 Pa. Code § 93.4c(b)(1)(iii), the Department may allow a reduction of water quality in an HQ stream if a reduction is necessary to accommodate important economic or social development in the area in which the waters are located. The applicant supplied a social or economic justification (SEJ) in support of the proposed discharge. However, no social justification for the discharge was presented in the SEJ and only a minimal economic benefit was anticipated. Furthermore, it was unclear from the submission whether the existing onlot sewage disposal system on the property is creating a public health or pollution hazard. Therefore, the Department cannot support the proposed discharge.

## 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.*

**Former SPS Technologies, Inc. Facility**, Upper Dublin Township, **Montgomery County**. Kate Gibbons, Environmental Strategies Corp., 334 Elizabeth Ave., Suite B, Somerset, NJ 08873 on behalf of Philip L. Hinerman, Esq., 135 Commerce, Inc., Fort Washington, PA 19634 has submitted a Final Report concerning remediation of site groundwater contaminated with chlorinated solvents. The report is intended to document remediation of the site to meet the Site-Specific Standard.

**Quan Residence and Mercede Residence**, Abington Township, **Montgomery County**. Richard D. Trimpi, CHMM, P. G., Trimpi Assoc., Inc., 1635 Old Plains Rd., Pennsburg, PA 18073 on behalf of Duchan Quan and Joe Mercede, 3022 Turner Ave. and 3018 Turner Ave., Roslyn, PA 19001 has submitted a Final Report concerning remediation of site soil contaminated with no. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Proposed Wendy's Site**, Upper Darby Township, **Delaware County**. Samuel Kucia, Environmental Consulting, Inc., 500 East Washington St., Suite 375, Norristown, PA 19401 on behalf of Benjamin Willner, Willner Realty and Development Co., 140 S 69th St., 2nd Floor, Upper Darby, PA 19082 has submitted a Final Report concerning remediation of site soil contaminated with benzene. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**280 North Providence Rd. Office Bldg.**, Media Borough, **Delaware County**. Mark J. Irani, P. G., Advantage Environmental Consultants, LLC, 3101 Mount Carmel Ave., Suite 3, Glenside, PA 19038 on behalf of Blake A. Strine, Professional Bldg. Investments, Inc., 203 Baltimore Ave., Media, PA 19063 has submitted a Final Report concerning remediation of site soil contaminated

with no. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Pemberton Site**, Malvern Borough, **Chester County**. Michael J. Edelman, P. G., URS Corp., 2325 Maryland Rd., 2nd Floor, Willow Grove, PA 19090, on behalf of Shirley Pemberton, C104 Westridge Ct., Phoenixville, PA 19460, has submitted a Final Report concerning remediation of site soil contaminated with PCB. The report is intended to document remediation of the site to meet the Statewide Health and Site-Specific Standards.

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

**American Electric Facility (Former)**, City of Pittsburgh, **Allegheny County**. Ruch C. Mannebach, NPN Environmental, 1631 Headland Drive, St. Louis, MO 63026 (on behalf of Om Chopra, Thomas & Betts, 8155 T & B Boulevard, 4B-35, Memphis, TN 38125) has submitted a Final Report concerning remediation of site soil contaminated with PAHs and lead. The report is intended to document remediation of the site to meet the Statewide Health Standard.

**Johnstown High School**, City of Johnstown, **Cambria County**. Von E. Fisher, KU Resources, Inc., One Library Place, Suite 207, Duquesne, PA 15110 (on behalf of Donald Irwin, Greater Johnstown School District, 1091 Broad Street, Johnstown, PA 15906 and Deborah Walters, Johnstown Redevelopment Authority, Fourth Floor, 401 Washington Street, Johnstown, PA 15901) has submitted a Final Report, concerning remediation of site soil and groundwater contaminated with chlorinated solvents, inorganics, leaded gasoline, PAHs, unleaded gas, used motor oil, diesel fuel and other organics. The report is intended to document remediation of the site to meet the Site Specific Standard.

## 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 in-

cludes 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:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Gilbertsville CVS**, New Hanover Township, **Montgomery County**. Craig Herr, RT Environmental Svc., Inc., 215 W. Church Rd., King of Prussia, PA 19406, has submitted a Final Report concerning the remediation of site soil contaminated with lead and site groundwater contaminated with lead and MTBE. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on July 21, 2004.

**Melchiorre Const. Co. Park Site**, Phoenixville, Borough, **Chester County**. Lawrence W. Bily, RT Environmental Svc., Inc., 215 W. Church Rd., King of Prussia, PA 19406, on behalf of Peter Melchiorre, Melchiorre Construction Co., P. O. Box 14, R. D. 5, Malvern, PA 19355 has submitted a Final Report concerning the remediation of site soil contaminated with heavy metal. The Final report demonstrated attainment of the Site-Specific Standard and was approved by the Department on August 3, 2004.

**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 194840794 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. The Remedial Investigation/Risk Assessment Report was approved by the Department on July 27, 2004.

**Rosemont Estates**, Upper Providence Township, **Montgomery County**. Christopher Orzechowski, RT Environmental Svc., Inc., 215 W. Church Rd., King of

Prussia, PA 19406 on behalf of Penn International Land Co., 900 E. 8th Ave., Suite 300, King of Prussia, PA 19406 has submitted a Final Report concerning the remediation of site soil contaminated with arsenic. The Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on August 6, 2004.

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

**Industrial Property (Former)**, Borough of Versailles, **Allegheny County**. Charles Haefner, Jr., P. G., KU Resources, Inc., Business Innovation Center, One Library Place, Suite 207, Duquesne, PA 15110 (on behalf of Pat McGrail, Borough of Versailles, 1714 Lincoln Way, White Oak, PA 15131 and Stephen Pholar, West-to-West Coalition, P. O. Box 720, Duquesne, PA 15110) has submitted a Remedial Investigation Report, Risk Assessment Report and a Cleanup Plan concerning remediation of site soil and groundwater contaminated with inorganics, lead and PAHs. The Remedial Investigation Report, Risk Assessment Report and Cleanup Plan were approved by the Department on August 12, 2004.

**BP Site 0700**, North Huntingdon Township, **Westmoreland County**. Heather Fazekas, 2020 Ardmore Boulevard, Pittsburgh, PA 15221 (on behalf of Nancy Eisaman, Writings on the Wall, 7950 Lincoln Highway, North Huntingdon, PA 15642 and Richard Blackburn, BP Products North America, Inc., 1 West Pennsylvania Ave., Suite 440, Towson, MD 21204) has submitted a Final Report concerning the remediation of site soil contaminated with constituents associated with waste oil, diesel fuel and gasoline. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on July 21, 2004.

**6260 Broad Street**, City of Pittsburgh, **Allegheny County**. William G. Weir, Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 and Plumbers Equipment Company, 8150 North Lehigh Street, Morton Grove, IL 60053 (on behalf of URA of Pittsburgh, 200 Ross Street, Pittsburgh, PA 15219) has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with PAHs and solvents. The Final Report demonstrated attainment of the Site Specific Standard and was approved by the Department on August 10, 2004.

**Homewood School Plating Shop**, City of Pittsburgh, **Allegheny County**. Wayne D. Rideout, Sci-Teck Environmental Services Company, 655 Rodi Road, Suite 303, Pen Hills, PA 15235 (on behalf of Robert Kennedy, Pittsburgh School Board, 1302 Muriel Street, Pittsburgh, PA 15203) has submitted a Remedial Investigation Report, Cleanup Plan and Final Report concerning the remediation of site soil contaminated with Inorganics. The Remedial Investigation Report, Cleanup Plan and Final Report were approved by the Department on August 2, 2004.

**Flint Ink**, Borough of Sharpsburg, **Allegheny County**. Martin Knuth, Civil & Environmental Consultants, Inc., 333 Baldwin Road, Pittsburgh, PA 15205 (on behalf of Norfolk-Southern RR, 425 Holiday Drive, Pittsburgh, PA 15220 and Flint Ink, 4600 Arrowhead Drive, Ann Arbor, MI 48105) has submitted a Remedial Investigation Report and Cleanup Plan concerning the remediation of site soil and groundwater contaminated with lead and heavy metals. The Remedial Investigation Report and Cleanup Plan were approved by the Department on August 12, 2004.

## HAZARDOUS WASTE TRANSPORTER LICENSE

### Actions on applications for Hazardous Waste Transporter License received under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to transport hazardous waste.

*Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

*Hazardous Waste Transporter License Renewed*

**Cousins Waste Control Corporation**, 1701 E Matzinger Rd., Toledo, OH 43612. License No. PA-AH0344. Effective August 10, 2004.

**American Environmental Services, Inc.**, 4990 Grand Ave., Pittsburgh, PA 15225. License No. PA-AH0671. Effective August 10, 2004.

**Heritage-Crystal Clean LLC**, 2250 Point Blvd, Suite 250, Elgin, IL 60123. License No. PA-AH0672. Effective August 2, 2004.

**Teris LLC**, 880 W. Verdulera St., Camarillo, CA 93010. License No. PA-AH0690. Effective July 8, 2004.

**Consolidated Transportation, Inc.**, 23 Perrine St., P. O. Box 768, Auburn, NY 13021. License No. PA-AH0059. Effective July 15, 2004.

*Hazardous Waste Transporter License Voluntarily Terminated*

**Applied Construction & Environmental Services, Inc.**, 5140 Paxton St., Harrisburg, PA 17111. License No. PA-AH0705. Effective June 11, 2004.

**Nappi Trucking Corporation**, 151C Morristown Rd., Matawan, NJ 07747. License No. PA-AH0278. Effective June 1, 2004.

## INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE

### Actions on applications for Infectious and Chemotherapeutic Waste Transporter License received under the Solid Waste Management Act and the act of July 13, 1988 (P. L. 525, No. 93) (35 P. S. §§ 6019.1—6019.6) and regulations to transport infectious and chemotherapeutic waste.

*Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

*Infectious and Chemotherapeutic Waste Transporter License Renewed*

**Cole Care, Inc.**, 1001 E Second St., Coudersport, PA 16915. License No. PA-HC0178. Effective July 15, 2004.

**Med-Flex, Inc.**, 105 High St., Mt. Holly, NJ 08060. License No. PA-HC0207. Effective July 15, 2004.

## REGISTRATION FOR GENERAL PERMIT—RESIDUAL WASTE

### Registration Approved under the Solid Waste Management Act, 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. WMGR090R036. Asphalt Paving Systems, Inc.**, 500 N. Egg Harbor Road, Hammonton, NJ 08037. General Permit No. 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 August 11, 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 application received under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.**

*Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. 101217. Casella Waste Management Inc.**, 16 State Street, Montpelier, VT 05602, Delmar Township, **Tioga County**. The permit application for the acceptance of new residual waste was received by the Williamsport Regional Office on August 3, 2004.

Comments concerning the application should be directed to John C. Hamilton, P.E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Persons interested in obtaining more information about the general permit application should contact the Williamsport Regional Office, (570) 327-3653. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to and approval or denial of the application.

**Permits issued under the Solid Waste Management Act, the Municipal Waste Planning, Recycling and Waste Reduction Act and regulations to operate solid waste processing or disposal area or site.**

*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. Operation of a residual waste processing facility in West Finley Township, **Washington County**. Permit renewal issued in the Regional Office on August 11, 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.**

*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**AQ-SE-0016: Allan A. Myers, LP** (1805 Berks Road, P. O. Box 98, Worcester, PA 19490) on August 11, 2004, to operate and relocate two mobile portable nonmetallic mineral crushing units in Bethel and Aston Townships, **Delaware County**.

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

**40-323-014GP4: First Quality Nonwovens, Inc.** (101 Green Mountain Road, Humboldt Industrial Park, Hazleton, PA 18201) on August 12, 2004, to construct and operate a burn-off oven and associated air cleaning device for line 5 cleaning at their facility in Hazleton Township, Luzerne County and East Union Township, **Schuylkill County**.

**64-310-016GP3: E R Linde Construction Corp.** (R. R. 6, Box 6825, Honesdale, PA 18431) on August 12, 2004, to construct and operate a portable stone crushing plant and associated air cleaning device at their facility in Cherry Ridge Township, **Wayne County**.

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

**GP4-06-05019A: Hofmann Industries, Inc.** (3145 Shillington Road, Sinking Spring, PA 19608) on August 9, 2004, for burn off ovens under GP4 in Sinking Spring Borough, **Berks County**.

**GP4-06-05025: Morgan Corp.** (One Morgan Way, Morgantown, PA 19543) on August 10, 2004, for burn off ovens under GP4 in Caernarvon Township, **Berks County**.

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

**GP5-65-00959A: The Peoples Natural Gas Co.** (625 Liberty Avenue, Pittsburgh, PA 15222) on August 11, 2004, to operate the tri-ethylene glycol dehydration system at Arnold Compressor Station, Arnold Borough, **Westmoreland County**.

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

**43-313: TRM, Inc.** (110 North Main Street, Greenville, PA 16125) on August 16, 2004, to operate a jet fuel storage tank in Greenville, **Mercer 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.*

**23-0074: GS Roofing Products Co., Inc.** (800 West Front Street, Chester, PA 19013) on August 11, 2004, to operate a thermal oxidizer in City of Chester, **Delaware County**.

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

**07-05027A: Millennium Rail, Inc.** (P. O. Box 349, Hollidaysburg, PA 16648) on August 9, 2004, to replace a fabric collector in Frankstown Township, **Blair County**.

**29-03010: JLG Industries, Inc.** (One JLG Drive, McConnellsburg, PA 17233-9533) on August 10, 2004, to operate two blast booths controlled by fabric collectors, a paint kitchen and two paint spray booths controlled by dry filters. The equipment had previously been operated as the NES Rebuild Center, Inc. in Ayr Township, **Fulton County**.

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

**56-00232B: Shade Landfill, Inc.** (625 Charrington Parkway, Coraopolis, PA 15108) on August 11, 2004, to allow the expansion of their existing municipal solid waste disposal facility in Shade Township, **Somerset County**. The facility is subject to the operational, monitoring, recordkeeping, testing and reporting requirements required by 40 CFR 60, Subpart WWW and 25 Pa. Code Chapter 127 and the Plan Approval has been conditioned accordingly.

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

**10-0344A: Fannie's Friends Inc.** (352 Railroad Street, Evans City, PA 16033) on August 10, 2004, to construct a new pathological waste incinerator for pet remains rated at 130 pounds per hour in Evans City, **Butler County**.

**37-323A: IA Construction Corp.—Plain Grove Plant** (Mason Road, Volant, PA 16156) on August 5, 2004, for post construction plan approval of a permanent 350 tph nonmetallic crushing/screening plant at a permitted noncoal surface mining operation in Plain Grove Township, **Lawrence County**.

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**Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**09-0087B: Air Products and Chemicals, Inc.** (351 Philadelphia Avenue, Morrisville, PA 19067) on August 15, 2004, to operate an SiF<sub>4</sub> process scrubber in Falls Township, **Bucks County**.

**15-0115: QVC, Inc.** (1200 Wilson Drive, West Chester, PA 19380) on August 6, 2004, to operate two 12.55 mmBtu/hr gas/fuel boilers in West Goshen Township, **Chester County**.

**23-0006D: Foamex LP** (1500 East Second Street, Eddystone, PA 19022) on August 12, 2004, to operate a thermal reticulator in Eddystone Borough, **Delaware County**.

**46-0018C: Brown Printing Co.** (668 Gravel Pike, East Greenville, PA 18041) on August 16, 2004, to operate a lithographic printing press in Upper Hanover Township, **Montgomery County**.

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

**35-318-086: McGregor Industries, Inc.** (46 Line Street, Dunmore, PA 18512) on August 10, 2004, to

construct a paint spray booth and associated air cleaning device at their facility in Dunmore Borough, **Lackawanna County**. The Plan Approval has been extended.

**54-399-029A: Silberline Manufacturing Co., Inc.** (Lincoln Drive, P. O. Box B, Tamaqua, PA 18252) on August 10, 2004, to construct a vacuum metalize pigment manufacturing process at their Tidewood Plant in Rush Township, **Schuylkill County**. The Plan Approval has been extended.

**40-328-004B: Williams Generation Co.—Hazleton** (P. O. Box 2848—WRC-A, Tulsa, OK 74101-9567) on August 2, 2004, to modify three simple cycle turbines and associated air cleaning devices at their facility in Hazle Township, **Luzerne County**. The Plan Approval has been extended.

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

**28-03044: Tarco Roofing Materials, Inc.** (8650 Molly Pitcher Highway North, Antrim, PA 17225) on August 15, 2004, to construct an asphalt coater and associated storage tanks in Antrim Township, **Franklin County**. This plan approval was extended.

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

**56-00025E: New Enterprise Stone and Lime** (P. O. Box 77, New Enterprise, PA 16664) on August 5, 2004, to install the Bakersville Quarry/Hot Mix Asphalt Plant in Jefferson Township, **Somerset County**. This plan approval was extended.

**03-00023A: Allegheny Energy Supply Co., LLC** (4350 Northern Pike, Monroeville, PA 15146) on August 11, 2004, to install a rotating over-fire air and Rotomix™ SNCR at their Armstrong Power Station in Washington Township, **Armstrong County**. This plan approval was extended.

**04-00235D: Pennsylvania Power Co.** (P. O. Box 128, Shippingport, PA 15077) on August 12, 2004, to construct a sodium bisulfite injection system on Units 1—3 at their Bruce Mansfield Power Station in Shippingport Borough, **Beaver County**. This plan approval was extended.

**32-00238A: Weimer's Iron and Scrapmetal** (5639 Tunnelton Road, Saltsburg, PA 15681) on August 12, 2004, to install an aluminum melting furnace in Conemaugh Township, **Indiana County**. This plan approval was extended.

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

**16-132B: Aconcagua Timber Corp.—Clarion** (1 Fiberboard Avenue, Shippenville, PA 16245) on August 31, 2004, to modify the fiberboard plant in Paint Township, **Clarion County**.

**33-033B: Owens Brockway Glass Container—Plant 18** (Cherry Street, Brockway, PA 15824) on August 10, 2004, to construct an applied ceramic labeling process in Brockway, **Jefferson County**.

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**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.*

**23-00055: Cheyney University** (1837 University Circle, Cheyney, PA 19319) on August 12, 2004, to operate a synthetic minor operating permit in Thornbury Township, **Delaware County**.

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

**06-03029: Yuasa Battery, Inc.** (2901 Montrose Avenue, Laureldale, PA 19605) on August 11, 2004, for a lead/acid storage battery manufacturing facility controlled by various fabric collectors and wet scrubbers in the Borough of Laureldale, **Berks County**.

**07-05038: Federal Carbide Co.** (One Eagle Ridge Road, Tyrone, PA 16686) on August 11, 2004, to operate their manufacturing facility in the Township of Snyder, **Blair County**.

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

**62-00093: Torpedo Specialty Wire, Inc.** (R. D. 2, Route 27, Pittsfield, PA 16340) on August 11, 2004, for a Natural Minor Operating Permit to operate their nickel-plating plant in Pittsfield Township, **Warren County**.

**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

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

**22-03041: Librandis Machine Shop, Inc.** (93 Airport Drive, HIA, Middletown, PA 17057) on August 12, 2004, for a natural minor permit for chromium electroplating operations controlled by surface tension method in Middletown Borough, **Dauphin County**. The State-only Operating Permit was administratively amended to incorporate the conditions of Plan Approval 22-03041 and General Permit GP4-22-03041. This is Revision No. 1 of the operating permit.

**38-05008: Rich Maid Cabinetry, LLC** (633 West Lincoln Avenue, Myerstown, PA 17067) on August 12, 2004, to operate a wood furniture manufacturing facility in Jackson Township, **Lebanon County**. The State-only Operating Permit was modified to incorporate a recent ownership transfer and a voluntary 25 tpy limit on VOC emissions to preclude the applicability of the 25 Pa. Code §§ 129.101—129.107 requirements for wood furniture manufacturing. This is Revision No. 1 of the operating permit.

**67-05016: R. H. Sheppard Co., Inc.** (101 Philadelphia Street, P. O. Box 877, Hanover, PA 17331-0877) on August 12, 2004, to operation an iron foundry in Hanover Borough, **York County**. The Title V Operating Permit was administratively amended to incorporate the requirements of Plan Approvals 67-05016B, 67-05016C and 67-05016D. This is Revision No. 2 of the operating permit.

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

**43-00011: Greenville Metals, Inc.—Transfer Plant** (99 Crestview Drive Extension, Transfer, PA 16154) for an administrative amendment to incorporate changes brought about through Plan Approval 43-011D at their facility in Pymatuning Township, **Mercer County**. EPA and public comment periods were addressed during the plan approval process.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.*

**S95-063: Commander Navy Region Mid-Atlantic** (700 Robbins Avenue, Philadelphia, PA 19111) on July 29, 2004, administratively amended to add conditions for one emergency generator in the City of Philadelphia, **Philadelphia County**. The Synthetic Minor Operating Permit was originally issued June 25, 2001.

## 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 Permits Actions

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

**03930108 and NPDES Permit No. PA0200816. Mears Enterprises, Inc.** (P. O. Box 157, Clymer, PA 15728). Permit revised to change the land use from forestland to pastureland at an existing bituminous surface mine in Wayne and Cowanshannock Townships, **Armstrong County**, affecting 281.7 acres. Receiving streams: unnamed tributaries to South Fork Pine Creek. Application received May 11, 2004. Revised permit issued August 3, 2004.

**03990109 and NPDES Permit No. PA0202673. Mears Enterprises, Inc.** (P. O. Box 157, Clymer, PA 15728). Permit revised to change the land use from forestland to pastureland at an existing bituminous surface mine in Wayne Township, **Armstrong County**, affecting 58 acres. Receiving streams: unnamed tributaries to South Fork Pine Creek and South Fork Pine Creek. Application received May 11, 2004. Revised permit issued August 3, 2004.

**03990107 and NPDES Permit No. PA0202622. AMFIRE Mining Co., LLC** (One Energy Place, Latrobe, PA 15650). Application received to add 60 acres to an existing bituminous surface mining site in Washington and East Franklin Townships, **Armstrong County**, now

affecting 263.8 acres. Receiving streams: unnamed tributaries of Limestone Run to Limestone Run. Application received July 9, 2003. Revised permit issued August 5, 2004.

**63020101 and NPDES Permit No. PA0250104. Neiswonger Construction, Inc.** (17592 Route 322, Strattanville, PA 16528). Transfer of permit formerly issued to David Breeden Enterprises, Inc., for continued operation and reclamation of a bituminous surface mining site in Somerset Township, **Washington County**, affecting 261.6 acres. Receiving streams: unnamed tributary to Center Branch of Pigeon Creek to Pigeon Creek to Monongahela River. Application received April 26, 2004. Transfer permit issued August 11, 2004.

**03020113 and NPDES Permit No. PA0250279. Reichard Contracting, Inc.** (212 Olean Trail, New Bethlehem, PA 16242). Permit revised to add 10.5 mining acres to an existing bituminous surface mining site in Wayne Township, **Armstrong County**, now affecting 73.0 acres. Receiving streams: unnamed tributaries to Glad Run to Mahoning Creek. Application received April 12, 2004. Revised permit issued August 12, 2004.

**26870107 and NPDES Permit No. PA0589802. David L. Patterson, Jr.** (12 Short Cut Road, Smithfield, PA 15478). Transfer of permit formerly issued to Durant Excavating for continued operation and reclamation of a bituminous surface mining site in Nicholson Township, **Fayette County**, affecting 82.0 acres. Receiving streams: unnamed tributaries to Jacobs Creek. Application received April 30, 2004. Transfer permit issued August 13, 2004.

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

**56951301. NPDES Permit No. PA0214850, Rox Coal, Inc.** (P. O. Box 149, Friedens, PA 15541), to renew the permit for the Agustus Mine in Shade Township, **Somerset County** and related NPDES permit. No additional discharges. Permit issued August 6, 2004.

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

**54830104R4. Hardway Coal Company** (44 Keystoker Lane, Schuylkill Haven, PA 17972), renewal of an existing anthracite surface mine operation in Cass Township, **Schuylkill County** affecting 54.4 acres, receiving stream: none. Application received December 30, 2003. Renewal issued August 9, 2004.

**54910206R2. Meadowbrook Coal Co., Inc.** (6690 SR 209, Lykens, PA 17048-9608), renewal of an existing coal refuse reprocessing operation in Tremont Township, **Schuylkill County** affecting 190.0 acres, receiving stream: Stumps Run. Application received December 19, 2003. Renewal issued August 9, 2004.

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931-4119, (814) 472-1900.*

**11803024 and NPDES Permit No. PA0124524. Cooney Brothers Coal Company**, P. O. Box 246, Cresson, PA 16630, surface mining permit renewal in Dean Township, **Cambria County**, affecting 327 acres. Receiving streams: unnamed tributary to/and Brubaker Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received February 18, 2004. Permit issued August 11, 2004.

**56920113 and NPDES Permit No. PA0212300. Action Mining, Inc.**, 1117 Shaw Mines Road, Meyersdale,

PA 15552, surface mining permit renewal in Summit and Elk Lick Townships, **Somerset County**, affecting 106 acres. Receiving streams: UNTs to Casselman River and Casselman River (CWF and WWF). There are no potable water supply intakes within 10 miles downstream. Application received May 28, 2004. Permit issued August 5, 2004.

**56713039 and NPDES Permit No. PA0069426. PBS Coals, Inc.**, P. O. Box 260, Friedens, PA 15541, surface coal mining permit renewal in Brothersvalley and Somerset Townships, **Somerset County**, affecting 1843 acres. Receiving streams: unnamed tributary to Kimberly Run, Kimberly Run, unnamed tributary to Sandy Hollow Creek (CWF). There are no potable water supply intakes within 10 miles downstream. Application received February 26, 2004. Permit issued August 9, 2004.

**56920106 and NPDES Permit No. PA0599557. Cooney Brothers Coal Company**, P. O. Box 246, Cresson, PA 16630, surface mine/coal refuse disposal permit renewal in Shade Township, **Somerset County**, affecting 276.0 acres. Receiving streams: unnamed tributary to Hinson Run, unnamed tributary to Shade Creek, unnamed tributary to Stoney Creek (CWF). The first downstream potable water supply intake from the point of discharge is the Cambria Somerset Authority Stoneycreek Surface Water Withdrawal. Application received February 26, 2004. Permit issued August 11, 2004.

**32020108 and NPDES Permit No. PA0249351. Amerikohl Mining, Inc.**, 202 Sunset Drive, Butler, PA 16001, commencement, operation and restoration of a bituminous surface mine and discharge of treated mine drainage in Buffington Township, **Indiana County**, affecting 44.0 acres. Receiving streams: unnamed tributary to Mardis Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received December 2, 2002. Permit issued August 11, 2004.

#### *Noncoal Permits Actions*

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

**67920301C. York Building Products Co., Inc.** (P. O. Box 1708, York, PA 17405), correction to an existing quarry operation in Jackson Township, **York County** affecting 59.0 acres, receiving stream: none. Application received March 31, 2003. Correction issued August 9, 2004.

**8275SM1C3 and NPDES Permit No. PA0594601. Prospect Aggregates, Inc.** (P. O. Box 7, East Petersburg, PA 17520), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in West Hempfield Township, **Lancaster County**, receiving stream: unnamed tributary to Chickies Creek. Application received February 17, 2004. Renewal issued August 10, 2004.

**28042801. David H. Martin Excavating, Inc.** (4961 Cumberland Highway, Chambersburg, PA 17201), commencement, operation and restoration of a Small Noncoal (Shale) Quarry operation in Hamilton Township, **Franklin County** affecting 5.0 acres. Receiving stream: Whiskey Run, tributary to Dennis Creek and Back Creek. Application received May 26, 2004. Permit issued August 11, 2004.

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

**10030302 and NPDES Permit No. PA0242462. Allegheny Mineral Corporation** (P. O. Box 1022, Kittan-

ning, PA 16201) Commencement, operation and restoration of a large noncoal limestone operation in Brady Township, **Butler County** affecting 340.7 acres. Receiving streams: unnamed tributaries to Big Run. Application received December 24, 2003. Permit issued August 6, 2004.

**62042801. Raymond C. Shield** (391 N. Main Street, Russell, PA 16345) Commencement, operation and restoration of a small noncoal sand and gravel operation in Pine Grove Township, **Warren County** affecting 4.0 acres. Receiving streams: Akeley Run. Application received February 18, 2004. Permit issued August 6, 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.*

**40044012. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414) construction site blasting for Mill Creek Estates in Plains Township, **Luzerne County** with an expiration date of July 31, 2005. Permit issued August 7, 2004.

**28044033. Geological Technologies, Inc.** (715 Baltimore Street, Martinsburg, WV 25401), construction blasting for Grove Manufacturing in Antrim Township, **Franklin County** with an expiration date of October 31, 2004. Permit issued August 7, 2004.

**36044075. Abel Construction Co., Inc.** (3925 Columbia Avenue, Mountville, PA 17554), construction blasting for Covered Bridge Marketplace "Target" in East Lampeter Township, **Lancaster County** with an expiration date of September 2, 2005. Permit issued August 7, 2004.

**46044027. American Rock Mechanics, Inc.** (7531 Chestnut Street, Zionsville, PA 18092), fuel tank excavation at Lower Providence Wawa, Lower Providence Township, **Montgomery County** with an expiration date of November 2, 2004. Permit issued August 7, 2004.

**21044059. Bernard J. Hasara** (1125 East Mahanoy Avenue, Mahanoy City, PA 17948) and **M. F. Ronca & Sons** (179 Mikron Road, Bethlehem, PA 18020), construction blasting for sanitary and water lines in the Western Village Area of South Middleton Township, **Cumberland County** with an expiration date of August 31, 2005. Permit issued August 7, 2004.

**67044040. Abel Construction Co., Inc.** (3925 Columbia Avenue, Mountville, PA 17554), construction blasting for Delta Ridge proposed single family subdivision in Peach Bottom Township, **York County** with an expiration date of August 31, 2005. Permit issued August 7, 2004.

**36044074. Keystone Blasting Services** (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for an animal waste containment structure at 157 Locust Street, West Earl Township, **Lancaster County** with an expiration date of March 2, 2005. Permit issued August 7, 2004.

**40044010. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for Willow View

Estates in Pittston Township, **Luzerne County** with an expiration date of July 31, 2005. Permit issued August 7, 2004.

**38044017. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting for the London Croft new housing development in North Londonderry Township, **Lebanon County** with an expiration date of July 2, 2005. Permit issued August 7, 2004.

**06044031. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting for the Landis Office Building in Spring Township, **Berks County** with an expiration date of July 2, 2005. Permit issued August 7, 2004.

**22044023. J. Roy's, Inc.** (Box 125, Bowmansville, PA 17507), construction blasting for Greenbelt road widening project in Susquehanna Township, **Dauphin County** with an expiration date of July 2, 2005. Permit issued August 7, 2004.

**40044009. Austin Powder Company** (P. O. Box 289, Northampton, PA 18067), construction blasting at Blue Ridge Trail Golf Course in Dorrance Township, **Luzerne County** with an expiration date of July 31, 2005. Permit issued August 11, 2004.

**28044034. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Johnies Restaurant Supplies in Guilford Township, **Franklin County** with an expiration date of August 31, 2005. Permit issued August 11, 2004.

**21044060. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at High Meadows in Lower Allen Township, **Cumberland County** with an expiration date of August 31, 2005. Permit issued August 11, 2004.

**40044011. Popple Contracting Company, Inc.** (202 Main Street, Laflin, PA 18702) and **D. C. Guelich Explosive Company** (P. O. Box 29, Bloomsburg, PA 17815), construction blasting at Butler Teaching & Learning Center in Hazle Township, **Luzerne County** with an expiration date of July 31, 2005. Permit issued August 11, 2004.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**14044017. Graymont (PA) Inc.** (965 E. College Avenue, Pleasant Gap, PA 16823), for construction blasting in Spring Township, **Centre County**, with an expected duration of 60 days. Permit issued July 29, 2004.

**14044018. Glenn O. Hawbaker** (P. O. Box 135, State College, PA 16803), for construction blasting in Ferguson Township, **Centre County**, with an expected duration of 365 days. Permit issued July 29, 2004.

**14044019. Graymont (PA) Inc.** (965 E. College Avenue, Pleasant Gap, PA 16823), for construction blasting in Spring Township, **Centre County**, with an expected duration of 60 days. Permit issued August 3, 2004.

**14044020. Paradise Contracting** (223 Paradise Road, Bellefonte, PA 16823), for construction blasting in College Township, **Centre County**, with an expected duration of 120 days. Permit issued August 10, 2004.

**59044002. Glenn O. Hawbaker** (P. O. Box 135, State College, PA 16803), for construction blasting in Covington Township, **Tioga County**, with an expected duration of 137 days. Permit issued August 11, 2004.

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

**04044002. Janod Contractors** (555 Vermont Rt. 78, P. O. Box 717, Swenson, VT 05488). Blasting activity permit for road construction in Aliquippa Township, **Beaver County**, with an expected duration of blasting is 90 days. Blasting activity permit issued August 9, 2004.

**04044003. Gasparovich Excavating** (1698 Pine Hollow Road, McKees Rocks, PA 15136). Blasting activity permit for construction of sewer lines in Brighton Township, **Beaver County**, with an expected duration of blasting is 15 days. Blasting activity permit issued August 9, 2004.

## 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.

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**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).**

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*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.*

**E45-458. Michael F. and Grace E. Covey**, 4 Hickory Lane, Chalfont, PA 18914-2013. Stroud Township, **Monroe County**, Army Corps of Engineers Philadelphia District.

To place fill in a de minimis area of PFO wetlands equal to 0.05 acre for the purpose of constructing two road crossings for a driveway to provide access to a proposed single-family dwelling. The first road crossing will be 144 feet long with five 12-inch diameter culverts and the second road crossing will be 18 feet long with one 12-inch diameter culvert. The project is on the south side of Township Road T383 (Poplar Valley Road), approximately 0.5 mile east of SR 0191 (Stroudsburg, PA-NJ Quadrangle N: 13.4 inches; W: 9.4 inches) (Subbasin: 1E).

**E48-348. Frederick Kelly Stewart**, 315 Allegheny Road Mount Bethel, PA 18343. Upper Mount Bethel Township, **Northampton County**, Army Corps of Engineers Philadelphia District, Subbasin 1F.

To construct and maintain a private bridge having a single span of approximately 24 feet and an underclearance of approximately 4.5 feet across Allegheny Creek (CWF, perennial). The project is on the southwestern side of Township Road T807 (Allegheny Road), approximately 0.5 mile northwest of Centerville Drive (Portland, PA-NJ Quadrangle N: 0.6 inch; W: 15.1 inches). The project proposes to directly affect 12 linear feet of stream.

**E54-310. Hammer's Towing, Inc.**, 1298 Valley Road, Pottsville, PA 17901. Cass Township, **Schuylkill County**, Army Corps of Engineers Philadelphia District.

To place fill in 0.50 acre of EV-PEM wetlands for the purpose of expanding an existing parking area for Hammer's Towing, Inc. The permittee is required to provide 0.10 acre of replacement wetlands onsite and provide for 0.40 acre of replacement wetlands by participating in the Pennsylvania Wetland Replacement Project. The project is on the west side of SR 4002, approximately 2,000 feet north of Minersville Borough (Minersville, PA Quadrangle N: 13.0 inches; W: 0.8 inch) (Subbasin: 3A).

**E39-405B. City of Allentown, Bureau of Parks**, 2700 Parkway Boulevard, Allentown, PA 18104-5399. City of Allentown, **Lehigh County**, Army Corps of Engineers Philadelphia District.

To construct and maintain Phase II of a stream restoration project in a 4,135-foot reach of Little Cedar Creek (HQ-CWF). The project is known as the Allentown Municipal Golf Course Little Cedar Creek Rehabilitation Project.

Phase II of the multiphase project includes: (1) restoration of 1,080 linear feet of Little Cedar Creek with work consisting of reshaping portions of the channel and stabilizing the banks with a combination of soil reinforcement matting, rock armor, biodegradable logs, a J-hook, a cross vane and vegetation; (2) removing the existing structure known as Bridge 1 and constructing and maintaining a golf cart bridge having a 32-foot span and a 6.6-foot underclearance; (3) constructing and maintaining a temporary golf cart bridge having a 32-foot span and a 5.7-foot underclearance; and (4) modifying and maintaining a 3-foot by 2-foot elliptical reinforced concrete pipe

with work consisting of removing a section of pipe and constructing a flared end section.

Phase II begins approximately 450 feet downstream of Little Cedar Creek's intersection with Springhouse Road (Allentown West, PA Quadrangle N: 18.3 inches; W: 6.3 inches) and extends 0.2 mile downstream (Allentown West, PA Quadrangle N: 18.4 inches; W: 5.8 inches) in the City of Allentown, Lehigh County (Subbasin: 1C).

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

**E18-373. Mu Hollow Rod & Gun Club**, 194 Germanville Road, Ashland, PA 17921. Mu Hollow Bridge in Chapman Township, **Clinton County**, ACOE Baltimore District (Young Womens Creek, PA Quadrangle N: 13.7 inches; W: 2.8 inches).

To remove the existing unsafe bridge and to construct and maintain: (1) a steel beam wood deck single span bridge with a 76-foot clear span, a 14-foot maximum underclearance with the new top-of-bank concrete abutments; (2) a stabilized area of 140 linear feet of the right bank and 90 linear feet of the left bank to a slope of 1 vertical to 1.5 horizontal protected by Class 2 Type A geotextile and R-8 riprap with minor backfilling of native stone material; (3) a temporary construction crossing of six 18-inch pipes and the associated R-2 choked R-4 cover placed next to the existing left bank parking area downstream of the bridge; and (4) a straw filled gabion basket curtain placed across the entire streambed downstream of the temporary crossing to filter sediment right in the right branch of Young Womens Creek. This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

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

**E02-1393. Department of General Services, Bureau of Engineering and Architecture**, 18th and Herr Streets, Harrisburg, PA 17120. To construct a flood wall in the City of McKeesport, **Allegheny County**, Pittsburgh ACOE District (McKeesport, PA Quadrangle N: 13.6 inches; W: 9.5 inches—Latitude: 40° 19' 32" and Longitude: 79° 49' 08"). To remove existing structures, to construct and maintain a 1780' long flood wall along the right bank, to construct and maintain a 10-foot wide maintenance road, to reconstruct and maintain a 25-foot wide channel for approximately 2,162 feet in Long Run (TSF) with a 35-foot long transition on the upstream end and a 38-foot long transition on the downstream end and to construct and maintain various outfall structures to Long Run. The purpose of the project is to restore the hydraulic capacity of Long Run. The project is along the southeast side of SR 48 approximately 350 feet south of its intersection with Ripple Road.

**E02-1443. The Meritage Group, L. P.**, 772 Pine Valley Drive, Pittsburgh, PA 15239. Fill wetlands in Plum Borough, **Allegheny County**, Pittsburgh ACOE District (Murrysville, PA Quadrangle N: 14.5 inches; W: 14.0 inches—Latitude: 40° 27' 13" and Longitude: 79° 43' 28"). To place fill in a de minimis area of wetlands (0.02 acre) associated with unnamed tributaries to Piersons Run (TSF) for the purpose of constructing Lot 107, Lot 108 and an access road for the Whispering Pines residential development. The development is approximately 2,000 feet west from the intersection of Lindsey Lane and Old Frankstown Road. The project will also impact 237.0

linear feet of stream channel due to the construction of a stream enclosure for a proposed road crossing.

**E02-1459. Borough of Green Tree**, 10 West Manilla Avenue, Pittsburgh, PA 15220. Stream impact to Whiskey Run in Green Tree Borough, **Allegheny County**, Pittsburgh ACOE District (Pittsburgh West, PA Quadrangle N: 6.9 inches; W: 7.2 inches—Latitude: 40° 24' 27" and Longitude: 80° 03' 08"). To construct and maintain an energy dissipater for approximately 41 feet on the downstream end of an existing 54-inch diameter culvert in Whiskey Run (WWF). The project is on the north side of Glencoe Avenue approximately 350 feet west of its intersection with Dale Drive. The total stream impact to Whiskey Run is 41 feet.

**E26-318. Fayette County Commissioners**, 60 East Main Street, Uniontown, PA 15401. Fayette County Bridge No. 54 in German Township, **Fayette County**, Pittsburgh ACOE District (Masontown, PA Quadrangle N: 21.4 inches; W: 2.2 inches—Latitude: 39° 52' 4" and Longitude: 79° 53' 26"). To operate and maintain Fayette County Bridge No. 54 having a clear span of 41 feet and an underclearance of 9.3 feet across Browns Run (WWF). The bridge is on T-439 (Yuras Farm Road). The bridge was constructed under Emergency Permit No. EP2604201 issued on January 23, 2004.

**E65-845. Fernando and Melissa Ferraro**, 294 Morgan Street, Lower Burrell, PA 15068. Ferraro residential bridge in Washington Township, **Westmoreland County**, Pittsburgh ACOE District (Vandergrift, PA Quadrangle N: 5.5 inches; W: 11.7 inches—Latitude: 40° 31' 48" and Longitude: 79° 35' 01"). To construct and maintain a 15.0-foot wide single span bridge having a normal span of 24.0 feet and an underclearance of 4.5 feet across an unnamed tributary to Beaver Run (TSF) for the purpose of providing access to a proposed single family residence. The permit also authorizes the installation and maintenance of various utility lines across an unnamed tributary to Beaver Run (TSF). The project is off of Beaver Run Road, 0.6 mile east from its intersection with SR 66.

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

**E10-286A. Mine Safety Appliance Company**, P. O. Box 426, Pittsburgh, PA 15230-0426. Out parcel at SR 0228, Cranberry Woods in Cranberry Township, **Butler County**, ACOE Pittsburgh District (Mars, PA Quadrangle N: 5.5 inches; W: 5.5 inches).

The original permit giving its consent to fill 2.29 acres of 14 wetland areas for development of building lots and roadways within Cranberry Woods Corporate Office Park and which required the construction of 2.29 acres of replacement wetlands is to be amended to include the construction and maintenance of: (1) fill within an additional 0.17 acre of PEM/PSS/PFO wetlands; (2) a 10-foot by 3.5-foot steel arch culvert 64 feet 10 inches long; (3) a 26-foot extension of a 54-inch diameter RCP culvert; (4) an 18-foot extension of a 54-inch diameter RCP culvert; (5) an 18-foot extension of a 36-inch diameter RCP culvert; and (6) to relocate and maintain approximately 460 linear feet of a UNT to Brush Creek (WWF) on the out parcel at the southeast corner of the intersection of SR 0228 and Cranberry Woods Drive. The applicant will construct an additional 0.17 acre of PEM/PSS wetlands as a part of this project.

**E10-386. Future Development Group, L. P.**, 191 Crowe Avenue, Mars, PA 16046. Heritage Creek Phase II in Adams Township, **Butler County**, ACOE Pittsburgh District.

To construct and maintain: (1) a reinforced concrete arch having a rise of 7 feet, a span of 28 feet and an instream length of 66 feet along Heritage Creek drive within Kaufman Run (WWF) (Mars, PA Quadrangle N: 13.45 inches; W: 5.44 inches); (2) a reinforced concrete box culvert having a maximum rise of 3 feet, a span of 8 feet and an instream length of 20 feet along the driveway of Lot 301 within Kaufman Run (WWF) (Mars, PA Quadrangle N: 13.1 inches; W: 5.83 inches); (3) a 36-inch diameter SLCP having an instream length of approximately 370 feet at the intersection of Crider and Brad-dock Court Roads within an unnamed tributary to Kaufman Run (WWF) (Mars, PA Quadrangle N: 13.05 inches; W: 4.66 inches); (4) approximately 30 CY and 140 CY of fill to the floodway of Kaufman Run south of lots 222/223 and west of Lot 127 (WWF) (Mars, PA Quadrangle N: 13.5 inches; W: 5.2 inches) (Mars, PA Quadrangle N: 13.5 inches; W: 5.2 inches) respectively; (5) approximately 700 CY of fill material to an unnamed tributary to Kaufman Run at lots 215/216 (WW) (Mars, PA Quadrangle N: 13.9 inches; W: 4.68 inches); and (6) to fill 0.0689 acre of floodplain wetlands associated with upper perennial stream at the proposed office/day care center (Mars, PA Quadrangle N: 12.98 inches; W: 5.27 inches) all within the Heritage Creek Subdivision 3.1 miles east of SR 0079 at the intersection of SR 0228 and Crider Road.

**E10-397, Lawrence W and Victoria L. Pacey**, 103 Pointe Drive, Valencia, PA 16059-2125. Pacey Bridge Project in Middlesex Township, **Butler County**, ACOE Pittsburgh District (Valencia, PA Quadrangle N: 12.5 inches; W: 9.9 inches).

To construct and maintain a pedestrian bridge having a clear span of 32.66 feet and an instream length of 6.0 feet across Glade Run (WWF) at a point approximately 1,500 feet southeast of the intersection of SR 0228 and Park Road, south of Park Road.

**E42-308, Ceres Township**, 2420 Kings Run Road, Shinglehouse, PA 16748. Church Hollow (T-427) bridge replacement in Ceres Township, **McKean County**, ACOE Pittsburgh District (Shinglehouse, PA Quadrangle N: 11.1 inches; W: 14.45 inches).

To remove: (1) the existing bridge having a clear span of 28 feet, an instream length of 14 feet and an average under-clearance of 4.5 feet; and (2) the existing temporary crossing consisting of three 48-inch diameter pipes approximately 20 feet long and associated fill material and to construct and maintain a bridge having a clear span of 30 feet, an instream length of 22 feet and an average under-clearance of 6.0 feet at a point along Church Hollow Road (T-427) over Bell Run (CWF).

**E43-307, Department of Transportation, District 1-0**, P. O. Box 398, 255 Elm Street, Oil City, PA 16340. SR 0019, Segment 0420, Offset 0000 across tributary to Little Shenango River Streambed Paving in Perry Township, **Mercer County**, ACOE Pittsburgh District (Hadley, PA Quadrangle N: 2.2 inches; W: 12.6 inches).

To install 63 linear feet of concrete paving and 10 feet of rock riprap aprons depressed 6 inches below the existing streambed elevation and maintain the existing reinforced concrete arch having a span of 10 feet and a maximum rise of 9.75 feet in a tributary to Little Shenango River on SR 0019, Segment 0420, Offset 0000 approximately 0.75 mile south of SR 358.

**E43-308, Department of Transportation, District 1-0**, 255 Elm Street, Oil City, PA 16301. SR 0358,

Segment 0030, Offset 0134 streambed paving in Booth Run in West Salem Township, **Mercer County**, ACOE Pittsburgh District (Kinsman, OH-PA Quadrangle N: 3.0 inches; W: 0.1 inch).

To install 93.5 linear feet of concrete paving and 10 feet of rock riprap aprons depressed 6 inches below the existing streambed elevation and to maintain the reinforced concrete slab bridge having a span of 19 feet and an underclearance of 10 feet across Booth Run on SR 0358, Segment 0030, Offset 0134 approximately 0.9 mile west of SR 4001.

**E43-309, Department of Transportation, District 1-0**, 255 Elm Street, Oil City, PA 16301. SR 0062, Segment 0220, Offset 1540 streambed paving in a tributary to Magargee Run in Jefferson Township, **Mercer County**, ACOE Pittsburgh District (Greenfield, PA Quadrangle N: 20.4 inches; W: 14.6 inches).

To install 42 linear feet of concrete paving and 10 feet of rock riprap aprons depressed 6 inches below the existing streambed elevation and to maintain the reinforced concrete slab bridge having a span of 9 feet and an underclearance of 4 feet across a tributary to Magargee Run on SR 0062, Segment 0220, Offset 1540 approximately 0.3 mile east of Charleston Road at the village of Charleston.

*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. South Branch Oswayo Creek Bridge Replacement Project in Hebron Township, **Potter County**, ACOE Pittsburgh District (Coudersport, PA Quadrangle N: 21.56 inches; W: 0.25 inch).

To conduct the following activities on an unnamed tributary to South Branch Oswayo Creek (EV) approximately 400 feet south of the intersection of Route 44 and SR 4008:

1. To replace an existing wooden plank bridge having a span of 7 feet with a steel bridge having a single span of 12 feet and an underclearance of approximately 4 feet.

2. To construct a temporary crossing using a culvert and stream mats approximately 20 feet downstream of the existing wooden plank bridge.

#### ENVIRONMENTAL ASSESSMENTS

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

**EA65-007SW, Sewickley Creek Watershed Association**, P. O. Box 323, Youngwood, PA 15697-0323. Mt. Pleasant Township, **Westmoreland County**, Pittsburgh ACOE District (Mt. Pleasant, PA Quadrangle N: 17.2 inches; W: 3.0 inches—Latitude: 40° 13' 11" and Longitude: 79° 31' 17"). To relocate and maintain approximately 675 feet of an unnamed tributary to Sewickley Creek (WWF) around a proposed acid mine drainage treatment system and to construct and maintain an acid mine drainage treatment system, consisting of a series of barrier walls, settling basins and wetland cells in 7.90 acres of wetlands (PEM/PSS) that are reportedly degraded currently by acid mine drainage. The project site is along Sewickley Creek near the intersection of Brinkerton Extension Road with SR 2012. This authorization includes 401 Water Quality Certification.

**STORAGE TANKS**  
**SITE-SPECIFIC INSTALLATION PERMITS**

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101—6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Land Recycling and Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.

<i>SSIP Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
04-10-004	Darko Puz Penreco 138 Petrolia Street Karns City, PA 16041	Butler	Karns City	1 AST storing mineral oil feedstock	377,602 gallons

**SPECIAL NOTICES**

**BUREAU OF DEEP MINE SAFETY**

**Request for Variance**

The Department of Environmental Protection (Department), Bureau of Deep Mine Safety (Bureau), has received a request for variance from Parkwood Resources, Inc. The following notification contains a summary of this request. A complete copy of the variance request may be obtained from Allison Gaida, (724) 439-7469 or from the Bureau website: [www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm](http://www.dep.state.pa.us/dep/deputate/minres/dms/dms.htm).

The Department is publishing a summary of the request to solicit comments from affected parties on the proposed variance request. Comments may be used by the Bureau to assist in its investigation of the variance request. Comments will be accepted for 30 days following the publication of this notice. Comments should be sent to Joseph A. Scaffoni, Director, Bureau of Deep Mine Safety, Fayette County Health Center, 100 New Salem Road, Room 167, Uniontown, PA 15401.

Section 702 of the Pennsylvania Bituminous Coal Mine Act (act) provides a mechanism for operators to obtain variances from specific requirements of the act to accommodate the adoption of new machinery, equipment, tools, supplies, methods or processes.

Section 242(c) of the act states that where belt conveyors are installed, main stoppings and regulators shall be so arranged as to reduce the quantity of air traveling in the belt conveyor entry to a minimum for effective ventilation and to provide an intake air split as an escapeway from the face area to the main air current.

*Summary of the Request:* Parkwood Resources, Inc. requests a variance to use point carbon monoxide early warning fire detection system and entries in common with the belt conveyor entry at the Cherry Tree Mine.

**Request for Comments on the Proposed Total Maximum Daily Loads (TMDLs) Developed for the Conestoga Headwaters in Berks County**

The Department of Environmental Protection (Department) will accept comments on the proposed TMDL developed for the Conestoga Headwaters in Berks County. The TMDL was established in accordance with the requirements of section 303(d) of the Clean Water Act. The Commonwealth's 1996, 1998, 2002 and 2004 Section 303(d) lists included stream segments in the watershed. The listings of these segments were due to use impairments caused by nutrients, organic enrichment and low dissolved oxygen, as a result of agricultural and other nonpoint source runoff.

There currently are no State or Federal instream numerical water quality criteria for nutrients. Therefore, the Department utilized a reference watershed approach to implement the applicable narrative criteria. The proposed TMDL sets allowable loadings of phosphorus in the Conestoga Headwaters. Phosphorus was chosen as the TMDL endpoint for nutrient impairments due to it being the limiting nutrient in the watershed. The phosphorus loadings were allocated among all land use categories present in the watershed. Data used in establishing these TMDLs were generated using a water quality analysis model (AVGWLF) designed by the Pennsylvania State University.

The following table shows the estimated current phosphorus loading for the watershed. Overall load reductions necessary to meet the TMDLs are also identified.

*Summary of TMDL Based Load Reductions in the Conestoga Headwaters*

<i>Pollutant</i>	<i>Existing Load (lbs/yr)</i>	<i>TMDL (lbs/yr)</i>	<i>% Reduction</i>
Phosphorus	10,949.55	8,877.82	19

The data and all supporting documentation used to develop the proposed TMDL are available from the Department. The proposed TMDL and information on the TMDL program can be viewed on the Department's website: [www.dep.state.pa.us/watermanagement\\_apps/tmdl/](http://www.dep.state.pa.us/watermanagement_apps/tmdl/). To request a copy of this TMDL contact Lee McDonnell, Department of Environmental Protection, Water Quality Assessment and Standards, 400 Market Street, P. O. Box 8467, Harrisburg, PA 17105, (717) 783-2938, [lmcdonnell@state.pa.us](mailto:lmcdonnell@state.pa.us).

The Department will consider all comments in developing the final TMDL, which will be submitted to EPA for approval. Written comments will be accepted at the previous address and must be received by September 28, 2004. A public meeting to discuss the technical merits of the TMDL will be held on September 16, 2004, at 7 p.m. at the Holiday Inn, Morgantown, PA.

[Pa.B. Doc. No. 04-1600. Filed for public inspection August 27, 2004, 9:00 a.m.]

### Availability of Technical Guidance

Technical guidance documents are on the Department of Environmental Protection's (Department) website: [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP Keyword: Participate). The "Current Inventory" heading is the Governor's list of nonregulatory guidance documents. The "Final Documents" heading is the link to a menu of the various Department bureaus and from there to each bureau's final technical guidance documents. The "Draft Technical Guidance" heading is the link to the Department's draft technical guidance documents.

The Department will continue to revise its nonregulatory documents, as necessary, throughout 2004.

#### *Ordering Paper Copies of Department Technical Guidance*

The Department encourages the use of the Internet to view guidance documents. When this option is not available, persons can order a bound paper copy of the latest inventory or an unbound paper copy of any of the final documents listed on the inventory by calling the Department at (717) 783-8727.

In addition, bound copies of some of the Department's documents are available as Department publications. Check with the appropriate bureau for more information about the availability of a particular document as a publication.

#### *Changes to Technical Guidance Documents*

Following is the current list of recent changes. Persons who have any questions or comments about a particular document should call the contact person whose name and phone number is listed with each document.

#### *Final Technical Guidance*

DEP ID: 012-0200-002. Title: Policy for Consideration of Comprehensive Plans and Zoning Ordinances in DEP Review of Grants and Funding for Facilities and Infrastructure. Description: The policy entitled "Policy for Consideration of Comprehensive Plans and Zoning Ordinances in DEP Review of Grants and Funding for Facilities and Infrastructure" is designed to promote sound land use planning and development by discouraging financial assistance from the Department for facilities and infrastructure development where the proposed project is inconsistent with local land use plans and implementing ordinances. The revised guidance addresses how the Department will consider comprehensive plans and generally consistent zoning ordinances when reviewing grant applications for facilities or infrastructure projects. Under this policy, if a proposed project will be located in a municipality meeting at least one of the three Pennsylvania Municipalities Planning Code criteria, the application will receive higher priority or increased ranking in the scoring of its grant proposals. This policy applies to Department decision making processes for grants and funding requests related to developing facilities and infrastructure, including Growing Greener grants, coastal zone management grants and Act 198 Resource Recovery Development Fund grants. Effective Date: August 28, 2004.

DEP ID: 012-020-004. Title: Policy for Applications for Technical or Financial Assistance Proposals Consistent with Multi-Municipal Planning Under Acts 67 & 68. Description: This policy is intended to encourage multi-municipal planning by giving priority in the ranking or scoring of those applications coming from areas of the state that have undertaken planning on a regional basis.

Specifically, this policy offers a preference for projects originating from areas of the state with existing multi-municipal planning efforts and for projects seeking funding for planning activities. This policy applies to grants related to planning, including the preparation and development of county waste management plans under Act 101 or grants for the preparation and development of stormwater management plans under Act 167. Effective Date: August 28, 2004.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 04-1601. Filed for public inspection August 27, 2004, 9:00 a.m.]

### Chesapeake Bay Advisory Committee Meeting Cancellation

The September 2, 2004, meeting of the Chesapeake Bay Advisory Committee has been postponed. The reason for postponement is to allow the committee to meet concurrently with the Chesapeake Bay Tributary Steering Committee. This joint meeting will occur during September 2004. A location for this joint meeting will be announced as soon as a meeting date is determined.

Questions concerning the next meeting should be directed to Dave Reed, (717) 772-5649, [davreed@state.pa.us](mailto:davreed@state.pa.us). The agenda and meeting materials will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at <http://www.dep.state.pa.us> (DEP Keyword: Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department 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. 04-1602. Filed for public inspection August 27, 2004, 9:00 a.m.]

### State Board for Certification of Water and Wastewater Systems Operators Meeting Change

The State Board for Certification of Water and Wastewater Systems Operators (Board) has made the following change to its 2004 meeting schedule.

The Board has added a meeting on August 31, 2004, at 9 a.m. in the 14th Floor Conference Room, Rachel Carson State Office Building, Harrisburg, PA.

Persons who have questions concerning this meeting should contact Lynn Rice, (717) 787-5236, [mlrice@state.pa.us](mailto:mlrice@state.pa.us).

Individuals in need of an accommodation as provided for in the Americans With Disabilities Act should contact Lynn Rice at (717) 787-5236 to discuss how the Department of Environmental Protection (Department) may accommodate their needs. Brenda Coakley, Disabilities



Services Coordinator for the Department may be reached at (717) 783-6118 for additional questions or concerns.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 04-1603. Filed for public inspection August 27, 2004, 9:00 a.m.]

### State Water Plan Statewide Water Resources Committee, Critical Water Planning Area Subcommittee Meeting

The Critical Water Planning Area Subcommittee of the State Water Plan Statewide Water Resources Committee has scheduled a meeting to discuss the development of criteria/guidelines for designation of Critical Water Planning Areas. The meeting will be held on September 2, 2004, at 10 a.m. at the U. S. Geological Survey PA Office, 215 Limekiln Road, New Cumberland, PA 17070-2424.

Questions concerning this meeting should be directed to Susan K. Weaver, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 783-8055, suweaver@state.pa.us.

Persons with a disability who require accommodations to attend the meeting should contact the Department of Environmental Protection (Department) at (717) 705-2425 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 04-1604. Filed for public inspection August 27, 2004, 9:00 a.m.]

### State Water Plan Statewide Water Resources Committee Meeting

The State Water Plan Statewide Water Resources Committee has scheduled a meeting to discuss the development of the State Water Plan. The meeting will be held on September 27, 2004, at 10 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA 17105.

Questions concerning this meeting should be directed to Susan K. Weaver, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 783-8055, suweaver@state.pa.us.

Persons with a disability who require accommodations to attend the meeting should contact the Department of Environmental Protection (Department) at (717) 705-2425 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 04-1605. Filed for public inspection August 27, 2004, 9:00 a.m.]

### Water Resources Advisory Committee Meeting Cancellation

The September 8, 2004, meeting of the Water Resources Advisory Committee has been cancelled. The next scheduled meeting will be held on November 10, 2004, at 9:30 a.m. in Room 105, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning the November 10, 2004, meeting should be directed to Carol Young, (717) 787-9637, cayoung@state.pa.us. The agenda and meeting materials will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at <http://www.dep.state.pa.us> (DEP Keyword: Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact the Department 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. 04-1606. Filed for public inspection August 27, 2004, 9:00 a.m.]

## DEPARTMENT OF HEALTH

### Health Research Advisory Committee Meeting

The Health Research Advisory Committee (Committee), established under section 903(b) of the Tobacco Settlement Act (35 P.S. § 5701.903(b)), will hold a public meeting on November 22, 2004, from 9:30 a.m. to 3:30 p.m. in Room 812, Health and Welfare Building, Commonwealth Avenue and Forster Street, Harrisburg, PA.

The Committee will finalize the research priorities for the nonformula funds for State fiscal year 2005-06. This meeting is open to the public. No reservations are required. The meeting is not a public hearing and therefore public testimony and/or comments are not part of the meeting agenda.

For additional information or persons with a disability who wish to attend the meeting and require an auxiliary aid service or other accommodation to do so, contact Patricia W. Potrzebowski, Director, Bureau of Health Statistics and Research, or Robin C. Cohick, Administrative Officer, Bureau of Health Statistics and Research, 555 Walnut Street, 6th Floor, Harrisburg, PA 17101-1914, (717) 783-2548, 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. 04-1607. Filed for public inspection August 27, 2004, 9:00 a.m.]

### Health Research Advisory Committee Public Hearing and Meeting

The Health Research Advisory Committee (Committee) will hold a public hearing and meeting on October 18, 2004, from 9:30 a.m. to 12 p.m. in the Large Hearing Room, 2nd Floor, Commonwealth Keystone Building, Commonwealth and Forster Streets, Harrisburg, PA.

The primary purpose of the public hearing is to obtain suggestions for health research priorities under the Tobacco Settlement/Act 77, Commonwealth Universal Research Enhancement Program for State fiscal year 2005-06. Current 2004-05 State fiscal year priorities for both formula funded and nonformula funded health research are posted on the Department of Health's website: [www.health.state.pa.us](http://www.health.state.pa.us) (click "Tobacco Settlement/Act 77" and "Commonwealth Universal Research Enhancement").

Public comments must be submitted by 2:30 p.m. on September 24, 2004, by e-mail to David Hooper, [dhooper@state.pa.us](mailto:dhooper@state.pa.us). Persons wishing to present written statements orally at the public hearing must contact David Hooper at (717) 783-2548 by 2:30 p.m. on September 24, 2004, to make a reservation for testifying at the hearing.

Written comments must be no more than five single-spaced typewritten pages. Comments should recommend research on one or more health related issues that have a significant impact on the health of the residents of this Commonwealth. Although comments may include data supporting the significance of a particular health related issue, written comments should identify, in priority order, the specific research issues and questions that need to be addressed. Testimony should include the specific aims of the research being proposed.

Oral testimony will be limited to 3 minutes. Prior to the public hearing, a copy of written comments will be provided to Committee members for review. Therefore, oral presentations should not repeat the written comments but instead should focus on the highlights or key points in the written comments. If time permits, 2 minutes will be allowed for questions and answers following the oral testimony. Persons will be scheduled on a first come, first served basis, as time permits. Oral testimony that is duplicative of previously presented testimony may not be allowed, if time is limited.

This hearing is open to the public. No reservations are required to attend the public meeting but persons wishing to present oral testimony must submit written comments in advance in accordance with the previous guidance.

After the public hearing, a meeting of the Committee will be held from 1 p.m. to 3:30 p.m. The purpose of the meeting is to discuss the research priorities for State fiscal year 2005-06.

For additional information or persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Patricia W. Potrzebowski, Director, Bureau of Health Statistics and Research, or Robin C. Cohick, Administrative Officer, Bureau of Health Statistics and Research, 555 Walnut Street, 6th Floor, Harrisburg, PA 17101-1914, (717) 783-2548, for speech and/or hearing impaired persons V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

The public hearing and meeting are subject to cancellation without notice.

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

[Pa.B. Doc. No. 04-1608. Filed for public inspection August 27, 2004, 9:00 a.m.]

### Human Immunodeficiency Virus (HIV) Community Prevention Planning Committee Public Meeting

The Statewide HIV Community Prevention Planning Committee, established by the Department of Health (Department) under sections 301(a) and 317(b) of the Public Health Service Act (42 U.S.C.A. §§ 241(a) and 247(b)), will hold a public meeting on Wednesday, September 15, 2004, from 9 a.m. to 3 p.m. at the Best Western Inn and Suites, 815 Eisenhower Boulevard, Middletown, PA, 17057.

The Department reserves the right to cancel this meeting without prior notice.

For additional information or persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Kenneth McGarvey, Department of Health, Bureau of Communicable Diseases, P. O. Box 90, Room 1010, Health and Welfare Building, Harrisburg, PA 17108, (717) 783-0572 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

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

[Pa.B. Doc. No. 04-1609. Filed for public inspection August 27, 2004, 9:00 a.m.]

## DEPARTMENT OF LABOR AND INDUSTRY

### Application for Plan Approval and Permit for a Liquefied Petroleum Gas Facility

The Department of Labor and Industry (Department) publishes this notice of application under section 10 of the Propane and Liquefied Petroleum Gas Act (35 P.S. § 1329.10). The Department received an application for plan approval and permit from the following liquefied petroleum gas (LPG) facility: TE Products Pipeline Company (TEPPCO), Eagle Terminal Facility, 520 Milford Road, Upper Uwchlan, PA 19353.

The application is for adding 6 additional 30,000-gallon LPG storage tanks to the location. The addition of these 6 tanks would make a total of 18 30,000-gallon LPG storage tanks at the location. According to the application, the facility will have loading and offloading of transports and bobtails.

The due date for protests or comments concerning this application is 45 days after the date of this published notice. Parties that fail to file a timely protest will be barred from any participation in the application process. However, a municipality or county may submit written comments within 45 days after the date of publication of this notice.

Written protests or written comments should be sent to Charles J. Sludden, Jr., Director, Bureau of Occupational and Industrial Safety, Department of Labor and Industry, 1629 Labor and Industry Building, Harrisburg, PA 17120.

STEPHEN M. SCHMERIN,  
*Secretary*

[Pa.B. Doc. No. 04-1610. Filed for public inspection August 27, 2004, 9:00 a.m.]

## DEPARTMENT OF PUBLIC WELFARE

### Fee Increase for Select Obstetrical/Gynecological Services

The Department of Public Welfare (Department) announces that fees on the Medical Assistance (MA) Program Fee Schedule for deliveries and associated services performed by obstetricians/gynecologists (OB/GYN) will be increased, effective with dates of service on and after January 1, 2004.

This Commonwealth is currently experiencing a medical malpractice crisis that is creating a serious shortage of physicians. Obstetrics is one of the high-risk specialties most affected by the crisis. Obstetricians pay some of the highest malpractice insurance premiums in this Commonwealth. For example, in 2002 an obstetrician in Philadelphia insured with a major liability insurer would have paid approximately \$105,000 for primary and excess liability coverage of \$1.2 million. In 2004, that same physician paid approximately \$110,000 just for primary coverage. Obstetricians throughout this Commonwealth have experienced similar premium increases.

As a result of the significant increases in insurance premiums, many OB/GYNs have been unable to afford private insurance coverage. Some obstetricians have restricted their practices to gynecology while others have left this Commonwealth to practice elsewhere or ceased practicing medicine altogether. The decrease in the number of physicians and available services has a dramatic impact on MA patients. The MA Program pays for approximately 28% of all births in this Commonwealth.

As one of several initiatives that the Commonwealth has undertaken to address the medical malpractice crisis, to assure continued access to OB/GYN services, the Department will increase the MA fee for the following procedure codes on the MA Program Fee Schedule:

<i>Procedure Code</i>	<i>Description of Service</i>	<i>Current Fee</i>	<i>Increased Fee</i>
59410	Vaginal delivery only (with or without episiotomy and/or forceps); including postpartum care	\$800	\$1,200
59515	Cesarean delivery only; including postpartum care	\$800	\$1,200
59610	Routine obstetric care including antepartum care, vaginal delivery (with or without episiotomy and/or forceps) and postpartum care, after previous cesarean delivery	\$1,000	\$1,500
59612	Vaginal delivery only, after previous cesarean delivery (with or without episiotomy and/or forceps)	\$1,000	\$1,500
59614	Vaginal delivery only, after previous cesarean delivery (with or without episiotomy and/or forceps); including postpartum care	\$1,000	\$1,500
59618	Routine obstetric care including antepartum care, cesarean delivery and postpartum care, following attempted vaginal delivery after previous cesarean delivery	\$1,000	\$1,500
59620	Cesarean delivery only, following attempted vaginal delivery after previous cesarean delivery	\$1,000	\$1,500
59622	Cesarean delivery only, following attempted vaginal delivery after previous cesarean delivery; including postpartum care	\$1,000	\$1,500
W5953	Third trimester basic maternity care package	\$1,386	\$1,786
W5956	Third trimester high risk maternity care package	\$1,576	\$2,076
W5985	Second Trimester high risk maternity care package with delivery	\$1,525	\$2,025
W9969	Third trimester early delivery	\$1,550	\$2,050

#### *Fiscal Impact*

The estimated cost relating to Fiscal Year 2003-2004 is \$9.549 million (\$4.318 million in State funds). Of this amount, \$1.586 million (\$0.716 million in State funds) relates to the Outpatient Program while \$7.963 million (\$3.602 million in State funds) is for MA-Capitation services.

The estimated cost for Fiscal Year 2004-2005 is \$20.684 million (\$9.495 million in State funds). Of this amount, \$4.758 million (\$2.180 million in State funds) relates to the Outpatient Program while \$15.926 million (\$7.315 million in State funds) is for MA-Capitation services.

*Public Comment*

Interested persons are invited to submit written comments to this notice within 30 days of this publication to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Deputy's Secretary Office, Attention: Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments will be considered in future revisions to the MA Program Fee Schedule. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-397. (1) General Fund;

	<i>Outpatient</i>	<i>Capitation</i>
(2) Implementing Year 2003-04 is	\$716,000	\$3,602,000
(3) 1st Succeeding Year 2004-05 is	\$2,180,000	\$7,315,000
2nd Succeeding Year 2005-06 is	\$2,191,000	\$7,351,000
3rd Succeeding Year 2006-07 is	\$2,191,000	\$7,351,000
4th Succeeding Year 2007-08 is	\$2,191,000	\$7,351,000
5th Succeeding Year 2008-09 is	\$2,191,000	\$7,351,000
	<i>Outpatient</i>	<i>Capitation</i>
(4) 2002-03 Program—	\$666,832,000	\$1,863,772,000
2001-02 Program—	\$705,750,000	\$1,711,084,000
2000-01 Program—	\$668,586,000	\$1,487,944,000

(7) Medical Assistance—Outpatient and Capitation; (8) recommends adoption. Costs for Fiscal Year 2003-04 have been included in Act 9-A of 2003, The First Supplemental General Appropriation Act of 2003. Costs for 2004-05 have been included in Act 7-A of 2004, the General Appropriation Act of 2004.

[Pa.B. Doc. No. 04-1611. Filed for public inspection August 27, 2004, 9:00 a.m.]

### **Medical Assistance Program Fee Schedule Revisions; Addition of Procedure Codes and Change in Payment Methodology for Anesthesia Services**

The purpose of this notice is to announce that the Department of Public Welfare (Department) will add procedure codes for anesthesia services to the Medical Assistance (MA) Program fee schedule and change the payment methodology for those services in the Fee-for-Service Program (program). The changes are effective with dates of service on and after July 1, 2004.

The procedure codes are being added to comply with Title II of the Health Insurance Portability and Accountability Act, and accompanying regulations, which require that the MA Program adopt national code sets for all procedures. See 42 U.S.C.A. §§ 1320d—1320d-8 and 45 CFR 160.101—160.312 and 162.1000—62.1011. The new procedure codes will also more accurately reflect the manner in which anesthesia care is delivered. To pay claims for the new procedure codes in the program, the Department will adopt a payment methodology that conforms to the Medicare method of reimbursement. The payment methodology was developed in consultation with the Pennsylvania Medical Society and the Pennsylvania Society of Anesthesiologists.

*Methodology*

To establish the fees for the new procedure codes for anesthesiology services, the Department will utilize 100% of the Pennsylvania-specific Medicare 2004 conversion factor, which is \$17.04. Fees will be established using the following pricing formula: (base unit assigned to each procedure code × conversion factor) + (conversion factor × time units). For select obstetrical anesthesia services (procedure codes 01960, 01961, 01962, 01963 and 01967), the Department will use the same pricing formula but will adjust the base units by adding four units to the

Medicare base units, to account for the particular manner in which these services are provided.

When submitting claims for payment, providers will report the time the procedure began and the time the procedure ended, in accordance with the Medicare definition of "anesthesia time." Anesthesia time is defined as the time during which an anesthesia practitioner is present with the patient. It starts when the anesthesia practitioner begins to prepare the patient for anesthesia services and ends when the anesthesia practitioner is no longer in personal attendance—that is, when the patient may safely be placed under postoperative supervision. See 42 CFR 414.46(a)(3). In the event that a surgery is cancelled following the beginning of anesthesia time, the anesthesiologist should report the actual number of minutes spent with the patient.

The Department will continue to pay for multiple surgeries in accordance with 55 Pa. Code § 1150.52(c) (relating to anesthesia services).

The new procedure codes for anesthesia services are as follows. The Department will publish the fees for the new procedure codes in an MA Bulletin that will be issued to providers before the effective date of the changes announced in this notice.

*Fiscal Impact*

The fiscal impact as a result of these changes is estimated at \$1.536 million in total funds (\$0.705 million in State funds and \$0.831 million in Federal funds) for Fiscal Year 2004-2005. The estimated cost for Fiscal Year 2005-2006 is \$1.843 million in total funds (\$0.851 million in State funds and \$0.992 million in Federal funds).

*Public Comment*

Interested persons are invited to submit written comments to this notice within 30 days of this publication to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Deputy Secretary's Office, Atten-

tion: Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). Comments will be considered in subsequent revisions to the fee schedule.

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-395. (1) General Fund; (2) Implementing Year 2004-05 is \$705,000; (3) 1st Succeeding Year

2005-06 is \$851,000; 2nd Succeeding Year 2006-07 is \$851,000; 3rd Succeeding Year 2007-08 is \$851,000; 4th Succeeding Year 2008-09 is \$851,000; 5th Succeeding Year 2009-10 is \$851,000; (4) 2003-04 Program—\$727,979,000; 2002-03 Program—\$666,832,000; 2001-02 Program—\$705,750,000; (7) Medical Assistance—Outpatient; (8) recommends adoption. The costs outlined have been included in the General Appropriation Act of 2004 (Act 7A).

#### Anesthesia Procedure Codes Chart—2004

<i>Code</i>	<i>Description (CPT)</i>	<i>Base Units</i>	<i>Place of Service</i>	<i>PVR Type</i>
00100	Anesthesia for procedures on salivary glands, including biopsy	5	21, 24	31, 32
00102	Anesthesia for procedures on plastic repair of cleft lip	6	21, 24	31, 32
00103	Anesthesia for reconstructive procedures of eyelid (for example, blepharoplasty, ptosis surgery)	5	21, 24	31, 32
00104	Anesthesia for electroconvulsive therapy	4	21, 24	31, 32
00120	Anesthesia for procedures on external, middle and inner ear including biopsy; not otherwise specified	5	21, 24	31, 32
00124	Anesthesia for procedures on external, middle and inner ear including biopsy; otoscopy	4	21, 24	31, 32
00126	Anesthesia for procedures on external, middle and inner ear including biopsy; tympanotomy	4	21, 24	31, 32
00140	Anesthesia for procedures on eye; not otherwise specified	5	21, 24	31, 32
00142	Anesthesia for procedures on eye; lens surgery	4	21, 24	31, 32
00144	Anesthesia for procedures on eye; corneal transplant	6	21, 24	31, 32
00145	Anesthesia for procedures on eye; vitreoretinal surgery	6	21, 24	31, 32
00147	Anesthesia for procedures on eye; iridectomy	4	21, 24	31, 32
00148	Anesthesia for procedures on eye; ophthalmoscopy	4	21, 24	31, 32
00160	Anesthesia for procedures on nose and accessory sinuses; not otherwise specified	5	21, 24	31, 32
00162	Anesthesia for procedures on nose and accessory sinuses; radical surgery	7	21, 24	31, 32
00164	Anesthesia for procedures on nose and accessory sinuses; biopsy, soft tissue	4	21, 24	31, 32
00170	Anesthesia for intraoral procedures, including biopsy; not otherwise specified	5	21, 24	31, 32
00172	Anesthesia for intraoral procedures, including biopsy; repair of cleft palate	6	21, 24	31, 32
00174	Anesthesia for intraoral procedures, including biopsy; excision of retropharyngeal tumor	6	21, 24	31, 32
00176	Anesthesia for intraoral procedures, including biopsy; radical surgery	7	21, 24	31, 32
00190	Anesthesia for procedures on facial bones or skull; not otherwise specified	5	21, 24	31, 32
00192	Anesthesia for procedures on facial bones or skull; radical surgery (including prognathism)	7	21, 24	31, 32
00210	Anesthesia for intracranial procedures; not otherwise specified	11	21	31, 32
00212	Anesthesia for intracranial procedures; subdural taps	5	21	31, 32
00214	Anesthesia for intracranial procedures; burr holes, including ventriculography	9	21	31, 32
00215	Anesthesia for intracranial procedures; cranioplasty or elevation of depressed skull fracture, extradural (simple or compound)	9	21	31, 32
00216	Anesthesia for intracranial procedures; vascular procedures	15	21	31, 32
00218	Anesthesia for intracranial procedures; procedures in sitting position	13	21	31, 32

<i>Code</i>	<i>Description (CPT)</i>	<i>Base Units</i>	<i>Place of Service</i>	<i>PVR Type</i>
00220	Anesthesia for intracranial procedures; cerebrospinal fluid shunting procedures	10	21	31, 32
00222	Anesthesia for intracranial procedures; electrocoagulation of intracranial nerve	6	21	31, 32
00300	Anesthesia for all procedures on the integumentary system, muscles and nerves of head, neck and posterior trunk, not otherwise specified	5	21, 24	31, 32
00320	Anesthesia for all procedures on esophagus, thyroid, larynx, trachea and lymphatic system of neck; not otherwise specified, age 1 year or older	6	21, 24	31, 32
00322	Anesthesia for all procedures on esophagus, thyroid, larynx, trachea and lymphatic system of neck; needle biopsy of thyroid	3	21, 24	31, 32
00326	Anesthesia for all procedures on the larynx and trachea in children less than 1 year of age	7	21, 24	31, 32
00350	Anesthesia for procedures on major vessels of neck; not otherwise specified	10	21	31, 32
00352	Anesthesia for procedures on major vessels of neck; simple ligation	5	21	31, 32
00400	Anesthesia for procedures on the integumentary system on the extremities, anterior trunk and perineum; not otherwise specified	3	21, 24	31, 32
00402	Anesthesia for procedures on the integumentary system on the extremities, anterior trunk and perineum; reconstructive procedures on breast (for example, reduction or augmentation mammoplasty, muscle flaps)	5	21, 24	31, 32
00404	Anesthesia for procedures on the integumentary system on the extremities, anterior trunk and perineum; radical or modified radical procedures on breast	5	21, 24	31, 32
00406	Anesthesia for procedures on the integumentary system on the extremities, anterior trunk and perineum; radical or modified radical procedures on breast with internal mammary node dissection	13	21, 24	31, 32
00410	Anesthesia for procedures on the integumentary system on the extremities, anterior trunk and perineum; electrical conversion of arrhythmias	4	21, 24	31, 32
00450	Anesthesia for procedures on clavicle and scapula; not otherwise specified	5	21, 24	31, 32
00452	Anesthesia for procedures on clavicle and scapula; radical surgery	6	21	31, 32
00454	Anesthesia for procedures on clavicle and scapula; biopsy of clavicle	3	21, 24	31, 32
00470	Anesthesia for partial rib resection; not otherwise specified	6	21	31, 32
00472	Anesthesia for partial rib resection; thoracoplasty (any type)	10	21	31, 32
00474	Anesthesia for partial rib resection; radical procedures (for example, pectus excavatum)	13	21	31, 32
00500	Anesthesia for all procedures on esophagus	15	21, 24	31, 32
00520	Anesthesia for closed chest procedures; (including bronchoscopy) not otherwise specified	6	21, 24	31, 32
00522	Anesthesia for closed chest procedures; needle biopsy of pleura	4	21, 24	31, 32
00524	Anesthesia for closed chest procedures; pneumocentesis	4	21, 24	31, 32
00528	Anesthesia for closed chest procedures; mediastinoscopy and diagnostic thoracoscopy not utilizing one lung ventilation	8	21, 24	31, 32
00529	Anesthesia for closed chest procedures; mediastinoscopy and diagnostic thoracoscopy utilizing one lung ventilation	11	21	31, 32
00530	Anesthesia for permanent transvenous pacemaker insertion	4	21, 24	31, 32
00532	Anesthesia for access to central venous circulation	4	21, 24	31, 32
00534	Anesthesia for transvenous insertion or replacement of pacing cardioverter/defibrillator	7	21, 24	31, 32
00537	Anesthesia for cardiac electrophysiologic procedures including radiofrequency ablation	7	21, 24	31, 32
00539	Anesthesia for tracheobronchial reconstruction	18	21	31, 32

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<i>Code</i>	<i>Description (CPT)</i>	<i>Base Units</i>	<i>Place of Service</i>	<i>PVR Type</i>
00540	Anesthesia for thoracotomy procedures involving lungs, pleura, diaphragm and mediastinum (including surgical thorascoscopy); not otherwise specified	12	21	31, 32
00541	Anesthesia for thoracotomy procedures involving lungs, pleura, diaphragm and mediastinum (including surgical thorascoscopy); utilizing one lung ventilation	15	21	31, 32
00542	Anesthesia for thoracotomy procedures involving lungs, pleura, diaphragm and mediastinum (including surgical thorascoscopy); decortication	15	21	31, 32
00546	Anesthesia for thoracotomy procedures involving lungs, pleura, diaphragm and mediastinum (including surgical thorascoscopy); pulmonary resection with thoracoplasty	15	21	31, 32
00548	Anesthesia for thoracotomy procedures involving lungs, pleura, diaphragm and mediastinum (including surgical thorascoscopy); intrathoracic procedures on the trachea and bronchi	17	21	31, 32
00550	Anesthesia for sternal debridement	10	21	31, 32
00560	Anesthesia for procedures on heart, pericardial sac and great vessels of chest; without pump oxygenator	15	21	31, 32
00562	Anesthesia for procedures on heart, pericardial sac and great vessels of chest; with pump oxygenator	20	21	31, 32
00563	Anesthesia for procedures on heart, pericardial sac and great vessels of chest; with pump oxygenator with hypothermic circulatory arrest	25	21	31, 32
00566	Anesthesia for direct coronary artery bypass grafting without pump oxygenator	25	21	31, 32
00580	Anesthesia for heart transplant or heart/lung transplant	20	21	31, 32
00600	Anesthesia for procedures on cervical spine and cord; not otherwise specified	10	21, 24	31, 32
00604	Anesthesia for procedures on cervical spine and cord; procedures with patient in the sitting position	13	21, 24	31, 32
00620	Anesthesia for procedures on thoracic spine and cord; not otherwise specified	10	21, 24	31, 32
00622	Anesthesia for procedures on thoracic spine and cord; thoracolumbar sympathectomy	13	21, 24	31, 32
00630	Anesthesia for procedures in lumbar region; not otherwise specified	8	21, 24	31, 32
00632	Anesthesia for procedures in lumbar region; lumbar sympathectomy	7	21, 24	31, 32
00634	Anesthesia for procedures in lumbar region; chemonucleolysis	10	21, 24	31, 32
00635	Anesthesia for procedures in lumbar region; diagnostic or therapeutic lumbar puncture	4	21, 24	31, 32
00640	Anesthesia for manipulation of the spine or for closed procedures on the cervical, thoracic or lumbar spine	3	21, 24	31, 32
00670	Anesthesia for extensive spine and spinal cord procedures (for example, spinal instrumentation or vascular procedures)	13	21	31, 32
00700	Anesthesia for procedures on upper anterior abdominal wall; not otherwise specified	4	21, 24	31, 32
00702	Anesthesia for procedures on upper anterior abdominal wall; percutaneous liver biopsy	4	21, 24	31, 32
00730	Anesthesia for procedures on upper posterior abdominal wall	5	21, 24	31, 32
00740	Anesthesia for upper gastrointestinal endoscopic procedures, endoscope introduced proximal to duodenum	5	21, 24	31, 32
00750	Anesthesia for hernia repairs in upper abdomen; not otherwise specified	4	21, 24	31, 32
00752	Anesthesia for hernia repairs in upper abdomen; lumbar and ventral (incisional) hernias and/or wound dehiscence	6	21, 24	31, 32
00754	Anesthesia for hernia repairs in upper abdomen; omphalocele	7	21, 24	31, 32
00756	Anesthesia for hernia repairs in upper abdomen; transabdominal repair of diaphragmatic hernia	7	21, 24	31, 32

<i>Code</i>	<i>Description (CPT)</i>	<i>Base Units</i>	<i>Place of Service</i>	<i>PVR Type</i>
00770	Anesthesia for all procedures on major abdominal blood vessels	15	21	31, 32
00790	Anesthesia for intraperitoneal procedures in upper abdomen including laparoscopy; not otherwise specified	7	21, 24	31, 32
00792	Anesthesia for intraperitoneal procedures in upper abdomen including laparoscopy; partial hepatectomy or management of liver hemorrhage (excluding liver biopsy)	13	21	31, 32
00794	Anesthesia for intraperitoneal procedures in upper abdomen including laparoscopy; pancreatectomy, partial or total (for example, Whipple procedure)	8	21	31, 32
00796	Anesthesia for intraperitoneal procedures in upper abdomen including laparoscopy; liver transplant (recipient)	30	21	31, 32
00797	Anesthesia for intraperitoneal procedures in upper abdomen including laparoscopy; gastric restrictive procedure for morbid obesity	8	21	31, 32
00800	Anesthesia for procedures on lower anterior abdominal wall; not otherwise specified	4	21, 24	31, 32
00802	Anesthesia for procedures on lower anterior abdominal wall; panniculectomy	5	21, 24	31, 32
00810	Anesthesia for lower intestinal endoscopic procedures, endoscope introduced distal to duodenum	5	21, 24	31, 32
00820	Anesthesia for procedures on lower posterior abdominal wall	5	21, 24	31, 32
00830	Anesthesia for hernia repairs in lower abdomen; not otherwise specified	4	21, 24	31, 32
00832	Anesthesia for hernia repairs in lower abdomen; ventral and incisional hernias	6	21, 24	31, 32
00834	Anesthesia for hernia repairs in the lower abdomen not otherwise specified, under 1 year of age	5	21, 24	31, 32
00836	Anesthesia for hernia repairs in the lower abdomen not otherwise specified, infants less than 37 weeks gestational age at birth and less than 50 weeks gestational age at time of surgery	6	21, 24	31, 32
00840	Anesthesia for intraperitoneal procedures in lower abdomen including laparoscopy; not otherwise specified	6	21, 24	31, 32
00842	Anesthesia for intraperitoneal procedures in lower abdomen including laparoscopy; amniocentesis	4	21, 24	31, 32
00844	Anesthesia for intraperitoneal procedures in lower abdomen including laparoscopy; abdominoperineal resection	7	21	31, 32
00846	Anesthesia for intraperitoneal procedures in lower abdomen including laparoscopy; radical hysterectomy	8	21	31, 32
00848	Anesthesia for intraperitoneal procedures in lower abdomen including laparoscopy; pelvic exenteration	8	21	31, 32
00851	Anesthesia for intraperitoneal procedures in lower abdomen including laparoscopy; tubal ligation/transection	6	21, 24	31, 32
00860	Anesthesia for extraperitoneal procedures in lower abdomen, including urinary tract; not otherwise specified	6	21, 24	31, 32
00862	Anesthesia for extraperitoneal procedures in lower abdomen, including urinary tract; renal procedures, including upper 1/3 of ureter or donor nephrectomy	7	21, 24	31, 32
00864	Anesthesia for extraperitoneal procedures in lower abdomen, including urinary tract; total cystectomy	8	21	31, 32
00865	Anesthesia for extraperitoneal procedures in lower abdomen, including urinary tract; radical prostatectomy (suprapubic, retropubic)	7	21	31, 32
00866	Anesthesia for extraperitoneal procedures in lower abdomen, including urinary tract; adrenalectomy	10	21	31, 32
00868	Anesthesia for extraperitoneal procedures in lower abdomen, including urinary tract; renal transplant (recipient)	10	21	31, 32
00870	Anesthesia for extraperitoneal procedures in lower abdomen, including urinary tract; cystolithotomy	5	21, 24	31, 32
00872	Anesthesia for lithotripsy, extracorporeal shock wave; with water bath	7	21, 24	31, 32



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<i>Code</i>	<i>Description (CPT)</i>	<i>Base Units</i>	<i>Place of Service</i>	<i>PVR Type</i>
00873	Anesthesia for lithotripsy, extracorporeal shock wave; without water bath	5	21, 24	31, 32
00880	Anesthesia for procedures on major lower abdominal vessels; not otherwise specified	15	21	31, 32
00882	Anesthesia for procedures on major lower abdominal vessels; inferior vena cava ligation	10	21	31, 32
00902	Anesthesia for; anorectal procedure	5	21, 24	31, 32
00904	Anesthesia for; radical perineal procedure	7	21	31, 32
00906	Anesthesia for; vulvectomy	4	21	31, 32
00908	Anesthesia for; perineal prostatectomy	6	21	31, 32
00910	Anesthesia for transurethral procedures (including urethrocystoscopy); not otherwise specified	3	21, 24	31, 32
00912	Anesthesia for transurethral procedures (including urethrocystoscopy); transurethral resection of bladder tumors	5	21, 24	31, 32
00914	Anesthesia for transurethral procedures (including urethrocystoscopy); transurethral resection of prostate	5	21, 24	31, 32
00916	Anesthesia for transurethral procedures (including urethrocystoscopy); post-transurethral resection bleeding	5	21, 24	31, 32
00918	Anesthesia for transurethral procedures (including urethrocystoscopy); with fragmentation, manipulation and/or removal of ureteral calculus	5	21, 24	31, 32
00920	Anesthesia for procedures on male genitalia (including open urethral procedures); not otherwise specified	3	21, 24	31, 32
00921	Anesthesia for procedures on male genitalia (including open urethral procedures); vasectomy, unilateral/bilateral	3	21, 24	31, 32
00922	Anesthesia for procedures on male genitalia (including open urethral procedures); seminal vesicles	6	21, 24	31, 32
00924	Anesthesia for procedures on male genitalia (including open urethral procedures); undescended testis, unilateral or bilateral	4	21, 24	31, 32
00926	Anesthesia for procedures on male genitalia (including open urethral procedures); radical orchiectomy, inguinal	4	21	31, 32
00928	Anesthesia for procedures on male genitalia (including open urethral procedures); radical orchiectomy, abdominal	6	21	31, 32
00930	Anesthesia for procedures on male genitalia (including open urethral procedures); orchiopexy, unilateral or bilateral	4	21, 24	31, 32
00932	Anesthesia for procedures on male genitalia (including open urethral procedures); complete amputation of penis	4	21, 24	31, 32
00934	Anesthesia for procedures on male genitalia (including open urethral procedures); radical amputation of penis with bilateral inguinal lymphadenectomy	6	21	31, 32
00936	Anesthesia for procedures on male genitalia (including open urethral procedures); radical amputation of penis with bilateral inguinal and iliac lymphadenectomy	8	21	31, 32
00938	Anesthesia for procedures on male genitalia (including open urethral procedures); insertion of penile prosthesis (perineal approach)	4	21, 24	31, 32
00940	Anesthesia for vaginal procedures (including biopsy of labia, vagina, cervix or endometrium); not otherwise specified	3	21, 24	31, 32
00942	Anesthesia for vaginal procedures (including biopsy of labia, vagina, cervix or endometrium); colpotomy, vaginectomy, colporrhaphy and open urethral procedures	4	21	31, 32
00944	Anesthesia for vaginal procedures (including biopsy of labia, vagina, cervix or endometrium); vaginal hysterectomy	6	21, 24	31, 32
00948	Anesthesia for vaginal procedures (including biopsy of labia, vagina, cervix or endometrium); cervical cerclage	4	21, 24	31, 32
00950	Anesthesia for vaginal procedures (including biopsy of labia, vagina, cervix or endometrium); culdoscopy	5	21, 24	31, 32

<i>Code</i>	<i>Description (CPT)</i>	<i>Base Units</i>	<i>Place of Service</i>	<i>PVR Type</i>
00952	Anesthesia for vaginal procedures (including biopsy of labia, vagina, cervix or endometrium); hysteroscopy and/or hysterosalpingography	4	21, 24	31, 32
01112	Anesthesia for bone marrow aspiration and/or biopsy, anterior or posterior iliac crest	5	21, 24	31, 32
01120	Anesthesia for procedures on bony pelvis	6	21, 24	31, 32
01130	Anesthesia for body cast application or revision	3	21, 24	31, 32
01140	Anesthesia for interpelviabdominal (hindquarter) amputation	15	21	31, 32
01150	Anesthesia for radical procedures for tumor of pelvis, except hindquarter amputation	10	21	31, 32
01160	Anesthesia for closed procedures involving symphysis pubis or sacroiliac joint	4	21, 24	31, 32
01170	Anesthesia for open procedures involving symphysis pubis or sacroiliac joint	8	21	31, 32
01173	Anesthesia for open repair of fracture disruption of pelvis or column fracture involving acetabulum	12	21 21	31 32
01180	Anesthesia for obturator neurectomy; extrapelvic	3	21, 24	31, 32
01190	Anesthesia for obturator neurectomy; intrapelvic	4	21, 24	31, 32
01200	Anesthesia for all closed procedures involving hip joint	4	21, 24	31, 32
01202	Anesthesia for arthroscopic procedures of hip joint	4	21, 24	31, 32
01210	Anesthesia for open procedures involving hip joint; not otherwise specified	6	21	31, 32
01212	Anesthesia for open procedures involving hip joint; hip disarticulation	10	21	31, 32
01214	Anesthesia for open procedures involving hip joint; total hip arthroplasty	8	21	31, 32
01215	Anesthesia for open procedures involving hip joint; revision of total hip arthroplasty	10	21	31, 32
01220	Anesthesia for all closed procedures involving upper 2/3 of femur	4	21, 24	31, 32
01230	Anesthesia for open procedures involving upper 2/3 of femur; not otherwise specified	6	21	31, 32
01232	Anesthesia for open procedures involving upper 2/3 of femur; amputation	5	21	31, 32
01234	Anesthesia for open procedures involving upper 2/3 of femur; radical resection	8	21	31, 32
01250	Anesthesia for all procedures on nerves, muscles, tendons, fascia and bursa of upper leg	4	21, 24	31, 32
01260	Anesthesia for all procedures involving veins of upper leg, including exploration	3	21, 24	31, 32
01270	Anesthesia for procedures involving arteries of upper leg, including bypass graft; not otherwise specified	8	21	31, 32
01272	Anesthesia for procedures involving arteries of upper leg, including bypass graft; femoral artery ligation	4	21	31, 32
01274	Anesthesia for procedures involving arteries of upper leg, including bypass graft; femoral artery embolectomy	6	21	31, 32
01320	Anesthesia for all procedures on nerves, muscles, tendons, fascia and bursa of knee and/or popliteal area	4	21, 24	31, 32
01340	Anesthesia for all closed procedures on lower 1/3 of femur	4	21, 24	31, 32
01360	Anesthesia for all open procedures on lower 1/3 of femur	5	21	31, 32
01380	Anesthesia for all closed procedures on knee joint	3	21, 24	31, 32
01382	Anesthesia for diagnostic arthroscopic procedures of knee joint	3	21, 24	31, 32
01390	Anesthesia for all closed procedures on upper ends of tibia, fibula and/or patella	3	21, 24	31, 32
01392	Anesthesia for all open procedures on upper ends of tibia, fibula and/or patella	4	21, 24	31, 32

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<i>Code</i>	<i>Description (CPT)</i>	<i>Base Units</i>	<i>Place of Service</i>	<i>PVR Type</i>
01400	Anesthesia for open or surgical arthroscopic procedures on knee joint; not otherwise specified	4	21, 24	31, 32
01402	Anesthesia for open or surgical arthroscopic procedures on knee joint; total knee arthroplasty	7	21	31, 32
01404	Anesthesia for open or surgical arthroscopic procedures on knee joint; disarticulation at knee	5	21, 24	31, 32
01420	Anesthesia for all cast applications, removal or repair involving knee joint	3	21, 24	31, 32
01430	Anesthesia for procedures on veins of knee and popliteal area; not otherwise specified	3	21, 24	31, 32
01432	Anesthesia for procedures on veins of knee and popliteal area; arteriovenous fistula	6	21	31, 32
01440	Anesthesia for procedures on arteries of knee and popliteal area; not otherwise specified	8	21	31, 32
01442	Anesthesia for procedures on arteries of knee and popliteal area; popliteal thromboendarterectomy, with or without patch graft	8	21	31, 32
01444	Anesthesia for procedures on arteries of knee and popliteal area; popliteal excision and graft or repair for occlusion or aneurysm	8	21	31, 32
01462	Anesthesia for all closed procedures on lower leg, ankle and foot	3	21, 24	31, 32
01464	Anesthesia for arthroscopic procedures of ankle and/or foot	3	21, 24	31, 32
01470	Anesthesia for procedures on nerves, muscles, tendons and fascia of lower leg, ankle and foot; not otherwise specified	3	21, 24	31, 32
01472	Anesthesia for procedures on nerves, muscles, tendons and fascia of lower leg, ankle and foot; repair of ruptured Achilles tendon, with or without graft	5	21, 24	31, 32
01474	Anesthesia for procedures on nerves, muscles, tendons and fascia of lower leg, ankle and foot; gastrocnemius recession (for example, Strayer procedure)	5	21, 24	31, 32
01480	Anesthesia for open procedures on bones of lower leg, ankle and foot; not otherwise specified	3	21, 24	31, 32
01482	Anesthesia for open procedures on bones of lower leg, ankle and foot; radical resection (including below knee amputation)	4	21	31, 32
01484	Anesthesia for open procedures on bones of lower leg, ankle and foot; osteotomy or osteoplasty of tibia and/or fibula	4	21	31, 32
01486	Anesthesia for open procedures on bones of lower leg, ankle and foot; total ankle replacement	7	21	31, 32
01490	Anesthesia for lower leg cast application, removal or repair	3	21, 24	31, 32
01500	Anesthesia for procedures on arteries of lower leg, including bypass graft; not otherwise specified	8	21	31, 32
01502	Anesthesia for procedures on arteries of lower leg, including bypass graft; embolectomy, direct or catheter	6	21	31, 32
01520	Anesthesia for procedures on veins of lower leg; not otherwise specified	3	21, 24	31, 32
01522	Anesthesia for procedures on veins of lower leg; venous thrombectomy, direct or catheter	5	21, 24	31, 32
01610	Anesthesia for all procedures on nerves, muscles, tendons, fascia and bursa of shoulder and axilla	5	21, 24	31, 32
01620	Anesthesia for all closed procedures on humeral head and neck, sternoclavicular joint, acromioclavicular joint and shoulder joint	4	21, 24	31, 32
01622	Anesthesia for diagnostic arthroscopic procedures of shoulder joint	4	21, 24	31, 32
01630	Anesthesia for open or surgical arthroscopic procedures on humeral head and neck, sternoclavicular joint, acromioclavicular joint and shoulder joint; not otherwise specified	5	21, 24	31, 32
01632	Anesthesia for open or surgical arthroscopic procedures on humeral head and neck, sternoclavicular joint, acromioclavicular joint and shoulder joint; radical resection	6	21	31, 32

<i>Code</i>	<i>Description (CPT)</i>	<i>Base Units</i>	<i>Place of Service</i>	<i>PVR Type</i>
01634	Anesthesia for open or surgical arthroscopic procedures on humeral head and neck, sternoclavicular joint, acromioclavicular joint and shoulder joint; shoulder disarticulation	9	21	31, 32
01636	Anesthesia for open or surgical arthroscopic procedures on humeral head and neck, sternoclavicular joint, acromioclavicular joint and shoulder joint; interthoracoscaphular (forequarter) amputation	15	21	31, 32
01638	Anesthesia for open or surgical arthroscopic procedures on humeral head and neck, sternoclavicular joint, acromioclavicular joint and shoulder joint; total shoulder replacement	10	21	31, 32
01650	Anesthesia for procedures on arteries of shoulder and axilla; not otherwise specified	6	21	31, 32
01652	Anesthesia for procedures on arteries of shoulder and axilla; axillary-brachial aneurysm	10	21	31, 32
01654	Anesthesia for procedures on arteries of shoulder and axilla; bypass graft	8	21	31, 32
01656	Anesthesia for procedures on arteries of shoulder and axilla; axillary-femoral bypass graft	10	21	31, 32
01670	Anesthesia for all procedures on veins of shoulder and axilla	4	21, 24	31, 32
01680	Anesthesia for shoulder cast application, removal or repair; not otherwise specified	3	21, 24	31, 32
01682	Anesthesia for shoulder cast application, removal or repair; shoulder spica	4	21, 24	31, 32
01710	Anesthesia for procedures on nerves, muscles, tendons, fascia and bursa of upper arm and elbow; not otherwise specified	3	21, 24	31, 32
01712	Anesthesia for procedures on nerves, muscles, tendons, fascia and bursa of upper arm and elbow; tenotomy, elbow to shoulder, open	5	21, 24	31, 32
01714	Anesthesia for procedures on nerves, muscles, tendons, fascia and bursa of upper arm and elbow; tenoplasty, elbow to shoulder	5	21, 24	31, 32
01716	Anesthesia for procedures on nerves, muscles, tendons, fascia and bursa of upper arm and elbow; tenodesis, rupture of long tendon of biceps	5	21	31, 32
01730	Anesthesia for all closed procedures on humerus and elbow	3	21, 24	31, 32
01732	Anesthesia for diagnostic arthroscopic procedures of elbow joint	3	21, 24	31, 32
01740	Anesthesia for open or surgical arthroscopic procedures of the elbow; not otherwise specified	4	21, 24	31, 32
01742	Anesthesia for open or surgical arthroscopic procedures of the elbow; osteotomy of humerus	5	21, 24	31, 32
01744	Anesthesia for open or surgical arthroscopic procedures of the elbow; repair of nonunion or malunion of humerus	5	21, 24	31, 32
01756	Anesthesia for open or surgical arthroscopic procedures of the elbow; radical procedures	6	21, 24	31, 32
01758	Anesthesia for open or surgical arthroscopic procedures of the elbow; excision of cyst or tumor of humerus	5	21, 24	31, 32
01760	Anesthesia for open or surgical arthroscopic procedures of the elbow; total elbow replacement	7	21	31, 32
01770	Anesthesia for procedures on arteries of upper arm and elbow; not otherwise specified	6	21, 24	31, 32
01772	Anesthesia for procedures on arteries of upper arm and elbow; embolectomy	6	21, 24	31, 32
01780	Anesthesia for procedures on veins of upper arm and elbow; not otherwise specified	3	21, 24	31, 32
01782	Anesthesia for procedures on veins of upper arm and elbow; phleborrhaphy	4	21, 24	31, 32
01810	Anesthesia for all procedures on nerves, muscles, tendons, fascia and bursa of forearm, wrist and hand	3	21, 24	31, 32
01820	Anesthesia for all closed procedures on radius, ulna, wrist or hand bones	3	21, 24	31, 32

<i>Code</i>	<i>Description (CPT)</i>	<i>Base Units</i>	<i>Place of Service</i>	<i>PVR Type</i>
01829	Anesthesia for diagnostic arthroscopic procedures on the wrist	3	21, 24	31, 32
01830	Anesthesia for open or surgical arthroscopic/endoscopic procedures on distal radius, distal ulna, wrist or hand joints; not otherwise specified	3	21, 24	31, 32
01832	Anesthesia for open or surgical arthroscopic/endoscopic procedures on distal radius, distal ulna, wrist or hand joints; total wrist replacement	6	21, 24	31, 32
01840	Anesthesia for procedures on arteries of forearm, wrist and hand; not otherwise specified	6	21, 24	31, 32
01842	Anesthesia for procedures on arteries of forearm, wrist and hand; embolectomy	6	21, 24	31, 32
01844	Anesthesia for vascular shunt or shunt revision, any type (for example, dialysis)	6	21, 24	31, 32
01850	Anesthesia for procedures on veins of forearm, wrist and hand; not otherwise specified	3	21, 24	31, 32
01852	Anesthesia for procedures on veins of forearm, wrist and hand; phleborrhaphy	4	21, 24	31, 32
01860	Anesthesia for forearm, wrist or hand cast application, removal or repair	3	21, 24, 99	31, 32
01905	Anesthesia for myelography, diskography, vertebroplasty	5	21, 24, 99	31, 32
01916	Anesthesia for diagnostic arteriography/venography	5	21, 24, 99	31, 32
01920	Anesthesia for cardiac catheterization including coronary angiography and ventriculography (not to include Swan-Ganz catheter)	7	21, 24, 99	31, 32
01922	Anesthesia for non-invasive imaging or radiation therapy	7	21, 24, 99	31, 32
01924	Anesthesia for therapeutic interventional radiologic procedures involving the arterial system; not otherwise specified	5	21, 24, 99	31, 32
01925	Anesthesia for therapeutic interventional radiologic procedures involving the arterial system; carotid or coronary	7	21, 24, 99	31, 32
01926	Anesthesia for therapeutic interventional radiologic procedures involving the arterial system; intracranial, intracardiac or aortic	8	21, 24, 99	31, 32
01930	Anesthesia for therapeutic interventional radiologic procedures involving the venous/lymphatic system (not to include access to the central circulation); not otherwise specified	5	21, 24, 99	31, 32
01931	Anesthesia for therapeutic interventional radiologic procedures involving the venous/lymphatic system (not to include access to the central circulation); intrahepatic or portal circulation (for example, transcutaneous porto-caval shunt (TIPS))	7	21, 24, 99	31, 32
01932	Anesthesia for therapeutic interventional radiologic procedures involving the venous/lymphatic system (not to include access to the central circulation); intrathoracic or jugular	6	21, 24, 99	31, 32
01933	Anesthesia for therapeutic interventional radiologic procedures involving the venous/lymphatic system (not to include access to the central circulation); intracranial	7	21, 24, 99	31, 32
01951	Anesthesia for second and third degree burn excision or debridement with or without skin grafting, any site, for TBSA treated during anesthesia and surgery; less than 4% TBSA	3	21, 24	31, 32
01952	Anesthesia for second and third degree burn excision or debridement with or without skin grafting, any site, for TBSA treated during anesthesia and surgery; between 4% and 9% of TBSA	5	21	31, 32
01953	Anesthesia for second and third degree burn excision or debridement with or without skin grafting, any site, for TBSA treated during anesthesia and surgery; each additional 9% TBSA or part thereof (list separately in addition to code for primary procedure)	1	21	31, 32
01958	Anesthesia for external cephalic version procedure	5	21, 24	31, 32
01960	Anesthesia for vaginal delivery only	9	21	31, 32
01961	Anesthesia for cesarean delivery only	11	21	31, 32
01962	Anesthesia for urgent hysterectomy following delivery	12	21	31, 32

<i>Code</i>	<i>Description (CPT)</i>	<i>Base Units</i>	<i>Place of Service</i>	<i>PVR Type</i>
01963	Anesthesia for cesarean hysterectomy without any labor analgesia/anesthesia care	12	21	31, 32
01964	Anesthesia for abortion procedures	4	21, 24	31, 32
01967	Neuraxial labor analgesia/anesthesia for planned vaginal delivery (this includes any repeat subarachnoid needle placement and drug injection and/or any necessary replacement of an epidural catheter during labor)	9	21	31, 32
01968	Anesthesia for cesarean delivery following neuraxial labor analgesia/anesthesia (List separately in addition to code for primary procedure performed)	2	21	31, 32
01969	Anesthesia for cesarean hysterectomy following neuraxial labor analgesia/anesthesia (List separately in addition to code for primary procedure performed)	5	21	31, 32
01991	Anesthesia for diagnostic or therapeutic nerve blocks and injections (when block or injection is performed by a different provider); other than the prone position	3	21, 24	31, 32
01992	Anesthesia for diagnostic or therapeutic nerve blocks and injections (when block or injection is performed by a different provider); prone position	5	21, 24	31, 32

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### Medical Assistance Program Fee Schedule Revisions; 2003 HCPCS Updates; Prior Authorization Requirements

By this notice, the Department of Public Welfare (Department) announces several changes to the Medical Assistance (MA) Program Fee Schedule and accompanying prior authorization requirements.

#### Fee Schedule Revisions

The Department is adding and end dating procedure codes as a result of implementing the 2003 updates made by the Centers for Medicare and Medicaid Services to the Healthcare Common Procedure Coding System (HCPCS). The 2003 HCPCS codes are effective for dates of service on and after January 1, 2004.

In addition to the HCPCS updates, the Department is adding procedure code G0234 with effective dates of service on and after July 1, 2004. Procedure code G0234 is being added because the Department has received a significant number of requests for that service through the program exception process authorized by 55 Pa. Code § 1150.63 (relating to waivers).

Effective with dates of service on and after July 1, 2004, the Department is revising the fees for several

existing procedure codes. Specifically, the Department is adjusting the fees for the following existing procedure codes for neonatal and pediatric services so that payment rates for these procedure codes remain consistent with payment rates for the procedure codes added as a result of the HCPCS updates:

99295	Old Fee: \$450	New Fee: \$703.91
99296	Old Fee: \$230	New Fee: \$309.43
99298	Old Fee: \$80	New Fee: \$108.56

In addition, the Department is reducing the fee for procedure code 58611 to reflect an appropriate payment rate to comply with the State Plan requirement that Pennsylvania Medicaid fees not exceed Medicare reimbursement fees:

58611 (surgeon)	Old Fee: \$876	New Fee: \$74.91
58611 (asst. surgeon)	Old Fee: \$175.20	New Fee: \$14.86

Fees for the added procedure codes will be published in a Medical Assistance Bulletin that will be issued to all providers within a few weeks.

#### Prior Authorization Requirements

The following new HCPCS procedure codes are for items of durable medical equipment that cost more than \$100 and therefore are subject to prior authorization under 62 P. S. § 443.6(b)(2):

A7025	High frequency chest wall oscillation system vest, replacement for use with patient owned equipment, each
A7030	Full face mask used with positive airway pressure device, each
E0117	Crutch, underarm, articulating, spring assisted, each
E0701	Helmet with face guard and soft interface material, prefabricated
E1012	Integrated seating system, planar, for pediatric wheelchair
E1013	Integrated seating system, contoured, for pediatric wheelchair
E1014	Reclining back, addition to pediatric wheelchair
E1016	Shock absorber for power wheelchair, each
E1020	"Residual limb support system for wheelchair"
E1161	Manual adult size wheelchair, includes tilt in space

- E1235 Wheelchair, pediatric size, rigid, adjustable, with seating system
- E1236 Wheelchair, pediatric size, folding, adjustable, with seating system
- E1237 Wheelchair, pediatric size, rigid, adjustable, without seating system
- E1238 Wheelchair, pediatric size, folding, adjustable, without seating system
- L0450 TLSO, flexible, provides trunk support, upper thoracic region, produces intracavitary pressure to reduce load on the intervertebral disks with rigid stays or panels, includes shoulder straps and closures, prefabricated, includes fitting and adjustment
- L0452 TLSO, flexible, provides trunk support, upper thoracic region, produces intracavitary pressure to reduce load on the intervertebral disks with rigid stays or panels, includes shoulder straps and closures, custom fabricated
- L0454 TLSO flexible, provides trunk support, extends from sacrococcygeal junction to above T-9 vertebra, restricts gross trunk motion in the sagittal plane, produces intracavitary pressure to reduce load on the intervertebral disks with rigid stays or panels, includes shoulder straps and closures, prefabricated, includes fitting and adjustment
- L0456 TLSO, flexible, provides trunk support, thoracic region, rigid posterior panel and soft anterior apron, extends from the sacrococcygeal junction and terminates just inferior to the scapular spine, restricts gross trunk motion in the sagittal plane, produces intracavitary pressure to reduce load on the intervertebral disks, includes straps and closures, prefabricated, includes fitting and adjustment
- L0458 TLSO, triplanar control, modular segmented spinal system, two rigid plastic shells, posterior extends from the sacrococcygeal junction and terminates just inferior to the scapular spine, anterior extends from the symphysis pubis to the xiphoid, soft liner, restricts gross trunk motion in the sagittal, coronal, and transverse planes, lateral strength is provided by overlapping plastic and stabilizing closures, includes straps and closures, prefabricated, includes fitting and adjustment
- L0460 TLSO, triplanar control, modular segmented spinal system, two rigid plastic shells, posterior extends from the sacrococcygeal junction and terminates just inferior to the scapular spine, anterior extends from the symphysis pubis to the sternal notch, soft liner, restricts gross trunk motion in the sagittal, coronal, and transverse planes, lateral strength is provided by overlapping plastic and stabilizing closures, includes straps and closures, prefabricated, includes fitting and adjustment
- L0462 TLSO, triplanar control, modular segmented spinal system, three rigid plastic shells, posterior extends from the sacrococcygeal junction and terminates just inferior to the scapular spine, anterior extends from the symphysis pubis to the sternal notch, soft liner, restricts gross trunk motion in the sagittal, coronal, and transverse planes, lateral strength is provided by overlapping plastic and stabilizing closures, includes straps and closures, prefabricated, includes fitting and adjustment
- L0464 TLSO, triplanar control, modular segmented spinal system, four rigid plastic shells, posterior extends from sacrococcygeal junction and terminates just inferior to scapular spine, anterior extends from symphysis pubis to the sternal notch, soft liner, restricts gross trunk motion in sagittal, coronal, and transverse planes, lateral strength is provided by overlapping plastic and stabilizing closures, includes straps and closures, prefabricated, includes fitting and adjustment
- L0466 TLSO, sagittal control, rigid posterior frame and flexible soft anterior apron with straps, closures and padding, restricts gross trunk motion in sagittal plane, produces intracavitary pressure to reduce load on intervertebral disks, includes fitting and shaping the frame, prefabricated, includes fitting and adjustment
- L0468 TLSO, sagittal-coronal control, rigid posterior frame and flexible soft anterior apron with straps, closures and padding, extends from sacrococcygeal junction over scapulae, lateral strength provided by pelvic, thoracic, and lateral frame pieces, restricts gross trunk motion in sagittal, and coronal planes, produces intracavitary pressure to reduce load on intervertebral disks, includes fitting and shaping the frame, prefabricated, includes fitting and adjustment
- L0470 TLSO, triplanar control, rigid posterior frame and flexible soft anterior apron with straps, closures and padding, extends from sacrococcygeal junction to scapula, lateral strength provided by pelvic, thoracic, and lateral frame pieces, rotational strength provided by subclavicular extensions, restricts gross trunk motion in sagittal, coronal, and transverse planes, produces intracavitary pressure to reduce load on the intervertebral disks, includes fitting and shaping the frame, prefabricated, includes fitting and adjustment
- L0472 TLSO, triplanar control, hyperextension, rigid anterior and lateral frame extends from symphysis pubis to sternal notch with two anterior components (one pubic and one sternal), posterior and lateral pads with straps and closures, limits spinal flexion, restricts gross trunk motion in sagittal, coronal, and transverse planes, includes fitting and shaping the frame, prefabricated, includes fitting and adjustment

- L0474 TLSO, triplanar control, rigid posterior frame with flexible soft apron anterior with multiple straps, closures and padding, extends from sacrococcygeal junction to scapula, lateral strength provided by pelvic, thoracic, and lateral frame pieces, rotational strength provided by subclavicular extensions, restricts gross trunk motion in the sagittal, coronal, and transverse planes, produces intracavitary pressure to reduce load on the intervertebral disks, includes fitting and shaping the frame, prefabricated, includes fitting and adjustment
- L0476 TLSO, sagittal-coronal control, flexion compression jacket, two rigid plastic shells with soft liner, posterior extends from sacrococcygeal junction and terminates at or before the T-9 vertebra, anterior extends from symphysis pubis to xiphoid, usually laced together on one side, restricts gross trunk motion in sagittal and coronal planes, allows free flexion and compression of the LS region, includes straps and closures, prefabricated, includes fitting and adjustment
- L0478 TLSO, sagittal-coronal control, flexion compression jacket, two rigid plastic shells with soft liner, posterior extends from sacrococcygeal junction and terminates at or before the T-9 vertebra, anterior extends from symphysis pubis to xiphoid, usually laced together on one side, restricts gross trunk motion in sagittal and coronal planes, allows free flexion and compression of LS region, includes straps and closures, custom fabricated
- L0480 TLSO, triplanar control, one piece rigid plastic shell without interface liner, with multiple straps and closures, posterior extends from sacrococcygeal junction and terminates just inferior to scapular spine, anterior extends from symphysis pubis to sternal notch, anterior or posterior opening, restricts gross trunk motion in sagittal, coronal, and transverse planes, includes a carved plaster or CAD-CAM model, custom fabricated
- L0482 TLSO, triplanar control, one piece rigid plastic shell with interface liner, multiple straps and closures, posterior extends from sacrococcygeal junction and terminates just inferior to scapular spine, anterior extends from symphysis pubis to sternal notch, anterior or posterior opening, restricts gross trunk motion in sagittal, coronal, and transverse planes, includes a carved plaster or CAD-CAM model, custom fabricated
- L0484 TLSO, triplanar control, two piece rigid plastic shell without interface liner, with multiple straps and closures, posterior extends from sacrococcygeal junction and terminates just inferior to scapular spine, anterior extends from symphysis pubis to sternal notch, lateral strength is enhanced by overlapping plastic, restricts gross trunk motion in the sagittal, coronal, and transverse planes, includes a carved plaster or CAD-CAM model, custom fabricated
- L0486 TLSO, triplanar control, two piece rigid plastic shell with interface liner, multiple straps and closures, posterior extends from sacrococcygeal junction and terminates just inferior to scapular spine, anterior extends from symphysis pubis to sternal notch, lateral strength is enhanced by overlapping plastic, restricts gross trunk motion in the sagittal, coronal, and transverse planes, includes a carved plaster or CAD-CAM model, custom fabricated
- L0488 TLSO, triplanar control, one piece rigid plastic shell with interface liner, multiple straps and closures, posterior extends from sacrococcygeal junction and terminates just inferior to scapular spine, anterior extends from symphysis pubis to sternal notch, anterior or posterior opening, restricts gross trunk motion in sagittal, coronal, and transverse planes, prefabricated, includes fitting and adjustment
- L0490 TLSO, sagittal-coronal control, one piece rigid plastic shell, with overlapping reinforced anterior, with multiple straps and closures, posterior extends from sacrococcygeal junction and terminates at or before the T-9 vertebra, anterior extends from symphysis pubis to xiphoid, anterior opening, restricts gross trunk motion in sagittal and coronal planes, prefabricated, includes fitting and adjustment
- L1652 Hip orthosis, bilateral thigh cuffs with adjustable abductor spreader bar, adult size, prefabricated, includes fitting and adjustment, any type
- L1836 Knee orthosis, rigid, without joints, includes soft interface material, prefabricated, includes fitting and adjustment
- L3652 Shoulder orthosis, double shoulder, elastic, prefabricated, includes fitting and adjustment (for example, neoprene, lycra)
- L4386 Non-pneumatic walking splint, with or without joints, prefabricated, includes fitting and adjustment
- L5781 Addition to lower limb prosthesis, vacuum pump, residual limb volume management and moisture evacuation system
- L5848 Addition to endoskeletal, knee-shin system, hydraulic stance extension, dampening feature, adjustable
- L6025 Transcarpal/metacarpal or partial hand disarticulation prosthesis, external power, self-suspended, inner socket with removable forearm section, electrodes and cables, two batteries, charger, myoelectric control of terminal device
- L6638 Upper extremity addition to prosthesis, electric locking feature, only for use with manually powered elbow
- L6646 Upper extremity addition, shoulder joint, multipositional locking, flexion, adjustable abduction friction control, for use with body powered or external powered system
- L6647 Upper extremity addition, shoulder lock mechanism, body powered actuator



L6648 Upper extremity addition, shoulder lock mechanism, external powered actuator  
 L7367 Lithium ion battery, replacement  
 L7368 Lithium ion battery charger

The following new HCPCS procedure codes are subject to prior authorization, as authorized in 62 P. S. § 443.6(b)(7):

G0234 Positive emission tomography, regional or whole body, for solitary pulmonary nodule following CT or for initial staging of pathologically diagnosed nonsmall cell lung cancer; gamma cameras only  
 J7342 Dermal tissue, of human origin, with or without other bioengineered or processed elements, with metabolically active elements, per square centimeter

**Changes to the MA Program Fee Schedule for Provider Types  
 01, 02, 03, 07, 08, 12, 15, 18, 25, 26, 29, 31, 33, 34, 47, 59**

**Procedure Codes Added to the Fee Schedule as a Result of the Updates and Additions which are Effective  
 and Compensable for Dates of Service as of January 1, 2004**

<i>Procedure Code</i>	<i>Modifiers</i>	<i>Procedure Code</i>	<i>Modifiers</i>	<i>Procedure Code</i>	<i>Modifiers</i>
A4266		A4267		A4268	
A4281		A4282		A4283	
A4284		A4285		A4286	
A4405		A4406		A4407	
A4408		A4409		A4410	
A4413		A4414		A4415	
A4422		A4450		A4452	
A4525		A4526		A4527	
A4528		A4531		A4532	
A4534		A4609		A4610	
A4633		A4930		A4931	
A4932		A6011		A6410	
A6411		A6421		A7025	
A7026		A7030		A7031	
A7032		A7033		A7034	
A7035		A7036		A7037	
A7038		A7039		A7044	
B4100		E0117	NU	E0454	RR
E0461	RR	E0483	RR	E0484	NU
E0618	RR	E0636	RR	E0701	NU
E1012	NU, RR	E1013	NU, RR	E1014	NU, RR
E1015	NU, RR	E1016	NU, RR	E1020	NU, RR
E1025	NU, RR	E1026	NU, RR	E1027	NU, RR
E1037	RR	E1038	RR	E1161	NU, RR
E1232	NU, RR	E1233	NU, RR	E1234	NU, RR
E1235	NU, RR	E1236	NU, RR	E1237	NU, RR
E1238	NU, RR	E1802	RR	L0450	
L0452		L0454		L0456	
L0458		L0460		L0462	
L0464		L0466		L0468	
L0470		L0472		L0474	
L0476		L0478		L0480	
L0482		L0484		L0486	
L0488		L0490		L1652	
L1836		L1901		L3651	
L3652		L3701		L3762	

<i>Procedure Code</i>	<i>Modifiers</i>	<i>Procedure Code</i>	<i>Modifiers</i>	<i>Procedure Code</i>	<i>Modifiers</i>
L3909		L3911		L4386	
L5781		L5848		L6025	
L6638		L6646		L6647	
L6648		L7367		L7368	
G0234	26, TC	G0269	SG	G0290	SG
G0291	SG	J7342		0031T	SG
20612	SG	21046	SG	21047	SG
21048	SG	21049	SG	21742	80, SG
21743	80, SG	29827	SG	29873	SG
29899	SG	33215	SG	33224	SG
33225	SG	33226	SG	33508	80
34833	80	34834	80	34900	80
35572	80	36511	SG	36512	SG
36513	SG	36514	SG	36515	SG
36516	SG	37182	80	37183	80
37500	80, SG	38205	SG	38206	SG
38242	SG	43201	SG	43236	SG
44206	80	44207	80	44208	80
44210	80	44211	80	44212	80
44701	80	45335	SG	45340	SG
45381	SG	45386	SG	46706	SG
49419	SG	49904	80	50542	80, SG
50543	80, SG	50562	SG	51701	
51702		51703	SG	51798	
55866	80	56820	SG	56821	SG
57420	SG	57421	SG	57455	SG
57456	SG	57461	SG	58146	80, SG
58290	80, SG	58291	80	58292	80
58293	80	58294	80	58545	80, SG
58546	80, SG	58552	80, SG	58553	80, SG
58554	80, SG	61316	80	61322	80
61323	80	61517	80	61623	80, SG
62148	80, SG	62160	80, SG	62161	80, SG
62162	80, SG	62163	80, SG	62164	80, SG
62165	80, SG	64416	SG	64446	SG
64447	SG	64448	SG	75901	26, TC
75902	26, TC	75954	26	76071	26, TC
76801	26, TC	76802	26, TC	76811	26, TC
76812	26, TC	76817	26, TC	83880	
84302		85004		85032	
85049		85380		87255	
87267		87271		88174	
88175		89055		92601	
92602		92603		92604	
92610		92611		92612	
92613		92614		92615	
92616		92617		93580	
93581		95990		96920	SG

<i>Procedure Code</i>	<i>Modifiers</i>	<i>Procedure Code</i>	<i>Modifiers</i>	<i>Procedure Code</i>	<i>Modifiers</i>
96921	SG	96922	SG	99293	
99294		99299		E0951	

**Procedure Codes deleted from the Fee Schedule as a Result of the Updates which will not be Compensable for Services Provided After August 31, 2004:**

*Procedure Codes*

A4370	G0015	L0310	L0390	L0950	47133	94665
A4374	K0021	L0315	L0391	L0986	58551	99297
A4386	K0034	L0317	L0400	L5660	85021	
A4572	K0101	L0320	L0410	L5662	85022	
A5123	K0183	L0321	L0420	L5663	85023	
A6405	K0184	L0330	L0430	L5664	85024	
A6406	K0185	L0331	L0440	21041	85031	
E0608	K0186	L0340	L0900	33930	85590	
G0004	K0187	L0350	L0910	33940	85595	
G0005	K0188	L0360	L0920	36520	87198	
G0006	K0189	L0370	L0930	36521	87199	
G0007	L0300	L0380	L0940	38231	90709	

*Fiscal Impact*

The fiscal note was prepared under provision of section 612 of The Administrative code of 1929 (71 P. S. § 232). The estimated cost for Fiscal Year 2003-2004 is \$1.287 million (\$0.582 million in State funds). The estimated cost for Fiscal Year 2004-2005 is \$3.861 million (\$1.773 million in State funds).

*Public Comment*

Interested persons are invited to submit written comments to this notice within 30 days of this publication to the Department of Public Welfare, Office of Medical Assistance Programs, c/o Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received will be considered in subsequent revisions to the fee schedule. Persons with a disability may use the AT&T Relay Services, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-393. (1) General Fund; (2) Implementing Year 2003-04 is \$582,000; (3) 1st Succeeding Year 2004-05 is \$1,773,000; 2nd Succeeding Year 2005-06 is \$1,782,000; 3rd Succeeding Year 2006-07 is \$1,782,000; 4th Succeeding Year 2007-08 is \$1,782,000; 5th Succeeding Year 2008-09 is \$1,782,000; (4) 2002-03 Program—\$668,832,000; 2001-02 Program—\$705,750,000; 2000-01 Program—\$668,586,000; (7) Medical Assistance—Outpatient; (8) recommends adoption. The previous costs have been included in the First Supplemental General Appropriation Act of (2003) (Act 9A) and the General Appropriation Act of 2004 (Act 7A).

[Pa.B. Doc. No. 04-1613. Filed for public inspection August 27, 2004, 9:00 a.m.]

## ENVIRONMENTAL HEARING BOARD

**Montgomery Sewer Company, Inc. v. DEP; EHB  
Doc. No. 2004-185-K**

Montgomery Sewer Company, Inc. has appealed the issuance by the Department of Environmental Protection of NPDES Permit No. PA0052094 (August 1, 2004) to same for a facility in Montgomery Township, Montgomery 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. 04-1614. Filed for public inspection August 27, 2004, 9:00 a.m.]

**Mount Carmel Municipal Authority v. DEP ; EHB  
Doc. No. 2004-182-L**

Mount Carmel Municipal Authority has appealed the issuance by the Department of Environmental Protection of an NPDES permit to same for a facility in Mount Carmel Township, Northumberland 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. 04-1615. Filed for public inspection August 27, 2004, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Proposed Special Regulation; Designations and Redesignations

The Fish and Boat Commission (Commission) has approved guidelines with regard to encouraging public participation on possible changes to the designation of streams, stream sections or lakes for special regulation programs. Under 58 Pa. Code Chapter 65 (relating to special fishing regulations), the Commission designates certain streams, stream sections and lakes as being subject to special fishing regulations. These designations are effective after Commission approval when they are posted at the site and a notice is published in the *Pennsylvania Bulletin*. Under the Commission's guidelines, a notice concerning the proposed designation or redesignation of a stream, stream section or lake under special regulations ordinarily will be published in the *Pennsylvania Bulletin* before the matter is reviewed by the Commissioners.

At the next Commission meeting on October 4 and 5, 2004, the Commission will consider designating or redesignating the following streams, stream sections and lakes as waters subject to special fishing regulations under 58 Pa. Code Chapter 65, effective January 1, 2005:

#### 58 Pa. Code § 65.1. Selective Harvest Program

The Commission will consider removing the following stream section from the list of waters regulated and managed under the Selective Harvest Program under 58 Pa. Code § 65.1:

<i>County</i>	<i>Water on which located</i>	<i>Description</i>
Clinton	Young Womans Creek	From Beechwood Trail downstream to the Sproul State Forest Property line, a distance of 5.5 miles

#### 58 Pa. Code § 65.6. Delayed harvest artificial lures only areas

The Commission will consider designating the following stream sections as delayed harvest artificial lures only areas (DHALO) to be regulated and managed under 58 Pa. Code § 65.6:

<i>County</i>	<i>Water on which located</i>	<i>Description</i>
Clinton	Young Womans Creek	From Beechwood Trail downstream to the Sproul State Forest Property line, a distance of 5.5 miles ( <i>Note:</i> The Commission may also consider designating this section as a catch-and-release area under 58 Pa. Code § 65.5 (relating to catch-and-release areas) or applying Statewide trout regulations to this section)
Fayette	Meadow Run	From the mouth of Meadow Run at the Youghioghney River upstream to the State Route 2011 Bridge on Dinner Bell Road adjacent to the Ohiopyle State Park office, a distance of 2.2 miles ( <i>Note:</i> This is an extension of the 1.7 mile section of Meadow Run—from the confluence with Laurel Run downstream to the SR 0381 Bridge—that the Commission currently manages as a DHALO area)
Monroe	McMichaels Creek	From 130 yards downstream of the bridge on Turkey Hill Road (T-416) downstream to the upstream boundary of the Glen Brook Golf Course, a distance of 1.74 miles

#### 58 Pa. Code § 65.10. Select Trout Stocked Lake Program (to become the Early Season Trout Stocked Waters Program).

The Commission will consider adding the following waters to the list of waters regulated and managed under the Select Trout Stocked Lake Program under 58 Pa. Code § 65.10:

<i>County</i>	<i>Water on which located</i>
Erie	East Basin Pond
Erie	West Basin Pond

At this time, the Commission is soliciting public input concerning the designations and redesignations listed in this notice. Persons with comments, objections or suggestions concerning the designations and redesignations are invited to

submit comments in writing to Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

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

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

[Pa.B. Doc. No. 04-1616. Filed for public inspection August 27, 2004, 9:00 a.m.]

## HISTORICAL AND MUSEUM COMMISSION

### National Register Nominations to be Reviewed by the Historic Preservation Board

The Historic Preservation Board (Board) will hold a meeting on September 14, 2004, at 9:45 a.m. at the Barn in Fallingwater, Mill Run, PA. Individuals with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to participate should contact Helena Johnson at (717) 783-2698 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Board can accommodate their needs. Individuals with questions or comments should contact the Bureau for Historic Preservation, (717) 783-8946.

#### Allegheny Plateau

1. *Wellsboro Historic District*, roughly bounded by Nichols, Tioga, Charleston and Jackson Streets, East Avenue, Bacon Street, Morris Lane, Morris Creek, Sturrock, Meade, Grant, Walnut and Academy Streets, West Avenue, West Water and Highland Streets, Wellsboro, Tioga County.

#### Ridge and Valley

2. *Chestnut Ridge and Schellsburg Union Church and Cemetery*, south side of Lincoln Highway (U.S. Route 30), Napier Township, Bedford County.

#### Great Valley and Piedmont Region

3. *Upper Roxborough Historic District (Boundary Increase)*, consisting of the upper and lower reservoirs and water treatment plants, Philadelphia.

4. *St. Anthony Hall House*, 3637 Locust Walk, University of Pennsylvania Campus, Philadelphia.

5. *Marine Corps Depot of Supplies*, 700-734 Schuylkill Avenue, Philadelphia.

6. *Lansdale Silk Hosiery Company—Interstate Hosiery Mills, Inc.*, 200 S. Line Street, Lansdale, Montgomery County.

7. *Harrisburg Polyclinic Hospital*, 2601 N. Third Street, Harrisburg, Dauphin County.

8. *Queen Anne Historic District*, roughly bounded by the following streets: Tulpehocken, Clinton, Miltimore, Gordon, West Windsor, Spring, Robeson, Centre Avenue, North Second, Thorn, North Third, Greenwich and Green, City of Reading, Berks County.

### Anthracite Region and Poconos; Southwestern Pennsylvania

No nominations.

BARBARA FRANCO,  
*Executive Director*

[Pa.B. Doc. No. 04-1617. Filed for public inspection August 27, 2004, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the 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>
57-234	Pennsylvania Public Utility Commission Public Utility Security Planning and Readiness (34 Pa.B. 3138 (June 19, 2004))	7/19/04	8/18/04
16A-6802	State Board of Examiners in Speech-Language and Hearing Continuing Education (34 Pa.B. 3143 (June 19, 2004))	7/19/04	8/18/04

16A-5410 State Board of Pharmacy  
Technology and Automation  
(34 Pa.B. 3146 (June 19, 2004))

7/19/04 IRRC  
8/18/04

**Pennsylvania Public Utility Commission Regulation  
# 57-234 (IRRC # 2404)  
Public Utility Security Planning and Readiness  
August 18, 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 Pennsylvania Public Utility Commission (PUC) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on July 19, 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 101.1. Purpose.—Timetable for compliance; Clarity.**

This section establishes the purpose of Chapter 101. It uses the terms “jurisdictional utility” and “infrastructure.” These terms are not defined. The PUC should either define these terms in § 101.2 or include a cross-reference to where these definitions can be found.

**2. Section 101.2. Definitions.—Clarity.**

*Business continuity plan, contingency planning, business resumption and emergency response plan*

This section uses three phrases to describe potential service interruptions. These include “change or unforeseen circumstances” in the definitions of “business continuity plan” and “contingency planning”; “natural causes or sabotage” in the definition of “emergency response plan”; and “disaster” in the definition of “business resumption.” Based on the executive summary included with the regulatory package, the aforementioned terms are subsumed under the defined term of “abnormal operating conditions.” Therefore, we recommend that these phrases be replaced with that defined term.

*Business continuity plan, cyber security plan, emergency response plan and physical security plan*

These definitions all contain a brief description of the term and duties for jurisdictional utilities to perform. As substantive provisions, the duties should not be included in these definitions. Rather, they should be moved to § 101.3.

*Business recovery*

The phrase “less time-sensitive business operations” is included in this definition. The PUC should include examples of “less time-sensitive business operations” in the preamble or the final-form regulation.

*Critical functions*

This definition includes the phrase “several business days.” This time frame is vague. The PUC should replace this phrase with a specific time frame.

*Cyber security plan*

The phrase “appropriate backup” is in the definition of “cyber security plan.” The PUC should provide examples of “appropriate backup” or define this phrase in the final-form regulation.

Paragraph (iv) begins with the phrase “a recognition of.” This phrase is superfluous and should be deleted.

*Emergency response plan*

This definition includes the phrase “emergency management system.” What is the “emergency management system”? The PUC should either define this term in the final-form regulation or include an appropriate cross-reference.

**3. Section 101.3. Plan requirements.—Economic impact; Clarity.**

*Subsection (a)*

This subsection requires jurisdictional utilities to develop and maintain written physical security, cyber security, emergency response and business continuity plans. Do these four plans have to be independent or can they be one single plan? The PUC should explain what would be an acceptable format for maintaining these plans.

*Subsection (c)*

This subsection requires utilities to “maintain a testing schedule of these plans.” Subsection (d) requires that utilities submit The Physical and Cyber Security Planning Self Certification Form (form), which asks if the various plans have been tested. However, as currently written, this regulation does not require utilities to actually test their plans.

The PUC has indicated that the intent of this regulation is to require annual testing of each plan. Why is annual testing needed? If the PUC justifies the need for annual testing of each plan, the final-form regulation should be amended to reflect this requirement. Also, we recommend that a definition of the term “test” be added to § 101.2.

**4. Subsection 101.5. Confidentiality of self certification form.—Clarity.**

This section refers to the form filed with the PUC as a “Physical and Cyber Security Self Certification Form.” In Appendix A, the form is titled “Physical and Cyber Security Planning Self Certification.” (Emphasis added.) Section 101.1 also refers to the form as the “Physical and Cyber Security Planning Self Certification.” (Emphasis added.) For consistency, the PUC should add the word “Planning” to the form referenced in this section.

**5. Section 101.6. Compliance.—Clarity.**

*Subsections (b) and (c)*

These subsections state that the PUC may review the plans of a utility and inspect a utility’s facility. We have two concerns. First, the PUC should explain the manner in which it will make a request when it elects to review the plans or facilities of a utility. For instance, will the PUC make a written request to the utility to review its plans or facilities?

Second, the PUC should explain the procedures involved with inspecting the facilities of a utility. Will the PUC conduct their inspection during normal business hours, and will the utility have notice that an inspection will occur?

*Subsection (d)*

This subsection allows a jurisdictional utility to submit a business continuity plan, cyber security plan, emergency response plan and physical security plan prepared for another entity if the other authority requires a "substantially similar plan." We have two concerns.

First, if the other entity requires information not prescribed by the PUC, will that information be considered public or proprietary information? The PUC should explain.

Second, the phrase "substantially similar plan" is vague. The PUC should include specific guidelines in the final-form regulation for a jurisdictional utility to determine whether the plan it must file for another entity could be used to fulfill the requirements set forth in this regulation, or replace the existing phrase with "meets the requirements of."

**6. Appendix A. Physical and cyber security planning self certification.—Reasonableness: Clarity.**

Appendix A contains the form utilities are required to submit to the PUC. We have three concerns.

First, Items 2, 5, 9 and 12 ask if specific plans have been "reviewed *and* updated in the past year." (Emphasis added.) If no update is necessary, would a utility's review suffice? The PUC should consider changing the above-mentioned lines to include the phrase "reviewed and updated as needed."

Second, Item 7 asks the following question: "Has your company performed a vulnerability or risk assessment analysis as it relates to physical and/or cyber security?" For the regulated community to understand what is expected during a "vulnerability or risk assessment analysis," that phrase should be defined in § 101.2. In addition, the inclusion of the phrase "and/or" would make it difficult for the regulated community to know what is expected of them. Does the PUC expect each company to perform an analysis of their physical and cyber security each year? The final-form regulation should clarify this provision.

Finally, can this form be electronically filed with the PUC, or will utilities have to submit the form by mail, hand delivery or fax? The PUC should consider allowing electronic submission of this form.

**7. Miscellaneous clarity.**

Section 101.3 contains two subsections labeled (d). The final-form regulation should correct this typographical error.

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**State Board of Examiners in Speech-Language and Hearing Regulation # 16A-6802 (IRRC # 2406)**
**Continuing Education****August 18, 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 Examiners in Speech-Language and Hearing (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on July 19, 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 45.13. Renewal; Inactive status; Required continuing education.—Fiscal impact; Reasonableness; Implementation procedures; Clarity.****Section 45.501. Credit hour requirements.—Fiscal impact; Reasonableness; Implementation procedures; Clarity.**

In §§ 45.13(g) and 45.501(a), the proposed regulation, as published in the *Pennsylvania Bulletin*, indicates that the continuing education requirement will become effective in the biennial period following the effective date of the regulation. However, this does not match the language in these same sections in the draft regulation submitted by the Board to the House Professional Licensure Committee, Senate Consumer Protection and Professional Licensure Committee and the Commission. In addition, Board staff indicated that the hour requirement may be prorated if the regulation becomes effective in the midst of a biennial period.

The Board should clarify how and when the requirement will be implemented in the final-form regulation. It should also describe how it will provide adequate and timely notice to all licensees of the effective date and what will be required of licensees.

**2. Section 45.2. Definitions.—Reasonableness; Clarity.***Continuing education record*

There is unnecessary duplication and a minor inconsistency between the definition of this term and the list of required contents for the "continuing education record" in § 45.506(b). The contents described in the definition are almost identical to the list in § 45.506(b)(1)–(5). The only item not included in the definition is subsection (b)(6) which requires the record to include "[t]he course approval number or an indication of the provider's status as a preapproved provider." In the final-form regulation, the definition of this term should reference § 45.506(b) to provide the reader with a complete description of "continuing education record."

**3. Section 45.501. Credit hour requirements.—Reasonableness; Clarity.***Subsection (b)—Individual programs*

Two commentators expressed concerns related to continuing education requirements for certification by the Department of Education. Act 48 of 1999 requires that certified educators complete 180 hours of continuing education programs every 5 years. This requirement includes hours in collegiate studies or courses or programs "related to an area of the professional educator's assignment or certification" (24 P. S. §§ 12-1205.2(c)(1)–(3)). The Pennsylvania State Education Association (PSEA) claimed that this proposed regulation duplicates the requirements under Act 48 of 1999. Both the PSEA and Pennsylvania Training and Technical Assistance Network request that the Board accept all continuing education provider programs approved under Act 48 of 1999 as approved continuing education providers for licensure renewal.

The Board states on page three of the Regulatory Analysis Form that it has "... determined that it would accept all credits that conform to its proposed regulation even if a licensee used that same educational experience to fulfill his or her requirements from the Department of Education." To improve clarity and alleviate any misunderstanding, the Board should include this statement in the preamble of the final-form regulation.

*Subsection (c)—Continuing education requirement*

Subsection (c) states that the Board will not renew or reactivate a license “until the continuing education required prior to the current biennial renewal period has been completed.” This phrase and its application to new licensees are unclear. Does “the continuing education required prior to the current biennial renewal period” refer to courses taken 3 years earlier during a previous biennium? If so, how can new licensees comply with this provision if they are finishing their first biennial period as new licensees? The intent of this subsection needs to be clarified in the final-form regulation.

**4. Section 45.504. Reporting completion of continuing education.—Clarity.**

Subsection (a) requires licensees to provide “. . . on forms provided by the Board, a signed statement certifying that the continuing education requirement has been met.” The Board should consider describing the required content of these forms in the final-form regulation. A good example of the content for these forms can be found in the existing regulations of the State Board of Optometry in 49 Pa. Code § 23.87.

**5. Section 45.505. Approval of continuing education programs.—Clarity.**

In subsection (d)(3), denial of a program can be based on faculty being “deemed not qualified to present the program.” The Board should explain in the preamble of the final-form regulation how faculty qualifications will be determined.

**6. Section 45.507. Disciplinary action authorized.—Clarity.**

Subsection (b) states that a licensee “. . . who fails to complete the required continuing education requirement within any biennial renewal period may be subject to discipline.” The Board should explain in the preamble to the final-form regulation what disciplinary actions the Board will take if the continuing education requirements are not met.

—————

**State Board of Pharmacy Regulation # 16A-5410  
(IRRC # 2405)**

**Technology and Automation**

**August 18, 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 Pharmacy (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on July 19, 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. General.—Possible conflict with existing regulations; Implementation procedures.**

The Department of Health (Department) commented that its regulations may conflict with changes being proposed by the Board. For example, Department regulations require handwritten notations, use of indelible ink, separation of records and use of red ink to mark prescription orders in 28 Pa. Code §§ 25.53 (b) and (d) and 25.56 (a) and (b)). The Department requests “that the Board either amend the proposed regulations or address any differences between the two regulations in the preamble.”

The House Professional Licensure Committee (House Committee) requests that the Board consult with the Department regarding its concerns before final regulations are submitted. We concur with the House Committee and suggest that these discussions should take into consideration provisions of the Electronic Transactions Act (ETA) (73 P. S. § 2260.303) that state electronic records can be substituted for written records.

**2. Broad requirements to meet state and federal laws and regulations.—Clarity.**

Several provisions require compliance with “state and federal laws and regulations” or contain similar language. These broad references are found in §§ 27.14(c)(11), 27.201(b)(2) and (5), 27.202(a), 27.203(a)(2)(i) and (3) and 27.204(c)(5).

In the preamble, the Board states its belief that these broad references are more accurate than specific citations. We disagree. Broad references do not give the regulated community guidance as to what requirements must be met. The broad references noted above should be replaced with specific citations to the applicable regulations or laws.

**3. Section 27.1. Definitions.—Need; Reasonableness; Clarity.***Automated medication system*

There are two concerns.

First, this definition excludes compounding. A commentator questions whether this definition would exclude inpatient pharmacies that use automated compounding systems. Is it the Board’s intent to exclude these compounding processes?

Second, the definition of “automated medication system” states the term does not mean an “automatic counting device.” Since the term “automatic counting device” is not defined in regulation, it is unclear what is not included. A definition of the term “automatic counting device” should be added to the regulation.

*Central processing center*

It is not clear why a central processing center must engage “solely in centralized prescription processing.” Could a central processing center perform the functions of an originating pharmacy or a delivering pharmacy? The Board should explain the need for this limitation.

*Originating pharmacy*

The House Committee commented that this definition should be re-written so that licensees can clearly determine when a central fill pharmacy or a central processing center is an originating pharmacy. We agree. Additionally, the second sentence uses the undefined term “centralized pharmacy.” The Board should re-write this definition to make it clearer.

*Prescription*

The existing regulatory definition, consistent with the Pharmacy Act (63 P. S. § 390-2), limits prescriptions to a “written or oral order.” This regulatory definition should be amended to include an “electronic order,” consistent with this proposal.

**4. Section 27.14. Supplies.—Clarity.**

The House Committee commented that this section should reference the exemption in § 27.203(b). This section would be clearer with a reference to that exemption.



**5. Section 27.201. Electronically transmitted prescriptions.—Feasibility; Reasonableness; Protection of the public; Clarity.**

*Subsection (a)*

We have three concerns with subsection (a).

First, this subsection limits electronic transmittals to a "data base exchange or e-mail." Given the rapid advance of communications technology described by commentators, a limitation to "data base exchange or e-mail" is already outdated and would be burdensome. The ETA contains a broad definition of "electronic" as "relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities" (73 P. S. § 2260.103). Subsection (a) should allow any method of electronic communication that can reliably provide the information required in subsection (b). Alternatively, if there is a need to limit the methods of transmission, the regulation should provide the flexibility to petition the Board for approval of new technologies.

Second, this subsection requires the electronic prescription to not be "altered, accessed, viewed, screened or manipulated by an intervening entity or person unless authorized by law." A commentator described a system that verifies the prescriber and confirms that a prescription contains the required data before the prescription is routed to the pharmacy. Is it the Board's intent to prohibit this system?

Finally, the meaning of this subsection is difficult to comprehend. Subsection (a) is a single sentence that contains 80 words and multiple concepts. Rewriting the subsection would improve its clarity. For example, the requirement to use a pharmacy of the patient's choice could be placed in a separate subsection.

*Subsection (b)*

There are three concerns.

First, subsection (b)(1) appropriately permits the use of electronic signatures under the ETA. However, there are other prescription requirements that the regulation does not address. For example, the regulation does not address the prescription requirements under 35 P. S. § 960.3(a). Specifically, subsection (a) of the ETA states

... unless the prescriber handwrites "brand necessary" or "brand medically necessary," shall designate approval of substitution of a drug by a pharmacist pursuant to this act. Imprinted conspicuously on the prescription blanks shall be the words: "In order for a brand name product to be dispensed, the prescriber must handwrite 'brand necessary' or 'brand medically necessary' in the space below." . . .

The regulation should address the requirements of 35 P. S. § 960.3(a), as well as other concerns raised by commentators concerning the use of electronic prescriptions. Given the importance of the ETA to this regulation, it would be appropriate to address electronic prescription requirements in a separate subsection.

Second, a subparagraph should be added to paragraph (2) to specify how the requirement previously discussed will be addressed.

Finally, because paragraph (5) applies to all of § 27.201, it should be a separate subsection.

**6. Section 27.202. Computerized recordkeeping systems.—Protection of the public; Need; Clarity.**

Subsections (d) and (e) address computer down time and safeguards, but neither requires back up of informa-

tion entered into a computerized recordkeeping system. In the event of a system failure, records could be lost or could no longer be reliably audited. Why isn't the Board requiring back up of computerized recordkeeping systems?

Also, we question if the last sentence in subsection (d) is needed because prescriptions can only be refilled if "the number of refills authorized by the prescriber has not been exceeded" at any time, not just when the system is down.

**7. Section 27.204. Automated medication systems.—Protection of the public; Reasonableness; Clarity.**

*Policies, procedures and written plans*

Subsections (c), (d) and (f)—(j) all require the use of a policy, procedure or written plan in one form or another. The House Committee commented that the regulation should assign an affirmative duty to the pharmacy to create these policies, procedures or written plans. We agree. For example, subsection (c)(1) places the responsibility on the pharmacist manager to review and approve certain policies and procedures. However, who has the responsibility to write the policies and procedures?

*Subsection (b)*

Paragraph (4) contains the phrase "... with the time, date and initials or other identifier . . ." What "other identifier" does the Board consider to be an adequate method of electronically recording the activity of each pharmacist, technician or other authorized personnel?

Also, paragraph (4) concludes with the sentence "It is the intent of this section to hold responsible each pharmacist for the transaction performed by that pharmacist, precluding the need for a final check of a prescription by one individual pharmacist prior to delivery." The House Committee commented that this sentence is not clear, and we agree. How does this sentence relate to the first sentence of the paragraph?

*Subsection (d)*

Paragraph (6) limits access for stocking and removal of medications to licensed pharmacists or "qualified support personnel." Who are considered "qualified support personnel"? Is it the Board's intent to limit access to individuals supervised by the licensed pharmacist? Would healthcare professionals such as physicians, nurses or others legally authorized to administer drugs be allowed to access an automated medication system? The regulation should specifically state who may access the automated medication system.

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 04-1618. Filed for public inspection August 27, 2004, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their company's termination of the insureds' policies. The administrative hearing 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 hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Darlene M. and Mark J. Delessio; file no. 04-182-06816; The Harford Mutual Insurance Company; doc. no. P04-07-039; September 16, 2004, 10 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 Jeffrey Wallace, Agency Coordinator, (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-1619. Filed for public inspection August 27, 2004, 9:00 a.m.]

## LEGISLATIVE REFERENCE BUREAU

### Documents Filed But Not Published

The Legislative Reference 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-04-216, Dated August 11, 2004. Authorizes the implementation of the Interest Arbitration Award between the Commonwealth and the Fraternal Order of Police Lodge # 85, Capitol Police (L4) Unit.

#### *Governor's Office*

Manual M210.7—State Records Management Manual, Amended June 8, 2004.

Manual M110.2—Rebudget Instructions, Dated July 2004.

Management Directive No. 505.31—Domestic Violence and the Workplace, Dated May 31, 2004.

Management Directive No. 524.4—Temporary Assignment in Higher Classification, Amended April 20, 2004.

Management Directive No. 615.3—Rates and Billing for Motor Vehicles of the Commonwealth Automotive Fleet, Amended May 6, 2004.

Management Directive No. 625.10—Card Reader and Emergency Response Access to Certain Capitol Complex Buildings and Other State Office Buildings, Amended April 21, 2004.

Administrative Circular No. 04-6—Directives Management System Conversion to Electronic Distribution of Documents, Dated April 8, 2004.

MARY JANE PHELPS,  
*Director*  
*Pennsylvania Bulletin*

[Pa.B. Doc. No. 04-1620. Filed for public inspection August 27, 2004, 9:00 a.m.]

## LIQUOR CONTROL BOARD

### Expiration of Leases

The following Liquor Control Board lease will expire:

Delaware County, Wine & Spirits Shoppe # 2309, 4117 Edgemont Avenue, Brookhaven, PA 19015.

*Lease Expiration Date:* January 31, 2005

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,500 net useable square feet of new or existing retail commercial space near the intersection of Route 352 and Brookhaven Lane.

*Proposals due:* September 17, 2004, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128  
**Contact:** James M. Bradley, (215) 482-9671

The Liquor Control Board seeks the following new sites:

Delaware County, Wine & Spirits Shoppe # 2316, Routes 3 and 252, Newtown Square, PA 19073.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 2,500 net useable square feet of new or existing retail commercial space within a 1/2 mile radius of the intersection of Routes 252 and 3.

*Proposals due:* September 17, 2004, at 12 p.m.

**Department:** Liquor Control Board  
**Location:** Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128  
**Contact:** James M. Bradley, (215) 482-9671

Centre County, Wine & Spirits Shoppe # 1406, Dale Summit, PA.

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 5,000 net useable square feet of new or existing retail commercial space in a shopping center environment within 3/4 mile of the intersection of Route 150 (Benner Pike) and Route 26 (E. College Avenue) in College Township.

*Proposals due:* September 17, 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

JONATHAN H. NEWMAN,  
*Chairperson*

[Pa.B. Doc. No. 04-1621. Filed for public inspection August 27, 2004, 9:00 a.m.]

## PENNSYLVANIA PUBLIC UTILITY COMMISSION

### Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. 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, on or before September 20, 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-00120994. Front Porch Enterprises, LLC t/d/b/a Magical Limousine** (127 Williams Road, Butler, Butler County, PA 16001), a Pennsylvania limited liability company—persons in group and party service, using vehicles with a seating capacity of 11 to 15 passengers, including the driver, between points in the County of Butler, and from points in said county, to points in Pennsylvania, and return.

**A-00120997. Scott A. Yon t/d/b/a Yon Transportation** (745 Clark Street, Johnstown, Cambria County, PA 15902)—persons, upon call or demand, in the City of Johnstown, Cambria County.

**A-00120991. Paul M. Weaver** (16 Emi Lane, Manheim, Lancaster County, PA 17545)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, between points in the County of Lancaster, and from points in said county, to points in Pennsylvania, and return.

**A-00121010. Romed, Inc. t/d/b/a Romed Ambulance** (P. O. Box 6276, Philadelphia, PA 19136), a Pennsylvania corporation—persons in paratransit service, between points in the Counties of Bucks, Montgomery and Philadelphia, and from points in said counties, to points in Pennsylvania, and return.

**Application of the following for approval of the beginning of the exercise of the right and privilege**

**of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under the application.**

**A-00120992. Phantasy Transportation, Inc.** (4607 North Broad Street, City and County of Philadelphia, PA 19141), a corporation of the Commonwealth—persons, in limousine service, between points in Pennsylvania; which is to be a transfer of all the right authorized under the certificate issued at A-00111498, F. 2 to Lyman & Lyman, Inc. t/d/b/a Bucks County Limousine, subject to the same limitations and conditions. *Attorney:* David P. Temple, 1760 Market Street, Suite 1100, Philadelphia, PA 19103.

**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-00120074, Folder 1, Am-A. Lee Edward Williams t/d/b/a Williams Taxi** (365 E. King Street, Apt. B, Chambersburg, Franklin County, PA 17201)—discontinuance of service—and cancellation of certificate, as a common carrier, by motor vehicle, at A-00120074, authorizing the transportation of persons, upon call or demand, in the Borough of Shippensburg, Counties of Franklin and Cumberland, the Borough of Orrstown, Franklin County, the Township of Southampton, Cumberland County and the Township of Southampton, Franklin County.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-1622. Filed for public inspection August 27, 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:

October 13, 2004	Robert A. Imburgia (Working for a Public School after Retirement and Receive a Benefit)	1 p.m.
	Lanorde Wheeler (Change of Option)	2:30 p.m.

Persons with a disability who wish to attend the listed hearings and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Marilyn Fuller-Smith, Assistant to the Executive Director, at (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 Admin-

istrative Practice and Procedure) unless specific exemption is granted.

JEFFREY B. CLAY,  
*Executive Director*

[Pa.B. Doc. No. 04-1623. Filed for public inspection August 27, 2004, 9:00 a.m.]

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# 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.

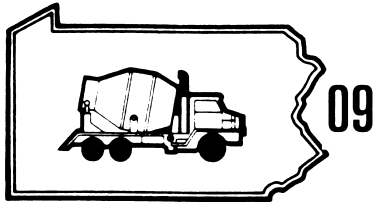
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

## 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 for the cost of photocopying contracts (15 cents per page); postage; redaction, and certified copies. The bureau may assess reasonable fees for labor and other expenses necessary to comply with the request. 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*



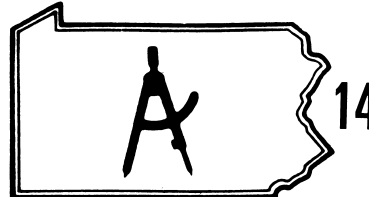
### Construction & Construction Maintenance

**KUCC-0039** Construction of Recreation Center, Contract KUCC-0039: Kutztown University is seeking qualified General, Mechanical, Plumbing and Electrical Contractors who are interested in submitting proposals in response to the University's Request for Proposal (RFP) for the construction of the Campus Recreation Center at Kutztown University. The contractor selection process will be via sealed competitive proposals in accordance with the RFP. The work includes but is not limited to the furnishing of all labor, superintendence, materials, tools and equipment and performing all work necessary for the construction of a new student recreation center of approximately 53,700 square feet. RFP packages are available for a non refundable fee of \$250.00 from: Buchart-Horn, Inc/BASCO Associates, 445 West Philadelphia Street, P. O. Box 15040, York, PA 17405-7040, phone (717) 852-1433, Attn: Betty McKinley. RFP packages are available August 30, 2004 through pre-proposal. A Mandatory pre-proposal meeting has been scheduled for September 14, 2004 at 1:30 PM in Conference Room 210 in Keystone Hall. Proposals from Interested contractors who do not attend will not be evaluated. Proposals are to be received no later than 3:00 PM, October 11, 2004 in Room 229, Office of Planning and Construction. Nondiscrimination and Equal Opportunity are the policies of the Commonwealth and the State System of Higher Education.

**Department:** State System of Higher Education  
**Location:** Kutztown University, Kutztown, PA 19530  
**Duration:** 540 days from receipt of Notice to Proceed  
**Contact:** Barbara Barish, (610) 683-4602

**SU-04-05** BID SU-04-05: Heiges New Sidewalk. Shippensburg University of the State System of Higher Education invites contractors to request bid documents for this project. Work includes all work necessary to install a new sidewalk at Heiges Field House. Prospective bidders may obtain project plans by faxing request to 717-477-4004. Bids due: September 7, 2004 at 4:00 P.M., Old Main, Room 300. Public bid opening: September 8, 2004 at 2:00 P.M., Old Main Room 203A. Non discrimination and equal opportunity are the policies of the Commonwealth and of the PA State System of Higher Education.

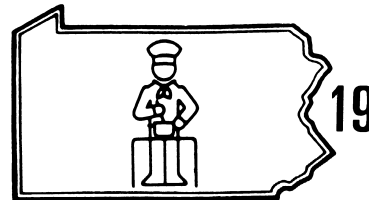
**Department:** State System of Higher Education  
**Location:** Shippensburg University, Shippensburg, PA 17257  
**Duration:** 30 days after receipt of order  
**Contact:** Deborah K. Martin, (717) 477-1121



### Engineering Services

**63-0223** West Chester University foresees the need for professional design services to upgrade the fire alarm systems in about 25 University buildings reporting to a single control station and to complete the outstanding work necessary to convert the remaining portion of the campus 13.2 KV Electrical Distribution System. This project is to improve the condition and capacity of our campus fire alarm system and our campus medium voltage electric distribution system. The selected professional is to produce construction design documents for bidding up to at least schematic design. The selected firm will have completed at least three like projects within the last 5 years.

**Department:** State System of Higher Education  
**Location:** West Chester University, West Chester, PA  
**Duration:** Design work must be completed by July 2005  
**Contact:** Marianne Peffall, (610) 436-2705



### Food

**CN00010318** Fresh pastries.

**Department:** Public Welfare  
**Location:** Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101  
**Duration:** October, November, December, 2004  
**Contact:** Kathleen Zeigler, PA, (724) 656-7308

**CN00010327** Fresh and frozen fish and fish products.

**Department:** Public Welfare  
**Location:** Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101  
**Duration:** October, November, December, 2004  
**Contact:** Kathleen Zeigler, PA, (724) 656-7308

**CN00010326** Ice cream and ice cream products.

**Department:** Public Welfare  
**Location:** Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101  
**Duration:** October, November, December, 2004  
**Contact:** Kathleen Zeigler, PA, (724) 656-7308

**CN00010324** Fresh and frozen poultry and poultry products.

**Department:** Public Welfare  
**Location:** Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101  
**Duration:** October, November, December, 2004  
**Contact:** Kathleen Zeigler, PA, (724) 656-7308

**CN00010317** Fresh bread and rolls.

**Department:** Public Welfare  
**Location:** Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101  
**Duration:** October, November, December, 2004  
**Contact:** Kathleen Zeigler, PA, (724) 656-7308

**CN00010322** Miscellaneous foods and entrees.

**Department:** Public Welfare  
**Location:** Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101  
**Duration:** October, November, December, 2004  
**Contact:** Kathleen Zeigler, PA, (724) 656-7308

**CN00010321** Frozen fruits and vegetables.

**Department:** Public Welfare  
**Location:** Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101  
**Duration:** October, November, December, 2004  
**Contact:** Kathleen Zeigler, PA, (724) 656-7308

**CN00010319** Fresh fruits and vegetables.

**Department:** Public Welfare  
**Location:** Youth Development Center, 1745 Frew Mill Road, New Castle, PA 16101  
**Duration:** October, November, December, 2004  
**Contact:** Kathleen Zeigler, PA, (724) 656-7308

**BWDP-2004-1** Curriculum Development Services. This request for proposals (RFP) provides interested WIA training and development contractors with sufficient information to enable them to prepare and submit proposals for consideration by the Commonwealth of Pennsylvania (Commonwealth) to satisfy a need for WIA training and development contracted services.

**Department:** Labor and Industry  
**Location:** Department of Labor and Industry, Bureau of Administrative Services, Room 208, Labor and Industry Bldg., Harrisburg, PA 17120  
**Contact:** Cheryl Kleeman, (717) 783-0326

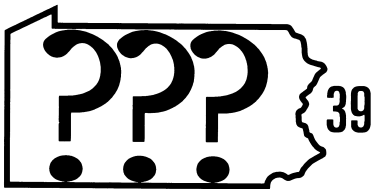
[Pa.B. Doc. No. 04-1624. Filed for public inspection August 27, 2004, 9:00 a.m.]



### Personnel, Temporary

**KURFP-0077** Kutztown University is seeking proposals from qualified firms to provide temporary personnel services. Temporary positions to be filled are clerical, administrative, and accounting. To receive a copy of the RFP packet, interested firms must submit a written request to: Kutztown University, Purchasing Department, Attn: Craig Kleinsmith, P. O. Box 730, Kutztown, PA 19530; or e-mail to kleinsmi@kutztown.edu; or fax to (610) 683-4674. RFP packets are available from 8/30/04 through 9/17/04. Questions prior to proposal submission must be submitted in writing not later than 12 noon 9/21/04. Proposals must be received by 2 PM on 9/30/04. Late submissions will be rejected.

**Department:** State System of Higher Education  
**Location:** Kutztown University, Kutztown, PA 19530  
**Duration:** 5 Years  
**Contact:** Craig Kleinsmith, (610) 683-4774



### Miscellaneous

**RFP No. 304-R-1939046312** The Department of State, Bureau of Professional and Occupation Affairs seeks the services of a qualified and approved professional examination service to develop and administer a written examination for Expanded Function Dental Assistants who are requesting professional licensure in Pennsylvania.

**Department:** State  
**Duration:** Five years  
**Contact:** Judith Holjes, (717) 787-3945

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## DESCRIPTION OF LEGEND

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| <p><b>1</b> Advertising, Public Relations, Promotional Materials</p> <p><b>2</b> Agricultural Services, Livestock, Equipment, Supplies &amp; Repairs: Farming Equipment Rental &amp; Repair, Crop Harvesting &amp; Dusting, Animal Feed, etc.</p> <p><b>3</b> Auctioneer Services</p> <p><b>4</b> Audio/Video, Telecommunications Services, Equipment Rental &amp; Repair</p> <p><b>5</b> Barber/Cosmetology Services &amp; Equipment</p> <p><b>6</b> Cartography Services</p> <p><b>7</b> Child Care</p> <p><b>8</b> Computer Related Services &amp; Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p><b>9</b> Construction &amp; Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p><b>10</b> Court Reporting &amp; Stenography Services</p> <p><b>11</b> Demolition—Structural Only</p> <p><b>12</b> Drafting &amp; Design Services</p> <p><b>13</b> Elevator Maintenance</p> <p><b>14</b> Engineering Services &amp; Consultation: Geologic, Civil, Mechanical, Electrical, Solar &amp; Surveying</p> <p><b>15</b> Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core &amp; Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p><b>16</b> Extermination Services</p> <p><b>17</b> Financial &amp; Insurance Consulting &amp; Services</p> <p><b>18</b> Firefighting Services</p> <p><b>19</b> Food</p> <p><b>20</b> Fuel Related Services, Equipment &amp; Maintenance to Include Weighing Station Equipment, Underground &amp; Above Storage Tanks</p> <p><b>21</b> Hazardous Material Services: Abatement, Disposal, Removal, Transportation &amp; Consultation</p> | <p><b>22</b> Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental &amp; Repair</p> <p><b>23</b> Janitorial Services &amp; Supply Rental: Interior</p> <p><b>24</b> Laboratory Services, Maintenance &amp; Consulting</p> <p><b>25</b> Laundry/Dry Cleaning &amp; Linen/Uniform Rental</p> <p><b>26</b> Legal Services &amp; Consultation</p> <p><b>27</b> Lodging/Meeting Facilities</p> <p><b>28</b> Mailing Services</p> <p><b>29</b> Medical Services, Equipment Rental and Repairs &amp; Consultation</p> <p><b>30</b> Moving Services</p> <p><b>31</b> Personnel, Temporary</p> <p><b>32</b> Photography Services (includes aerial)</p> <p><b>33</b> Property Maintenance &amp; Renovation—Interior &amp; Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning &amp; Planting, etc.)</p> <p><b>34</b> Railroad/Airline Related Services, Equipment &amp; Repair</p> <p><b>35</b> Real Estate Services—Appraisals &amp; Rentals</p> <p><b>36</b> Sanitation—Non-Hazardous Removal, Disposal &amp; Transportation (Includes Chemical Toilets)</p> <p><b>37</b> Security Services &amp; Equipment—Armed Guards, Investigative Services &amp; Security Systems</p> <p><b>38</b> Vehicle, Heavy Equipment &amp; Powered Machinery Services, Maintenance, Rental, Repair &amp; Renovation (Includes ADA Improvements)</p> <p><b>39</b> 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*