

# PENNSYLVANIA BULLETIN

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# READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

## ***Pennsylvania Bulletin***

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

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

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

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

## **Adoption, Amendment or Repeal of Regulations**

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

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

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

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

## **Citation to the *Pennsylvania Bulletin***

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

## ***Pennsylvania Code***

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

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

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

## **How to Find Documents**

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

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

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

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### Printing Format

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

### Fiscal Notes

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

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

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# List of Pa. Code Chapters Affected

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

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# THE GOVERNOR

## GOVERNOR'S OFFICE

### Proclamation of Disaster Emergency

September 15, 2004

*Whereas*, investigations made at my direction have disclosed that severe storms, heavy rain, high winds and flooding caused by Tropical Depression Frances on September 8 and 9, 2004, have resulted in extensive damage to roads and streets, private homes, businesses, and caused other adverse impacts upon the general population in Blair, Beaver, and Crawford Counties; and

*Whereas*, as the storm waters receded, the extent of damage and loss to roads, bridges, essential community infrastructure, and other community resources was revealed; and

*Whereas*, the serious impact of this storm on both the immediate and long-term economy of this region and the state represents a major hardship requiring a comprehensive federal, state, and local partnership for effective recovery; and

*Whereas*, the emergency situation has been of such magnitude and severity as to render essential the Commonwealth's supplementation of county and municipal efforts and resources and the activation of all applicable state, county, and municipal emergency response plans; and

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

*Further*, I hereby transfer up to \$2,000,000 in unused appropriated funds to the Pennsylvania Emergency Management Agency. The aforementioned funds shall be used for disaster-related expenses incurred by various state agencies and departments. These funds shall be credited to a special account established by the Office of the Budget. All Commonwealth agencies purchasing supplies or services in response to this emergency are authorized to utilize the emergency procurement procedures set forth in Section 516 of the Commonwealth Procurement Code, Act of May 15, 1998, P. L. 358, No. 57, § 516. This Proclamation shall serve as the written determination of the basis for the emergency under Section 516; and

*Further*, I hereby authorize the Secretary of Transportation to use all available equipment, resources, and personnel of the Department, in whatever manner that he deems necessary, to ensure that all state highways in the disaster affected areas are cleared of debris and any other obstructions resulting from this severe storm and to ensure that highways, bridges, roadbeds, and related facilities and structures, including Federal-aid highways, that have sustained damage in the disaster affected area are immediately repaired, maintained, reconstructed, or replaced or that new construction is undertaken where necessary. In addition, I hereby waive any laws or regulations that would restrict the application and use of the Department's equipment, resources, and personnel to assist local jurisdictions in the repairs and clearing and removal of debris and other types of obstructions from non-state-owned highways. This assistance to local jurisdictions may be provided solely at the discretion of the Secretary of Transportation. This assistance, however, does not apply to privately owned highways, roads, streets, or other types of property; and

*Further*, I hereby authorize the Secretary of Environmental Protection to use all available equipment, resources, and personnel of the Department, in whatever manner that she deems necessary to protect public health and

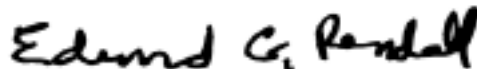
safety or the environment by ensuring that any possible petroleum spills, hazardous materials and contaminated debris that may be released into the environment as a result of the flooding be remediated; and

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

*Further*, I have asked the Federal Emergency Management Agency to join with key state, county and community officials to conduct a more detailed Preliminary Damage Assessment of the storm impact; and

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

*Given* under my hand and the Seal of the Governor, in the City of Harrisburg, on this fifteenth day of September in the year of our Lord two thousand and four and of the Commonwealth the two hundred and twenty-ninth.



*Governor*

[Pa.B. Doc. No. 04-1768. Filed for public inspection September 24, 2004, 9:00 a.m.]

# THE COURTS

## Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

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

Amendment of Rules 102(a), 205(c), 206, 213(d) and 218(c) of the Pennsylvania Rules of Disciplinary Enforcement; No. 34 Disciplinary Rules; Doc. No. 1

#### Order

*Per Curiam:*

And Now, this 9th day of September, 2004, Rules 102(a), 205(c), 206(a)—(c), 213(d) and 218(c) of the Pennsylvania Rules of Disciplinary Enforcement are amended to read as follows.

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

#### Annex A

### TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

#### PART V. PROFESSIONAL ETHICS AND CONDUCT

##### Subpart B. DISCIPLINARY ENFORCEMENT

##### CHAPTER 83. PENNSYLVANIA RULES OF DISCIPLINARY ENFORCEMENT

##### Subchapter A. PRELIMINARY PROVISIONS

#### Rule 102. Definitions.

(a) *General rule.* Subject to additional definitions contained in subsequent provisions of these rules which are applicable to specific provisions of these rules, the following words and phrases when used in these rules shall have, unless the context clearly indicates otherwise, the meanings given to them in this rule:

\* \* \* \* \*

**“Experienced hearing committee member.”** An attorney who at the time is a member of the panel of hearing committee members in a disciplinary district and who has previously served either (i) as a member of the Board, or (ii) as a member of a panel of hearing committee members for at least one year and on a hearing committee that has conducted at least one hearing into formal charges of misconduct by a respondent-attorney.

\* \* \* \* \*

**“Senior hearing committee member.”** An attorney who at the time is a member of the panel of hearing committee members in a disciplinary district and who has previously served either (i) as a member of the Board, or (ii) a full three-year term on a panel of hearing committee members and on hearing committees that have conducted at least three hear-

ings into formal charges of misconduct by respondent-attorneys for which formal transcripts have been prepared.

\* \* \* \* \*

#### Subchapter B. MISCONDUCT

#### Rule 205. The Disciplinary Board of the Supreme Court of Pennsylvania.

\* \* \* \* \*

(c) The Board shall have the power and duty:

\* \* \* \* \*

(3) To appoint [ **three or more hearing committees** ] not less than 18 hearing committee members within each disciplinary district. [ **The Board may also appoint up to six persons in each disciplinary district to serve as alternate members of hearing committees within that district.** ] Each [ **member of a hearing committee or alternate appointed** ] person appointed as a hearing committee member for a district shall be a member of the bar of this Commonwealth who maintains an office for the practice of law within that district. [ **Only persons who have previously served as a member of a hearing committee or of the Board shall be eligible for appointment as an alternate. An alternate shall have the status of a member of a hearing committee, but shall not be eligible to serve under paragraph (7) of this subdivision (c) or in the capacities reserved to regular members of a hearing committee by Rule 206(a) (relating to hearing committees and special masters).** ]

*Official Note:* The last sentence of paragraph (3) of subdivision (c) is intended to make clear that an alternate hearing committee member will be subject, among other things, to the provisions of Rules 209 (relating to immunity) and 220 (relating to recusal of members of the Board or a hearing committee or a special master). ]

\* \* \* \* \*

(5) To assign formal charges or the conduct of an investigatory hearing to a hearing committee or special master. The assignment to a hearing committee of formal charges or the conduct of an investigatory hearing may be delegated by the Board to its Secretary. [ **The reviewing member of a** ] A hearing committee member who has passed upon Disciplinary Counsel’s recommended disposition of the matter shall be ineligible to serve on the hearing [ **panel** ] committee that considers the matter.

\* \* \* \* \*

(7) To assign periodically, through its Secretary, [ **the senior or experienced hearing committee members of hearing committees** ] within each disciplinary district to:

\* \* \* \* \*

(ii) hear and determine attacks on the validity of subpoenas issued pursuant to Rule 213(a)(2) (relating to subpoena power, depositions and related matters)[ . ], as provided in Rule 213(d)(2); or

(iii) consider a petition for reinstatement to active status from inactive status under Enforcement Rule 218(c)(3)(ii) (relating to reinstatement) of a formerly admitted attorney who has not been suspended or disbarred.

\* \* \* \* \*

**Rule 206. Hearing committees and special masters.**

(a) When a hearing committee is [ first selected, one of its members shall be appointed for a term of one year, another member for a term of two years and the third member for a term of three years ] required to handle a matter, the Board shall appoint a hearing committee consisting of three hearing committee members from the appropriate disciplinary district. At least one of the members of the hearing committee shall be a senior hearing committee member, and another member shall be either a senior hearing committee member or an experienced hearing committee member. The Board shall designate [ the chairman ] one of the members so appointed as the chair for the committee, who shall be a senior hearing committee member. [ Thereafter all regular terms ] The terms of hearing committee members shall be three years and no member shall serve for more than two consecutive three-year terms. [ An alternate hearing committee member shall serve for a term of three years, and may serve for a second consecutive three-year term. ] Board rules may authorize a [ regular or alternate ] hearing committee member whose term has expired to continue to serve until the conclusion of any matter commenced before the member prior to the expiration of such term. A [ regular or alternate ] hearing committee member who has served two consecutive three-year terms may be reappointed after the expiration of one year. [ The ] A hearing committee shall act only with the concurrence of a majority of its members and two members shall constitute a quorum, except that a single [ regular, but not an alternate ] senior or experienced hearing committee member may act for the committee when the committee is sitting as an investigatory hearing committee under Enforcement Rule 213(a)(1) (relating to subpoena power, depositions and related matters), [ hearing and determining a challenge to a subpoena under Enforcement Rule 213(d)(2), ] or when conducting a prehearing conference [ or when considering a petition for reinstatement to active status from inactive status under Enforcement Rule 218(c)(3)(ii) (relating to reinstatement) of a formerly admitted attorney who has not been suspended or disbarred ]. The terms of hearing committee members shall commence on July 1.

(b) Hearing committees shall have the power and duty:

\* \* \* \* \*

[ (3) To review, by the member assigned, and approve or modify recommendations by Disciplinary Counsel for dismissals, informal admonitions, private reprimands and institution of formal charges.

(4) To hear and determine, by the member assigned, attacks on the validity of subpoenas issued pursuant to Rule 213(a)(2) (relating to subpoena power, depositions and related matters). ]

(c) [ Where a regular hearing committee member is disqualified or otherwise unavailable to serve with respect to any particular formal proceeding, the Secretary shall assign an alternate hearing committee member to serve in place of the unavailable member with respect to that proceeding. Particular formal charges may not be referred to a hearing committee unless at least one regular member of the committee serves on the committee during its handling of those charges. ] If [ the chairman ] a member of a hearing committee [ is ] becomes disqualified or otherwise unavailable to serve with respect to any particular [ formal proceeding ] matter, the Secretary shall designate [ the chairman of the hearing committee for that proceeding who shall be a regular member of the committee ] a replacement. [ Where it is impracticable to refer particular formal charges to any established hearing committee within a disciplinary district, the Board in the manner provided by Board rule shall select a special hearing committee from all available regular hearing committee members within an adjacent district. ]

\* \* \* \* \*

**Rule 213. Subpoena power, depositions and related matters.**

\* \* \* \* \*

(d) *Challenges.* Any attack on the validity of a subpoena issued under this rule shall be heard and determined by:

\* \* \* \* \*

(2) a [ member of a ] hearing committee member in the disciplinary district in which the subpoena is returnable in the case of a subpoena authorized by subdivision (a)(2).

\* \* \* \* \*

**Rule 218. Reinstatement.**

\* \* \* \* \*

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

\* \* \* \* \*

(7) A petition for reinstatement to active status from inactive status by a formerly admitted attorney who has not been suspended or disbarred shall be considered by a single senior or experienced hearing committee member who shall perform the functions of a hearing committee under this subdivision (c), and the rules of the Board may provide for abbreviated procedures to be followed by that hearing committee member.

\* \* \* \* \*

[Pa.B. Doc. No. 04-1769. Filed for public inspection September 24, 2004, 9:00 a.m.]

# Title 231—RULES OF CIVIL PROCEDURE

## PART I. GENERAL [231 PA. CODE CH. 1910]

### Amendments to the Rules of Civil Procedure Relating to Domestic Relations Matters; Recommendation 71

The Domestic Relations Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend the Rules of Civil Procedure relating to domestic relations matters as follows. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

Notes and explanatory comments which appear with proposed amendments have been inserted by the committee for the convenience of those using the rules. Reports, notes and comments will not constitute part of the rules and will not be officially adopted or promulgated by the Supreme Court.

The Committee solicits comments and suggestions from all interested persons prior to submission of this proposal to the Supreme Court of Pennsylvania. Please submit written comments no later than Friday, November 5, 2004 directed to:

Patricia A. Miles, Esquire  
Counsel, Domestic Relations Procedural Rules Committee  
5035 Ritter Road, Suite 700  
Mechanicsburg, Pennsylvania 17055  
FAX (717) 795-2175  
E-mail: patricia.miles@pacourts.us

*By the Domestic Relations  
Procedural Rules Committee*

ROBERT C. CAPRISTO,  
*Chair*

### Annex A

## TITLE 231. RULES OF CIVIL PROCEDURE

### PART I. GENERAL

#### CHAPTER 1910. ACTIONS FOR SUPPORT

#### **Rule 1910.16-4. Support Guidelines. Calculation of Support Obligation. Formula.**

\* \* \* \* \*

(e) *Support Obligations When Custodial Parent Owes Spousal Support.* Where children are residing with the spouse obligated to pay spousal support **or alimony pendente lite** (custodial parent) and the other spouse (non-custodial parent) has a legal obligation to support these children, the guideline amount of spousal support **or alimony pendente lite** shall be determined by offsetting the non-custodial parent's obligation for support of the children and the custodial parent's obligation of spousal support **or alimony pendente lite**, and awarding the net difference **either** to the non-custodial parent as spousal support/**alimony pendente lite** **or to the custodial parent as child support as the circumstances warrant.**

**Official Note:** One of the circumstances the trier of fact should consider is the tax consequences of each type of payment.

\* \* \* \* \*

#### **Rule 1910.16-6. Support Guidelines. Adjustments to the Basic Support Obligation.**

\* \* \* \* \*

##### *(b) Health Insurance Premiums.*

(1) A party's payment of a premium to provide health insurance coverage on behalf of the other party or the children shall be allocated between the parties in proportion to their net incomes, including the portion of the premium attributable to the party who is paying it. **Notwithstanding the prior sentence, there shall be no apportionment of that portion of the premium covering the party who is maintaining the insurance if that party is not owed a duty of support by the other party.** If the obligor is paying the premium, then the obligee's share is deducted from the obligor's basic support obligation. If the obligee is paying the premium, then the obligor's share is added to his or her basic support obligation. Employer-paid premiums are not subject to allocation.

(2) When the health insurance covers a party to whom no duty of support is owed or other persons who are not parties to the support action or children who are not the subjects of the support action, the portion of the premium attributable to them must be excluded from allocation. In the event this portion is not known or cannot be verified, it shall be calculated as follows. First, determine the cost per person by dividing the total cost of the premium by the number of persons covered under the policy. Second, multiply the cost per person by the number of persons who are not parties to, or the subject of the support action. The resulting amount is excluded from allocation.

**[ For example, if ] Example 1, If the parties are separated, but not divorced, and Husband pays \$200 per month [ for ] toward the cost of a health insurance policy provided through his employer** which covers himself, Wife, the parties' child, and two additional children from a previous marriage, the portion of the premium attributable to the additional two children, if not otherwise verifiable or known with reasonable ease and certainty, is calculated by dividing \$200 by five persons and then multiplying the resulting amount of \$40 per person by the two additional children, for a total \$80 to be excluded from allocation. Deduct this amount from the total cost of the premium to arrive at the portion of the premium to be allocated between the parties—\$120. Since Husband is paying the premium, Wife's percentage share of \$120 is deducted from Husband's support obligation. If Wife had been providing the coverage, then Husband's percentage share would be added to his basic support obligation.

**Example 2. If the parties are divorced and Father pays \$200 per month toward the cost of a health insurance policy provided through his employer which covers himself, Mother, the parties' child and two additional children from a previous marriage, the portion of the premium attributable to Father and the two additional children will not be allocated between the parties. Thus, using the same calculations in Example 1, the amount of the premium attributable to Father and the two other children is \$120 (\$40 per person multiplied by**

three) and that amount is deducted from the total cost of the premium, leaving \$80 (\$200-\$120=\$80) to be allocated between the parties.

\* \* \* \* \*

**Official Note:** Subdivision (b) of this Rule does not apply to Medical Assistance. See 23 Pa.C.S. § 4326(l). The 2004 amendments to Rule 1910.16-6(b)(1) and (2) clarify that the portion of the insurance premium covering the party carrying the insurance cannot be allocated between the parties if there is no duty of support owed to that party by the other party. See *Maher v. Maher*, 835 A.2d 1281 (Pa. 2003).

(c) *Unreimbursed Medical Expenses.* Unreimbursed medical expenses of the obligee or the children shall be allocated between the parties in proportion to their respective net incomes. **Notwithstanding the prior sentence, there shall be no apportionment of unreimbursed medical expenses incurred by a party who is not owed a duty of support by the other party.** The court may direct that obligor's share be added to his or her basic support obligation, or paid directly to the obligee or to the health care provider.

\* \* \* \* \*

[ Explanatory Comment—2003

Subdivision (b)(2) has been amended to clarify that in calculating the amount of the health care premium to be allocated between the parties, subdivision (b)(1) requires the inclusion of that portion of the health insurance premium covering the party who is paying the premium, but not the portion of the premium attributable to non-parties and children who are not the subjects of the support order. ]

**Rule 1910.17. Support Order. Effective Date. Change of Circumstances. Copies of Order.**

(a) An order of support shall be effective from the date of the filing of the complaint or petition for modification unless the order specifies otherwise. **However, a modification of an existing support order may be retroactive to a date preceding the date of filing if the petitioner was precluded from filing a petition for modification by reason of a significant physical or mental disability, misrepresentation of another party or other compelling reason and if the petitioner, when no longer precluded, promptly filed a petition.**

**Official Note:** Subdivision (a) was amended in 2004 to include the statutory provision at 23 Pa.C.S. § 4352(e) that authorizes the court to enter a modified order that is effective to a date prior to the date on which the petition for modification was filed in certain circumstances. To the effect that the holding in *Kelleher v. Bush*, 832 A.2d 483 (Pa. Super. 2003), is inconsistent, it is overruled. See 23 Pa.C.S. § 4352(e) for additional provisions.

\* \* \* \* \*

[Pa.B. Doc. No. 04-1770. Filed for public inspection September 24, 2004, 9:00 a.m.]

# Title 25—LOCAL COURT RULES

## BUCKS COUNTY

**Order Promulgating Rules of Civil Procedure 205.2(a), 205.2(b), 206.4(c), 208.2(c), 208.3(a), 208.3(b), 210, 1028(c), 1034(a) and 1035.2(a) and Rescinding Rules of Civil Procedure \*266, \*300, \*301, \*302, \*400.1, 440\*(c), \*(d), and \*(e), \*930, 1033\*(a), and 1034(a)\*(1)**

### Order of Court

And Now, this 1st day of September, 2004, Bucks County Rules of Civil Procedure 205.2(a), 205.2(b), 206.4(c), 208.2(c), 208.3(a), 208.3(b), 210, 1028(c), 1034(a) and 1035.2(a) are hereby promulgated as follows:

#### **Bucks County Rule of Civil Procedure No. 205.2(a) Physical Characteristics of Pleadings and Other Legal Papers.**

- (1) Legal papers in civil proceedings shall be filed in the Office of the Prothonotary.
- (2) All legal papers requiring action by a judge shall be backed with a backer at least 8 1/2 inches by 11 inches in size.
- (3) All legal papers shall contain in their caption the docket number of the action including the numerical identifier of the assigned judge.

#### **Bucks County Rule of Civil Procedure No. 205.2(b) Cover Sheets on Pleadings and Other Legal Papers**

Every initial filing commencing an action, appeal or miscellaneous application in the civil division of the Bucks County Court of Common Pleas shall be accompanied by an informational cover sheet in such form as may be prescribed by the Prothonotary. This cover sheet may collect such information as the names of parties and counsel, the nature of the matter being filed, the amount in controversy and such other miscellaneous information as may assist the Court in the administration of its dockets.

The failure to file this form or the failure to file the form correctly or completely may result in an order imposing sanctions.

*Note:* This form can be found online at [www.buckscounty.org/departments/prothonotary/pdf/Civil Court.pdf](http://www.buckscounty.org/departments/prothonotary/pdf/CivilCourt.pdf). Copies may also be obtained by calling the Office of the Prothonotary at 215 348-6191.

#### **Bucks County Rule of Civil Procedure No. 206.4(c) Rule to Show Cause. Alternative Procedures**

- (1) The Prothonotary shall forward every petition bearing a rule to show cause to the Court for review. At its discretion, the Court may issue a rule to show cause and forward a copy of same to the petitioner for service on all respondents.
- (2) A rule to show cause shall be served upon the respondents at least ten days prior to the return date, unless the Court shall specially authorize service within a shorter time. If for any reason satisfactory to the Court the petition and rule shall not have been served ten days before the return day, or the

length of time specially authorized, the Court may extend the return day thereof on motion of any interested party.

(3) A stay of proceedings, including a stay of execution, may be granted by the court in its discretion. If a stay of proceedings is required, the moving party shall schedule a conference with the assigned judge. Unless waived by the court, notice of the conference shall be provided to opposing counsel and any unrepresented parties. The application for stay shall be presented at the conference.

(4)(a) When a rule has issued and been properly served on all interested parties and a response is filed in opposition, the petition shall be submitted to and decided by the court pursuant to Bucks County Rule of Civil Procedure No. 208.3(b)

(4)(b) When a rule has issued and been properly served on all interested parties and no response in opposition has been filed, the moving party may file a motion and order to make the rule absolute any time after the return date.

**Bucks County Rule of Civil Procedure No. 208.2(c) Statement of Authority**

Where the authority for a motion is not self-evident, the motion shall cite a rule, statute or case which supports the requested relief and justifies the procedure utilized.

**Bucks County Rule of Civil Procedure No. 208.3(a) Scheduling and Hearing of Motions**

(1) When a motion has been filed, the Court may take the following actions:

(a) Issue a rule to show cause and forward a copy thereof to the movant for service upon all respondents;

(b) Schedule a hearing;

(c) Enter an order disposing of the motion.

(2) When the Court issues a rule on a motion, it shall be governed by the provisions of Pa. R. C. P. Nos. 206.5 and 206.7. When appropriate, the Court may refuse to issue a rule. If proper service has been made and no response has been filed, the rule may be made absolute by filing a motion and order for same. When a response is filed in opposition, the motion shall be submitted to and decided by the court pursuant to Bucks County Rule of Civil Procedure No. 208.3(b).

(3) Applications which are deemed to be an emergency by the assigned judge may be presented to the court at a conference or hearing. Notice of the scheduling of such conference or hearing shall be transmitted to all counsel and unrepresented parties as directed by the assigned judge.

(4) A rule to show cause shall be served upon the respondents at least ten days prior to the return date, unless the Court shall specially authorize service within a shorter time. If for any reason satisfactory to the Court the petition and rule shall not have been served ten days before the return day, or the length of time specially authorized, the Court may extend the return day thereof on motion of any interested party.

**Bucks County Rule of Civil Procedure No. 208.3(b) Alternative Procedures**

(1) This rule shall govern disposition of:

(a) rules to show cause to which responses in opposition have been filed;

*Note:* See B. C. R. C. P. No. 208.3(a)(2) and 206.4(c)(4)(a).

(b) preliminary objections;

*Note:* See B. C. R. C. P. No. 1028(c).

(c) motions for judgment on the pleadings;

*Note:* See B. C. R. C. P. No. 1034(a).

(d) motions for summary judgment;

*Note:* See B. C. R. C. P. No. 1035.2(a).

(e) objections to written discovery requests; and

(f) such other miscellaneous applications as may be designated by the Court.

(2) Subject to the requirements of Pa.R.C.P. No. 206.7, when the matter is at issue and ready for decision, the moving party on the application shall, by praecipe, order the same to be submitted for disposition pursuant to this rule. The praecipe shall be substantially in the form set forth in Bucks County Rule of Civil Procedure 208.3(b)(7).

No pleading requiring a response under Pa. R. C. P. 1026 shall be moved for disposition under this rule until the time for response has lapsed.

The following shall accompany the praecipe and pleading being submitted for disposition:

(i) A proposed form of order;

(ii) A brief or memorandum of law in support of each position taken with regard to the disposition of the matter; and

(iii) A certificate establishing the date of service of the above documents on all counsel and unrepresented parties, and the addresses at which they were served.

Within ten days of the date of filing of the above praecipe and its accompanying documents, every party opposing the application of the moving party shall file a brief or memorandum of law with the clerk of the court, serving copies of same on all other parties. The Court, in its discretion, may extend the time for filing of briefs or memoranda of law.

(3) If any party shall fail to file a brief or memorandum of law on any issue presented for disposition by the judge within the time provided by subsection (b) hereof, or within the time as extended by the Court, the Court, in its discretion, may consider that such party has abandoned his position with respect to such issue for disposition.

(4) At the expiration of ten full days following the filing by the moving party of the praecipe mentioned in subsection (2) of this rule, the clerk shall forthwith deliver the whole record together with the file, the briefs or memoranda of law, to the judge to whom the case has been assigned.

(5) Subject to the requirements of Pa. R. C. P. No. 206.7, any other party may by praecipe forward a matter to the Court for dismissal of the application at issue when the party who submitted it does not comply with the provisions of subsection (2) of this rule. Written notice of the intent to file under this subsection shall be given to the party whose application is at issue at least ten days prior to such submission, during which period of time the non-



complying party shall have the opportunity to come into compliance with the requirements of subsection (2). An affidavit of service of such notice shall accompany the praecipe filed under this subsection. A proposed form of order shall also accompany the praecipe. For the purpose of Pa. R. C. P. No. 206.7, a party initiating action under this subsection shall be considered the petitioner.

(6) Unless oral argument has been requested by the moving party in the praecipe, or by any other party within the 10-day period specified in subsection (2) hereof, the matter shall be disposed of by written order, forthwith or after such further proceedings including oral argument as may be required by the Court. If oral argument has been requested by a party or otherwise required by the Court, the Court may schedule the case for argument either by telephone conference, argument in chambers or in open Court within thirty (30) days of the filing of the praecipe. Disposition of the matter shall then proceed pursuant to the provisions of Bucks County Rule of Civil Procedure \*210(a) and (b), the Court fixing the time and order of filing of briefs. Argument before an en banc panel shall be at the sole discretion of the Court.

(7) The praecipe shall be substantially in the following form:

IN THE COURT OF COMMON PLEAS  
BUCKS COUNTY, PENNSYLVANIA

\_\_\_\_\_ : No. \_\_\_\_\_  
v. :  
\_\_\_\_\_ :

Praecipe Under Bucks County Rule of  
Civil Procedure 208.3(b)

TO THE PROTHONOTARY:

Please refer the above-captioned matter to the assigned judge for disposition.

Oral argument  is  is not requested. (CHECK ONE)

Matter for disposition: \_\_\_\_\_

(signature) \_\_\_\_\_

(name) \_\_\_\_\_

(Attorney I. D. #) \_\_\_\_\_

**Bucks County Rule of Civil Procedure No. 210 Form and Content of Briefs and Argument Procedures**

(a) Counsel for the moving party, at the time he files the praecipe moving the case for disposition, shall deliver to the Prothonotary one copy of his brief. Copies of the briefs shall be served on all opposing counsel and any unrepresented parties. The briefs shall address the enumerated matters in substantially the following format:

(1) History of the Case. A brief, informal statement of the facts material to the matter under consideration, by the party having the burden of the issue. The opposing side may also include a history of the case in its brief.

(2) How the Question is Raised. Refer to such pleadings, motions, etc., as will show how the matter comes before the Court for decision.

(3) Questions Involved. A succinct statement in separate, numbered paragraphs of the legal questions to be decided by the Court.

(4) Argument. This may contain the parties' argument of the law and testimony involved and citations of material decisions. Every verbatim quotation from a decision shall be immediately followed by the citation giving both the page of the decision and the page of the quotation.

(5) Conclusion. The form of order of the court that the respective parties contend should be made.

(b) A party other than the moving party may order a matter on the argument list after having given the moving party and all other parties two weeks' written notice of his intention to do so. The moving party shall file his briefs with the clerk of the appropriate division of the court and serve copies thereof on all opposing counsel and any unrepresented parties within one week after the filing of the praecipe placing the case on the argument list. The failure of the moving party to so file his briefs may render him liable to have the application for relief denied by the Court at the opening of the next argument session immediately following the placing of the case on the argument list and on the motion of the party ordering the case on the argument list. After receiving notice of intention to order the case on the argument list, the moving party may apply to the judge to whom the case has been assigned for additional time within which to file his brief.

(c) Reply briefs shall be filed with the Prothonotary and counsel for all other parties no later than one week prior to the date fixed for argument and shall be the same in number as the moving party's brief.

(d) The Prothonotary shall, upon receipt of all briefs, cause the same to be delivered to the court, but shall not docket them.

**Bucks County Rule of Civil Procedure No. 1028(c) Procedure for the Disposition of Preliminary Objections**

The provisions of Pa. R. C. P. No. 206.7 shall govern preliminary objections raising disputed issues of fact. When preliminary objections are ready for disposition, they shall be submitted to and decided by the court pursuant to B. C. R. C. P. No. 208.3(b).

**Bucks County Rule of Civil Procedure No. 1034(a) Procedure for the Disposition of Motions for Judgment on the Pleadings**

Motions for judgment on the pleadings shall be submitted to and decided by the court pursuant to B. C. R. C. P. No. 208.3(b).

**Bucks County Rule of Civil Procedure No. 1035.2(a) Procedure for the Disposition of Summary Judgment Motions**

Summary judgment motions shall be submitted to and decided by the court pursuant to B. C. R. C. P. No. 208.3(b).

Bucks County Rules of Civil Procedure Nos. \*266, \*300, \*301, \*302, \*400.1, 440\*(c), \*(d), and \*(e), \*930, 1033\*(a), 1034(a)\*(1) are hereby rescinded

These rules shall be effective immediately upon publication on the website of the Administrative Office of Pennsylvania Courts.

*By the Court*

DAVID W. HECKLER,  
*President Judge*

[Pa.B. Doc. No. 04-1771. Filed for public inspection September 24, 2004, 9:00 a.m.]

### MERCER COUNTY

#### Revision of Local Rules of Civil Procedure L1915.26(b), L1915.27(d) and L1920.51(a)(3); No. 2004 2375

##### Order

*And Now*, this 1st day of September, 2004, the court hereby *Approves, Adopts and Promulgates* the Revisions of Mercer County Local Rules of Civil Procedure L1915.26(b); L1915.27(d), and L1920.51(a)(3), effective thirty (30) days after the date of publication of these Rules in the *Pennsylvania Bulletin*, pursuant to Rule 239 of the Pennsylvania Rules of Civil Procedure.

When effective, these revised Local Rules of Civil Procedure supercede the prior Local Rules of Civil Procedure of the same numbers, which are hereby repealed.

It is also *Ordered and Directed* the Court Administrator of Mercer County shall file seven (7) certified copies of these Rules with the Administrative Office of Pennsylvania Courts, furnish two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and file one certified copy with the Civil Procedural Rules Committee.

It is further *Ordered and Directed* that Local Rules shall be kept continuously available for public inspection and copying in the Office of the Prothonotary of Mercer County. Upon request and payment of reasonable costs of reproduction and mailing, the Prothonotary shall furnish to any person a copy of the Local Rules.

A copy of these Revised Rules shall be published in the *Mercer County Law Journal*.

*By the Court*

FRANCIS J. FORNELLI,  
*President Judge*

#### **Revised Mercer County Local Rule of Civil Procedure L1915.26(b):**

"If a party is unrepresented, notice of the Master's conference shall be served upon the party by the Master by first class United States mail, postage prepaid, addressed to the party's last known address."

#### **Revised Mercer County Local Rule of Civil Procedure L1915.27(d):**

"A fee in an amount to be determined by general order of Court shall be assessed against each party for a Master's hearing on the issues, of partial custody and/or visitation, however, the fee shall be waived for any party determined to be indigent."

#### **Revised Mercer County Local Rule of Civil Procedure L1920.51(a)(3):**

"Unless the moving party is granted leave to proceed in forma pauperis, no master will be appointed until the

proper fee for the appointment of the master is paid, or the court permits otherwise. If the monies are not forthcoming and there are no other proceedings in the case for a period of two years, the matter will be subject to termination pursuant to Rule 1901 of the Pennsylvania Rules of Judicial Administration."

[Pa.B. Doc. No. 04-1772. Filed for public inspection September 24, 2004, 9:00 a.m.]

### MERCER COUNTY

#### Revision of the Local Rules of Orphan's Court; No. 2004-499

##### Order

*And Now*, this 1st day of September, 2004, the court hereby *Approves, Adopts and Promulgates* the Revision of the Mercer County Local Rules of Orphan's Court, effective thirty (30) days after the date of publication of these Rules in the *Pennsylvania Bulletin*, pursuant to Pa. Rule of Orphan's Court Procedure 1.2.

When effective, these Local Rules of Orphan's Court supercede all prior Local Rules of Orphan's Court, which are hereby repealed.

It is also *Ordered and Directed* the Court Administrator of Mercer County shall file seven (7) certified copies of these Rules with the Administrative Office of Pennsylvania Courts, furnish two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and file one certified copy with the Orphan's Court Procedural Rules Committee.

It is further *Ordered and Directed* that Local Rules shall be kept continuously available for public inspection and copying in the Office of the Clerk of Courts of Mercer County. Upon request and payment of reasonable costs of reproduction and mailing, the Clerk of Courts shall furnish to any person a copy of the Local Rules.

A copy of these Revised Rules shall be published in the *Mercer County Law Journal*.

*By the Court*

FRANCIS J. FORNELLI,  
*President Judge*

#### **Local Rules of the Court of Common Pleas of Mercer County, 35th Judicial District Supplementing the Orphans' Court Rules Promulgated by the Supreme Court of Pennsylvania**

##### **RULE 1. JUDGES—LOCAL RULES**

##### **Local Rule 1.2:1 Argument Court.**

a. *Time*—Argument Court shall be held on the first Monday of each month unless otherwise specially ordered by the Court in any particular case.

b. *Listing and Notice thereof*—All cases for argument shall be placed on the Argument List at least thirty (30) days prior to the argument by praecipe to the Clerk. A copy of the praecipe ordering the case on the Argument List shall be sent to the opposing counsel and to the Court Administrator by the party placing the case on the Argument List, which praecipe shall include the name of the opposing counsel and whether the matter listed requires the taking of testimony.

c. *Scheduling*—The Court Administrator shall give notice to all counsel that the case has been placed on the Argument List and said notice shall contain the date upon which argument will be held. The Argument List shall also be published in the *Mercer County Law Journal* prior to argument.

d. *Briefs*—At least fifteen (15) days before the date of Argument Court, it shall be the duty of counsel for the rule or motion, or petitioner, exceptant or party filing preliminary objections, or who has the affirmative, to serve on adverse counsel a typewritten brief on paper 8 1/2 inches by 11 inches in size, double spaced, except for quotations containing a concise statement of the relevant facts, the questions involved, the argument, and the authorities relied upon. Counsel for the adverse party may prepare a brief which need only contain an argument and authorities relied upon, but counsel may add a counter statement of the facts, and a counter statement of the questions involved. Unless counsel does so, however, it will be assumed counsel is satisfied with them or such parts of them as remained unchallenged. At least five (5) days before Argument Court, counsel shall serve a copy of the reply brief upon opposing counsel, and copies of both briefs shall be delivered to the Court Administrator at least five (5) days before Argument Court. If either party fails to file a brief in accordance with these Local Rules, the Court shall dispose of the argument without brief.

**Local Rule 1.2:2 Attorneys.**

The Local Rules of Civil Procedure of the Court of Common Pleas of Mercer County relating to the admission and conduct of attorneys are adopted as the Rules for the Orphans' Court Division of this County.

**Local Rule 1.2:3 Costs.**

When not otherwise regulated by law, the Court will allocate costs in such manner as it deems equitable.

**Local Rule 1.2:4 Acknowledgement and Satisfaction.**

Acknowledgement of satisfaction of all sums of money or property ordered to be paid or delivered by any award or decree of this Court shall be in writing and filed with the Clerk, or acknowledged in such other manner as the Court may require.

**Local Rule 1.2:5 Petitions to Enforce Compliance.**

Any party in interest may petition the Court for an order to enforce compliance with the provisions of a decree or an adjudication. A copy of such order shall be served upon the respondent personally no less than ten (10) days before the date designated therein for payment or delivery. If a party fails to comply with the order, the other party may petition the Court for an appropriate writ to enforce compliance therewith.

**Local Rule 1.2:6 Certificates of Fiduciary Appointment.**

The Clerk shall not issue a certificate of appointment of any fiduciary until the security, if any required, has been entered.

**Local Rule 1.2:7 Witnesses. Attachment.**

Attachment to compel the appearance of a witness will not be issued, except under special circumstances, and unless the witness shall have been served with a subpoena at least twenty-four (24) hours before the date for hearing.

**Local Rule 1.2:8 Individual Sureties.**

a. *Application for Approval. Justification for Surety*—Except as otherwise provided by paragraph (b) of this

Local Rule, an application for the approval of an individual surety shall be accompanied by a justification of surety, in affidavit form, of the proposed surety, setting forth:

1. name, residence address;
2. location of the real property owned;
3. a brief description of the real estate and what it consists of;
4. how, or from whom, the real estate was obtained and when obtained;
5. that the surety or sureties do not contemplate selling of said property;
6. any encumbrance upon the real property;
7. the assessed value of the property for taxation purposes;
8. a certification of the value of the said property.

b. *Bond Without Surety. Confession of Judgment*—The Court, in its discretion, may permit a party in interest to execute an individual bond, without surety. When a party in interest is authorized to execute an individual bond or individual surety is approved, the Court may direct that the bond to be executed contain a warrant of attorney to confess judgment, with or without default, and that judgment thereon be entered of record in the Office of the Prothonotary.

**Local Rule 1.2:9 Corporate Sureties.**

a. *In General*—Surety companies duly authorized to do business in this Commonwealth may become surety on any bond or obligation required to be filed in Court.

b. *Exceptions*—except where required by statute or for special cause shown, a bond will not be required of an approved corporate fiduciary.

**Local Rule 1.2:10 Assets and Investments.**

a. *Segregation and Designation of Assets*—Assets held by individual fiduciaries subject to the jurisdiction of the Court shall be kept separate and apart from their individual assets and, except where otherwise permitted by Act of Assembly, shall be held in the name of the fiduciary as such.

b. *Deposit of Uninvested Funds*—All funds held uninvested shall be deposited in a bank or banks, or trust company or trust companies, the deposits of which are insured by the Federal Deposit Insurance Corporation in such manner as to obtain the maximum deposit insurance coverage.

**Local Rule 1.2:11 Court Depository.**

a. *Official Depository*—The Court will, from time to time, designate a banking institution as the official depository of the Court.

b. *Deposits*—Moneys and securities paid or delivered into the Court shall immediately, upon the receipt thereof by the Clerk, be deposited with the Court depository or to the credit of the proper estate or proceeding. The depository shall keep separate accounts for each payment and delivery and designate each by name of the proper estate or proceedings.

c. *Withdrawal Orders*—No money shall be paid or delivered by such depository except upon the check or order of the Clerk, countersigned by a Judge of the Court, and accompanied by a certificate endorsed on the check or

order, under the hand of the Clerk and the seal of the Court, that the money or property was ordered to be paid or delivered.

d. *Accounting by Clerk*—Each year, or at such other times as the Court may direct, the Clerk shall have the bank or deposit book settled by the depository and shall make and present to the Court an account of the moneys paid into and out of the account, and shall exhibit the deposit book as a voucher for the correctness thereof.

**Local Rule 1.2:12 Accounts.**

The accounts of fiduciaries shall be presented to Court for nisi confirmation at the date and time set for confirmation of accounts by the Court as set forth in the Annual Court Calendar, unless otherwise directed by the Court.

**Local Rule 1.3 Termination of Inactive Cases**

During the month of April of each year, the Clerk of the Orphans' Court shall determine in which matters not concluded there has been no activity during the previous two years. The Clerk of the Orphans' Court shall then give notice in each such matter as provided by Pa. R.J.A. 1901(c). If no action is taken, or no written objection stating good cause is filed in such matter within 30 days, the Clerk of the Orphans' Court shall enter an order terminating the matter. If written objection is filed in such matter within 30 days, the Clerk of the Orphans' Court shall list the matter for the next available Argument List without further praecipe and give notice to all parties. Failure of the objector to appear and to show good cause may result in the dismissal of the action. Where publication is required, such publication shall be twice printed in the *Mercer County Law Journal*.

**RULE 2. CONSTRUCTION AND APPLICATION OF RULES**

**Local Rule 2.3:1 Definitions.**

In addition to those words and phrases defined by the Supreme Court Rules, the following words and phrases when used in these Local Rules unless the context clearly indicates otherwise, shall have the meaning ascribed to them in this Local Rule:

"Affidavit" means a written statement made under oath or equivalent affirmation.

"Hearing Judge" means that Judge to whom a motion, petition or other pleading is presented.

"Supreme Court Rules" means the Supreme Court Orphans' Court Rules.

"Verify," "verification," or "verified statement" means an unsworn written statement made under penalty of perjury.

**RULE 3. PLEADING AND PRACTICE:**

**Local Rule 3.1:1 Notice to Defend or Plead.**

Where a notice to defend or to plead has been endorsed on a pleading, the pleadings and practice shall conform with the pleading and practice in equity insofar as the requirement of responsive pleading.

**Local Rule 3.1:2 Hearings:**

Petitions and motions shall have attached thereto a proposed order of Court, which shall be prepared by the party presenting the petition or motion, and which shall include a date and time for a hearing and for the taking of testimony, if necessary.

**Local Rule 3.1:3 Hearing Judge.**

When a proceeding on a particular estate or matter has been previously heard by a Hearing Judge, all subsequent proceedings pertaining to the same estate or matter, whenever possible shall be presented to the same Hearing Judge.

**RULE 6. ACCOUNTS AND DISTRIBUTIONS**

**Local Rule 6.1(e): 1 Form of Accounts. Additional Requirements.**

Each account:

1. Shall itemize the assets of which the balance is composed;

2. Shall be accompanied with a statement of proposed distribution, or a request that distribution be determined by an auditor;

3. Shall be accompanied by a certificate of the attorney for the accountant that to the best of knowledge, information, and belief, the debits and credits and any statement of proposed distribution filed therewith are correct and proper and that any required legal advertisement has been duly published;

4. Shall be accompanied by an affidavit or verification of at least one accountant that the account is true and correct to the best of knowledge, information, and belief, and that all notices required by law or Rules of Court have been served upon all parties in interest; and

5. Shall be accompanied by a proposed decree of nisi confirmation and a proposed decree of confirmation absolute.

**Local Rule 6.1(f):1 Approved Forms.**

The Register and Clerk shall provide printed forms designed in accordance with these Local Rules. An accountant shall use either these printed forms together with such additional pages as shall be necessary, or a typed account similar in form.

**Local Rule 6.3:1 Contents of Notice. Additional Requirements.**

The notice to parties in interest shall set forth:

1. the date on which the account will be presented to the Court for nisi confirmation, and that the account will be confirmed absolutely unless objections are filed within ten (10) days thereafter;

2. whether the claim, interest or objection of the person notified is admitted or contested, and if admitted, whether it will be paid in full or in part; and

3. the accountant's interpretation of any dispute or fairly disputable question, known to or reasonably ascertainable by the accountant.

**Local Rule 6.3:2 Advertisement of Accounts.**

All accounts required by law to be filed with the Register or with the Clerk shall be advertised by the Register or Clerk in the manner prescribed by law and shall also state that unless objections are filed within ten (10) days after nisi confirmation, the account will be confirmed absolutely and that thereafter distribution may be decreed by the Court, without reference to an auditor, in accordance with any statement of proposed distribution filed with the account.

**Local Rule 6.9(a):1 Form of Statement of Proposed Distribution.**

The statement of proposed distribution, if any, shall accompany the account as provided in Local Rule 6.1(e):1,

and shall specify the names of the person or persons to whom the balance available for distribution is awarded, the exact amount of share awarded to such person or persons, and whether the proposed distribution is in cash or in kind.

**Local Rule 6.9(b):1 Notice and Advertisement.**

Notice and advertisement of a statement of proposed distribution shall be given at the same time and in the same manner as the account as provided in Local Rules 6.3:1 and 6.3:2.

**Local Rule 6.10:1 Objections.**

Objections to an account or statement of proposed distribution shall be filed with the Clerk within ten (10) days after nisi confirmation. In the event objections are filed prior to nisi confirmation, they shall be considered as objections to the decree nisi.

**Local Rule 6.11.1 Confirmation Absolute.**

a. Unless objections are filed in accordance with Local Rule 6.10:1, the confirmation of accounts and statements of proposed distribution filed with accounts shall be made absolute by the Clerk, without further order of Court, provided that an affidavit or verification is filed showing that notice has been given in compliance with Local Rule 6.3:1. The confirmation of the account and any statement of proposed distribution filed with the account shall be placed upon the record and the account by the Register and Clerk.

b. No account, or statement of proposed distribution filed with any account, shall be considered finally confirmed except by written confirmation by the Clerk as hereinbefore provided or by order of Court; and such final confirmation, if relating to a statement of proposed distribution filed with any account, shall expressly state that it is a final confirmation of the account and the statement of proposed distribution filed therewith.

**Local Rule 6.11.2 Confirmation of Title to Real Property.**

a. *In General*—When the account and the statement of proposed distribution filed therewith have been finally confirmed as hereinbefore provided, such confirmation shall be in the nature of confirmation of title to real property in the respective distributees.

b. *Separate Awards*—A schedule of distribution shall set forth separate awards of real property in separate paragraphs.

c. *Description*—Real property shall be described in the manner appearing in the last deed of record, or in some other proper manner, and in addition, shall include information pertinent to the derivation of title.

d. *Certification by Clerk*—The Clerk may, at the request of any party in interest, certify excerpts from a decree of distribution for recording in any public office for recording deeds.

**Local Rule 6.11.3 Distribution without Audit.**

After final confirmation of the account, the Court, on motion or petition, may decide that the matter does not call for reference to an auditor and may decree distribution substantially in conformance with the statement of proposed distribution filed with the account, provided such motion or petition is accompanied by:

1. an affidavit or verification of the accountant that there are no unpaid debts or taxes, and that all beneficiaries have received notice of the statement of proposed distribution;

2. an affidavit or verification by the accountant or one of the next of kin or beneficiaries stating the names and addresses of all the beneficiaries, and that they are all sui juris., or if not, the names and addresses of their fiduciaries;

3. a statement by the attorney for the accountant that the schedule of distribution is correct and in accordance with law; and

4. a proposed decree of distribution.

**RULE 8. AUDITORS AND MASTERS**

**Local Rule 8.1:1 Notice of Hearings.**

a. *Original Hearing*—Ten (10) days notice of the time and place of the first hearing before the auditor or master shall be served in writing on all known heirs, devisees, unpaid legatees, and distributees, or their attorneys resident within the county, and to all others by advertisement in one (1) newspaper of general circulation within the county and the *Mercer County Law Journal* once a week for three (3) consecutive weeks prior to the day of the hearing, unless notice be dispensed with by agreement of all parties in interest, or by order of Court. Auditors and masters shall state in their report the manner and to whom notice was given.

b. *Subsequent Hearings*—Notice of succeeding hearings given by the auditor or master at a hearing of which proper notice has been given shall constitute sufficient notice of such succeeding hearings.

**Local Rule 8.6:1 Notice of Filing Report. Preliminary Exceptions.**

After the report is prepared, the auditor or master shall serve on the parties, or their attorneys, ten (10) days written notice of the day fixed for filing the same and in the meantime, such parties shall be allowed access thereto. Any party interested may file preliminary exceptions to the report, before the day fixed for the filing thereof. If preliminary exceptions are filed, the auditor or master shall reexamine the report and amend the report if the preliminary exceptions are, in whole or in part, well founded. If the report is not filed at the time fixed therefore in the said notice, said report shall only be filed after five (5) days written notice is given to the parties, or their attorneys. The auditor or master shall certify in the report the manner and time of serving the notice herein required.

**Local Rule 8.7:1 Approval of Expenses and Fees prior to Confirmation.**

No auditor's or master's report shall be confirmed nisi or otherwise approved until such time as the Court shall have entered an order approving the amount of expenses to be reimbursed unto and the amount of fees to be awarded unto the auditor or master. The Court may assess said expenses and fees upon any party in interest, as it deems fit.

**Local Rule 8.7.2 Confirmation of Auditor's Reports. Exceptions.**

All reports of auditors shall be filed in open Court at the time and date set by the auditor, pursuant to these Rules. Upon the filing of the report, it shall be confirmed nisi, which confirmation shall be made absolute by the Clerk without further order of Court, unless exceptions thereto are filed.

**Local Rule 8.7.3 Confirmation of Master's Reports. Exceptions.**

All reports of masters shall be filed in open Court at the time and date set by the master pursuant to these

Rules. Upon the filing of the report, the Court shall enter a decree nisi either adopting the master's recommendations or rejecting the same. A decree nisi shall be made final by the Clerk without further order of Court, unless exceptions thereto are filed.

**Local Rule 8.8:1 Absolute Confirmation. Auditor's and Master's Expenses and fees.**

No nisi confirmation or decree nisi shall be confirmed absolutely by the Clerk until all expenses and auditor's or master's fees have been paid to the Clerk. Upon absolute confirmation, the Clerk shall pay all expenses and the balance of the auditor's or master's fee to the auditor or master, after deducting ten (10%) percent of the auditor's or master's fee to be paid to the treasurer of the Mercer County Bar Association.

**RULE 9. OFFICIAL EXAMINERS**

**Local Rule 9.1:1 Appointment and Duties of Official Examiners.**

In the exercise of its visitatorial and supervisory powers over charitable trusts the Court will, in its discretion, from time to time, by general rule or special order, direct the official examiner, or a special examiner appointed for the purpose, to make an examination of the assets of a designated trust and an investigation to determine whether the purposes of the trust are being carried out in the manner provided by the trust instrument; and to submit to the Court a written report thereon which shall follow as nearly as may be the form prescribed by these Local Rules for a master's report and shall contain specific recommendation for the Court's consideration.

**Local Rule 9.1:2 Compensation of Official Examiners**

a. *In General*—Each estate or trust shall be liable for the compensation of the examiner based upon a schedule of fees fixed by the Court. In special circumstances, the compensation of the examiner will be fixed by special order of the Court.

b. *Charitable Trusts*—Each charitable estate or trust shall be liable for the compensation of the examiner in such amount as the Court shall specifically fix in each case.

**RULE 10. REGISTER OF WILLS**

**Local Rule 10.2:1 Notice of Appeal.**

Any person desiring to appeal from a judicial act or decision of the Register shall file a written notice thereof with the Register, specifying generally the act or decision complained of, accompanied by an affidavit or verification that said appeal is not taken for delay but because appellant believes that injustice results from the act or decision which is appealed.

**Local Rule 10.2:2 Petition for Appeal.**

Within thirty (30) days from the filing of the notice of appeal, the appellant shall present a petition to the Court which shall set forth:

1. the nature of the proceedings before the Register;
2. a copy of any will in controversy;
3. a statement of the facts and circumstances relied upon;
4. a precise statement of the questions of law or of fact involved;
5. the filing and approval by the Register of the security required by law; and

6. the names and addresses of all parties in interest.

**Local Rule 10.2:3 Certification and Citation.**

a. If the averments of the petition for appeal appear to be prima facie sufficient, the Court shall award a citation and, if it has not been done by the Register on his/her own motion, order certification of the entire record of the Register to the Court. The citation shall be directed to all parties in interest and shall require them to file a complete answer under oath or verification to the averments of the petition, on or before a day certain which shall not be less than ten (10) days after the service thereof, and to show cause as the decree of the Court shall provide.

b. Proof of service of the citation shall be filed with the Register on or before the return date of the citation.

c. The Court may issue a citation and direct that the Register certify to the Court the record, without regard to whether or not testimony has been taken before the Register.

**Local Rule 10.2:4 Argument List and Hearing.**

After the return date of the citation, any party may place the matter on the Argument List for the purpose of fixing a time for taking any testimony required to support the issue or for the argument of any legal issue raised by the pleadings. After the testimony has been transcribed and filed, any party may place the matter on the Argument List for purpose of argument.

**Local Rule 10.2:5 Grant of Jury Trial.**

a. *Determination by Judge*—The Hearing Judge shall determine whether a jury trial will be granted upon any issue of fact arising upon the certification or appeal.

b. *Decree*—If a jury trial is granted, the decree shall specify the issues to be tried,—which may be agreed upon by the parties, or as the Hearing Judge shall determine.

**RULE 12. SPECIAL PETITIONS**

**Local Rule 12.1.1 Family Exemption. Additional Requirements.**

a. *Contents of Petition*—A petition for a family exemption shall also set forth in separate paragraphs:

1. the name, residence and date of death of decedent;
2. the name, address and relationship of the petitioner to the decedent, and whether the petitioner formed a part of decedent's household at the date of his death;
3. if petitioner be the surviving spouse, the date and place of the ceremonial marriage; or, in case of a common-law marriage, all averments necessary to establish the validity of such a marriage;
4. whether the decedent died testate or intestate; where, when, and to whom letters were granted; and if decedent died intestate, the names, relationship and addresses of those interested as next of kin;
5. the location and valuation of the property claimed;
6. that ten (10) days prior notice of the filing of the petition has been given to the personal representative, or, when no letters have been granted, to the parties adversely affected; and
7. a request for appraisers when an appraisal is required.

b. *Exhibits*—The following exhibits shall be attached to the petition:

1. a copy of the will;
2. a copy of the inventory and appraisal showing the valuation of the property claimed, when the exemption is claimed from personal property, and the gross estate exceeds the statutory amount of the family exemption; and
3. an affidavit or verification of return of notice.

**Local Rule 12.1.2 Appraisal.**

a. *When Appraisal Unnecessary*—Unless otherwise directed by the Court, no appraisal shall be required if the exemption is claimed:

1. from personal property; or
2. wholly or in part from real estate, if all parties in interest agree on the valuation.

b. *Procedure for Appraisal When Required*—

1. Upon petition the Court may appoint two (2) appraisers who shall, within thirty (30) days after their appointment, file with the Clerk an appraisal of the property claimed.

2. Upon the filing of the appraisal with the Clerk, the appraisers shall also give notice thereof to the personal representative and to the next of kin; and, if there be neither personal representative nor next of kin, to the Attorney General.

3. The notice shall contain a copy of the petition and the appraisal, and a statement that nisi confirmation of the appraisal will be requested and may be allowed by the Court at a stated date, and unless exceptions are filed thereto, the appraisal shall be confirmed absolutely ten (10) days thereafter by the Clerk without further order of Court. Said notice shall be given by the appraisers not less than ten (10) days prior to the date set for nisi confirmation.

**Local Rule 12.1.3 Voluntary Distribution.**

When the personal representative, at his own risk delivers assets of the estate in satisfaction of the exemption, he shall set forth the same as a credit in the account. The same may be the subject of objection by any claimant or party in interest.

**Local Rule 12.2.1 Allowance to Surviving Spouse of Intestate. Additional Requirements.**

a. *Contents of Petition*—A petition for the allowance to the surviving spouse of an intestate shall also set forth in separate paragraphs:

1. the information required in a petition for family exemption under Local Rule 12.1(a):1, as far as appropriate; and

2. that ten (10) days prior notice of the intended presentation of the petition has been given to the personal representative; or, if no personal representative has been appointed, to those interested as next of kin; and, if there be no next of kin, to the Attorney General.

b. *Exhibits*—The following exhibits shall be attached to the petition:

1. a copy of the inventory and appraisal; and
2. an affidavit or verification of return of notice.

**Local Rule 12.2.2 Conclusiveness of Averments.**

If the averments of the petition are not conclusive as to the right of the spouse to the allowance being claimed, the matter may be referred to a master, auditor, or to a Hearing Judge.

**Local Rule 12.2.3 Appraisal. Notice. Practice and Procedure.**

a. *Filing of Appraisal*—The appraisers shall, within thirty (30) days after their appointment, file with the Clerk an appraisal of the property claimed.

b. *Notice of Appraisal*—Upon the filing of the appraisal, notice thereof shall be given to the personal representative, and to the next of kin, and if there be neither personal representative nor the next of kin, to the Attorney General. The notice shall contain a copy of the petition and the appraisal, and a statement that nisi confirmation of the appraisal and the setting apart of the real estate to the surviving spouse will be requested and may be allowed by the Court at a stated time, and unless exceptions are filed thereto, confirmed absolutely ten (10) days thereafter. Said notice shall be given not less than ten (10) days prior to the date set for nisi confirmation. If the address or whereabouts of any of the next of kin is unknown, notice shall be given in such manner as the Court shall direct.

c. *Confirmation and Setting Apart of Allowance*—Unless exceptions are filed to the nisi confirmation, the appraisal and award of real estate shall be confirmed absolutely by the Clerk without further order of Court.

d. *Exceptions*—Exceptions to an appraisal shall be filed with the Clerk within ten (10) days after nisi confirmation. Copies of the exceptions shall be served on the fiduciary, if any, and on the spouse or their attorney, within five (5) days after filing. If exceptions are filed, the matter may be placed on the Argument List by praecipe for disposition.

e. *Claim for Money*—If the entire claim is for money, which need not be appraised, claim may be made at or before the audit of the fiduciary's account, provided no payment shall be made to the spouse until it appears that the money claimed is not required for payment of debts.

**Local Rule 12.3.1 Extension of Time. Contents of Petition.**

A petition for the extension of time in which the surviving spouse may file an election to take against the Will shall set forth:

1. the information required to be set forth in a petition under Supreme Court Rule 12.3(a), paragraphs (1) through (7), inclusive, as far as appropriate; and
2. the facts relied upon to justify an extension of time in which to file the election.

**Local Rule 12.3.2 Extension of Time. Practice and Procedure.**

The petitioner shall file the petition with the Clerk and thereafter give ten (10) days written notice of intention to request the extension at a stated day to all persons adversely affected thereby who do not join in the prayer of the petition. In the absence of objection, upon the presentation of an affidavit or verification of return of notice on or after said day, an appropriate decree may be entered by the Court.

**Local Rule 12.4:1 Guardians and Trustees Ad Litem. Appointment and Compensation.**

Each estate shall be liable for the compensation of the guardian ad litem or the trustee ad litem based upon a schedule of fees fixed by the Court. In special circumstances, the compensation of the guardian ad litem or the trustee ad litem will be fixed by special order of the Court.

**Local Rule 12.5.1 Exhibits to Petition.**

The following exhibits shall be attached to the petition:

1. *Consent of Parents or Person in Loco Parentis*—Written consent of the parents or the surviving parent of the minor to the appointment of a guardian for his estate or person is required. If both parents are deceased, such consent is required of the adult person with whom the minor resides or of the superintendent or other official in charge of the institution having custody of the minor and, the spouse of the minor if the minor is married. If such consent is not obtained, the petitioner shall set forth the reason and give such notice of the petition as the Court may direct.

2. *Consent of Guardian. Individual*—When the proposed guardian is an individual, the written consent to act as such shall contain the following statements:

- A. his/her business and domicile;
- B. that he/she is a citizen of the United States, able to speak, read and write the English language;
- C. that he/she is not the fiduciary or an officer or employee of the corporate fiduciary of an estate in which the minor has an interest nor the surety or an officer or an employee of the corporate surety of such a fiduciary; and that he/she has no interest adverse to the minor.

3. *Consent of Guardian. Corporate*—When the proposed guardian is a corporate fiduciary, its written consent to act as such shall contain, in addition, a statement that it is not the fiduciary of an estate in which the minor has an interest, nor the surety of such a fiduciary; and that it has no interest adverse to the minor.

4. *Funds Arising From Litigation*—If any part of the minor's estate was obtained as a result of litigation or compromise of litigation in a Court of record, a copy of the decree approving the compromise and distribution of the proceeds of the suit shall be attached to the petition.

**Local Rule 12.5.2 Guardians of Minors. Appearance Before the Court.**

a. *Appearance. Minor over Fourteen*—If the minor is over fourteen (14) years of age, the minor shall appear in person at the presentation of the petition and shall make the selection of guardian before the Court. If the minor is unable to appear in person, the reason for the minor's absence shall be set forth in the petition. When a minor appears in person, the minor need only state his/her selection of guardian.

b. *Appearance. Other Persons*—Neither a minor fourteen (14) years of age or under, nor the parents or proposed guardian of the minor need appear in Court at the presentation of the petition.

**Local Rule 12.5.3 Information Required from Counsel.**

At the time of the presentation of the petition for the appointment of an individual guardian, counsel shall state the following in Court:

1. the total amount of the assets;
2. whether or not the minor resides in the same household with the proposed guardian; and
3. whether it is proposed to deposit the share of the minor in a restricted account.

**Local Rule 12.5.4 Minor's Estate. Restricted Account.**

a. *Waiver of Security*—In lieu of the entry of security, the Court, in the decree appointing the guardian, may

authorize the guardian to deposit the funds of the minor in an interest-bearing deposit insured by the Federal Deposit Insurance Corporation subject to the express restriction, to be noted on the records of the institution, that no withdrawals shall be made therefrom without order of Court, with a further requirement that the evidence of the deposit or investment, marked to indicate the restriction, shall be promptly exhibited to the Court.

b. *Limitation*: The deposit under paragraph (a) of this Local Rule shall not exceed the statutory limitation as provided in Section 5103 of the Probate, Estates, and Fiduciaries Code (20 Pa.C.S.A. § 5103).

c. *Payment at Majority of Minor*—

1. The decree of the Court may contain a further provision that if no withdrawals are made from the account during minority, the institution may pay over the funds when the minor attains his majority, upon the joint order of the guardian and the former minor without further order of the Court.

2. If, upon subsequent order of this Court, withdrawals have been made from the account during minority, the guardian shall file a petition for his discharge upon the minor's attaining his majority. There shall be attached to the petition:

A. an affidavit or verified statement in the nature of an account, containing items of administration, distribution, principal, and income, which shall be separately stated;

B. an affidavit or verified statement by the guardian setting forth the date he attained his majority; that he has examined the account; that he has received the money, or benefit of the money, for which credit is taken in the account; that he approves account and requests that it be confirmed; and that, upon distribution to him of the balance shown thereon, subject to such additional credits as may be authorized by law and set forth in the petition and order, he agrees that the guardian shall be discharged.

d. *Additional Assets*—When the guardian has received assets in addition to the deposit or investment made in accordance with this Local Rule, he shall account as if the restricted account did not form part of the estate.

**Local Rule 12.5.5 Minor's Estate Not Exceeding Statutory Limitation.**

a. *Disposition. In General*—If the value of the real and personal estate of a minor does not exceed the statutory limitation as provided in Section 5103 of the Probate, Estates, and Fiduciaries Code (20 Pa.C.S.A. § 5103), the Court may:

1. authorize payment or delivery thereof to the minor or the parent or other person maintaining the minor;
2. direct the deposit of the minor in a restricted account in the name of a natural guardian of the minor or of the minor individually; or
3. make such provision for the retention or deposit of securities or other assets as the Court shall deem for the best interests of the minor.

b. *Mortgage or Sale of Real Property*—If the value of the entire estate of a minor does not exceed the statutory limitation as provided in Section 5103 of the Probate, Estates, and Fiduciaries Code (20 Pa.C.S.A. § 5103), the Court, upon petition, may authorize the parent or other person maintaining the minor to convey or mortgage any real property forming a part or all of such estate, without the appointment of a guardian or the entry of security. The petition shall conform to the requirements of the



provisions governing the same or mortgage of real property by a guardian. The order of the Court may be conditioned upon the deposit of the proceeds of the sale or mortgage in a restricted account.

**Local Rule 12.5.6 Minor's Estate. Allowances.**

a. *In General. Responsibility of Guardian*—Expenditures from income for the benefit of the minor, and Counsel fees in a nominal amount for routine services, whether payable from principal or income, should ordinarily be made by the guardian upon his own responsibility without application to the Court for approval.

b. *Permissive Petition*—The guardian may petition the Court for approval of periodical payments from income needed for the maintenance, support, or education of the minor, the minor's spouse or children.

c. *Mandatory Petition*—Except as provided in paragraph (a) of this Local Rule, unless approval by the Court is first obtained, no payments shall be made by the guardian when payment is to be made from principal, or when special services have been performed by counsel and the guardian is in doubt as to the reasonableness of the fee.

d. *Contents of Petition. Allowance for Maintenance, Support, or Education*—A petition for an allowance from a minor's estate, for the maintenance, support or education of the minor, the minor's spouse or children, shall set forth:

1. the manner of the guardian's appointment and qualification, and the dates thereof; and the terms of the instrument creating the estate;

2. the age and residence of the minor; whether the minor's parents are living; the name of the person with whom the minor resides, and, if married, the name and age of the minor's spouse and children;

3. the value of the minor's estate, real and personal, and the net annual income;

4. the circumstances of the minor, whether employed or attending school; if the minor's parents, or the persons charged with the duty of supporting him, are living, the financial condition and income of such persons and why they are not discharging their duty to support the minor; and whether there is adequate provision for the support and education of the minor, or the minor's spouse and children;

5. the date and amount of any provision allowance by the Court, and the name of the Judge who granted it;

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

7. if the petition is presented by someone other than the guardian, that demand was made upon the guardian to act, and the reason, if any, given by him/her for his/her failure to do so.

e. *Contents of Petition. Allowance of Counsel Fees*—A petition for the allowance of counsel fees shall set forth the views of the guardian with respect to the reasonableness of the fees and contain sufficient facts to enable the Court to pass judgment on the matter. The following exhibits shall be attached to the petition:

1. a statement of counsel setting forth in detail the nature and extent of the services performed by him/her; and

2. the joinder of the minor's parents or surviving parent; or, if both parents are deceased, the joinder of the

adult person with whom the minor resides, or the superintendent or other official in charge of the institution having custody of the minor, and the spouse of a married minor.

**Local Rule 12.6.1 Appointment of a Trustee. Exhibits.**

The following exhibits shall be attached to the petition:

1. a copy of the trust instrument; and
2. the written consent of any co-trustee.

**Local Rule 12.7:1 Discharge of a Fiduciary. Additional Provisions.**

a. *Affidavit or Verification*—The affidavit or verified statement to the petition shall include an averment that the parties who have signed the consents to discharge are all the parties interested in the estate, or the reason for the failure of any party to consent. If any party shall fail to consent, the Court may, if the circumstances require, direct the issuance of notices by citation or otherwise.

b. *Exhibits. Consents*—Written consent of all parties in interest, and of the surviving or successor fiduciary, shall be attached to the petition. Such consent may be included in a satisfaction of award attached to the petition.

c. *Discharge of a Personal Representative*—When the value of the gross real and personal estate of a decedent does not exceed the value of the statutory limitation, the personal representative, after the expiration of one (1) year from first complete advertisement of the grant of letters, may present a petition to the Court with an account attached under the provisions of Section 3531 of the Probate, Estates and Fiduciaries Code (20 Pa.C.S.A. § 3531). The petition shall conform as far as practicable to the requirements of a petition under Supreme Court Rule 12.7.

**Local Rule 12.8:1 Partition. Additional Provisions.**

The fiduciary selling real property in a partition proceeding shall file an account after the sale is completed. The Court may dispose of the matter or may appoint an auditor to ascertain whether there are any liens or other encumbrances on such real property affecting the interests of the parties.

**RULE 13. DISTRIBUTION—SPECIAL SITUATIONS**

**Local Rule 13.3:1 Report by Fiduciary.**

The report required by the Supreme Court Rules shall be submitted to the Court or to an auditor appointed by the Court, and shall include substantially the following:

1. *Unknown Distributee*—If it appears that the identity or whereabouts of a distributee is unknown, or there are no known heirs, the fiduciary shall submit a written report, sworn to or verified by the fiduciary or his counsel, setting forth:

A. The nature of the investigation made to locate the heirs of the decedent, in complete detail; and

B. in cases of intestacy, or where there are no heirs, a family tree, as complete as possible under the circumstances, supported by such documentary evidence as the fiduciary has been able to obtain.

2. *Investigation Defined*—The term "investigation," as used in this Local Rule, shall include inquiry of or as to as many of the following as may be pertinent and feasible: residents of the household in which the decedent resided; friends and neighbors; labor union membership; places of employment; social, fraternal, or beneficial organizations; insurance records; church membership;

school records; social security, Veterans' Administration, or military service records; naturalization records, if not native born; and such other sources of information as the circumstance may suggest.

3. *Non-Resident Distributee*—If the fiduciary requests the Court to withhold distribution to a non-resident distributee, the fiduciary shall submit a written report, sworn to or verified by the fiduciary or the fiduciary's counsel, which shall set forth:

A. the relationship of the distributee to the decedent, and any available information concerning the distributee's present whereabouts;

B. in cases of intestacy, a family tree, as complete as possible under the circumstances, supported by such documentary evidence as the fiduciary has been able to obtain; and

C. the reason for the request that distribution be withheld, and the suggested manner of withholding.

#### **RULE 14. INCOMPETENTS' ESTATES**

##### **Local Rule 14.1:1 Practice and Procedure. In General.**

a. *Evidence, Depositions*—Except for special reason appearing, the deposition of, or sworn or verified statement by, a superintendent, manager, physician or psychiatrist of any state-owned mental hospital or Veterans' Administration hospital, or a physician in attendance to the alleged incompetent will be accepted in evidence as to the mental or physical condition of a patient of said hospital or physician.

b. *Guardians*—

1. *Relatives and Household Residents*—The Court, except in special circumstances, shall not appoint as guardian a relative of the incompetent or a person residing in the same household with him.

2. *Non-residents*—The Court, except in special circumstances, shall not appoint non-residents as guardians of the estate of incompetents residing within this county.

c. *Security. Individual Guardian*—In lieu of the entry of security, an individual guardian may be authorized to deposit the funds compromising the incompetent's estate in accounts insured by the Federal Deposit Insurance Corporation the account to be marked "Not to be withdrawn except on further Order of the Court." Upon cause shown, the Court may dispense with the requirement of a bond when it finds that no bond is necessary.

d. *Additional Assets*—If, upon the filing of an inventory, it appears that the value of the personal estate which has, or is about to, come into the possession of the guardian exceeds the amount set forth in the original petition, the Clerk shall direct the Hearing Judge's attention to this fact in order that adequate security may be ordered and entered.

e. *Testamentary Writings*—All testamentary writings of the incompetent found by the guardian, or in the possession of any other person, shall, at the time of the filing of the inventory, be submitted by the guardian or such other person to the Hearing Judge for his inspection, together with a copy to be retained by the Judge for his private file.

f. *Certificates of Appointment*—The Clerk, in addition to issuing certified copies of the decree of appointment of a guardian, will issue a "Guardian's Certificate" when the security, if any, ordered by the Court has been entered.

##### **Local Rule 14.1:2 Incompetent's Estate. Decrees.**

a. *In General*—A petition to adjudicate a person incompetent shall have attached thereto:

1. a proposed preliminary order in accordance with Local Rule 3.1:2; and

2. a proposed decree.

b. *Small Estates*—If at a hearing the incompetency is established, and it appears that the gross estate does not exceed the statutory limitation for a small estate, the Court may award the entire estate to the person or institution maintaining the incompetent, or make such order as may be appropriate under the circumstances. In such case, a proposed final decree awarding said estate shall be attached to the face of the petition, in lieu of the final decree appointing a guardian.

##### **Local Rule 14.1:3 Incompetent's Estate. Proof of Service.**

Proof of service of notice shall be presented at the hearing. The affidavit or verification of service shall, in all cases, recite that the petition and citation were read to the alleged incompetent. When the alleged incompetent is in a hospital, service may be made by a physician in charge.

##### **14.2. Adjudication of Incapacity and Appointment of a Guardian of the Estate of an Incapacitated Person.**

a. A petition to adjudicate a person incompetent and to appoint a guardian of his/her estate shall set forth:

1. the name and relationship of the petitioner to the alleged incompetent; if not related, the nature of the petitioner's interest;

2. the age, marital status, and domicile of the alleged incompetent; whether he/she is a patient in a mental hospital; if so, the name and address of the hospital, the date of his/her admission, and whether it is a state-owned mental hospital or a Veterans' Administration hospital;

3. the names and addresses of the next of kin of the alleged incompetent;

4. the gross value of the alleged incompetent's estate, and net income from all sources, to the extent that this information is known by petitioner;

5. whether the alleged incompetent was ever a member of the Armed Services of the United States, or is receiving any benefits from the United States Veterans' Administration or its successor;

6. a general averment of incompetency as defined in Chapter 55 of the Probate, Estates and Fiduciaries Code;

7. the name and address of the proposed guardian, and what, if any, relationship he/she bears to the alleged incompetent;

8. an averment that the proposed guardian has no interest adverse to the alleged incompetent;

9. whether any other court has ever assumed jurisdiction in any proceeding to determine the competency of the alleged incompetent;

10. that the alleged incompetent has no guardian already appointed; and

11. a prayer for a citation, directed to the alleged incompetent, with notice thereof to his/her next of kin and to such other persons as the court may direct, to show cause why he/she should not be adjudged an incompetent and a guardian of his/her estate appointed.

b. The proposed guardian's written consent shall be attached.

#### **RULE 15. ADOPTIONS**

##### **Local Rule 15.4.1 Decree of Involuntary Termination.**

In all cases involving an involuntary termination of parental rights, the Court shall enter a decree nisi. Unless exceptions are filed thereto within ten (10) days of notice of filing the adjudication by any party in interest, the Clerk shall confirm the decree absolutely without further order of Court. No petition for adoption will be presented to the Court until a final decree has been entered.

##### **Local Rule 15.5.1 Information for Certification of Adoption.**

Contemporaneous with the filing of a Petition for Adoption, the information required for a Certificate of Adoption shall be submitted to the Clerk upon a form approved by the Clerk or upon a form approved by the Vital Statistics Division of the Pennsylvania Department of Health.

##### **Local Rule 15.5.2 Preliminary Order and Decree of Adoption.**

A petition for adoption shall have attached thereto:

A. a proposed preliminary order in accordance with Local Rule 3.1:2; and

B. a proposed decree of adoption.

[Pa.B. Doc. No. 04-1773. Filed for public inspection September 24, 2004, 9:00 a.m.]

#### **MERCER COUNTY**

##### **Revision and Restatement of the Local Criminal Rules; No. 1438 Misc. 2004**

#### **Order**

And Now, this 1st day of September, 2004, the court hereby Approves, Adopts and Promulgates the Revision and Restatement of the Local Criminal Rules of the Court of Common Pleas of Mercer County, effective thirty (30) days after the date of publication of these Rules in the *Pennsylvania Bulletin*, pursuant to Rule 105 of the Pennsylvania Rules of Criminal Procedure.

When effective, these Local Rules of Criminal Procedure supercede all prior Local Rules of Criminal Procedure, which are hereby repealed.

It is also Ordered and Directed the Court Administrator of Mercer County, in accordance with Pa. Rule of Criminal Procedure 105, shall file seven (7) certified copies of these Rules with the Administrative Office of Pennsylvania Courts, furnish two (2) certified copies to the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin*, and file one certified copy with the Criminal Procedural Rules Committee.

It is further Ordered and Directed that Local Rules shall be kept continuously available for public inspection and copying in the Office of the Clerk of Courts of Mercer County. Upon request and payment of reasonable costs of reproduction and mailing, the Clerk of Courts shall furnish to any person a copy of the Local Rules.

A copy of these Revised and Restated Rules shall be published in the *Mercer County Law Journal*.

By the Court

FRANCIS J. FORNELLI,  
*President Judge*

#### **Local Rules of the Court of Common Pleas of Mercer County, 35th Judicial District Supplementing the Rules of Criminal Procedure Promulgated by the Supreme Court of Pennsylvania**

##### **Rule L310 Admission to A. R. D. in Cases of Driving While Under the Influence of Intoxicating Beverages, Out of State Persons, Administration Fee in D.U.I. Cases, Content of A. R. D. Applications and Orders**

a. Prior to admission into the A. R. D. Program in driving while under the influence of intoxicating beverage cases, the applicant must appear in Mercer County, Pennsylvania, before a certified examiner for the administration of the Mortimer-Filkens test, the results of which shall be evaluated by the Court Reporting Network. (75 Pa.C.S.A. 3816.)

b. All applicants who are accepted into the A. R. D. Program will be required to attend either the Mercer County Counter Attack School Program or the equivalent of the Mercer County Counter Attack School Program in the applicant's home county and state. (75 Pa.C.S.A. 1549)

c. If the Court Reporting Network reports counseling and treatment are necessary, it may be ordered in the applicant's home county and state.

d. All persons who are found guilty of driving while under the influence, plead guilty to driving while under the influence or are accepted into A. R. D. must pay through the Office of the Clerk of Courts, in addition to all other costs, \$150.00 for administration of such cases.

e. All motions requesting admission into the A. R. D. Program shall contain the following: "I request the continuance of any further proceedings in my case until it is determined whether I am eligible for A. R. D., and if I am admitted into it, for the length of time I am in the program, plus ninety days thereafter."

f. All Orders admitting applicants into the A. R. D. Program shall contain the following: "Defendant's request for a continuance of all proceedings in this case pending a determination of his eligibility for the A. R. D. Program and for the time he is in the program plus ninety days is granted."

##### **Rule L528 Percentage Cash Bail System**

a. A defendant charged with a crime in Mercer County, or a third party surety who is not a professional bondsman or an agent or representative of a professional bondsman, may if authorized by the Issuing Authority or the Court execute a bail bond and deposit with the Issuing Authority or Clerk of Courts by depositing money equal to ten percent (10%) of the amount of bail set, but in no event less than fifty dollars (\$50.00).

b. The money furnished shall be receipted for, deposited, accounted for, forfeited or returned in accordance with Pennsylvania Rules of Criminal Procedure 535 and 536.

c. If there has been no forfeiture, upon full and final disposition of the case, the Clerk of Courts or Issuing Authority shall retain any bail-related fees or commis-

sions authorized by law, and the reasonable costs, if any, of administering the cash bail system. The balance shall be returned to the person who deposited it with the Issuing Authority or the Clerk of Courts within twenty (20) days of full and final completion of the case. Notice of the full and final disposition shall be sent by the Clerk of Courts to the person who originally posted the money at the address of record upon a full and final completion of the case. Any money not claimed within one hundred eighty (180) days from the date the notice is sent of the full and final disposition of the case shall be deemed as fees and shall be forfeited to the use of the County of Mercer.

INSTRUCTIONS FOR POSTING BAIL

1. Both a resident and a non-resident may be eligible to post percentage cash bail at the discretion of the

District Justice or the Judge of the Court of Common Pleas.

2. You must post 10% of the bail as set by the District Justice or the Court, but in no event less than \$50.00.

3. The defendant must attend all Court hearings in his case, or be subject to being placed in jail on a Bench Warrant issued by the Court, and subject to the bail money being forfeited.

4. After the defendant's case is completed, the Clerk of Courts Office will return the bail to the surety. Bail will be returned only to the person who posted it within twenty (20) days of the full and final completion of the case.

5. The surety is liable to forfeit 10% of the bail amount which has been posted, and if the defendant does not appear as ordered, 100% will be forfeited.

I HAVE READ OR HAD READ TO ME THE ABOVE INFORMATION, AND I FULLY UNDERSTAND ITS CONTENTS.

Defendant \_\_\_\_\_

Surety \_\_\_\_\_

Witness \_\_\_\_\_

Date \_\_\_\_\_

APPLICATION FOR BAIL

This application is to be filled out by any person placed on bail.

INFORMATION

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

Alias \_\_\_\_\_

Address \_\_\_\_\_

With Whom Living \_\_\_\_\_

Relationship to this Person \_\_\_\_\_

Charges \_\_\_\_\_

Prosecutor \_\_\_\_\_

Single ( ) Married ( ) Separated ( ) Divorced ( )

ADDITIONAL PERSONAL INFORMATION

Date of Birth \_\_\_\_\_ Race \_\_\_\_\_ Male \_\_\_\_\_ Female \_\_\_\_\_

Weight \_\_\_\_\_ Height \_\_\_\_\_ Build \_\_\_\_\_

Color of Eyes \_\_\_\_\_ Eyeglasses: Yes \_\_\_\_\_ No \_\_\_\_\_ Color of Hair \_\_\_\_\_

Length of Hair \_\_\_\_\_ Bald: Yes \_\_\_\_\_ No \_\_\_\_\_ Partly Bald: Yes \_\_\_\_\_ No \_\_\_\_\_

False Teeth: Yes \_\_\_\_\_ No \_\_\_\_\_ Describe any physical handicaps: \_\_\_\_\_

Scars: Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, describe \_\_\_\_\_

Tattoos: Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, describe \_\_\_\_\_

Facial Marks: Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, describe \_\_\_\_\_

List Previous Convictions: \_\_\_\_\_

Social Security No. \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ Driver's License No. \_\_\_\_\_

Motor Vehicle Registration No. \_\_\_\_\_ State of Issuance \_\_\_\_\_

State Your Source of Income: \_\_\_\_\_

Employer's Name and Address: \_\_\_\_\_

If unemployed, list last employer and address \_\_\_\_\_

If on Public Assistance, Claim Number \_\_\_\_\_

If not on Public Assistance, but have Medical Card, Medical Card No. \_\_\_\_\_

If on Unemployment Compensation, State Claim Number \_\_\_\_\_

Are you under order to pay support? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, what court and for whom? \_\_\_\_\_

Have you ever been on bail before? Yes \_\_\_\_\_ No \_\_\_\_\_ If so, what court? \_\_\_\_\_

Do you have any bank accounts? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, name of bank and address: \_\_\_\_\_

Have you ever been a patient in a Mental Institution? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, where and when? \_\_\_\_\_

Are you addicted to alcohol? Yes \_\_\_\_\_ No \_\_\_\_\_ Have you ever received treatment for this addiction?

Yes \_\_\_\_\_ No \_\_\_\_\_ If so, where and when? \_\_\_\_\_

Are you addicted to drugs? Yes \_\_\_\_\_ No \_\_\_\_\_ Have you ever received treatment for this addiction?

Yes \_\_\_\_\_ No \_\_\_\_\_ If so, where and when? \_\_\_\_\_

State the names and addresses of any other relatives living in Mercer County:

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

MERCER COUNTY INFORMATION SHEET FOR PERCENTAGE CASH BAIL SYSTEM  
THIRD PARTY CASH BAIL INFORMATION

(In addition to the Application for Bail, the following information should be obtained from the person posting the Cash Bail and should be attached to the Application for Bail of the defendant.)

Client's Name \_\_\_\_\_ No. \_\_\_\_\_

Name of third party posting bond \_\_\_\_\_

Address \_\_\_\_\_ Telephone \_\_\_\_\_

Occupation \_\_\_\_\_ Employer \_\_\_\_\_

Employer's Phone No. \_\_\_\_\_

( ) Own Resident ( ) Rent Residence ( ) Own Other Real Estate

If Yes as to Other Real Estate, describe \_\_\_\_\_

\_\_\_\_\_

Mortgage held by \_\_\_\_\_

Date of Birth \_\_\_\_\_ Race \_\_\_\_\_ Male \_\_\_\_\_ Female \_\_\_\_\_

Weight \_\_\_\_\_ Height \_\_\_\_\_ Build \_\_\_\_\_

Color of Eyes \_\_\_\_\_ Eyeglasses: Yes \_\_\_\_\_ No \_\_\_\_\_

Color of Hair \_\_\_\_\_ Length of Hair \_\_\_\_\_

Bald: Yes \_\_\_\_\_ No \_\_\_\_\_ Partly Bald: Yes \_\_\_\_\_ No \_\_\_\_\_

False Teeth: Yes \_\_\_\_\_ No \_\_\_\_\_

Describe any physical handicaps: \_\_\_\_\_

\_\_\_\_\_

Scars? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, describe \_\_\_\_\_

Tattoos? Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, describe \_\_\_\_\_

( ) Own Automobile ( ) Automobile Financed by \_\_\_\_\_

Title \_\_\_\_\_ Plate \_\_\_\_\_ Year \_\_\_\_\_

Make \_\_\_\_\_ Model \_\_\_\_\_

Amount deposited by third party \_\_\_\_\_

Defendant \_\_\_\_\_ Others \_\_\_\_\_

Have you ever been on bond before? Yes \_\_\_\_\_ No \_\_\_\_\_

If so, what court? \_\_\_\_\_

Do you have any bank accounts? Yes \_\_\_\_\_ No \_\_\_\_\_

If yes, name of bank & address: \_\_\_\_\_

Have you ever been a patient in a Mental Institution?

Yes \_\_\_\_\_ No \_\_\_\_\_ If yes, where and when? \_\_\_\_\_

Are you addicted to alcohol? Yes \_\_\_\_\_ No \_\_\_\_\_

If Yes, have you received treatment for this addiction? Yes \_\_\_\_\_ No \_\_\_\_\_

If so, where and when? \_\_\_\_\_

Are you addicted to drugs? Yes \_\_\_\_\_ No \_\_\_\_\_

Have you ever received treatment for this addiction?

Yes \_\_\_\_\_ No \_\_\_\_\_ If so, where and when? \_\_\_\_\_

State the names and addresses of any other relatives living in Mercer County:

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

Additional Information: \_\_\_\_\_

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

[Pa.B. Doc. No. 04-1774. Filed for public inspection September 24, 2004, 9:00 a.m.]

**WESTMORELAND COUNTY**

**Promulgation of Rules of Criminal Procedure WC 114 and WC 576; No. 2 Civil of 2004**

**Order**

*And Now This* 8th day of September 2004, it is hereby *Ordered* that new Westmoreland Rules of Criminal Procedure WC114 and WC576 are adopted and current Rules WC114 and WC576 are rescinded effective November 1, 2004.

*By the Court*

DANIEL J. ACKERMAN,  
*President Judge*

**WC 114. Orders and Court Notices: Filing; Service; and Docket Entries.**

(A) Pursuant to Pa.R.Crim.P. 114(A)(1) and (2), warrants, court orders, and court notices shall be docketed and placed in the criminal case file within two working days of receipt.

(B) Pursuant to Pa.R.Crim.P. 114(B), the Westmoreland County Court Administrator is designated to serve court notices. The Westmoreland County Clerk of Courts shall serve all Orders.

1. The Court Administrator shall place in the mail or otherwise serve all notices within two working days of printing.

2. The Clerk of Courts shall give a copy of all Court Orders to the defendant or to the deputy sheriff who has custody of the defendant when the defendant reports to the Clerk of Courts. A copy of all such Court Orders that affect a defendant's custodial status shall also immediately be sent by facsimile transmission to the Records Division of the Westmoreland County Prison.

3. The Clerk of Courts shall serve all Court Orders not covered by Subsection (B)(2) by placing such Orders in the mail or by other means listed in Pa.R.Crim.P. 114(B)(3) within two working days of filing.

Comment: This Rule is promulgated pursuant to the responsibility given the president judge by Pa.R.Crim.P. 116.

**WC 576. Filing and Service by Parties**

(A) The Clerk of Courts shall immediately time stamp all written motions, notices, or documents presented for filing, and shall docket and place in the criminal case file all such papers within two working days of filing.

(B) Pursuant to Pa.R.Crim.P. 576 (B)(3)(d) any document required to be served upon the court administrator may be served by facsimile transmission.

[Pa.B. Doc. No. 04-1775. Filed for public inspection September 24, 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 September 8, 2004.

The organization chart at 34 Pa.B. 5265 (September 25, 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. 04-1776. Filed for public inspection September 24, 2004, 9:00 a.m.]

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### PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

#### Reorganization of the Public School Employees' Retirement System

The Executive Board approved a reorganization of the Public School Employees' Retirement System effective September 9, 2004.

The organization chart at 34 Pa.B. 5266 (September 25, 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).

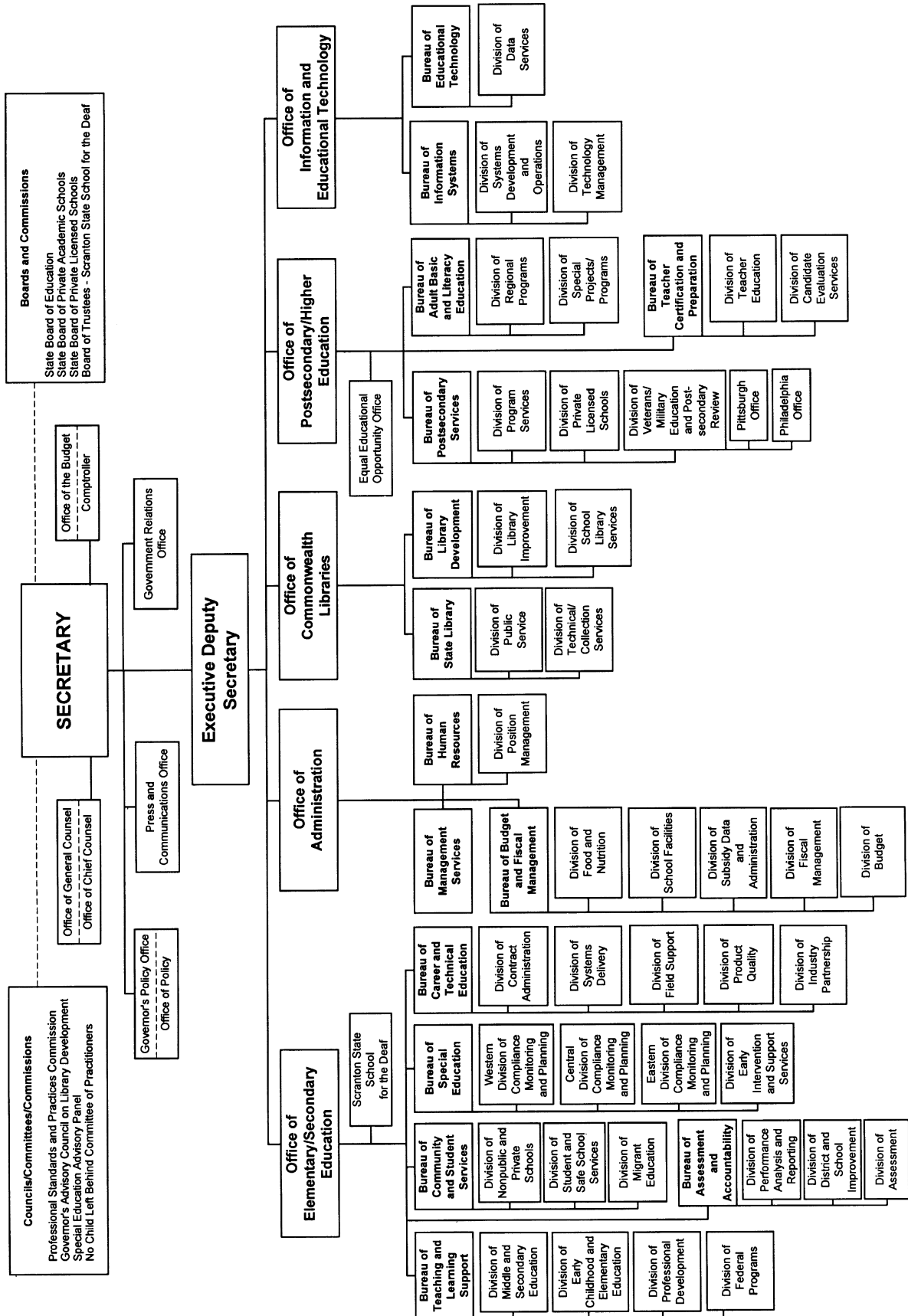
*(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania Code.)*

[Pa.B. Doc. No. 04-1777. Filed for public inspection September 24, 2004, 9:00 a.m.]

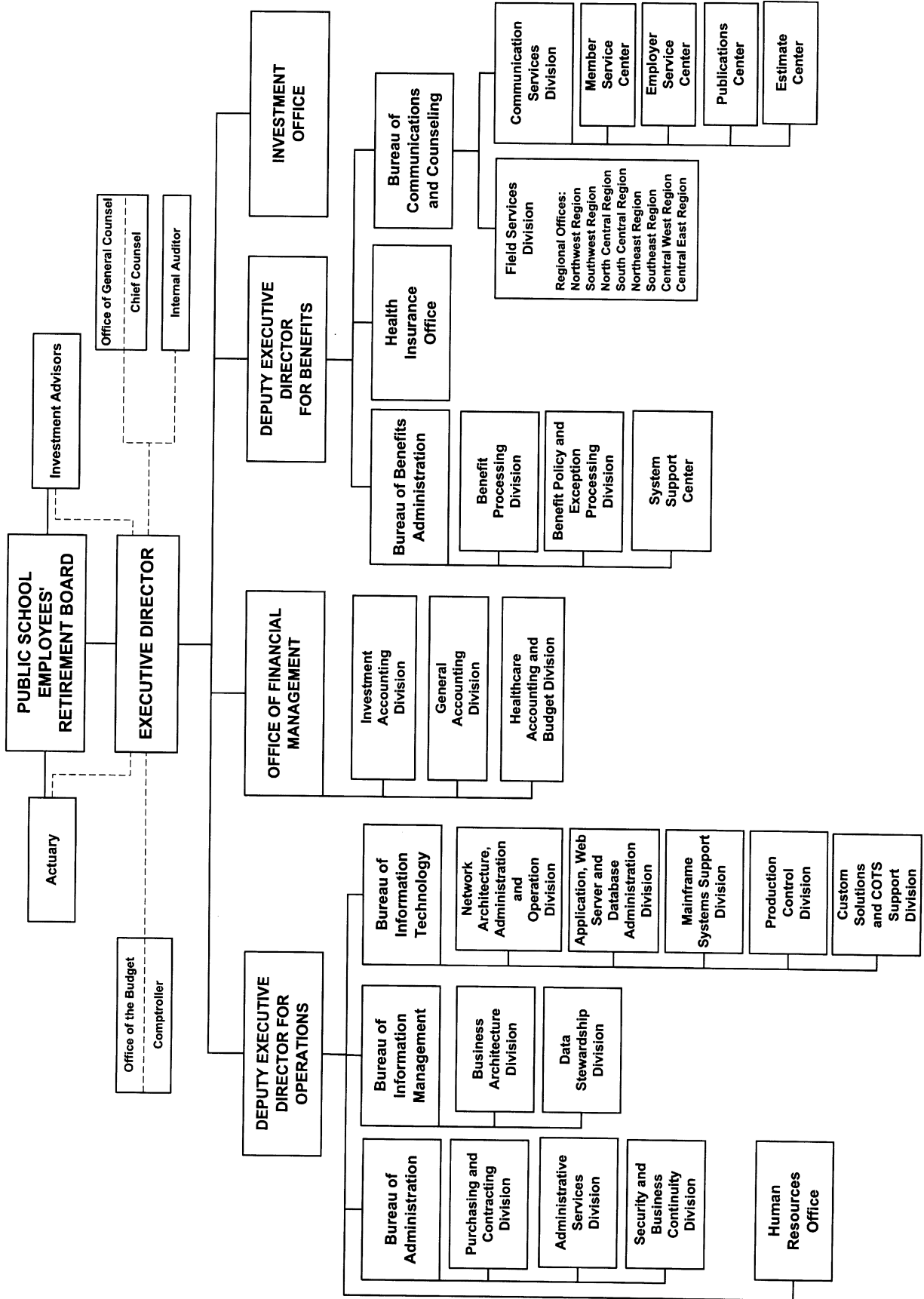
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DEPARTMENT OF EDUCATION



**PUBLIC SCHOOL EMPLOYEES' RETIREMENT SYSTEM**



# Title 22—EDUCATION

## STATE BOARD OF EDUCATION

[22 PA. CODE CH. 52]

### Accrediting Organizations

The State Board of Education (Board) adopts Chapter 52 (relating to accrediting organizations—statement of policy). This statement of policy contains the policies and procedures the Board plans to use in exercising its powers and duties under section 5 of the Private Academic Schools Act (act) (24 P. S. § 6705).

#### *Statutory Authority*

The act governs the licensure and operation of private academic schools. A “private academic school” is defined by section 2 of the act (24 P. S. § 6702) as follows:

A school maintained, or classes conducted, for the purpose of offering instruction for a consideration, profit or tuition to five or more pupils at one and the same time, or to twenty-five or more pupils during any school year, the purpose of which is to educate an individual generally or specially or to prepare an individual for more advanced study, and shall include all schools engaged in such education, except private trade schools, private business schools, private correspondence schools, private music schools, private dance schools, private art schools, private dramatic art schools, private schools of charm or poise, private driver training schools or any type of private school which is nonacademic in character.

Generally, a private academic school may not operate in this Commonwealth unless the school has obtained a license from the State Board of Private Academic Schools. See sections 4 and 6 of the act (24 P. S. §§ 6704 and 6706) and Chapter 51 (relating to general provisions). However, section 5 of the act provides for optional licensing of private academic schools, as follows:

Licensing shall not apply to colleges or universities, to schools maintained or classes conducted by employers for their own employees where no fee or tuition is charged, to schools or classes owned or operated by or under the authority of bona fide religious institutions or by the Commonwealth or any political subdivision thereof, to schools for the blind or deaf receiving Commonwealth appropriations, or to schools accredited by accrediting associations approved by the State Board of Education, but such schools may choose to apply for a license and, upon approval and issuance thereof, shall be subject to the provisions of this act.

Under section 5 of the act, when an accrediting association approved by the Board has accredited a private school, the school does not require a license issued by the State Board of Private Academic Schools.

#### *History*

Historically, the Board has entertained applications by accrediting associations for approval on an ad hoc basis. In addition, the Board’s practice has been to grant approvals without limitation of time. Because of the absence of a time limitation, ambiguities have emerged as approved accrediting organizations have evolved over the years. Consequently, the Board’s historical policy of ad hoc, indefinite approvals of accrediting associations has resulted in approved accrediting associations engaging in

accrediting private schools and programs for which the association had never sought approval from the Board in its initial application.

#### *Regulatory Approach*

The Department of Education (Department) and the State Board of Private Academic Schools brought these concerns and problems to the attention of the Board. Around the same time, the Board received inquiries regarding the process to be followed for submission of new applications from accrediting associations for approval under section 5 of the act.

To reform the system of approval and to solve the problems with the historical ad hoc system previously described, the Board determined that a more formal, deliberative and uniform approach was warranted. The Board considered promulgating a regulation. However, recognizing a need to be flexible in developing an appropriate process and the pressure to have a formal process in place promptly to address new applications, the Board decided to issue a statement of policy. As reflected in this statement of policy, the Board plans to implement its approval process through an agreement with the Department.

With experience gained under the statement of policy and its working agreement with the Department, the Board will consider in the future whether a regulation would be appropriate. Moreover, because its approach to this system of application and approval is fluid, the Board welcomes comments from interested persons and organizations.

#### *Transition*

To allow it time to develop a formal process, the Board granted 2-year approvals of the accrediting associations that had been requested approval around the time that the Board had decided that it needed a formal process. In addition, to remove uncertainty the Board deemed all accrediting activities of previously approved accrediting associations to have been approved activities. However, as it embarked on the process of developing a formal policy under section 5 of the act, the Board determined that it must set a time limit for approvals of accrediting associations and a process for renewal of approvals.

#### *Development*

The Board developed this statement of policy through an ad hoc committee of the Board, which worked in conjunction with the Board’s staff, personnel of the Department, members and staff of the State Board of Private Academic Schools and stakeholders.

#### *Summary of Policy*

Acting under a Memorandum of Understanding (MOU) with the Board, the Department will administer the processes governing applications submitted by accrediting organizations that seek Board approval under section 5 of the act. Under the MOU, the Department will make a recommendation to the Board regarding all applications that have been fully processed. See § 52.2 (relating to process). However, only the Board has authority under section 5 of the act to approve or disapprove an application.

Section 52.3 (relating to application) describes: (a) the elements of the application for approval; (b) the Board’s policies respecting criteria for accreditation; (c) the Board’s general expectations respecting candidacy review; (d) the Board’s policy preferences respecting site visits by accrediting associations; (e) the Board’s expectations re-

specting an approved accrediting association's policies and methodologies regarding an institution's obligation to engage in self-study and reporting, as well as periodic evaluation of accredited institutions; and (f) the Board's expectations respecting an organization's policies and procedures regarding accreditation renewal and monitoring.

Section 52.4 (relating to reporting) describes the Board's policy respecting an approved accrediting association's duty to report periodically to the Department.

As described in § 52.5 (relating to expiration and renewal), authority granted by the Board to accredit private academic schools will expire 5 years from the date of approval. On application made by the accrediting association, the Board may renew the approval for an additional 5 years. Section 52.5 describes the renewal process.

#### *Effective Date*

This statement of policy shall be in effect immediately for persons and entities that have actual knowledge of its contents, and it shall be in effect generally upon publication in the *Pennsylvania Bulletin*.

#### *Contact Information*

The official responsible for information regarding this statement of policy is James E. Buckheit, Executive Director, State Board of Education, 333 Market Street, Harrisburg, PA 17126-0333, (717) 787-3787, TDD (717) 787-7367.

(*Editor's Note:* The regulations of the Board, 22 Pa. Code, are amended by adding a statement of policy in §§ 52.1—52.5 to read as set forth in Annex A.)

JAMES E. BUCKHEIT,  
*Executive Director*

**Fiscal Note:** 6-289. No fiscal impact; (8) recommends adoption.

### **Annex A**

#### **TITLE 22. EDUCATION**

#### **PART II. STATE BOARD OF PRIVATE ACADEMIC SCHOOLS**

#### **CHAPTER 52. ACCREDITING ORGANIZATIONS—STATEMENT OF POLICY**

Sec.	Purpose.
52.1.	Purpose.
52.2.	Process.
52.3.	Application.
52.4.	Reporting.
52.5.	Expiration and renewal.

#### **§ 52.1. Purpose.**

The purpose of this chapter is to describe the policies of the State Board of Education (State Board) regarding applications made by accrediting organizations for approval under section 5 of the Private Academic Schools Act (24 P. S. § 6705).

#### **§ 52.2. Process.**

(a) The Department will administer the processes governing application by an accrediting organization seeking approval under section 5 of the Private Academic Schools Act (24 P. S. § 6705) and establish administrative policies regarding recognition of school accreditation by accrediting organizations in accordance with an agreement between the State Board of Education (State Board) and the Department.

(b) The Department will make a recommendation to the State Board regarding all applications that have been fully processed, but the final decision to approve or disapprove an application of an accrediting organization under section 5 of the Private Academic Schools Act rests solely with the State Board.

(c) An approved accrediting organization should not begin the accreditation process at a school until the school has been legally operating in this Commonwealth for 2 complete school years.

#### **§ 52.3. Application.**

An application for approval as an accrediting organization under section 5 of the Private Academic Schools Act (24 P. S. § 6705) should include the following elements.

(1) *Information specific to the applicant accrediting organization and its operations.*

(i) Staffing capacity.

(ii) Personnel expertise.

(iii) Affiliations, location of home office and relationship to operation in this Commonwealth.

(iv) Policies, including complaint and disclosure processes.

(v) Annual report.

(vi) Fee schedule.

(vii) Scope and types of programs for which authority to accredit is sought, including grade level.

(viii) Other information as the Department might deem appropriate.

(2) *Criteria for accreditation.* The application should include a statement of the applicant's criteria for accreditation, including formally adopted and incorporated standards guiding all aspects of an accredited school's operations. The criteria should include information regarding:

(i) Philosophy, mission, goals, objectives and benchmarks.

(ii) Governance and leadership.

(iii) Organizational design and staffing.

(iv) Educational programs, specified by type of school and grade level.

(v) Policies available for areas such as student reporting (confidentiality), safety, parental participation and notification, and complaint and disclosure processes.

(vi) Technology capabilities.

(vii) Student services.

(viii) Student activities.

(ix) Facilities—health and safety.

(x) Finances, including, for example, latest audit, budget, fees, available revenue sources, and the like.

(xi) Assessments of student learning.

(xii) Planning.

(xiii) Insurance.

(xiv) Teacher or faculty qualification, or both, (background, work experience, expertise, certification, and the like).

(xv) Other information related to criteria for accreditation.

(3) *Clearly defined candidacy review.* The application should include a description of a clearly defined process for review of candidates for accreditation, including the following:

- (i) Elements.
- (ii) Time in operation before being eligible for accreditation.
- (iii) Measurement standards.
- (iv) Procedure.
- (4) *Site visits.* The application should include a description of the organization's policy and procedures regarding site visits, including:
  - (i) Elements to be evaluated and methods of evaluation.
  - (ii) Required documentation.
  - (iii) Unannounced inspections permitted.
  - (iv) Policies.
  - (v) Community involvement program.
- (5) *Self-study, evaluation and plan of action.* The application should include a description of the organization's policies and methodologies regarding an accredited educational institution's obligation to engage in self-study and its reporting obligations, the periodic evaluation of the accredited institution, and corrective plans of action (including time frames for completion).
- (6) *Accreditation renewal and monitorship.* The application should include a description of the organization's policies and procedures regarding:
  - (i) Identification cycle time—total and periodic reviews.

(ii) Reporting of findings to the Department.

(iii) Periodic reporting to the Department, including notification of noncompliance issues.

(7) *Additional information.* The Department may require additional information it deems necessary from the applicant.

#### **§ 52.4. Reporting.**

(a) An approved accrediting organization annually should make a report to the Department that includes a summary of its accreditation activity, including a listing of schools that have been accredited, the fees collected, its visitation schedule, and other information that the Department might deem appropriate.

(b) Accrediting organizations should make an immediate, one-time report to the Department regarding each educational institution that has gained or lost accreditation.

#### **§ 52.5 Expiration and renewal.**

(a) Authority to accredit schools will expire 5 years from the date of approval by the State Board of Education but may be renewed by the State Board every fifth year.

(b) The accrediting organization seeking renewal will prepare a self study, evaluation and plan of action and submit it to the Department 6 months prior to the expiration date.

(c) The Department will review the material, request additional information if necessary and recommend the State Board approve or deny renewal.

[Pa.B. Doc. No. 04-1778. Filed for public inspection September 24, 2004, 9:00 a.m.]

# NOTICES

## DEPARTMENT OF BANKING

### Action on Applications

The Department of Banking, under the authority contained in the act of November 30, 1965 (P. L. 847, No. 356), known as the Banking Code of 1965; the act of December 14, 1967 (P. L. 746, No. 345), known as the Savings Association Code of 1967; the act of May 15, 1933 (P. L. 565, No. 111), known as the Department of Banking Code; and the act of December 19, 1990 (P. L. 834, No. 198), known as the Credit Union Code, has taken the following action on applications received for the week ending September 14, 2004.

#### BANKING INSTITUTIONS

##### Holding Company Acquisitions

<i>Date</i>	<i>Name of Corporation</i>	<i>Location</i>	<i>Action</i>
9-13-04	Omega Financial Corporation, State College, to acquire 100% of Sun Bancorp, Inc., Lewisburg, and thereby indirectly acquire Sun Bank, Lewisburg, which will subsequently be merged with and into Omega Bank, N. A., State College  As part of this transaction, Sentry Trust Company, Chambersburg, a nondepository trust subsidiary of Sun Bank, will be acquired by Omega Financial Corporation and will become a subsidiary of Omega Bank, N. A.	State College	Approved

##### Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-9-04	First Columbia Bank and Trust Company Bloomsburg Columbia County  Purchase/assumption of certain liabilities of two branch offices* of First Susquehanna Bank and Trust, Sunbury  Located at: 209 East Twelfth Street Berwick Columbia County  Weis Market 725 Columbia Boulevard Bloomsburg Columbia County	Bloomsburg	Approved
9-10-04	Northwest Savings Bank, Warren, PA, and Leeds Federal Savings Bank, Baltimore, MD Surviving Institution—Northwest Savings Bank, Warren, PA  <i>Branches Acquired by Merger:</i>  1101 Maiden Choice Lane Baltimore Baltimore County, MD  6050 Marshalee Drive Elkridge Howard County, MD	Warren	Effective

\*This transaction does not involve the transfer of any real estate to the purchasing bank. The branch offices involved will be closed by First Susquehanna Bank and Trust, Sunbury.

**Branch Applications**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-7-04	Citizens & Northern Bank Wellsboro Tioga County	2 East Mountain Avenue South Williamsport Lycoming County	Opened
9-8-04	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	Acme 531 High Street Mt. Holly Burlington County, NJ	Opened
9-9-04	Reliance Savings Bank Altoona Blair County	1921 Pleasant Valley Boulevard Altoona Blair County	Approved
9-9-04	First Star Savings Bank Bethlehem Lehigh County	Moravian Village Tower Wood Street Bethlehem Northampton County (Limited Service Facility)	Approved

**Branch Discontinuances**

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
9-4-04	Firsttrust Savings Bank Conshohocken Montgomery County	Bala Cynwyd Shopping Center 41 East City Line Avenue Bala Cynwyd Montgomery County	Effective
9-13-04	First Susquehanna Bank & Trust Sunbury Northumberland County	Weis Market 725 Columbia Boulevard Bloomsburg Columbia County	Filed
9-13-04	First Susquehanna Bank & Trust Sunbury Northumberland County	209 East Twelfth Street Berwick Columbia County	Filed

**SAVINGS INSTITUTIONS**

No activity.

**CREDIT UNIONS****Consolidations, Mergers and Absorptions**

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
9-7-04	Erie Community Credit Union, Erie, and Zurn Community Federal Credit Union, Erie Surviving Institution— Erie Community Credit Union, Erie	Erie	Filed

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 04-1779. Filed for public inspection September 24, 2004, 9:00 a.m.]

**Maximum Lawful Rate of Interest for Residential Mortgages for the Month of October 2004**

The Department of Banking (Department), under the authority in section 301 of the act of January 30, 1974 (P. L. 13, No. 6) (41 P. S. § 301), hereby determines that the maximum lawful rate of interest for residential mortgages for the month of October 2004 is 7%.

The interest rate limitations under the State's usury statute were preempted to a great extent by Federal law, the Depository Institutions Deregulation and Monetary Control Act of 1980 (Pub. L. No. 96-221). Further preemption was instituted with the signing of Pub. L. No. 96-399, which overrode State interest rate limitations on an individual who finances the sale or exchange of residential real property which the individual owns and which

the individual occupies or has occupied as a principal residence.

Each month the Department is required by State law to compute and announce the ceiling rate on residential mortgages in this Commonwealth. This maximum rate is determined by adding 2.50 percentage points to the yield rate on long-term government bonds as published by the Federal Reserve Board and/or the United States Treasury. The latest yield rate on long-term government securities is 4.52 to which was added 2.50 percentage points for a total of 7.02 that by law is rounded off to the nearest quarter at 7%.

A. WILLIAM SCHENCK, III,  
*Secretary*

[Pa.B. Doc. No. 04-1780. Filed for public inspection September 24, 2004, 9:00 a.m.]

# DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT

## Revised Uniform County Application for Homestead and Farmstead Exclusions

In accordance with section 341(h) of the Homestead Tax Relief Act (act), the Department of Community and Economic Development (Department) gives notice of a revised County Application for Homestead and Farmstead Exclusions for use by assessors under section 341(h) of the act. The application and instructions for completion of the application follow as Annex A. Electronic copies of the application are available on the Department's website: [www.inventpa.com](http://www.inventpa.com). This application replaces the application that was published on September 4, 2004. The Department recommends that counties and school districts that have already printed the application published at 34 Pa.B. 4932 (September 4, 2004) proceed with that application, but utilize the revised form the next time they reprint the application. This form will remain in effect until changed by a notice in the *Pennsylvania Bulletin*.

Further information can be obtained from 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](mailto:ra-dcedcs@state.pa.us).

DENNIS YABLONSKY,  
*Secretary*

### Annex A

\_\_\_\_\_ COUNTY

### APPLICATION FOR HOMESTEAD AND FARMSTEAD EXCLUSIONS

Please read the instructions before completing this application. This application must be filed with the County Assessors Office by March 1st. The County Assessor's phone number and mailing address are: \_\_\_\_\_

\_\_\_\_\_

#### Basic Information

1. Property Owner(s)

\_\_\_\_\_

2. Property Address

\_\_\_\_\_

3. Municipality _____	4. School District _____
--------------------------	-----------------------------

5. Mailing Address of Property Owner (if different than property address)

\_\_\_\_\_

6. Phone Number of Property Owner: Daytime \_\_\_\_\_ Evening \_\_\_\_\_

#### Homestead Information

7. Do you use this property as your primary residence? \_\_\_\_\_ Yes \_\_\_\_\_ No

8. Do you claim anywhere else as your primary residence, or do you or your spouse receive a homestead tax abatement or other homestead benefit from any other county or state? \_\_\_\_\_ Yes \_\_\_\_\_ No

9. Is your residence part of a cooperative or a condominium where some or all of the property taxes are paid jointly? \_\_\_\_\_ Yes \_\_\_\_\_ No

10. If you answered yes to question 9, do you pay a portion of the jointly paid taxes? \_\_\_\_\_ Yes \_\_\_\_\_ No

11. Do you use any portion of this property for something other than your primary residence, such as a business or rental property? \_\_\_\_\_ Yes \_\_\_\_\_ No

12. If you answered yes to question 11, what percentage of the property is used solely as your residence? \_\_\_\_\_ %

13. If known, please indicate your parcel number located on your tax bill. \_\_\_\_\_

*(If you do not know your parcel number or do not have your tax bill, leave blank, call your tax collector or call the county assessor.)*



**Farmstead Information**

*(This section only needs to be completed if you are also applying for a farmstead exclusion.)*

14. Does this property include at least ten contiguous acres of farm land? \_\_\_\_\_ Yes \_\_\_\_\_ No

15. Are there buildings and structures on the property that are used primarily to:

a. Produce or store any farm product for purposes of commercial agricultural production? \_\_\_\_\_ Yes \_\_\_\_\_ No

b. House animals raised or maintained on the farm for the purpose of commercial agricultural production?  
 \_\_\_\_\_ Yes \_\_\_\_\_ No

c. Store machinery or equipment used on the farm for the purpose of commercial agricultural production?  
 \_\_\_\_\_ Yes \_\_\_\_\_ No

16. If you answered yes to questions 15 a, b, or c, do any farm buildings or structures receive an abatement of property tax under any other law? \_\_\_\_\_ Yes \_\_\_\_\_ No

I hereby certify that all the above information is true and correct.

Signature(s) \_\_\_\_\_ Date \_\_\_\_\_

*Any person who knowingly files an application which is false to any material matter shall be subject to payment of taxes due, plus interest, plus penalty and shall be subject to prosecution as a misdemeanor of the third degree and a fine of up to \$2,500.*

**OFFICIAL USE ONLY**

Date Filed _____	Homestead Value _____
Reviewed by _____	Farmstead Value _____
Date Reviewed _____	Assessment Information
Applicable Years _____	Land _____
Approved _____	Improvements _____
Denied _____	Total _____

→ **You must file this form in order to receive  
 PROPERTY TAX RELIEF  
 under the Homeowner Tax Relief Act of 2004** ←

**Instructions**

**Application for Homestead & Farmstead Exclusions**

The Homeowner Tax Relief Act, Act 72 of 2004, was signed into law by Governor Rendell on July 5, 2004, to allow school districts to reduce property taxes through homestead and farmstead exclusions. Property tax relief will be funded by a combination of state revenue from gaming and dedicated local income taxes. Under a homestead or a farmstead property tax exclusion, the assessed value of each homestead or farmstead is reduced by the same amount before the property tax is computed. Most likely, initial property tax reductions will not take effect until July 1, 2006; however, the changes may occur as early as July 1, 2005 or as late as July 1, 2007. In addition, some school boards may choose not to adopt the homestead and farmstead exclusions.

**BASIC INFORMATION**

1. Fill in your name and the name of other owners of record, such as your spouse or a co-owner of the property. All recorded owners must apply for the exclusion.
2. Fill in the address of the property for which you are seeking an exclusion.
3. Fill in your municipality. If you are not sure what your municipality is, contact your local tax collector or county assessment office ( \_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_ ).

- 4. Fill in your school district. If you are not sure what your school district is, contact your local tax collector or county assessment office ( \_\_\_\_-\_\_\_\_-\_\_\_\_ ).
- 5. If your mailing address differs from the address of the property for which you are seeking a homestead exclusion, fill in your mailing address.
- 6. List phone numbers where you can be reached during the day, and the evening, if you are unavailable during the day.

**HOMESTEAD INFORMATION**

- 7. Only a primary residence may receive the homestead exclusion. This is the fixed place of abode where the owner intends to reside permanently until the person moves to another home. You may be asked to provide proof that this property is your primary residence, such as your driver's license, your voter registration card, your personal income tax form or your local earned income tax form.
- 8. Do you have another residence which you claim as your primary residence? For instance, do you claim another state as your primary residence, or another county in Pennsylvania? The Homestead Exclusion can only be claimed once, for a place of primary residence. You may not claim this property as your primary residence if you claim another property as a homestead or if you or your spouse receive a homestead tax abatement or other homestead benefit from any other county or state.
- 9. If you live in a unit of a cooperative or a condominium and you pay all or a portion of your real property taxes jointly through a management agent or association, rather than paying your taxes separately from other units, check yes.
- 10. If you answered yes to question 9, provide the percentage of overall tax you pay. You may be asked to provide a contact to confirm this information.
- 11. Check yes if the property for which you are seeking a homestead exclusion is used for other purposes, such as a business or rental property.
- 12. If you answered yes to question 11, indicate what percentage of the property is used as your private residence.
- 13. If known, fill in the parcel number of the property for which you are seeking a homestead exclusion. You can find the parcel number on your real property tax bill. If you do not have a real property tax bill, call your local tax collector or county assessment office ( \_\_\_\_-\_\_\_\_-\_\_\_\_ ).

**FARMSTEAD INFORMATION**

*Only complete this section (questions 14, 15 a, b, and c, and 16) if you are applying for a farmstead exclusion. If you answer yes to questions 15 a, b and c, you may be asked to provide proof that the buildings and structures are used for commercial agricultural activity, such as the net income or loss schedule from your state or federal income tax forms.*

- 14. Only buildings and structures on farms which are at least ten contiguous acres in area and used as the primary residence of the owner are eligible for a farmstead exclusion. If your property includes at least ten contiguous acres of farm land, check yes.
- 15. Check yes if the buildings or structures are used primarily to:
  - a. Produce or store farm products produced on the farm for the purpose of commercial agricultural production.
  - b. House animals raised or maintained on the farm for the purpose of commercial agricultural production.
  - c. Store agricultural supplies or machinery and equipment used on the farm in commercial agricultural production.
- 16. Check yes if any farm buildings or structures receive an abatement of property tax under any other law.

**Change in Use**

When the use of a property approved as homestead or farmstead property changes so that the property no longer qualifies for the homestead or farmstead exclusion, property owners must notify the assessor within 45 days of the change in use. If the use of your property changes and you are not sure if it still qualifies for the homestead or farmstead exclusion, you should contact the assessor.

**False or Fraudulent Applications**

The assessor may select, randomly or otherwise, applications to review for false or fraudulent information. Any person who files an application which contains false information, or who does not notify the assessor of a change in use which no longer qualifies as homestead or farmstead property, will:

- Be required to pay the taxes which would have been due but for the false application, plus interest.
- Be required to pay a penalty equal to 10% of the unpaid taxes.
- If convicted of filing a false application, be guilty of a misdemeanor of the third degree and be sentenced to pay a fine not exceeding \$2,500.

By signing and dating this form, the applicant is affirming or swearing that all information contained in the form is true and correct.

Applications must be filed before March 1st of each year. Please return to:

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For Questions on the Homestead or Farmstead Exclusion, please contact your local tax collector or the \_\_\_\_\_ County Assessment office at \_\_\_\_\_-\_\_\_\_\_-\_\_\_\_\_, office hours \_\_\_\_\_ to \_\_\_\_\_, Monday through Friday.

[Pa.B. Doc. No. 04-1781. Filed for public inspection September 24, 2004, 9:00 a.m.]

## DEPARTMENT OF ENVIRONMENTAL PROTECTION

### Applications, Actions and Special Notices

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#### APPLICATIONS

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#### 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>
PA0056375	Linda and Steve Ziegler 2020 Broad Street Perkasie, PA 18944	Bucks County Hilltown Township	Deep Run	Y
PA0057185	Edward and Nhung Sweeney 1941 Ridley Creek Road Media, PA 19063	Delaware County Upper Providence Township	Ridley Creek	Y

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N?</i>
PA0051861 SEW	Penn Sylvan Realty Corporation 5028 Camp Road Mohnton, PA 19540	Berks County Brecknock Township	UNT Rock Creek 7-J	Y
PA0083488 SEW	Stonebridge Health & Rehab Center 102 Chandra Drive Duncannon, PA 17020	Perry County Penn Township	Tributary to Little Juniata 7-A	Y
PA0088293 SEW	Todd A. Librandi 93 Airport Drive Middletown, PA 17057	Dauphin County Londonderry Township	UNT Conewago Creek 7-G	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>
PA0100510	Greenville Metals Inc. 99 Crestview Drive Extension Transfer, PA 16154	Pymatuning Township Mercer County	Shenango River 20-A	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.*

**PA0056065**, Sewage, **Enserv, Inc. (Immaculata University)**, 1145 King Road, Immaculata, PA 19345-0631. This proposed facility is in East Whiteland Township, **Chester County**.

Description of Proposed Activity: Application for an NPDES permit to discharge treated sewage from a sewage treatment plant serving Immaculata University and Camilla Hall. This is an existing discharge.

The receiving stream, tributary to Valley Creek (Stream Code 01012), is in the State Water Plan Watershed 3F and classified for EV, aquatic life, water supply and recreation. The nearest downstream public water supply intake for Norristown is on the Schuylkill River. The discharge is not expected to affect the downstream public water supply.

The proposed effluent limits for Outfall 001 are based on a design flow of 97,770 gpd.

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		<i>Instantaneous Maximum (mg/l)</i>
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	
CBOD <sub>5</sub>					
(Year 1 to Year 3)	16.0		20		40
(Year 4 to Year 5)	8.0		10		20
Total Suspended Solids					
(Year 1 to Year 3)	16.0		20		40
(Year 4 to Year 5)	8.0		10		20
Ammonia as N					
(5-1 to 10-31)	1.2		1.5		3.0
(11-1 to 4-30)	3.0		3.7		7.4
Dissolved Oxygen			not less than 7.0 mg/l		
pH			within limits of 6.0 to 9.0 standard units at all times		
Fecal Coliform			200 colonies/L as a geometric mean		

In addition to the effluent limits, the permit contains the following major special conditions: responsible operator; abandon STP when public sewer available; remedial measures; no stormwater; obtain property rights; small stream discharge; change of ownership; sludge disposal; certified laboratory; interim/final permit limits; and facility modifications.

**PA0010855**, Industrial Waste, SIC Codes 2351 and 2821, **E. I. Dupont de Nemours & Company, Inc.**, 3401 Grays Ferry Avenue, Philadelphia, PA 19146. This facility is in the City of Philadelphia, **Philadelphia County**.

Description of Activity: R and D facility and manufacturer of paint and coating material, plastic and resins material on a small scale.

The receiving stream, Schuylkill River, is in the State Water Plan watershed 2E and classified for WWF and MF. There is no public water intake downstream of the discharge.

The proposed effluent limits for Monitoring Points MP201 and MP301 are as follows:

<i>Parameters</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Minimum</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Temperature (°F)					110
pH (STD Units)			6.0		9.0

The proposed effluent limits for Outfalls 002—004 (stormwater) are as follows:

<i>Parameters</i>	<i>Concentration (mg/l) Instantaneous Minimum</i>
CBOD <sub>5</sub>	Monitor and Report
COD	Monitor and Report
Oil and Grease	Monitor and Report
pH	Monitor and Report
Total Suspended Solids	Monitor and Report
Total Kjeldahl Nitrogen	Monitor and Report
Total Phosphorus	Monitor and Report
Iron (Dissolved)	Monitor and Report

The EPA waiver is in effect.

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

**PA0055123**, Industrial Waste, SIC Code 4999, **Sunbeam Products, Inc.**, 2381 Executive Center Drive, Boca Raton, FL 33431. This facility is in Washington Township, **Berks County**.

Description of activity: Issuance of an NPDES permit for an existing discharge of treated industrial waste.

The receiving streams, West Branch Perkiomen Creek and a UNT West Branch Perkiomen Creek, are in Watershed 3-E and classified for CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is the PSC Water Company is on the Green Lane Reservoir, approximately 10 miles downstream. The discharge is not expected to affect the water supply.

The proposed Interim effluent limits for Outfall 001 based on a design flow of 0.317 MGD to UNT West Branch Perkiomen Creek are:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total Suspended Solids	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	XXX
Chloroform	0.005	0.010	0.002	0.004	0.005
Methylene Chloride	0.016	0.032	0.006	0.012	0.015
1,1,1-Trichloroethane	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	XXX
Trichloroethylene	0.008	0.016	0.003	0.006	0.007
Tetrachloroethylene	0.002	0.004	0.0007	0.0014	0.0017
1,4-Dioxane	0.008	0.016	0.003	0.006	0.0075

The proposed Final effluent limits for Outfall 001 based on a design flow of 0.317 MGD to UNT West Branch Perkiomen Creek are:

<i>Parameter</i>	<i>Mass (lb/day)</i>		<i>Concentration (mg/l)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
Total Suspended Solids	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	XXX
Chloroform	0.005	0.010	0.002	0.004	0.005

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Methylene Chloride	0.016	0.032	0.006	0.012	0.015
1,1,1-Trichloroethane	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	XXX
Trichloroethylene	0.008	0.016	0.003	0.006	0.007
Tetrachloroethylene	0.002	0.004	0.0007	0.0014	0.0017
1,4-Dioxane	0.008	0.016	0.003	0.006	0.0075

The proposed Final effluent limits for Outfall 001 based on a design flow of 0.317 MGD to West Branch Perkiomen Creek are:

Parameter	Mass (lb/day)		Concentration (mg/l)		
	Average Monthly	Maximum Daily	Average Monthly	Maximum Daily	Instantaneous Maximum
Total Suspended Solids	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	XXX
Chloroform	0.005	0.010	0.002	0.004	0.005
Methylene Chloride	0.182	0.368	0.069	0.138	0.173
1,1,1-Trichloroethane	Monitor and Report	Monitor and Report	Monitor and Report	Monitor and Report	XXX
Trichloroethylene	0.008	0.016	0.003	0.006	0.007
Tetrachloroethylene	0.002	0.004	0.0007	0.0014	0.0017
1,4-Dioxane	0.021	0.042	0.008	0.016	0.020

Individuals may make an appointment to review the Department files on this case by calling the File Review Coordinator at (717) 705-4732.

The EPA waiver is in effect.

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

**PA0098558**, Sewage, **Wilson Fox—Fox Den Acres Campground**, Wilson Fox Road, New Stanton, PA 15672-9801. This application is for renewal of an NPDES permit to discharge treated sewage from the Fox Den Acres Campground STP in Hempfield Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as unnamed tributary of Sewickley Creek, which are classified as a WWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the McKeesport Municipal Water Authority.

*Outfalls 001 and 002: existing discharge, design flow of 0.064 mgd.*

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD <sub>5</sub>	25			50
Suspended Solids	30			60
Ammonia Nitrogen	7.0			14.0
Fecal Coliform				
(5-1 to 9-30)	200/100 ml as a geometric mean			
(10-1 to 4-30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
pH	not less than 6.0 nor greater than 9.0			

Other Conditions: The permittee is only permitted to discharge from Outfalls 001 and 002 from January 1 to April 30 on an annual basis.

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. 0604410**, Sewerage, **Borough of Strausstown**, P. O. Box 269, Strausstown, PA 19559. This proposed facility is in Strausstown Borough and Upper Tulpehocken Township, **Berks County**.

Description of Proposed Action/Activity: Authorization for the construction of a public sanitary sewer collection system and a new 65,000 gpd sewerage treatment plant to serve Strausstown Borough and a small portion of Upper Tulpehocken Township.

**WQM Permit No. 2299409**, Sewerage, **Todd A. Librandi**, 93 Airport Drive, Middletown, PA 17057. This proposed facility is in Londonderry Township, **Dauphin County**.

Description of Proposed Action/Activity: Transfer of permit for STP on 2750 N. Market Street, Elizabethtown, PA 17022.

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

**WQM Permit No. 0270413-A2**, Sewerage, **Moon Township Municipal Authority**, 1700 Beaver Grade Road, Suite 200, Moon Township, PA 15108. This proposed facility is in Moon Township, **Allegheny County**.

Description of Proposed Action/Activity: Application for the modification and operation of a sodium hypochlorite disinfection system to serve the Montour Run STP.

**WQM Permit No. 3204403**, Sewerage, **White Township Municipal Authority**, 950 Indian Springs Road, Indiana, PA 15701-3506. This proposed facility is in White Township, **Indiana County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewer extension interceptor to serve Indian Springs.

**WQM Permit No. 6304408**, Sewerage, **Metz Development Inc.**, 524 Waterdam Road, McMurray, PA 15317. This proposed facility is in North Strabane Township, **Washington County**.

Description of Proposed Action/Activity: Application for the construction and operation of a sewer extension and pump station to serve the Waterdam Farms Phase IIIB.

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

**WQM Permit No. 1004405**, Sewerage, **Meadow Ridge Partners**, 533 Locust Place, Sewickley, PA 15143. This proposed facility is in Forward Township, **Butler County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a sewage treatment facility to serve a proposed residential housing development consisting of 83 lots.

**WQM Permit No. 2585402**, Sewerage Amendment No. 2, **Municipal Authority of the City of Corry**, 100 Center Street, Corry, PA 16407-1993. This proposed facility is in City of Corry, **Erie County**.

Description of Proposed Action/Activity: This project is for the installation of a dechlorination system at the City of Corry wastewater treatment facility.

**WQM Permit No. 1004404**, Sewerage, **David K. and Lori A. Mason**, 760 Sarver Road, Sarver, PA 16055. This proposed facility is in Clinton Township, **Butler County**.

Description of Proposed Action/Activity: A single residence sewage treatment plant.

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#### IV. NPDES Applications for Stormwater Discharges from MS4

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#### V. Applications for NPDES Waiver Stormwater Discharges from MS4

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#### VI. NPDES Individual Permit Applications for Discharges of Stormwater Associated with Construction Activities

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*Southeast Region: Water Management Program Manager; 2 East Main Street, Norristown, PA 19401.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011504063	Goshen Monthly Meeting of the Society of Friends Goshen Friends School 814 North Chester Road West Chester, PA 19380	Chester	East Goshen Township	Ridley Creek HQ-TSF
PAI011504064	Thomas and Michelle O'Donnell Tract 3362 Conestoga Pike Glenmore, PA 19343	Chester	East Nantmeal Township	Black Horse Creek and Beaver Run HQ
PAI011504065	Church of the Good Samaritan Expansion 212 West Lancaster Avenue Paoli, PA 19301-1723	Chester	Willistown Township	Crum Creek HQ-WWF

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

*Monroe County Conservation District: 8050 Running Valley Road, Stroudsburg, PA 18360, (570) 629-3060.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAS10S065-3	Stroudsburg Municipal Authority 410 Stokes Ave. E. Stroudsburg, PA 18301	Monroe	Stroud Township	Brodhead Creek TSF Little Pocono Creek HQ-CWF McMichael Creek HQ-CWF
PAI024503014-1	Arrowhead Sewer Co., Inc. HC 88 Pocono Lake, PA 18347  and Arrowhead Lakes Community Association HC 88, Box 305 Pocono Lake, PA 18347	Monroe	Coolbaugh and Tobyhanna Townships	Trout Creek HQ-CWF

*Northampton County Conservation District: Greystone Building, Gracedale Complex, Nazareth, PA 18064-9211, (610) 746-1971.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024804032	Nic Zawarski and Sons Developers, Inc. 1441 Linden St. Bethlehem, PA 18018-9749	Northampton	Forks Township	Bushkill Creek HQ-CWF
PAI024804033	Nolan Perin, President N. A. P. E. R. Development Corp., Inc. P. O. Box 639 Wind Gap, PA 18091	Northampton	Plainfield Township Wind Gap Borough	Bushkill Creek HQ-CWF

*Susquehanna County Conservation District: County Office Building, 31 Public Avenue, Montrose, PA 18801, (570) 278-4600.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI025804001	Daniel Maisano 103 Indian Springs Rd. Kenneth Square, PA 19348	Susquehanna	Ararat Township	Lackawanna River (East Branch) HQ-CWF

*Lehigh County Conservation District: Lehigh Ag. Ctr., Suite 102, 4184 Dorney Park Road, Allentown, PA 18104, (610) 391-9583.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023904034	Paul Dreyer 112 Elm Rd. Allentown, PA 18104	Lehigh	Upper Macungie Township	Little Lehigh Creek HQ-CWF
PAI023904035	Trexler Town Center, LLC 1 Fox Chase Dr. Watchung, NJ 07069	Lehigh	Lower Macungie Township	Little Lehigh Creek HQ-CWF

*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>
PAI2032104003	The Breeches at Allenberry, LLC P. O. Box 7 Boiling Springs, PA 17007	Cumberland	Monroe Township	Yellow Breeches HQ-CWF



<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI033604003	John King Greoff Road Subdivision 601 Overlys Grove Road New Holland, PA 17557	Lancaster	Eden Township	West Branch Octoraro Creek HQ-CWF
PAI033604009	Charles & Mull Builders 2493 Gambler Road Washington Borough, PA 17582	Lancaster	Conestoga Township	Grub Hollow HQ-WWF
PAI030603011	Forino Co., LLP Governor Pointe Subdivision 555 Mountain Home Road Sinking Spring, PA 19608	Berks	Cumru township	Wyomissing Creek HQ-CWF

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

*Centre Conservation District: 414 Holmes Ave., Suite 4, Bellefonte, PA 16823, (814) 355-6817.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041404013	Sam Hawbaker Park Forest Enterprises 1000 W. Aaron Dr. State College, PA 16803	Centre	Patton Township	Buffalo Run HQ-CWF

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

PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4

**PUBLIC WATER SUPPLY (PWS) PERMIT**

Under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17), the following parties have applied for a PWS permit to construct or substantially modify a public water system.

Persons wishing to comment on a permit application are invited to submit a statement to the office listed before the application within 30 days of this public notice. Comments received within the 30-day comment period will be considered in the formulation of the final determinations regarding the application. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of Environmental Protection (Department) of the exact basis of a comment and the relevant facts upon which it is based. A public hearing may be held after consideration of comments received during the 30-day public comment period.

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

The permit application and any related documents are on file at the office listed before the application and are available for public review. Arrangements for inspection and copying information should be made with the office listed before the application.

Persons with a disability who require an auxiliary aid, service or other accommodations to participate during the 30-day public comment period should contact the office

listed before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

**SAFE DRINKING WATER**

**Applications Received under the Pennsylvania Safe Drinking Water Act**

*Southeast Region: Water Supply Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Permit No. 1504508, Public Water Supply.**

Applicant	<b>Pennsylvania American Water Company</b>
Township	East Coventry
County	<b>Chester</b>
Responsible Official	William C. Kelvington
Type of Facility	PWS
Consulting Engineer	Gerald A. DeBalko Pennsylvania American Water Company
Application Received Date	September 7, 2004
Description of Action	Construction of a booster station.

**Permit No. 0904507, Public Water Supply.**

Applicant	<b>Forest Park Water—North Penn and North Wales Water Authorities</b>
Borough	Chalfont
County	<b>Bucks</b>
Responsible Official	Jeff F. Pifer

Type of Facility PWS  
 Consulting Engineer Gannett Fleming, Inc.  
 Application Received September 8, 2004  
 Date  
 Description of Action Plant expansion from 30 to 43 mgd. Expansion includes: upgraded and new raw water pumps, upgraded ozone equipment, membrane filters to replace and expand filter capacity, additional GAC contractors, replacement of high service and GAC transfer pumps, chemical systems upgrades, upgraded wastewater clarification facilities, new centrifuge and new garage facility.

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

**Permit No. 0203501-A1**, Public Water Supply.

Applicant **Municipal Authority of the Borough of Oakmont**  
 721 Allegheny Avenue  
 P. O. Box 73  
 Oakmont, PA 15139

Township or Borough Oakmont Borough  
 Responsible Official Jack Dunlap, General Manager  
 Municipal Authority of the Borough of Oakmont  
 721 Allegheny Avenue  
 P. O. Box 73  
 Oakmont, PA 15139

Type of Facility Water Treatment Plant  
 Consulting Engineer NIRA Consulting Engineers, Inc.  
 950 Fifth Avenue  
 Coraopolis, PA 15108

Application Received August 19, 2004  
 Date  
 Description of Action Addition of sodium hydroxide at the Hulton Water Treatment Plant.

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

**Application No. 3704501**, Public Water Supply.

Applicant **New Wilmington Municipal Waterworks**

Township or Borough Wilmington Township,  
**Lawrence County**

Responsible Official Fred Garrett, Superintendent

Type of Facility PWS

Application Received September 7, 2004  
 Date

Description of Action Construction of two new water storage reservoirs that will replace an existing, aging reservoir. These new reservoirs will strengthen the system pressure and provide additional water storage for fire protection.

## WATER ALLOCATIONS

### Applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the Acquisition of Rights to Divert Waters of this Commonwealth

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

#### Resubmission

**WA56-1003**, Water Allocations, **Cambria Somerset Authority**, 224 Walnut Street, Johnstown, PA 15901, **Cambria and Somerset Counties**. The applicant is requesting to withdraw 71.0 mgd peak day from the Quemahoning Reservoir, 10 mgd peak day from the Hinckston Run Reservoir, 10 mgd peak day from the Wilmore Reservoir, 26 mgd peak day from the South Fork Dam Intake and 27 mgd peak day from the Border Dam Intake. All combined sources will not withdraw more than 71.0 mgd as a daily average.

**WA56-1002**, Water Allocations, **Somerset County General Authority, Somerset County**. The applicant is requesting a subsidiary water allocation permit to purchase 4 million gallons per day for an average day from the Cambria Somerset Authority.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 1

### Acknowledgment of Notices of Intent to Remediate Submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as

a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

For further information concerning the content of a Notice of Intent to Remediate, contact the environmental cleanup program manager in the Department regional office before which the notice appears. If information concerning this acknowledgment is required in an alternative form, contact the community relations coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following Notices of Intent to Remediate:

*Southeast Region: Environmental Cleanup Program Manager, 2 East Main Street, Norristown, PA 19401.*

**Schmidt's Brewery**, City of Philadelphia, **Philadelphia County**. Rodd Bender, Manko, Gold, Katcher & Fox, LLP, 401 City Ave., Suite 500, Bala Cynwyd, PA 19004 on behalf of Tina Roberts, Northern Liberties Dev. Assoc., LP, 969 North 2nd St., Philadelphia, PA 19123 has submitted a Notice of Intent to Remediate. Soil and/or groundwater at the site have been found to be impacted by petroleum hydrocarbons, PCBs, PAHs, metals and other organics from historical industrial activities as a former brewery. The proposed future use of the property will be a combination of residential and nonresidential purposes.

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

**West Elizabeth Lumber Property**, West Elizabeth, **Allegheny County**. Timothy S. Evans, American Geosciences, Inc., 3925 Reed Blvd., Suite 400, Murrysville, PA 15668-1848 (on behalf of Michael Hoag, National Industrial Lumber Company, 489 Rosemont Road, North Jackson, OH 44451) has submitted a Notice of Intent to Remediate soil contaminated with inorganics. The applicant proposes to remediate the site to meet the Site-Specific Standards. A summary of the Notice of Intent to Remediate was reported to have been published in the *Pittsburgh Post-Gazette* on August 19, 2004.

**City of Pittsburgh, 3rd Maintenance Division Schenley Park**, City of Pittsburgh **Allegheny County**. Christopher J. Vandegrift, P.E., Weavertown Group, 201 S. Johnson Road, Houston, PA 15342 (on behalf of Bruce Padolf, City of Pittsburgh, Department of Engineering and Construction, 414 Grant Street, Room 301, City County Building, Pittsburgh, PA 15219) has submitted a Notice of Intent to Remediate soil contaminated with contaminants from leaded gasoline. The applicant proposes to remediate the site to meet the Statewide Health Standard. A summary of the Notice of Intent to Remediate was reported to have been published in the *Pittsburgh Post Gazette* on August 18, 2004.

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

**Debbie Shaulis Heating Oil Spill Cleanup**, Lackawannock Township, **Mercer County**. Scott Whipkey, RAR Engineering Group, 1135 Butler Ave., New Castle, PA 16101 on behalf of Mike Lowery, Owner, 1145 Bend Rd., Mercer, PA 161347 has submitted a Notice of Intent to Remediate. Site has been found to be impacted by heating oil from a leak from a heating oil AST used for space heating at the Debbie Shaulis residence. Heating oil has impacted surface soils at the subject site. An attainment demonstration will be provided for a State-wide Health Standard.

#### INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSES

**Applications received or withdrawn under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the act of July 13, 1988 (P. L. 525, No. 93) (35 P. S. §§ 6019.1—6019.6) and regulations to transport infectious and chemotherapeutic waste.**

*Central Office: Bureau of Land Recycling and Waste Management, Division of Hazardous Waste Management, P. O. Box 8471, Harrisburg, PA 17105-8471.*

#### Renewal Applications Received

**Environmental Transport Group, Inc.**, P. O. Box 296, Flanders, NJ 07836. License No. PA-HC 0023. Received August 24, 2004.

#### HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

**Applications received under the Solid Waste Management Act and regulations to operate a hazardous waste treatment, storage or disposal facility.**

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.*

**PAD987266715. Safety Kleen Systems, Inc.**, Cluster 2 Bldg. 3, 5400 Legacy Dr, Plano, TX 75024, Falls Township, **Bucks County**. This application was received for a 1-year permit renewal for the Safety Kleen Sys Inc. facility at 77 Towpath Road, Fairless Hills, PA. The application was received by the Southeast Regional Office on September 9, 2004.

#### 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 (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.**

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.*

**Permit Application No. 400459. Merck & Co Inc.**, P. O. Box 100, Whitehouse Station, NJ 08889-0100, Upper Gwynedd Township, **Montgomery County**. The application was received for a 10-year permit renewal for the Merck & Co, Inc. incinerator in West Point, PA. The application was received by the Southeast Regional Office on September 9, 2004.

**Permit Application No. 101188. Delaware County Transfer Station No. 1**, 2nd and Orange Sts., Government Center Building, Media, PA 19063, Chester Town-

ship, **Delaware County**. The application was received for a 10-year permit renewal for the previous facility in Chester Township. The application was received in the Southeast Regional Office on September 9, 2004.

**Permit Application No. 101103. Delaware County Transfer Station No. 3**, 2nd and Orange Sts, Government Center Building, Media, PA 19063, Marple Township, **Delaware County**. This application was received for a 10-year permit renewal for the previous facility in Marple Township. The application was received in the Southeast Regional Office on September 9, 2004.

*Northeast Region: Regional Solid Waste Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790.*

**Permit Application No. 101628. Natural Soil Products**, P. O. Box 283, Tremont, PA 17981-0283. A Permit Reissuance application for the transfer of owner's shares, which is the result of Tully Environmental, Inc. purchasing all of the outstanding shares owned by Natural Soil Products' former partner, Ronald L. Lickman. This municipal waste composting facility is in Frailey Township, **Schuylkill County**. The application was received by the regional office on August 6, 2004; as of September 7, 2004, it was found to be administratively complete.

#### HAZARDOUS WASTE PERMIT APPLICATION

**Application received under the Solid Waste Management 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. PAD000738823, Safety-Kleen, Inc.**, 10 Eleanor Drive, New Kingstown, PA 17072, Silver Springs Township, **Cumberland County**. The application is for a Part B permit to operate a hazardous waste storage facility at the previous address under the Resource Conservation and Recovery Act. The permit was determined to be administratively complete on September 10, 2004.

Persons interested in obtaining more information about the 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.

## AIR QUALITY

### PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

#### NEW SOURCES AND MODIFICATIONS

The Department of Environmental Protection (Department) has developed an "integrated" plan approval, State operating permit and Title V operating permit program. This integrated approach is designed to make the permitting process more efficient for the Department, the regulated community and the public. This approach allows the owner or operator of a facility to complete and submit all the permitting documents relevant to its application one time, affords an opportunity for public input and provides for sequential issuance of the necessary permits.

The Department has received applications for plan approvals and/or operating permits from the following facilities.

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in

this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

Persons wishing to receive a copy of a proposed plan approval or operating permit must indicate their interest to the Department regional office within 30 days of the date of this notice and must file protests or comments on a proposed plan approval or operating permit within 30 days of the Department providing a copy of the proposed document to that person or within 30 days of its publication in the *Pennsylvania Bulletin*, whichever comes first. Interested persons may also request that a hearing be held concerning the proposed plan approval and operating permit. Comments or protests filed with the Department regional offices must include a concise statement of the objections to the issuance of the Plan approval or operating permit and relevant facts which serve as the basis for the objections. If the Department schedules a hearing, a notice will be published in the *Pennsylvania Bulletin* at least 30 days prior the date of the hearing.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodation to participate should contact the regional office identified before the application. TDD users should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Final plan approvals and operating permits will contain terms and conditions to ensure that the source is constructed and operating in compliance with applicable requirements in 25 Pa. Code Chapters 121-143, the Federal Clean Air Act (act) and regulations adopted under the act.

### PLAN APPROVALS

**Plan Approval Applications Received under the Air Pollution Control Act (35 P. S. §§ 4001-4015) and 25 Pa. Code Chapter 127, Subchapter B that may have special public interest. These applications are in review and no decision on disposition has been reached.**

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

**54-317-004: Keystone Potato Products LLC** (P. O. Box 27, Hegins, PA 17938) for construction of a potato processing operation (dehydration) and associated air cleaning devices at their facility in Frailey Township, **Schuylkill County**.

**39-309-061: Lafarge North America, Inc.** (5160 Main Street, Whitehall, PA 18052) for replacement of an air cleaning device on the H5/H6 homogenizing silos at their facility in Whitehall Township, **Lehigh County**.

**48-318-136: Lifetime Doors, Inc.** (30700 Northwestern Highway, Farmington Hills, MI 48334) for construction of a paint spray booth and associated air cleaning device at their facility at 4111 Kesslerville Road, Forks Township, **Northampton County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.*

**36-03005A: Intelligencer Printing Co., Inc.** (330 Eden Road, P. O. Box 1768, Lancaster, PA 17608) for replacement of a printing press controlled by a thermal oxidizer in Manheim Township, **Lancaster County**.

**36-05027E: RR Donnelley and Sons Co.** (216 Greenfield Road, Lancaster, PA 17601-5885) for installation of two chrome plating tanks at their Lancaster East facility in Lancaster City, **Lancaster County**. This application is subject to 40 CFR Part 63, Maximum Achievable Control Technology, Subpart N—National Emission Standards for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

**44-05014A: Glenn O. Hawbaker, Inc.** (711 East College Avenue, Bellefonte, PA 16823) for addition of a wet processing section to the existing crushing plant at their Hostetler Quarry in Armagh Township, **Mifflin County**. The new installations are subject to 40 CFR Part 60, Subpart OOO—Standards of Performance for Nonmetallic Mineral Processing Plants.

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

**10-148B: Ervin Industries, Inc.** (681 East Butler Road, Butler, PA 16002) for replacement of a bag house to collect nuisance dust from drying and screening steel shot in Summit Township, **Butler County**.

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**Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Thomas McGinley, New Source Review Chief, (484) 250-5920.*

**46-0167: Montgomery County Geriatric and Rehabilitation Center** (1600 Black Rock Road, Royersford, PA 19468) for modification of two existing boilers rated at 14.3 mmBtu/hr and 14.3 mmBtu/hr (boilers) at their Montgomery County Geriatric and Rehabilitation Center long-term care nursing facility at 1600 Black Rock Road, Upper Providence Township, **Montgomery County**. The modification of the boilers may result in the emissions of: 6.56 tons per year of NO<sub>x</sub>; 5.08 tons per year of CO; 4.88 tons per year of SO<sub>x</sub>; 1.46 tons per year of PM; 2.24 tons per year of VOCs; and 2.24 tons per year of HAPs. The Plan Approval and Operating Permit will contain additional recordkeeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

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

**39-302-179: Nestle Purina Petcare Co.** (2050 Pope Road, Allentown, PA 18104-9308) for construction of a 75.6 mmBtu/hr natural gas and no. 2 fuel oil fired boiler at their manufacturing facility in South Whitehall Township, **Lehigh County**. This facility is not a Title V facility. The new boiler will replace the existing Babcock & Wilcox boiler, which will be removed from the facility. The boiler will utilize low NO<sub>x</sub> burners and flue gas recirculation to reduce NO<sub>x</sub> emissions to a maximum of 20 tons per year. Potential emissions of CO and SO<sub>2</sub> will be 27.81 tons per year and 43.2 tons per year, respectively. The boiler in the operation is subject to Subpart Dc of the Federal Standards of Performance for New Stationary Sources for Small Industrial-Commercial-Institutional Steam Generating Units, 40 CFR 60.40c—60.48c. The plan approval will include all appropriate monitoring,

recordkeeping and reporting requirements designed to keep the boiler 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.*

**06-05002E: Lehigh Cement Co.** (537 Evansville Road, Fleetwood, PA 19522) for installation of a mid-kiln air injection system on Portland cement kiln no. 1 at their facility in Maiden Creek Township, **Berks County**. The system is designed to reduce the emissions of NO<sub>x</sub>, CO and SO<sub>2</sub> from the kiln. The kiln is subject to 40 CFR Part 63, Subpart LLL, National Emission Standards for Hazardous Air Pollutants from Portland Cement Facilities. The plan approval will include monitoring, recordkeeping, work practices and reporting requirements designed to keep the source operating within all applicable air quality requirements. The facility is presently covered by Title V Operating Permit 06-05002. The plan approval will be incorporated into this permit in accordance with 25 Pa. Code § 127.450.

**36-05005: Viking Cabinetry Group, LLC** (215 Diller Avenue, New Holland, PA 17557) for installation of four paint booths at their facility in New Holland Borough, **Lancaster County**. The paint booths are expected to emit an additional 10 tons per year of VOCs. Total facility emissions will be below the currently permitted 100 tons per year of VOCs. The plan approval will include monitoring, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements.

**36-05135A: StyleCraft Corp.** (400 Broad Street, Terre Hill, PA 17581) for installation of four spray booths controlled by dry filters in Terre Hill Borough, **Lancaster County**. The plan approval will include monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Richard Maxwell, New Source Review Chief, (570) 327-3637.*

**49-302-057A: International Paper** (1008 Locust Gap Highway, Mt. Carmel, PA 17851) for modification of two natural gas-fired boilers in Mt. Carmel Township, **Northumberland County**.

The two boilers to be modified are a 20.922 million Btu per hour unit and a 10.5 million Btu per hour unit. The proposed modification is the use of no. 2 fuel oil to fire the boilers in addition to the natural gas now being used as fuel. The use of no. 2 fuel oil in place of natural gas could theoretically increase the SO<sub>x</sub>, NO<sub>x</sub> and PM emissions from the boilers by as much as 27.94, 2.74 and .41 tons per year, respectively, but the actual increase in these emissions is likely to be less than these values.

The Department's review of the information submitted by International Paper indicates that the modified boilers will comply with all air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the PM emission requirement of 25 Pa. Code § 123.11, the SO<sub>x</sub> emission requirements of 25 Pa. Code § 123.22, the visible air contaminant emission requirements of 25 Pa. Code § 123.41 and, in the case of the 20.922 million Btu per hour unit only, the best available technology requirement of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue plan approval for the modification of the respective boilers.

The following is a summary of the conditions the Department proposes to place in the plan approval to be issued to ensure compliance with all applicable regulatory requirements:

1. The boilers shall be fired on natural gas or no. 2 fuel oil only.

2. The sulfur content of the no. 2 fuel oil used in the 20.922 million Btu per hour boiler shall be no greater than .3% by weight and the sulfur content of the no. 2 fuel oil used in 10.5 million Btu per hour boiler shall be no greater than .5% by weight. Additionally, none of the no. 2 fuel oil used in either boiler shall have any recycled/reprocessed oil, waste oil or other waste materials added to it.

3. No more than 200,000 gallons of no. 2 fuel oil shall be used in the 20.922 million Btu per hour boiler in any 12 consecutive month period. Records shall be maintained of the amount of no. 2 fuel oil used in this boiler each month. Records shall be retained for at least 5 years and shall be shown to the Department upon request.

4. The 20.922 million Btu per hour boiler shall not emit more than 7.47 tons of CO, 9.54 tons of NO<sub>x</sub>, 4.37 tons of SO<sub>x</sub>, .49 ton of VOCs and .77 ton of PM in any 12 consecutive month period.

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

**62-017J: United Refining Co.** (15 Bradley Street Warren, PA 16365) for their refinery at Bradley and Dobson Streets in the City of Warren, **Warren County**. The facility was issued Title V Operating Permit 62-00017 on December 26, 2000, which was revised on March 21, 2001, and again on December 18, 2001. 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 62-0017J is for the modification of the CO emission limit for the no. 4 boiler at the refinery. The previous emission limits were based on AP-42 emission factors and the new emissions are based on multiple emission tests performed by the facility. The plan approval does not trigger NSR or PSD based on the emission increases. The Plan Approval contains the revised CO emission limits (0.27 lb/mmBtu, 37.8 lb/hr and 165.6 tpy) and the method of demonstrating compliance with these limits. The Plan Approval will also include conditions to ensure compliance with the existing Title V Operating Permit as well as all applicable air quality requirements. This plan approval is valid only if the remodeling of the coker project demonstrates that no significance impact will occur from the change in the no. 4 boiler CO permit limit that will cause deterioration to the ambient atmosphere, or if the modifications proposed in the Coker Project, are not constructed or implemented.

**33-155B: Trail King Industries** (147 Industrial Park Road, Brookville, PA 15825-9798) for installation of a Grit Blasting System with 14,000 cfm Torrit Downflow air filtration system in Brookville Borough, **Jefferson County**. This is a State-only facility. The public notice is required for sources required to obtain a Plan Approval in accordance with 25 Pa. Code § 127.44. 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. The source shall comply with the following conditions, which will satisfy the requirements of 25 Pa. Code § 127.12b (per-

taining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source:

- Source 106 (Grit Blast Booth "A" with media recovery).
- The source shall comply with 25 Pa. Code §§ 123.1, 123.31 and 123.41 for fugitive matter, odor and visible emissions.
- PM emissions shall not exceed 0.02 grain per dry standard cubic foot.
- Stack test for PM compliance.
- The permittee shall maintain a record of all preventative maintenance inspections of the control device. These records shall, at a minimum, contain the dates of the inspections, any problems or defects, the actions taken to correct the problem or defects and any routine maintenance performed.
- The permittee shall perform a daily operational inspection of the control device. The operational inspection shall include, at a minimum, recording the pressure drop across the control device.
- The permittee shall operate the control device at all times that the source is operation.
- The permittee shall maintain a magnehelic gauge to measure the pressure drop across the control device. The pressure drop range shall be determined within 30 days of startup and reported to the Department within 45 days of startup.
- The permittee shall maintain and operate the source and control device in accordance with the manufacturer's specifications and in accordance with good air pollution control practices.

*Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.*

**AMS 03081 and 03082: Purolite Co.** (3620 G Street, Philadelphia, PA 19134) for installation of a 4,000-gallon acid diluter vessel and for modifying permit conditions for another 4,000-gallon acid diluter vessel in the City of Philadelphia, **Philadelphia County**. A caustic scrubber will control emissions from these vessels. The plan approval will contain operating and recordkeeping requirements to ensure operation within all applicable requirements.

## OPERATING PERMITS

### Intent to Issue Title V Operating Permits under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.*

**36-05117: Dart Container Corp. of PA** (110 Pitney Road, Lancaster, PA 17602) for operation of an expandable polystyrene cup manufacturing facility in East Lampeter Township, **Lancaster County**. The facility is a major source that primarily emits VOCs. The facility's VOC emissions are reduced to the Lowest Achievable Emission Rate, through the use of two 800 horsepower boilers. The two boilers are also subject to 40 CFR Part 60, Subpart Dc—Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units. The Title V operating permit will contain appropriate monitoring, recordkeeping and reporting requirements

designed to keep the facility operating within all applicable air quality requirements.

**67-05018: Yorktowne, Inc.** (P. O. Box 231, Red Lion, PA 17356) for operation of the high quality wood custom kitchen cabinet manufacturing facility in Red Lion Borough, **York County**. The operations primarily emit VOCs and HAPs. The facility is subject to 40 CFR Part 63, Subpart JJ—National Emission Standards for Wood Furniture Manufacturing Operations. This action is a renewal of the Title V Operating Permit issued in April 2000.

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

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.*

**07-05037: Cove Shoe Co.** (107 Highland Street, Martinsburg, PA 16662) for a Synthetic Minor Operating Permit at the company's Martinsburg men's footwear production facility in Martinsburg Borough, **Blair County**. The shoe manufacturing operation is the facility's major source of emissions emitting primarily VOCs. The facility emissions of VOCs shall be limited to less than 50 tons per year. Additionally, HAP emissions will be limited to less than 10 tons of any one HAP and 25 tons of combined HAPs. The Synthetic Minor operating permit will contain restrictions, work practice standards, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

**36-03138: Advantage ID Technologies** (P. O. Box 10155, Lancaster, PA 17605-0155) for operation of its security printing facility in East Lampeter Township, **Lancaster County**. This printing facility is non-Title V. The emissions of the facility are estimated to be 5 tons per year of VOCs and 3 tons per year of HAPs. Standard monitoring, recordkeeping and operating requirements are included to keep the facility operating within all applicable requirements.

**67-03092: Ohio Blenders, Inc.** (2404 North Summit Street, Toledo, OH 43611) for operation of their feed processing facility at 260 North Beaver Street, City of York, **York County**. The facility has a potential to emit 51 tons per year of PM10. The State-only operating permit will include monitoring, recordkeeping, reporting requirements, emission restrictions and work practice standards designed to keep the facility operating within all applicable air quality requirements.

**COAL AND NONCOAL MINING ACTIVITY APPLICATIONS**

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous

Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the district mining office indicated before an application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

*Coal Applications Received*

*Effluent Limits*—The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
Iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
Manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
Suspended solids	35 mg/l	70 mg/l	90 mg/l

<i>Parameter</i>	<i>30-Day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
pH*		greater than 6.0; less than 9.0	
Alkalinity greater than acidity*			

\*The parameter is applicable at all times.

A settleable solids instantaneous maximum limit of 0.5 ml/l applied to: (1) surface runoff (resulting from a precipitation event of less than or equal to a 10-year 24-hour event) from active mining areas, active areas disturbed by coal refuse disposal activities and mined areas backfilled and revegetated; and (2) drainage (resulting from a precipitation event of less than or equal to a 1-year 24-hour event) from coal refuse disposal piles.

*Greensburg District Mining Office: Armbrust Building, R. R. 2 Box 603-C, Greensburg, PA 15601-0982, (724) 925-5500.*

**65990101 and NPDES Permit No. PA0202428. Gary Gioia Coal Company** (319 Karen Drive, Elizabeth, PA 15037). Revision application to add 4.5 acres to an existing bituminous surface mine in South Huntingdon Township, **Westmoreland County**, affecting 14 acres. Receiving stream: unnamed tributary to Youghiogheny River (WWF). There is no potable water supply intake within 10 miles from the point of discharge. Revision application received September 3, 2004.

**65880106 and NPDES Permit No. PA0591220. Millwood Development, Inc.** (1293 Route 217, Derry, PA 15627). Renewal application for continued operation and reclamation of an existing bituminous surface mine in Loyahanna and Salem Townships, **Westmoreland County**, affecting 487.7 acres. Receiving streams: unnamed tributaries to Getty Run and Getty Run (WWF). There is no potable water supply intake within 10 miles from the point of discharge. Renewal application received September 7, 2004.

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

**32030102, Alverda Enterprises, Inc.**, P. O. Box 87, Alverda, PA 15710, surface mining permit incidental boundary correction in West Wheatfield Township, **Indiana County**, affecting 6.0 acres. Receiving streams: unnamed tributary to West Branch of Richards Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received August 12, 2004.

**56793091 and NPDES Permit No. PA0119296. Hardrock Coal Company**, 275 Saddle Ridge Road, Berlin, PA 15530, surface mining permit renewal in Brothersvalley Township, **Somerset County**, affecting 555.7 acres. Receiving streams: unnamed tributaries to and Tubs Run and unnamed tributary to Millers Run (CWF). There are no potable water supply intakes within 10 miles downstream. Application received August 28, 2004.

*California District Mining Office: 2 Technology Drive, Coal Center, PA 15423, (724) 769-1100.*

**63841302. NPDES Permit No. PA0090689, Maple Creek Mining, Inc.** (981 Route 917, Bentleyville, PA 15314), to revise the permit for the Maple Creek Mine in Nottingham Township, **Washington County** to perform stream restoration of approximately 210 feet to unnamed tributary to Mingo Creek over the 0 west long wall panel. No additional discharges. Application received August 23, 2004.

*Knox District Mining Office: White Memorial Building, P. O. Box 669, Knox, PA 16232-0669, (814) 797-1191.*

**24020104 and NPDES Permit No. PA0242268. Hepburnia Coal Company** (P. O. Box I, Grampian, PA 16838). Revision to an existing bituminous surface strip operation in Fox Township, **Elk County**, affecting 260.0 acres. Receiving streams: unnamed tributary to Little Toby Creek (CWF). There are no potable surface water supply intakes within 10 miles downstream. Revision to add auger mining. Application received September 8, 2004.

**33990111 and NPDES Permit No. PA0241571. P. and N. Coal Co., Inc.** (P. O. Box 332, Punxsutawney, PA 15767). Renewal of an existing bituminous surface strip operation in Young and McCalmont Townships, **Jefferson County**, affecting 171.5 acres. Receiving streams: unnamed tributaries to Little Elk Run and unnamed tributaries to Elk Run (CWF). There are no potable surface water supply intakes within 10 miles downstream. Application received September 10, 2004.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**17030901 and NPDES Permit No. PA0243523. RAMM Coal, Inc.** (1092 Spruce Hill Road, Rockton, PA 15856), transfer of an existing incidental mineral extraction permit from RAMM Coal Company in Brady Township, **Clearfield County** affecting 3.7 acres. Receiving streams: Laborde Branch and an unnamed tributary to Luthersburg Branch. Application received August 20, 2004.

**17020110 and NPDES Permit No. PA0243311. RAMM Coal, Inc.** (1092 Spruce Hill Road, Rockton, PA 15856), transfer of an existing bituminous surface mine permit from RAMM Coal Company in Sandy and Brady Townships, **Clearfield County** affecting 143.6 acres. Receiving streams: Laborde Branch. Application received August 20, 2004.

*Noncoal Permit Applications Received*

*Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931-4119, (814) 472-1900.*

*Noncoal Applications Received*

**32040301 and NPDES Permit No. PA0249611. Penn Run Quarry**, 3898 Rt. 553 Highway, Penn Run, PA 15765, commencement, operation and restoration of a bituminous surface mine in Cherryhill and Pine Townships, **Indiana County**, affecting 97.8 acres. Receiving streams: unnamed tributaries to Yellow Creek to Two Lick Creek to Blacklick Creek (CWF and TSF). The first downstream potable water supply intake from the point of discharge is the Central Indiana County Water Authority Intake on Yellow Creek. Application received September 7, 2004.

*Knox District Mining Office: P. O. Box 669, Knox, PA 16232, (814) 797-1191.*

**16940308 and NPDES Permit No. PA0226939. County Environmental Services, Inc.** (34 Walley Run Drive, Leeper, PA 16233). Revision to an existing noncoal



surface mine operation in Farmington Township, **Clarion County** affecting 209.2 acres. Receiving streams: unnamed tributary to Little Coon Run, unnamed tributary to Licking Creek and unnamed tributary to Toby Creek (CWF). There are no potable surface water supply intakes within 10 miles downstream. Revision to the depth of mining to remove additional underclay from phase 1 of the mining area and to revise the post mining reclamation plan to terrace instead of approximate original contour. Application received August 31, 2004.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**59950301 and NPDES Permit No. PA0220086. Jill D. Cross** (P. O. Box 240, Mainesburg, PA 16932), transfer of an existing large industrial minerals permit from Clifford Cross, Jr. in Sullivan Township, **Tioga County** affecting 30 acres. Receiving streams: unnamed tributary to Corey Creek. Application received August 6, 2004.

**59910301 and NPDES Permit No. PA0206580. Jill D. Cross** (P. O. Box 240, Mainesburg, PA 16932), transfer of an existing large industrial minerals permit from Clifford Cross, Jr. in Delmar Township, **Tioga County** affecting 15.45 acres. Receiving streams: unnamed stream, tributary to Marsh Creek. Application received August 6, 2004.

**59880301 and NPDES Permit No. PA0116327. Jill D. Cross** (P. O. Box 240, Mainesburg, PA 16932), transfer of an existing large industrial minerals permit from Clifford Cross, Jr. in Clymer Township, **Tioga County** affecting 4.41 acres. Receiving streams: Mill Creek, tributary to Cowanesque River. Application received August 6, 2004.

**59880302 and NPDES Permit No. PA0116335. Jill D. Cross** (P. O. Box 240, Mainesburg, PA 16932), transfer of an existing large industrial minerals permit from Clifford Cross, Jr. in Richmond Township, **Tioga County** affecting 12.4 acres. Receiving streams: unnamed tributary to Corey Creek. Application received August 6, 2004.

**4977SM6. Jill D. Cross** (P. O. Box 240, Mainesburg, PA 16932), transfer of an existing large industrial mineral permit from Clifford Cross, Jr. in Clymer Township, **Tioga County** affecting 6.35 acres. Receiving streams: Baker Branch of Asaph Run. Application received August 6, 2004.

*Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**09920302C2 and NPDES Permit No. PA0595497. Delaware Valley Landscape Stone, Inc.** (P. O. Box 778, New Hope, PA 18938), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Middletown Township, **Bucks County**, receiving stream: Neshaminy Creek (WWF). The first downstream potable water supply is the Philadelphia Water Baxter Plant. Application received September 8, 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

*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

**E15-725. Department of Transportation, District 6-0**, 7000 Geerdes Boulevard, King of Prussia, PA 19406, Newlin Township, **Chester County**, ACOE Philadelphia District.

To remove the existing Brandywine Creek Road (SR 3049, Section 47M) bridge, a 20-foot long, 14-foot wide by 5-foot high structure, and to replace with a 28-foot long, 22-foot wide by 4-foot 7-inch high bridge across an unnamed tributary to the West Branch of the Brandywine Creek (CWF-MF).

The site is approximately 400 feet northwest of the intersection of Brandywine Creek Road and Green Valley Road (Coatesville, PA USGS Quadrangle N: 10.8 inches; W: 0.9 inch).

**E09-879. Department of Transportation, Engineering District 6**, 7000 Geerdes Boulevard, King of Prussia, PA 19406, Warwick Township, **Bucks County**, ACOE Philadelphia District.

To remove the existing stone masonry abutments associated with the previously demolished superstructure and to construct and maintain, in its place, a single span steel truss pedestrian bridge and path across Neshaminy Creek (TSF-MF). The proposed pedestrian bridge will have a width of 10 feet, a clear span of 189.0 feet and a minimum underclearance of approximately 15.0 feet. This work also includes placement and maintenance of associated riprap protection at the abutments and temporary

sand bag cofferdam. The site is just southwest of the intersection of Dark Hollow Road (SR 2095) and Macclesfield Road (Buckingham, PA USGS Quadrangle N: 1.4 inches; W: 9.4 inches).

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

**E06-594. Exeter Township**, 4975 DeMoss Road, Reading, PA 19601 in Exeter Township, **Berks County**, ACOE Philadelphia District.

Exeter Township proposes to remove a collapsed stone arch culvert and to construct and maintain a 4-foot by 9-foot box culvert over tributary B to Antietam Creek (CWF) (Birdsboro, PA Quadrangle N: 17.7 inches; W: 16.1 inches) in Exeter Township, Berks County.

**E22-482. City of Harrisburg**, 123 Walnut Street, Harrisburg, PA 17101 in Susquehanna Township, **Dauphin County**, ACOE Baltimore District.

The City of Harrisburg proposes to restore and maintain approximately 800 linear feet of stream channel and associated floodplain of a UNT to Paxton Creek (WWF), on the Harrisburg East, PA Quadrangle (Latitude—40°18'27" N, Longitude—76°52'13" W) in Susquehanna Township, Dauphin County.

**E36-785. Caernarvon Township**, 2147 Main Street, Narvon, PA 17555 in Caernarvon Township, **Lancaster County**, ACOE Philadelphia District.

Caernarvon Township proposes to construct and maintain a twin box culvert with dimensions of 6 feet by 15 feet and 6.5 feet by 15 feet on Red School Road over the Conestoga River (WWF) (Morgantown, PA Quadrangle N: 2.5 inches; W: 5.5 inches) in Caernarvon Township, Lancaster County.

*Northcentral Region: Water Management Program Manager, 208 West Third Street, Williamsport, PA 17701, (570) 327-3636.*

**E14-467. Haubert Homes Incorporated**, 15 Central Boulevard, Camp Hill, PA 17011. Coventry Place Subdivision in Patton Township, **Centre County**, ACOE Baltimore District. The project is southeast of the Clearview Avenue and North Allen Street intersection with a second access at the end of Alder Street (Julian, PA Quadrangle N: 11.51 inches; W: 2.04 inches).

The purpose of the project is to construct 38 single family homes with associated streets, sidewalks and utilities. The project area is 13.23 acres and includes permanent fill in 0.09 acre of PEM wetlands for the construction of two stormwater detentions basins. Wetlands will be replaced at a 1.1 ratio.

**E19-245. Columbia Montour Council Boy Scout of America**, 5 Audobon Court, Bloomsburg, PA 17815. Fishing Creek stream project at the Boy Scout Camp in Sugarloaf Township, **Columbia County**, ACOE Baltimore District (Stillwater, PA Quadrangle N: 20 inches; W: 16 inches).

The applicant is proposing to restore 1.25 miles of Fishing Creek (TSF) by means natural channel design techniques. The restoration project intends to reduce the slope of the existing embankments, incorporate in-stream rock and log structures to direct high velocities away from the stream banks, narrow the bank full channel to improve sediment transport and improve the pool-rifle sequence. The completed project is intended to improve stream stability, eliminate several large-scale bank failures, reduce sediment supply and provide improved in stream and riparian habitat.

**E49-280. Northumberland County**, 399 South Fifth Street, Sunbury, PA 17801. Standard Joint Water Obstruction and Encroachment Permit in Washington Township, **Northumberland County**, ACOE Susquehanna River Basin District (Mifflinville, PA Quadrangle N: 11.4 inches; W: 9.4 inches).

To remove an existing steel pony truss bridge and construct and maintain a prestressed spread box beam bridge with a clear span of 43.45 feet, a minimum underclearance of 6.38 feet on a skew of 58 degrees right ahead over Schwaben Creek (TSF) along T-444 in Washington Township, Northumberland County. The project does not propose to permanently impact any jurisdictional wetland.

**E49-281. Northumberland County**, 399 South Fifth Street, Sunbury, PA 17801. Standard Joint Water Obstruction and Encroachment Permit in Rockefeller Township, **Northumberland County**, ACOE Susquehanna River Basin District (Mifflinville, PA Quadrangle N: 17.2 inches; W: 2.7 inches).

To remove an existing steel through girder bridge and construct and maintain a prestressed spread box beam bridge with a clear span of 49.69 feet, a minimum underclearance of 4.00 feet on a skew of 47 degrees right ahead over Little Shamokin Creek (TSF) along T-722 in Rockefeller Township, Northumberland County. The project does not propose to permanently impact any jurisdictional wetland.

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

**E02-977-A1. Town of McCandless**, 9955 Grubbs Road, Wexford, PA 15090. Construct a new concession stand in the Town of McCandless, **Allegheny County**, Pittsburgh ACOE District (Emsworth, PA Quadrangle N: 16.1 inches; W: 6.7 inches—Latitude: 40°55'19" and Longitude: 80°2'54"). The applicant proposes to amend Permit E02-977 to demolish an existing 420 square feet concession stand and to construct and maintain a new 1,250 square feet concession building in the same location in the floodplain of Pine Creek (CWF). The project temporarily impacts 0.07 acre of PSS wetlands and approximately 20 linear feet of Pine Creek for the purpose of installing water and sewer lines. The project is along Pine Creek Road approximately 1,500 feet north of its intersection with SR 19.

**E65-856. Youngwood Borough**, 17 South Sixth Street, Youngwood, PA 15697-1231. Depot Street Bridge over Jacks Run in Youngwood Borough, **Westmoreland County**, Pittsburgh ACOE District (Mt. Pleasant, PA Quadrangle N: 20.8 inches; W: 10.5 inches—Latitude: 40°14'22" and Longitude: 79°34'31"). The applicant proposes to remove the existing structures and: (1) to construct and maintain a precast adjacent box beam, single span bridge having a normal span of 77.25 feet and an underclearance of 12.0 feet over Jacks Run (WWF); (2) to realign and maintain 380 linear feet of Jacks Run (WWF) and to place and maintain R-8 rock rip rap for bank protection along the realigned section of stream; and (3) to construct and maintain one 48-inch diameter and two 24-inch diameter stormwater outfalls in Jacks Run (WWF). The project will permanently impact 380 linear feet of perennial stream. No vegetated wetlands will be impacted.

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

**E20-386. Hazel Park Association**, 31 York Avenue, Pittsburgh, PA 15214-1121. Hazel Park Marina Rehabili-

tation in Sadsbury Township, **Crawford County**, ACOE Pittsburgh District (Conneaut Lake, PA Quadrangle N: 21 inches; W: 6.38 inches).

To amend Permit E20-386 which authorizes the Hazel Park Association to operate and maintain existing docking facilities and to perform maintenance dredging at the Hazel Park Marina in the Canfield Basin along Conneaut Lake.

The proposed amendment is to operate and maintain existing docking facilities and to perform maintenance dredging at the Hazel Park Marina in the Canfield Basin along Conneaut Lake and to install approximately 885 linear feet of vinyl sheet piling around the perimeter of the marina. Sheet piling installation includes the excavation of approximately 150 cubic yards of material from the east side of the docking facilities.

**E43-316, Mercer County Conservation District**, 747 Greenville Road, Mercer, PA 16137. Stream restoration of unnamed tributary to Powdermill Run in French

Creek Township, **Mercer County**, ACOE Pittsburgh District (New Lebanon, PA Quadrangle N: 18.9 inches; W: 1.7 inches).

The applicant proposes enhancement and restoration of approximately 2,950 feet of an unnamed tributary to Powdermill Run (WWF). Approximately 0.1 acre of PEM/PSS wetlands will be impacted to provide for the new stream channel, bankfull benches and regraded floodplain areas. The proposed project will use natural stream channel design to restore the stable fluvial geomorphic variables of the stream, eliminate nonpoint sediment pollution due to streambank and streambed erosion, restore aquatic habitat and enhance biological diversity of the unnamed tributary to Powdermill Run. The area of stream to be restored reaches from just south of Route 322 to Powdermill Run. Applicant proposes to replace culvert under Hollibaugh Road. Restoration and enhancement measures include stream realignment, establishing a wooded riparian buffer and installation of log cross vane and rock step pool structures within the unnamed tributary to Powdermill Run.

## ACTIONS

### THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT FINAL ACTIONS TAKEN FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

The Department of Environmental Protection (Department) has taken the following actions on previously received applications for new, amended and renewed NPDES and WQM permits, applications for permit waivers and Notices of Intent (NOI) for coverage under general permits. This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing provisions of The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal wastes; discharges to groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

Sections I—VI contain actions related to industrial, animal or sewage wastes discharges, discharges to groundwater and discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities and concentrated animal feeding operations (CAFOs). Section VII contains notices for parties who have submitted NOIs for coverage under general NPDES permits. The approval for coverage under general NPDES permits is subject to applicable effluent limitations, monitoring, reporting requirements and other conditions set forth in each general permit. The approval of coverage for land application of sewage sludge or residential septage under applicable general permit is subject to pollutant limitations, pathogen and vector attraction reduction requirements, operational standards, general requirements, management practices and other conditions set forth in the respective permit. Permits and related documents, effluent limitations, permitting requirements and other information are on file and may be inspected and arrangements made for copying at the contact office noted before the action.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

**I. NPDES Renewal Permit Actions**

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

<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>
PA0008231	Gold Mills, Inc. 1 Penn Dye Street Pine Grove, PA 17963	Schuylkill County Pine Grove Borough	Swatara Creek 7D	N

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

<i>NPDES Permit No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0033642 Sewage	West Greene School District 1367 Hargus Creek Road Waynesburg, PA 15370	Greene County Gray Township	Grays Fork	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. PA0088528**, Sewage, **Ronald S. Whitmoyer, Chairperson, Tulpehocken Township**, 22 Rehrersburg Road, P. O. Box 272, Rehrersburg, PA 19550. This proposed facility is in Tulpehocken Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT Little Swatara Creek in Watershed 7-D from the Rehrersburg Wastewater Treatment Plant.

**NPDES Permit No. PA0088510**, Sewage, **Ronald S. Whitmoyer, Chairperson, Tulpehocken Township**, 22 Rehrersburg Road, P. O. Box 272, Rehrersburg, PA 19550. This proposed facility is in Tulpehocken Township, **Berks County**.

Description of Proposed Action/Activity: Authorization to discharge to UNT Little Swatara Creek in Watershed 7-D from the Mount Aetna Wastewater Treatment Plant.

**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. 1303201**, Industrial Waste, **Rex's Market, Inc.**, 2807 Denbeigh Street, Hatfield, PA 19440. This proposed facility is in East Penn Township, **Carbon County**.

Description of Proposed Action/Activity: Issuance of Water Quality Management Permit.

**WQM Permit No. 4004403**, Sewerage, **Penn Lake Park Borough**, P. O. Box 14, White Haven, PA 18661. This proposed facility is in Penn Lake Park Borough, **Luzerne County**.

Description of Proposed Action: Issuance of Water Quality Management Permit. Low pressure collection system to serve the existing Penn Lake Park Borough.

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

**WQM Permit No. 2101406, Amendment 04-1**, Sewerage, **Vissaggio's, Inc.**, 6990 Wertzville Road, Enola, PA 17025. This proposed facility is in Silver Spring Township, **Cumberland County**.

Description of Proposed Action/Activity: Modifications/operation of sewerage facilities at Vissaggio's Ristorante consisting of the addition of an oil and grease removal system consisting of a combination equalization and pump tank, oilphylic bag filters and Zabel filters.

**WQM Permit No. 0604409**, Sewerage, **Ronald S. Whitmoyer, Chairperson, Tulpehocken Township**, 22 Rehrersburg, P. O. Box 272, Rehrersburg, PA 19550. This proposed facility is in Tulpehocken Township, **Berks County**.

Description of Proposed Action/Activity: Construction/operation of the Rehrersburg Sewage Treatment Plant, an extended aeration wastewater treatment facility utilizing UV disinfection with a discharge to UNT Little Swatara Creek.

**WQM Permit No. 0604408**, Sewerage, **Ronald S. Whitmoyer, Chairperson, Tulpehocken Township**, 22 Rehrersburg, P. O. Box 272, Rehrersburg, PA 19550. This proposed facility is in Tulpehocken Township, **Berks County**.

Description of Proposed Action/Activity: Construction/operation of the Mount Aetna Sewage Treatment Plant, an extended aeration wastewater treatment plant utilizing UV disinfection with a discharge to UNT Little Swatara Creek.

**WQM Permit No. 0604405**, Sewerage, **Larry Hain**, P. O. Box 191, Mohrsville, PA 19541. This proposed facility is in Alsace Township, **Berks County**.

Description of Proposed Action/Activity: Construction of a Noreco Model 960-1000 aerobic treatment system to serve a two-unit apartment building.

**WQM Permit No. 0604202**, CAFO, **Joel Hetrick, Hetrickdale Farms**, 69 Hetrick Drive, Bernville, PA 19506. This proposed facility is in Jefferson Township, **Berks County**.

Description of Proposed Action/Activity: This permit authorizes the rehabilitation, expansion and operation of the original barn manure storage facility at Hetrickdale Farms, a 1,763-AEU dairy CAFO.

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

**WQM Permit No. 0204404**, Sewerage, **South Versailles Township**, P. O. Box 66, Coulter, PA 15028. This proposed facility is in South Versailles, **Allegheny County**.

Description of Proposed Action/Activity: Install six individual grinder pumps.

**WQM Permit No. WQG016102**, Sewerage, **Nathanael Institute**, P. O. Box 10311, Arlington VA 22210-1311. This proposed facility is in Greenville Township, **Somerset County**.

Description of Proposed Action/Activity: To construct a small flow treatment facility to serve the Greenville Retreat Center.

**WQM Permit No. WQG016103**, Sewerage, **G. Thomas Hall**, R. D. 9 Box 483, Greensburg, PA 15601. This proposed facility is in Mount Pleasant Township, **Westmoreland County**.

Description of Proposed Action/Activity: To construct a small flow treatment facility to serve the Hall residence.

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

**WQM Permit No. 4204402**, Sewerage, **Kane Borough Authority**, 112 Bayard Street, Kane, PA 16735. This proposed facility is in Wetmore Township, **McKean County**.

Description of Proposed Action/Activity: This project is for the construction of sanitary sewers, force main, an access road and pump station for the proposed Northwest Development.

**WQM Permit No. WQG018301**, Sewerage, **Daniel A. Fortuna**, 1206 Enterprise Road, Grove City, PA 16127. This proposed facility is in Pine Township, **Mercer County**.

Description of Proposed Action/Activity: This project is for the construction and operation of a small flow treatment facility to serve five homes.

**WQM Permit No. WQG018307**, Sewerage, **David F. Grim**, 523 North Neshannock Road, Hermitage, PA 16148. This proposed facility is in City of Hermitage, **Mercer County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

**WQM Permit No. 2504417**, Sewerage, **Richard Chernicky**, 4209 Reichert Road, McKean, PA 16426. This proposed facility is in McKean Township, **Erie County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

**WQM Permit No. WQG018319**, Sewerage, **Carol and Vincent Kuznicki**, 293 Donation Road, Greenville, PA 16125. This proposed facility is in Hempfield Township, **Mercer County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

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#### IV. NPDES Stormwater Discharges from MS4 Permit Actions

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#### V. NPDES Waiver Stormwater Discharges from MS4 Actions

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

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAG133688	Middle Paxton Township 1304 Overlook St. Dauphin, PA 17018	Dauphin	Middle Paxton Township	Fishing Creek WWF Stony Creek CWF Clarks Creek HQ-CWF Susquehanna River WWF	Y
PAG133550	Dauphin Borough 200 S. Church St. Dauphin, PA 17018	Dauphin	Dauphin Borough	Stony Creek CWF Susquehanna River WWF	Y

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#### VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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*Southeast Region: Water Management Program Manager, 2 East Main Street, Norristown, PA 19401.*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011504018	Penn Devco The Shoppes at Jenner's Village—Phase II 402 Bayard Road, Suite 200 Kennett Square, PA 19348	Chester	Penn Township	East Branch Big Elk Creek HQ-TSF
PAI011504039	St. Norbert's Roman Catholic Church Expansion 50 Leopard Road Paoli, PA 19301	Chester	Easttown Township	Crum Creek HQ-WF

*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>
PAI024503019	LTS Development, Inc. P. O. Box 160 Shawnee-on-Delaware, PA 18356	Monroe	Jackson Township	Pocono Creek HQ-CWF
PAI024803037	Faulkner Oldsmobile 290 Stoke Park Rd. Bethlehem, PA 18017	Northampton	Hanover Township	Monocacy Creek HQ-CWF
PAI024804021	Raymond A. Bartolacci, Jr. 711 Frutchey Hill Rd. Easton, PA 18040	Northampton	Lower Nazareth Township	Bushkill Creek HQ-CWF
PAI024804020	Monocacy Heights, L. P. 4383 Hecktown Rd., Suite J Bethlehem, PA 18020	Northampton	Bath Borough	Monocacy Creek HQ-CWF
PAI024803039(1)	Cherry Lane Commercial Center, LLC 559 Main St., Suite 300 Bethlehem, PA 18018	Northampton	City of Bethlehem	Saucon Creek HQ-CWF
PAS10S114-1	LTS Development, Inc. P. O. Box 160 Shawnee-on-Delaware, PA 18356	Monroe	Stroud Township	Wigwam Run 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>
PAI041403010	Janos and Cheryl Koltay 507 Kristina Circle State College, PA 16803	Centre	Rush Township	Cold Stream and Trout Run HQ-CWF

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

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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).

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### **List of NPDES and/or Other General Permit Types**

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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>
Riegelsville Borough Bucks County	PAG2000904090	Ruff Hall Builders Fern Meadow Estates Box 57, Rt. 611 and Tabor Rd. Ottsville, PA 18942	Delaware River WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hilltown Township Bucks County	PAG2000904130	D'Angelo Construction, Inc. Rickerts and Mill Rds. Project P. O. Box 753 Warrington, PA 18914	Neshaminy Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Plumstead Township Bucks County	PAG2000904059	Gerit and Gerda Lewisch The Woodlands 6001 Point Pleasant Pike Doylestown, PA 18901-9301	North Branch Neshaminy Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Whiteland Township Chester County	PAG2001504072	Trammell Crow Company Sovereign Bank 1130 Berkshire Boulevard Wyomissing, PA 19601	Valley Creek CWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Radnor Township Delaware County	PAG2002304023	Pohlig Builders 274 West Lancaster Avenue Malvern, PA 19355	Kirks Run/Darby Creek Watershed CWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Haverford Township Delaware County	PAG2002304024	Haverford Township School District 200 Mill Road Haverford, PA 19087	Cobbs Creek WWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Radnor Township Delaware County	PAG2002304033	Michael A. Smith 325 East Lancaster Avenue Wayne, PA 19087	Ithan Creek CWF, MF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Bethel Township Delaware County	PAG2002304049	Scheiver and Associates Routes 1 and 100 P. O. Box 577 Chadds Ford, PA 19317	Naamans Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Hanover Township Montgomery County	PAG2004604121	David L. Roberts 3039 Woziegler Road Pennsburg, PA 18073	Stony Run TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Conshohocken Borough Montgomery County	PAG2004604047	TCR NJ/PA Properties, Inc. Alexan Riverview Heights 10 Madison Avenue, 3rd Floor Morristown, PA 07960	Plymouth Creek WWF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
New Hanover Township Montgomery County	PAG2004604076	Heritage Building Group, Inc. Gaugler Townhomes 3326 Old York Road Suite 100-A Furlong, PA 18925	Swamp Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015104009	John Capponi Norwalk Gardens 13451 Damar Drive Suite 300 Philadelphia, PA 19116	Tributary Pennypack Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Dunmore Borough Lackawanna County	PAG2003504029	Robert Gordon 2010 Adams Ave. Dunmore, PA 18512	Lackawanna River CWF	Lackawanna County Conservation District (570) 281-9495
Lower Milford Township Lehigh County	PAG2003904019	Theodore Zapach 6348 Hoffman Lane Coopersburg, PA 18036	Saucon Creek CWF	Lehigh County Conservation District (610) 391-9583
Muhlenberg Township Berks County	PAG2000604081	Laurel Creek Run Subdivision Rodolfo Folino 68 South Hampton Drive Wyomissing Hills, PA 19610	Laurel Run CWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201
Oley Township Berks County	PAG2000604084	Berks Career & Technology Robert Runkle 1957 County Road Wyomissing Hills, PA 19610	Monocacy Creek WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201
Amity Township Berks County	PAG2000604085	CVS Land Development Eric Hugus Hain Investment Company 1017 Pottstown Pike Chester Springs, PA 19425-3512	Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201
Amity Township Berks County	PAG2000604086	Fecera's Land Development James Bates 3933 Perkiomen Avenue Reading, PA 19606	Leaf Creek WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201
Reading City Berks County	PAG2000604087	Sovereign Plaza Albert Boscov Reading's Future, LLC 4500 Perkiomen Avenue Reading, PA 19606	Schuylkill River WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201



## 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>
North Heidelberg Township Berks County	PAG2000604088	Blue Marsh Heights Subdivision Fiorino Grande Grande Land LP 108 South Hull Street Sinking Spring, PA 19608	Blue Marsh Lake WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533 (610) 372-4657, Ext. 201
Lower Paxton Township Dauphin County	PAG2002204046	Pinnacle Health Systems P. O. Box 8700 Harrisburg, PA 17105	Spring Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Road Dauphin, PA 17018 (717) 921-8100
Bradford County West Burlington Township	PAG2000804008	Bradford County Commissioners 301 Main St. Towanda, PA 18848	Mill Creek TSF	Bradford County Conservation District R. R. 5, Box 5030C Stoll Natural Resource Center Towanda, PA 18848 (570) 265-5539, Ext. 205
Centre County Patton Township	PAR10F107R	Glenn and Thelma Hawbaker P. O. Box 135 State College, PA 16804	UNT Big Hollow Run CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817
Centre County Potter Township	PAG2001404005	Don Coyne Tussyville Assoc. 2300 S. Atherton St. State College, PA 16801	UNT Sinking Creek CWF	Centre County Conservation District 414 Holmes Ave. Suite 4 Bellefonte, PA 16823 (814) 355-6817
Clearfield County Decatur Township	PAG2001704008	Department of Transportation 1924-30 Daisy St. Clearfield, PA 16830	Coal Run CWF	Clearfield County Conservation District 650 Leonard St. Clearfield, PA 1830 (814) 355-6817
Clearfield County Sandy Township	PAG2001704014	Robert Clepper Clepper Bus Services 2 Lincoln Dr. DuBois, PA 15801	Limestone Run CWF	Clearfield County Conservation District 650 Leonard St. Clearfield, PA 1830 (814) 355-6817
Tioga County Lawrence Township	PAG2005904004	Brion and Debbie Farr R. R. 2, Box 246C Tioga, PA 16946	Tioga River WWF	Tioga County Conservation District 29 East Ave. Wellsboro, PA 16901 (570) 724-1801
Tioga County Putnam Township	PAG2005903018	Lewis and Meda Hilfinger P. O. Box 205 Covington, PA 16917	UNT Tioga River CWF	Tioga County Conservation District 29 East Ave. Wellsboro, PA 16901 (570) 724-1801
Snyder County Center Township	PAG2005504007	Carl Zechman R. R. 1, Bowersox Rd. Middleburg, PA 17892	Dry Run CWF	Snyder County Conservation District 403 W. Market St. Middleburg, PA 17842 (570) 837-0007, Ext. 112

<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>
Beaver County Independence Township	PAG2000404015	Shawrose Construction c/o Dolores M. Mason 550 Cliffmine Road Coraopolis, PA 15108	Raredon Run WWF	Beaver County Conservation District (724) 774-7090
Cambria County Richland Township	PAG2001104008	Paul Scholar 124 Donald Lane Johnstown, PA 15904	Little Conemaugh River CWF	Cambria County Conservation District (814) 472-2120
Cambria County Nanty Glo and Ebensburg Boroughs Blacklick, Jackson and Cambria Townships	PAG2001104012	Cambria County Conservation and Recreation Authority 401 Candlelight Drive Suite 234 Ebensburg, PA 15931	South Branch Blacklick Creek CWF	Cambria County Conservation District (814) 472-2120
Butler County Slippery Rock Township	PAG001004023	Allen Joam Slippery Rock University Facilities and Planning Slippery Rock, PA 16057	Slippery Rock Creek CWF	Butler County Conservation District (724) 284-5270
Butler County Adams Township	PAG2001004013	S & A Custom Built Homes Inc. 501 Rolling Hills Drive Suite 200 State College, PA 16801 (Seaton Crest Brickyard Road Mars, PA)	Tributary Breakneck Creek WWF	Butler County Conservation District (724) 284-5270
Jenkins Township Luzerne County	PAG2114004003	Department of Environmental Protection Bureau of Abandoned Mine Reclamation 2 Public Square, Fifth Floor Wilkes-Barre, PA 18711-0790	Gardener Creek CWF	Bureau of Abandoned Mine Reclamation 2 Public Square Fifth Floor Wilkes-Barre, PA 18711-0790 (570) 826-2371

*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>
Lancaster County New Holland Borough	PAR803669	Leffler Energy New Holland Facility 225 East Main Street Richland, PA 17087	UNT Conestoga River WWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lancaster County Mount Joy Borough	PAR803668	Leffler Energy Mount Joy Facility 225 East Main Street Richland, PA 17087	UNT Little Chickies Creek TSF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lancaster County Manheim Township	PAR803670	Pittsburgh Terminals Corporation Lancaster Petroleum Storage Terminal P. O. Box 2621 Harrisburg, PA 17105	UNT Conestoga Creek WWF	SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Greene County Springhill Township	PAR216168	Springhill Township 268 Windy Gap Road Aleppo, PA 15310	Wagon Road Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

## NOTICES

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*General Permit Type—PAG-4**Facility Location and Municipality*

Lower Merion Township  
Montgomery County

Permit No.

PAG040005

*Applicant Name and Address*

Harold and Flo Rae Booth  
1000 Stony Lane  
Gladwyne, PA 19035

*Receiving Water/Use*

Sawmill Run

*Contact Office and Telephone No.*

Southeast Regional Office  
2 East Main Street  
Norristown, PA 19401  
(484) 250-5970

Lower Salford Township  
Montgomery County

PAG040002

Chris Jordin  
P. O. Box 486  
Colmar, PA 18915

UNT to West Branch  
Skippack Creek

Southeast Regional Office  
2 East Main Street  
Norristown, PA 19401  
(484) 250-5970

Somerset County  
Greenville Township

PAG046288

Nathanael Institute  
P. O. Box 10311  
Arlington VA 22210-1311

UNT of Flaugherty  
Creek

Southwest Regional Office  
Water Management Program Manager  
400 Waterfront Drive  
Pittsburgh, PA  
15222-4745  
(412) 442-4000

Westmoreland County  
Mount Pleasant Township

PAG046290

G. Thomas Hall  
R. D. 9 Box 483  
Greensburg, PA 15601

UNT of Sewickley  
Creek

Southwest Regional Office  
Water Management Program Manager  
400 Waterfront Drive  
Pittsburgh, PA  
15222-4745  
(412) 442-4000

Pine Township  
Mercer County

PAG048986

Daniel A. Fortuna  
1206 Enterprise Road  
Grove City, PA 16127

Unnamed tributary to Slippery Rock Creek  
Watershed 20-C

NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA  
16335-3481  
(814) 332-6942

City of Hermitage  
Mercer County

PAG048966

David F. Grim  
523 North Neshannock Road  
Hermitage, PA 16148

Unnamed tributary to Magargee Run

NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA  
16335-3481  
(814) 332-6942

Penn Township  
Butler County

PAG048339

James L. Zacherl, Sr.  
118 Beacon Road  
Renfrew, PA 16053

Unnamed tributary to Connoquenessing Creek

NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA  
16335-3481  
(814) 332-6942

Pulaski Township  
Lawrence County

PAG048621

Mark Samsa  
1427 SR 208  
Pulaski, PA 16143

Tributary to Deer Creek

NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA  
16335-3481  
(814) 332-6942

McKean Township  
Erie County

PAG049001

Richard Chernicky  
4209 Reichert Road  
McKean, PA 16426

Unnamed tributary to Elk Creek

NWRO  
Water Management  
230 Chestnut Street  
Meadville, PA  
16335-3481  
(814) 332-6942

<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>
Hempfield Township Mercer County	PAG049011	Carol and Vincent Kuznicki 293 Donation Road Greenville, PA 16125	Saul Run	NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

*General Permit Type—PAG-5*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office and Telephone No.</i>
Ligonier Township Westmoreland County	PAG056132	Ligonier Township Authority 1 Municipal Park Drive Ligonier, PA 15658	Mill Creek	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

*General Permit Type—PAG-9*

<i>Facility Location and Municipality</i>	<i>Permit No.</i>	<i>Applicant Name and Address</i>	<i>Contact Office and Telephone No.</i>
Liberty Township Bedford County	PAG093527	Burns Septic Service 139 Captain Phillips Memorial Rd. Saxton, PA 16678	SCRO 909 Elmerton Avenue Harrisburg, PA 17110-8200 (717) 705-4707

*General Permit Type—PAG-13*

<i>NPDES Permit No.</i>	<i>Applicant Name and Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>Department Protocol (Y/N)</i>
PAG136270	Upper St. Clair Township 1820 McLaughlin Run Road Upper St. Clair, PA 15241	Allegheny	Upper St. Clair Township	McLaughlin Run Creek WWF Chartiers Creek WWF Brush Run WWF Painters Run WWF Unnamed tributaries of Chartiers Creek WWF	

## PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the

*Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

## SAFE DRINKING WATER

### Actions taken under the Pennsylvania Safe Drinking Water Act.

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

**Operations Permit** issued to **Aqua Pennsylvania, Inc.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010, PWS ID 2350053, Thornhurst Township, **Lackawanna County** on September 2, 2004, for the operation of facilities approved under Construction Permit No. 3575503.

**Operations Permit** issued to **Aqua Pennsylvania, Inc.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010, PWS ID 2350053, Thornhurst Township, **Lackawanna County** on September 2, 2004, for the operation of facilities approved under Construction Permit No. 3589507.

**Operations Permit** issued to **Aqua Pennsylvania, Inc.**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010, PWS ID 2350053, Thornhurst Township, **Lackawanna County** on September 2, 2004, for the operation of facilities approved under Construction Permit No. 3591504.

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

**Operations Permit** issued to **Valley View Village MHP**, R. R. 1, Box 1792A, Russell, PA 16345-9747, PWS ID 6620005, Pittsfield Township, **Warren County**, on September 13, 2004, for the operation of chlorine contact tanks for wells 006 and 008, as approved under Construction Permit No. 6286502-T1-MA1.

## WATER ALLOCATIONS

### Actions taken on applications received under the act of June 24, 1939 (P. L. 842, No. 365) (35 P. S. §§ 631—641) relating to the acquisition of rights to divert waters of this Commonwealth.

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

**WA11-1000C**, Water Allocations, **Blacklick Valley Municipal Authority**, P. O. Box 272, Twin Rocks, PA 15960, **Cambria County**. The right to purchase 150,000 gallons per day, as a 30-day average, from the Nanty Glo Water Authority and the right to purchase 150,000 gallons per day, as a 30-day average, when available from the Municipal Authority of the Borough of Ebensburg. The total purchases from both sources shall not exceed 150,000 gallons per day, as a 30-day average.

## 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:

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

**Legionville Hollow Site**, Baden, Economy and Harmony Boroughs, **Beaver County**. David P. Pusateri, Esquire, McGuire Woods, LLP, Dominion Tower, 23rd Floor, 625 Liberty Avenue, Pittsburgh, PA 15222 (on behalf of Robertson CECO Corporation c/o Carolyn Johnson, Controller, Star Building Systems, 8600 South I-35, Oklahoma City, OK 73149) has submitted a Final Report concerning remediation of site soil, surface water and groundwater contaminated with heavy metals. The report is intended to document remediation of the site to meet the Statewide Health and Site-Specific Standards.

**Edgewater Street, LTD Property (Former)**, Borough of Oakmont, **Allegheny County**. Charles Haefner, KU Resources, Inc., Business Innovation Center, Suite 207, One Library Place, Duquesne, PA 15110 (on behalf of Maureen Ford, RIDC, 425 Sixth Ave., Suite 500, Pittsburgh, PA 15219) has submitted a Remedial Investigation Report, Risk Assessment Report and Cleanup Plan concerning remediation of site soil and groundwater contaminated with lead, heavy metals, solvents and SVOCs. The reports are intended to document remediation of the site to meet the Site-Specific Standard.

**City of Pittsburgh 3rd Maintenance Division Schenley Park**, City of Pittsburgh **Allegheny County**. Christopher J. Vandegrift, P. E., Weavertown Group, 201 S. Johnson Road, Houston, PA 15342 (on behalf of Bruce Padolf, City of Pittsburgh, Department of Engineering and Construction, 414 Grant Street, Room 301, City

County Building, Pittsburgh, PA 15219) has submitted a Final Report concerning remediation of site soil contaminated with contaminants from leaded gasoline. The report is intended to document remediation of the site to meet the Statewide Health Standard.

## LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

### UNDER ACT 2, 1995

#### PREAMBLE 3

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**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).**

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Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of reuse 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.*

**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 the remediation of site soil contaminated with no. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 27, 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 Final Report concerning the remediation of site soil contaminated with no. 2 fuel oil. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 26, 2004.

**U. S. Magnet Site**, Yardley Borough, **Bucks County**. Jeffery Fehr, P. G., Penn Environmental and Remediation, Inc., 2755 Bergey Rd., Hatfield, PA 19440 on behalf of Redevelopment Authority of Bucks County, Robert White, Executive Director, 1 N. Wilson Ave., Bristol, PA 19007 has submitted a Baseline Environmental Report and Final Report concerning the remediation of site soil contaminated with fuel oils nos. 2, 4 and 6, other organics, benzo(a)pyrene, lead and arsenic. The Baseline Environmental Report and Final Report demonstrated attainment of the Special Industrial Area Standard and was approved by the Department on September 2, 2004.

**Former Bridgestone Firestone Retail Store and Western Metal Bed Co.**, City of Philadelphia, **Philadelphia County**. Christopher Orzechowski, RT Environmental Services, Inc., 215 W. Church Rd., King of Prussia, PA 19406 on behalf of B. D. F. Corp., B. Featherman, D. Featherman, F. Featherman and Bridgestone/Firestone, 4035-4045 Torresdale Ave., Philadelphia, PA has submitted a Final Report concerning the remediation of site soil and groundwater contaminated with solvents. The Final report demonstrated attainment of the Site-Specific Standard and was approved by the Department on September 9, 2004.

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

**Elrama NIKE Site PI-43 (Launcher and Control Facilities)**, Union Township **Allegheny County**. John M. Scrabis, P. E., MACTEC Engineering & Consulting, Inc., 700 North Bell Avenue, Suite 200, Carnegie, PA 15106 (on behalf of Steven R. Lenney, U. S. Army—Charles E. Kelly Support Facility, 6 Lobaugh Street, Oakdale, PA 15071 and Bryan McConnell, J. M. Waller Associates, 6 Lobaugh Street, Oakdale, PA 15071) has submitted a Remedial Investigation Report and Final Report concerning the remediation of site soil contaminated with inorganics and chlorinated solvents. The Remedial Investigation Report and Final Report demonstrated attainment of the Background and Site-Specific Standards and were approved by the Department on August 30, 2004

**Invensys Metering Systems**, North Union Township, **Fayette County**. Mathew C. Plautz, P. E., Blasland, Bouck & Lee, Inc., 600 Waterfront Drive, Pittsburgh, PA

15222 (on behalf of Fayette Industrial Fund, P. O. Box 487, Uniontown, PA 15401 and Gary Ballesteros, Rockwell Automation, Inc., 777 East Wisconsin Avenue, Suite 1400, Milwaukee, WI 53202) has submitted a Final Report concerning remediation of site groundwater contaminated with heavy metals and VOC. The Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on August 23, 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*

**Harold Marcus Limited**, R. R. 3, Bothwell, ON NOP 1CO. License No. PA-AH0207. Effective August 10, 2004.

**Bed Rock, Inc. d/b/a/ TSMTCO**, P. O. Box 113, Joplin, MO 64802. License No. PA-AH0697. Effective August 26, 2004.

**Wills Trucking, Inc.**, 3185 Columbia Road, Richfield, OH 44286. License No. PA-AH0295. Effective August 30, 2004.

**Tonawanda Tank Transport Service, Inc.**, 1140 Military Road, P. O. Box H, Buffalo, NY 14217. License No. PA-AH0429. Effective September 1, 2004.

**Transwaste, Inc.**, 108A Blacks Road, Cheshire, CT 06410. License No. PA-AH0674. Effective August 31, 2004.

**US Environmental, Inc.**, 251 Norwood Road, Downingtown, PA 19335. License No. PA-AH0675. Effective September 1, 2004.

#### *Hazardous Waste Transporter License Expired*

**Mid-State Trading Co.**, 2525 Trenton Avenue, Williamsport, PA 17701. License No. PA-AH0148. Effective August 31, 2004.

#### INFECTIOUS AND CHEMOTHERAPEUTIC WASTE TRANSPORTER LICENSE

#### Actions on applications for Infectious and Chemotherapeutic Waste Transporter License received under the Solid Waste Management Act, 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*

**Environmental Transport Group, Inc.**, P. O. Box 296, Flanders, NJ 07836. License No. PA-HC0023. Effective August 25, 2004.

#### HAZARDOUS WASTE ACTION—INTENT TO ISSUE PERMIT

#### Proposed action on an application for a permit under the Solid Waste Management Act and regulations to operate a hazardous waste storage and treatment facility.

*Regional Office: Regional Manager, Waste Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**PAD004835146, MAX Environmental Technologies**, 233 Max Lane, Yukon, PA 15698. Operation of a hazardous waste storage and treatment facility in South Huntingdon Township, **Westmoreland County**. The regional office tentatively decided to approve the renewal and modification of MAX's hazardous waste and storage treatment permit and also tentatively decided to deny MAX's request to accept listed hazardous wastes (other than EAF dust and spent pickle liquor) and MAX's request to accept mercury containing hazardous wastes and reactive cyanide and reactive sulfide waste on September 15, 2004.

Persons wishing to comment on the proposed action are invited to submit a statement to the previous regional office within 45 days from the date of this public notice. Comments received within this 45-day period will be considered in the formulation of the final determination regarding this application. Responses should include the name, address and telephone number of the writer and concise statement to inform the regional office of the exact basis of the comment and the relevant facts upon which it is based. A public hearing may be held if the regional office considers the public response significant.

Following the 45-day comment period and/or public hearing, the Department will make a final determination regarding the proposed permit action. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

#### HAZARDOUS WASTE ACTION—INTENT TO ENTER INTO A CONSENT ORDER AND AGREEMENT

#### Proposed action on a Consent Order and Agreement under the Solid Waste Management Act and regulations for the post-closure care of a hazardous waste landfill.

*Regional Office: Regional Manager, Waste Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.*

**PAD000805028, Bet-Tech International, Inc.** Post-closure care of a hazardous waste landfill at Bet-Tech's Blacks Run Site in Hopewell Township, **Beaver County**. The regional office proposed on September 17, 2004, to enter into a Consent Order and Agreement with Bet-Tech that will address remaining post-closure care activities at this landfill.

Persons wishing to comment on the proposed action are invited to submit a statement to the previous regional office within 45 days from the date of this public notice. Comments received within this 45-day period will be considered in the formulation of the final determination regarding this Consent Order and Agreement. Responses should include the name, address and telephone number of the writer and concise statement to inform the regional office of the exact basis of the comment and the relevant facts upon which it is based. A public hearing may be held if the regional office considers the public response significant.

Following the 45-day comment period and/or public hearing, the Department will make a final determination regarding the proposed action. Notice of this determination will be published in the *Pennsylvania Bulletin* at which time this determination may be appealed to the Environmental Hearing Board.

#### **HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES**

##### **Draft permits issued under the Solid Waste Management Act and regulations to operate a hazardous waste treatment, storage or disposal facility.**

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.*

**PAD085690592. Republic Environmental System (Pennsylvania) Inc.**, 2869 Sandstone Dr., Hatfield, PA 19440, Hatfield Township, **Montgomery County**. Applicant seeks to add 41 residual waste codes to the list of nonhazardous wastes permitted to be managed at its existing commercial TSD facility. The additional waste codes reflect wastes already managed at the facility under existing approved waste codes. The additional codes are intended to better identify the particular waste streams being accepted than can be done using the current list of approved codes. Draft permit issued on September 13, 2004.

Persons wishing to comment on the draft permit are invited to submit a statement to the Southeast Regional Office within 45 days from the date of this public notice. Comments received within this 45-day period will be considered in the formulation of the final determination regarding this application. Responses should include the name, address and telephone number of the writer and a concise statement to inform the regional office of the exact basis of the comment and the relevant facts upon which it is based. A public hearing may be held if the regional office considers the public response significant. Following the 45-day comment period and/or public hearing, the Department will make a final determination regarding the proposed permit action. Notice of this action will be published in the *Pennsylvania Bulletin*.

#### **OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE**

##### **Permit Issued 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 a solid waste processing or disposal area or site.**

*Southeast Region: Regional Solid Waste Manager, 2 East Main Street, Norristown, PA 19401.*

**Permit No. 101226. Savoy Transfer Station**, P. O. Box 339, Claymon, DE 19703-0339, Chester Township, **Delaware County**. This waste management permit application is for the 10-year renewal of the waste permit for the continuing operation of a construction and demolition waste transfer facility at 52 Concord Rd., Chester Township, Delaware County. This permit was issued by the Southeast Regional Office on September 13, 2004.

##### **Permit modification 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.**

*Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.*

**Permit No. 301197. Reliant Energy**, Suite 200, 121 Champion Way, Canonsburg, PA 15317-5817, Bradford Township, **Clearfield County**. The major permit modification for change to leachate detection and collection system was received by the Williamsport Regional Office on August 10, 2004.

Persons interested in reviewing the permit should contact John C. Hamilton, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653. TDD users should contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

#### **MUNICIPAL AND RESIDUAL WASTE TRANSPORTER AUTHORIZATION**

##### **Issued applications for Municipal and Residual Waste Transporter Interim Authorization received under the Waste Transportation Safety Act (27 Pa.C.S. §§ 6201—6209) and regulations to transport municipal or residual waste.**

*Central Office: Bureau of Land Recycling and Waste Management, Division of Municipal and Residual Waste, P. O. Box 8472, Harrisburg, PA 17105-8472.*

**O'Conner General Contracting, Inc.**, 158 Stoney Bank Rd., Glen Mills, PA 19342. Authorization No. WH5638. Effective January 23, 2004.

**Harvey Leon Davis, Jr.**, 8 Whales Ct., Elkton, MD 21921. Authorization No. WH5894. Effective September 7, 2004.

**Chris Falcone Concrete & Landscape**, P. O. Box 1305, West Chester, PA 19380. Authorization No. WH6364. Effective August 16, 2004.

**Universal Constructors, Inc.**, 611 E. Chapel Ave., Cherry Hill, NJ 08034. Authorization No. WH6438. Effective August 24, 2004.

**Rodz Trucking**, 315 N. Sixth St., Allentown, PA 18102. Authorization No. WH6448. Effective August 16, 2004.

**John Reed**, 61 Silver Creek Rd., New Philadelphia, PA 17959. Authorization No. WH6449. Effective August 10, 2004.

**Gunthers Trucking**, 40 North Second St., Hamburg, PA 19526. Authorization No. WH6450. Effective August 25, 2004.

**Security Shredding Systems, LLC**, 19 Maple Ave., South, Westport, CT 06880. Authorization No. WH6451. Effective August 10, 2004.

**Edward Jackson**, 73 State St., North Babylon, NY 11703. Authorization No. WH6452. Effective August 10, 2004.

**Tony D. Hightower**, 24 Carolina Ave., 2nd Floor, Clifton, NJ 07011. Authorization No. WH6453. Effective August 10, 2004.

**George Goodwin**, 16 Cooper St., Manville, NJ 08835. Authorization No. WH6454. Effective August 10, 2004.

**John L. Byars**, 2019 Edgely Rd., Levittown, PA 19057. Authorization No. WH6455. Effective August 10, 2004.

**Red River Transport, Inc.**, P. O. Box 715, Irvine, KY 40336. Authorization No. WH6456. Effective August 10, 2004.



**Arthur Smith Trucking, Inc.**, 4177 Morrisdale Allport Hwy., Morrisdale, PA 16858. Authorization No. WH6457. Effective August 25, 2004.

**PCC Transport, Inc.**, 30-08 91st St., East Elmhurst, NY 11373. Authorization No. WH6458. Effective August 10, 2004.

**Leonel Sosa**, 46 Henry St., Inwood, NY 11096. Authorization No. WH6459. Effective August 10, 2004.

**Roy A. Navarro**, 107 Washington Rd., Sayreville, NJ 08872. Authorization No. WH6460. Effective August 10, 2004.

**Saul C. Mingucha**, 1317 Frush Valley Rd., Reading, PA 19605-1838. Authorization No. WH6461. Effective August 11, 2004.

**Atlantic Carting**, 1141 Rt. 23, Wayne, NJ 07470. Authorization No. WH6462. Effective August 11, 2004.

**Phil Morris Jr. Excavating**, 542 Waterfalls Rd., Nicktown, PA 15762-7915. Authorization No. WH6463. Effective August 18, 2004.

**BRW Trucking**, 1139A US Route 40, Pilesgrove, NJ 08098-3110. Authorization No. WH6466. Effective August 11, 2004.

**J & D Hills Heavy Hauling**, 1020 Elm Terrace, Rahway, NJ 07065. Authorization No. WH6464. Effective August 16, 2004.

**Petroleum Management, Inc.**, P. O. Box 145, 8333 Zug Road, Bowie, MD 20719-0145. Authorization No. WH6465. Effective August 11, 2004.

**Daliessio Brothers Construction, Inc.**, 110 Youngs Ave., Crum Lynne, PA 19022. Authorization No. WH6467. Effective August 11, 2004.

**Harjinder Singh**, 41 Dundee Ave., Iselin, NJ 07032. Authorization No. WH6468. Effective August 11, 2004.

**PIT Transport**, 30 Day St., Clifton, NJ 07011. Authorization No. WH6469. Effective August 12, 2004.

**Mike Kester Contracting**, 844 Woodland Rd., Sugar Notch, PA 18706-2020. Authorization No. WH6470. Effective August 12, 2004.

**Solano Trucking, Inc.**, 2 Meeker Pl., Millburn, NJ 07041. Authorization No. WH6471. Effective August 12, 2004.

**Sertsal Express, Inc.**, 54 Valley Rd., Rockaway, NJ 07866. Authorization No. WH6472. Effective August 12, 2004.

**Minda Trucking**, 9 Saller Ct., Elizabeth, NJ 07201. Authorization No. WH6474. Effective August 18, 2004.

**C. F. & Brothers Transportation**, 69 W. Second St., Bound Brook, NJ 08805. Authorization No. WH6475. Effective August 16, 2004.

**George J. Barati**, 1231 Wilson Rd., Pittsburgh, PA 15236. Authorization No. WH6475. Effective August 17, 2004.

**Paulo A. Junqueira**, 219 Pacific St., Newark, NJ 07114. Authorization No. WH6477. Effective August 17, 2004.

**Energy Transport, Inc.**, 219 Pacific St., Newark, NJ 07114. Authorization No. WH6478. Effective August 17, 2004.

**R. Fanelle's Sons**, 1466 Ferry Ave., Camden, NJ 08104-1308. Authorization No. WH6479. Effective August 17, 2004.

**Staggert Disposal**, 147 James Rd., Montgomery, PA 17752. Authorization No. WH6480. Effective August 17, 2004.

**Tony Pompena Corporation, Inc.**, 351 Union Green Dr., Verona, PA 15147. Authorization No. WH6481. Effective August 17, 2004.

**AWA Electronics of PA, Inc.**, 110 W. George St., Milford, PA 18337. Authorization No. WH6482. Effective August 17, 2004.

**Jorge J. Leverett**, 21 Pickwick Ln., Willingboro, NJ 08046. Authorization No. WH6483. Effective August 16, 2004.

**B & M Contractors, Inc.**, 1471 S. Olden Ave., Hamilton, NJ 08610. Authorization No. WH6484. Effective August 24, 2004.

**J & J Snyder, Inc.**, R. R. 2 Box 194, Mayport, PA 16240-9311. Authorization No. WH6485. Effective August 17, 2004.

**Rodgers Roofing & Remodeling, Inc.**, 809 Liller Ln., Trafford, PA 15085-9410. Authorization No. WH6486. Effective August 17, 2004.

**Winchester Group, Inc.**, 7511 A Pulsaki Highway, Baltimore, MD 21237-2531. Authorization No. WH6487. Effective August 17, 2004.

**Hotel Furniture Liquidators of Philadelphia, Inc.**, 5301 Tacony St., Philadelphia, PA 19137. Authorization No. WH6488. Effective August 17, 2004.

**Modern Landfill**, 4400 Mt. Pisgah Rd., R. R. 9, Box 317, York, PA 17402-9809. Authorization No. WH6489. Effective August 17, 2004.

**Chencharick Trucking**, 789 Phoenix Rd., Philipsburg, PA 16866. Authorization No. WH6490. Effective August 24, 2004.

**NOJO Trucking Inc.**, 1 Elm St., Wappingers Fall, NY 12590. Authorization No. WH6491. Effective August 20, 2004.

**USA Trucking**, 1020 Woodlane Rd., Edgewater Park, NJ 08010. Authorization No. WH6492. Effective September 13, 2004.

**Cantanhede Construction Co., Inc.**, 160 Sandshore Rd., Budd Lake, NJ 07828. Authorization No. WH6494. Effective August 20, 2004.

**Green Hampton Enterprises, LLC**, 3357 Scotland Rd., Chambersburg, PA 17201. Authorization No. WH6496. Effective August 20, 2004.

**Burkhart's, Inc.**, 250 Kelly Island Rd., Martinsburg, WV 25401. Authorization No. WH6497. Effective August 20, 2004.

**George Mello**, 1927 Tomlinson Rd., Philadelphia, PA 19116. Authorization No. WH6498. Effective August 20, 2004.

**Ana Barreto**, 2034 Glenview St., Philadelphia, PA 19149. Authorization No. WH6499. Effective August 20, 2004.

**Paul & Bros. Transport**, 798 Amwell Rd., Hillsborough, NJ 08844. Authorization No. WH6500. Effective August 24, 2004.

**Bogush, Inc. d/b/a Public Sewer Service**, 190 Maw Ave., Wallington, NJ 07057. Authorization No. WH6501. Effective August 24, 2004.

**Thakar Singh**, 2645 Anthony Ct., Easton, PA 18045. Authorization No. WH6502. Effective August 24, 2004.

**Investment & Enterprise, Inc.**, 600 Melwood Ave., Pittsburgh, PA 15213. Authorization No. WH6504. Effective August 24, 2004.

**T. W. Stewart, Inc.**, 14 Kelly St., Lewistown, PA 19050-2714. Authorization No. WH6505. Effective August 24, 2004.

**Stoudt's Ferry Preparation Co., Inc.**, P. O. Box 279, Saint Clair, PA 17970. Authorization No. WH6506. Effective August 24, 2004.

**SGK Trucking, LLC**, 50 Robin Rd., Mahwah, NJ 07430. Authorization No. WH6508. Effective August 25, 2004.

**Henrique M. Linhares**, 64 Monroe St., Newark, NJ 07105. Authorization No. WH6509. Effective August 25, 2004.

**Transporters Corp.**, 21-30 78th St., E. Elmhurst, NY 11370. Authorization No. WH6510. Effective August 25, 2004.

**J. Scott Somogy Landscapes & Lawns, Inc.**, 25 Patterson Ave., Titusville, NJ 08560. Authorization No. WH6511. Effective August 25, 2004.

**Jeffrey L. Weaver**, 1134 Chestnut St., Reading, PA 19602. Authorization No. WH6512. Effective August 26, 2004.

**Jim Nadik Trucking, Inc.**, 1064 Clinton-Frankfort Rd., Clinton, PA 15026. Authorization No. WH6513. Effective August 26, 2004.

**Calvin Brooks Construction**, 206 Dry Hill Rd., Conellsville, PA 15425. Authorization No. WH6514. Effective August 26, 2004.

**Florentmo Ruiz**, 145 Thompson Ave., Dover, NJ 07801. Authorization No. WH6515. Effective August 26, 2004.

**Joel Beckford**, 2 Fish House Rd., S. Kearny, NJ 07032. Authorization No. WH6516. Effective August 26, 2004.

**Christian Austin Trucking**, 1072 Monroe Turnpike, Monroe, CT 06468-1967. Authorization No. WH6517. Effective August 26, 2004.

**Balhar Singh**, 120-21 91st St., Richmond Hill, NY 11418. Authorization No. WH6518. Effective August 26, 2004.

**Donald D. Growden**, 14 Dover Dr., McDonald, PA 15057. Authorization No. WH6519. Effective August 26, 2004.

**Windsor Park Construction**, 311 Smyser St., York, PA 17404. Authorization No. WH6520. Effective August 27, 2004.

## AIR QUALITY

**General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.**

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.*

**GP3-06-03027: Allan A. Myers, LP** (1805 Berks Road, P. O. Box 98, Worcester, PA 19490) on September 10,

2004, for Portable Nonmetallic Mineral Processing Plants under GP3 in New Morgan Borough, **Berks County**.

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

**61-185: Heath Oil Co.** (5609 SR 8, Barkeyville, PA 16038) on August 31, 2004, to install storage tanks in Barkeyville, **Venango County**.

**27-029: PA General Energy—Allegheny National Forest Lot 50** (Allegheny Forest Road 165, Marienville, PA 16329) on August 31, 2004, to operate a natural gas fired compressor engine in Jenks Township, **Forest County**.

**27-028: PA General Energy—Allegheny National Warrant 5136** (Allegheny Forest Road 213, Marienville, PA 16329) on August 31, 2004, to operate a natural gas fired compressor engine in Kingsley Township, **Forest 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.*

**09-0143A: Naceville Materials** (2001 Ridge Road, Sellersville, PA 18960) on September 8, 2004, to operate a scalping screen and four conveyors in West Rockhill Township, **Bucks County**.

**46-0032B: SPS Technologies, Inc.** (301 Highland Avenue, Jenkintown, PA 19046) on September 8, 2004, to operate a vapor degreaser in Abington 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.*

**48-318-035: CF Martin Guitar and Co., Inc.** (510 Sycamore Street, Nazareth, PA 18064) on September 7, 2004, to modify paint booth 108 to replace the air cleaning device (water wash replaced by panel filters) at their facility in Upper Nazareth Township, **Northampton County**.

**35-317-004: Polarized Meat Co., Inc.** (107 Keystone Industrial Park, P. O. Box 172, Dunmore, PA 18512) on September 3, 2004, to install an air cleaning device to control the atmospheric emissions from two cooking ovens at their facility in Dunmore Borough, **Lackawanna County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.*

**67-03126A: Yorkshire Animal Hospital** (3434 East Market Street, York, PA 17402) on September 7, 2004, to construct a new 130 lb/hr natural gas fired animal crematory in Springettsbury Township, **York County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**17-314-001F: Sensus Metering Systems North America, Inc.** (805 Liberty Boulevard, DuBois, PA 15801) on August 24, 2004, to install an air cleaning

device (a fiber bed mist eliminator system) on three rubber curing ovens in the City of DuBois, **Clearfield County**.

**19-310-002D: Hanson Aggregates Pennsylvania, Inc.** (2200 Springfield Pike, Connellsville, PA 15425) on August 24, 2004, to construct a vertical shaft impact crusher in an existing stone crushing plant at their Bloomsburg Quarry in Hemlock Township, **Columbia County**.

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

**04-00084A: Anchor Hocking Operating Co., LLC** (400 Ninth Street, Monaca, PA 15061) on September 2, 2004, to increase the allowable production rate in furnace no. 2 at the company's glass manufacturing facility in Monaca, **Beaver County**. Throughput will be going from 175 tons of glass pulled per day to 214 tons per day on a 30-day rolling average basis. This is a Title V facility.

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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.*

**15-0009B: ASAHI Glass Fluoropolymers USA, Inc.** (255 South Bailey Road, Downingtown, PA 19355) on September 11, 2004, to operate a fluid bed dryer in Caln Township, **Chester County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**49-331-001: Merck and Co., Inc.** (P. O. Box 600, Danville, PA 17821) on September 13, 2004, to operate the hazardous waste incinerator and associated ancillary equipment and air cleaning devices (quench, venturi scrubber, tray tower scrubber and wet electrostatic precipitator) identified in the respective plan approval on a temporary basis until January 10, 2005, at the Cherokee Plant in Riverside Borough, **Northumberland County**. The authorization has been extended.

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**Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.**

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*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; Muhammad Zaman, Facilities Permitting Chief, (570) 327-3637.*

**17-00005: Glen-Gery Corp.** (P. O. Box 338, Bigler, PA 16825) on July 20, 2004, issued renewal Title V Operating Permit for their brick manufacturing facility in Bradford Township, **Clearfield County**. The facility's sources include three natural gas fired furnaces, a number of natural gas fired space heaters, a natural gas fired water heater, raw material crushing, grinding, screening, mixing and forming, two natural gas and sawdust fired brick kilns, a sawdust screen, a parts washer, an aluminum oxide blasting and painting operation, four natural gas fired brick dryers, two small specialty dryers, a natural gas fired holding room and a chromite storage bin. The renewal Title V operating permit contains all applicable monitoring, recordkeeping and reporting conditions.

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**Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.**

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*Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401; Edward Jurdon Brown, Facilities Permitting Chief, (484) 250-5920.*

**09-00173: P and R Industries, Inc.** (3826 Old Easton Road, Doylestown, PA 18901) on September 8, 2004, to operate a natural minor operating permit in Buckingham Township, **Bucks County**.

*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.*

**07-03003: Bon Secours-Holy Family Hospital** (2500 Seventh Avenue, Altoona, PA 16603) on September 7, 2004, to operate their three natural gas/no. 2 fuel oil fired boilers and three emergency generators in Altoona City, **Blair County**.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**17-00039: Clearfield County SPCA** (R. D. 3, Box 86, Philipsburg, PA 16866) on July 16, 2004, issued State-only Operating Permit for their animal shelter facility in Decatur Township, **Clearfield County**. The facility's main source is a crematory incinerator. The State-only Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**49-00048: Blank Funeral Home** (395 State Street, Sunbury, PA 17801) on July 16, 2004, issued State-only Operating Permit for their human cremation facility in Upper Augusta Township, **Northumberland County**. The facility's main source is a crematory incinerator. The State-only Operating Permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

*Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.*

**43-00037: SQP Industries** (2 North Sixth Street, Sharpsville, PA 16150) on September 2, 2004, for a Natural Minor Operating Permit for a screening operation and diesel generator at Mine No. 1 in Sharpsville Borough, **Mercer County**.

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**Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.**

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*Southcentral Region: Air Quality Program, 909 Elmerton Avenue, Harrisburg, PA 17110; Ronald Davis, New Source Review Chief, (717) 705-4702.*

**06-05061: Cambridge-Lee Industries, Inc.** (P. O. Box 14026, Reading, PA 19612) on September 3, 2004, for a secondary copper smelter controlled by an afterburner and copper rolling mill in Ontelaunee Township, **Berks County**. This State-only Operating Permit was administratively amended to incorporate Plan Approval 06-05061. This is Revision No. 1.

**36-05095: Kemps Foods LLC** (1801 Hempstead Road, Lancaster, PA 17604) on September 7, 2004, for a Synthetic Minor Operating Permit for fluid milk and ice

cream processing operations in Lancaster City, **Lancaster County**. This State-only Operating Permit was administratively amended for clarification of the operating permit conditions. This is Revision No. 1.

*Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.*

**18-00011: Croda, Inc.** (8 Croda Way, Mill Hall, PA 17751) on July 19, 2004, issued a revised Title V Operating Permit, Revision No. 3, for their chemical manufacturing facility in Bald Eagle Township, **Clinton County**. The revision incorporated the terms and conditions from Plan Approvals 18-00011D and 18-00011E for the operation of four storage tanks and their associated distribution systems and the operation of product loading operations. The revision incorporated the terms and conditions from a Request for Determination of Requirement for Plan Approval/Operating Permit for the modification of a storage tank from a trimethylamine storage tank to a dimethylaminopropylamine storage tank and associated distribution system. The revision incorporated the terms and conditions from General Permit GP1-18-01 for the operation of a boiler. The conditions pertaining to 40 CFR Part 60, Subpart Kb (Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction, or Modification Commenced After July 23, 1984) have been removed from Source ID P114 in the revised Title V operating permit. The work practice condition for Source ID P104B pertaining to each tank of Source ID P104B only storing the respective material specifically identified in the application and supplemental materials submitted for Plan Approval 18-00011C has been revised to include a provision that the Department may approve the use of alternative materials, in writing, in the revised Title V operating permit. The Title V operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**60-00004: New Columbia Joist Co.** (2093 Old Highway 15, New Columbia, PA 17856) on September 2, 2004, issued a revised Title V Operating Permit, Revision No. 2, for their steel joist manufacturing facility in White Deer Township, **Union County**. The revision of this permit authorizes the measurement of the dry paint film thickness of reference panels of similar steel and known surface condition as a substitute for measuring the dry paint film thickness of the steel joists. This revision also authorizes the use of glycol ether as a defoamer in the vacuum coating operation. This Title V operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**47-00002: Great Dane LP** (70 Strick Road, Danville, PA 17821) on August 6, 2004, issued a revised Title V Operating Permit, Revision No. 1, for their Danville plant in Limestone Township, **Montour County**. This Title V Operating Permit revision is to incorporate the increase of isopropyl alcohol and adhesive for the roof assembly operating (Source ID P116) into the Title V operating permit. The increase will result in VOC emissions less than 2.7 tons in any 12 consecutive month period and HAP emissions less than 1.0 ton in any 12 consecutive month period from Source ID P116. The Title V operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

**60-0009: Pennsylvania House Furniture, Inc.** (137 North Tenth Street, Lewisburg, PA 17837) on August 4,

2004, issued a revised Title V Operating Permit, Revision No. 1, for their furniture manufacturing facility in White Deer Township, **Union County**. This Title V Operating Permit revision is to reflect the removal of the six spray booths and three drying ovens of the tow conveyor line (Source ID P201) and six of the seven spray booths and one drying oven of the monorail line (Source ID P202). The removal of the tow conveyor line will result in a reduction of VOC emissions of 43.7 tons per year and the removal of the six spray booths and one drying oven of the monorail line will result in a reduction of VOC emissions of 39.2 tons per year. Pennsylvania House Furniture is now eligible to receive a total allotment of 82.9 tons per year of VOC Emission Reduction Credits for the removal of these sources from operation. The remaining spray booth of the monorail line shall have a VOC emissions limitation of 54.8 tons in any 12 consecutive month period. The Title V operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

## 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

*Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.*

**54040102. Neumeister Coal Company** (28 Frank Lane, Ashland, PA 17921), commencement, operation and restoration of an anthracite surface mine and coal refuse disposal operation in Foster and Reilly Townships, **Schuylkill County** affecting 23.0 acres, receiving stream: none. Application received April 13, 2004. Permit issued September 8, 2004.

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

**17921603. NPDES Permit No. PA0214612, Hepburnia Coal Company** (P.O. Box I, Grampian, PA 16838), to renew the permit for the Bells Landing Tipple in Greenwood Township, **Clearfield County** and related NPDES permit. No additional discharges. Permit issued September 9, 2004.

**32901602. NPDES Permit No. PA0214442, AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650), to revise the permit for the I-22 Tipple in Burrell Township, **Indiana County** and related NPDES permit. No additional discharges. Permit issued September 9, 2004.

**32971303. NPDES Permit No. PA0215066, Penn View Mining, Inc.** (R. D. 1, Box 260D, Shelocta, PA 15774), to revise the permit for the Penn View Mine in Burrell and West Wheatfield Townships, **Indiana County** to add acreage to the subsidence control plan area. SCP Acres Proposed 89.0. No additional discharges. Permit issued September 9, 2004.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866.*

**17743165 and NPDES Permit No. PA0127574. Roy Coal Company, Inc.** (Box 12, Olanta, PA 16863), renewal of an existing bituminous surface mine permit in Boggs Township, **Clearfield County** affecting 164.4 acres. Receiving streams: Little Clearfield Creek to Clearfield Creek and Clearfield Creek to West Branch Susquehanna River to Susquehanna River. Application received June 3, 2004. Permit issued September 2, 2004.

**17980109 and NPDES Permit No. PA0238015. AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650), transfer of an existing bituminous surface mine-auger permit from Moravian Run Reclamation Co., Inc. in Pike Township, **Clearfield County** affecting 145 acres. Receiving streams: Hogback Run to the West Branch of the Susquehanna River. Application received April 27, 2004. Permit issued August 26, 2004.

**17030101 and NPDES Permit No. PA0243418. AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650), transfer of an existing bituminous surface mine permit from Moravian Run Reclamation Co., Inc. in Penn Township, **Clearfield County** affecting 220.8 acres. Receiving streams: unnamed tributaries to Bell Run and Bell Run. Application received June 2, 2004. Permit issued September 2, 2003.

**17000108 and NPDES Permit No. PA0242977. AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650), transfer of an existing bituminous surface mine permit from Moravian Run Reclamation Co., Inc. in Ferguson Township, **Clearfield County** affecting 14.7 acres. Receiving streams: not applicable for treatment facilities and sedimentation ponds. The permit requires the use of nondischarge alternative technology. Application received April 27, 2004. Permit issued August 26, 2004.

**17980119 and NPDES Permit No. PA0238121. AMFIRE Mining Company, LLC** (One Energy Place, Latrobe, PA 15650), transfer of an existing bituminous surface mine permit from Moravian Run Reclamation Co., Inc. in Ferguson Township, **Clearfield County** affecting 26 acres. Receiving streams: unnamed tributary to Campbell Run to Gazzam Run to Little Clearfield Creek to Clearfield Creek to West Branch of the Susquehanna River. Application received April 27, 2004. Permit issued August 26, 2004.

**17803094 and NPDES Permit No. PA0127086. Sky Haven Coal, Inc.** (R. R. 1, Box 180, Penfield, PA 15849), renewal of an existing bituminous surface mine-auger permit in Goshen Township, **Clearfield County** affecting 295 acres. Receiving streams: Little Trout Run to Trout Run to West Branch Susquehanna River. Application received April 14, 2004. Permit issued August 25, 2004.

#### *Noncoal Permits Actions*

*Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.*

**64020806. Tompkins Bluestone Co., Inc.** (P. O. Box 776, Hancock, NY 13783), commencement, operation and restoration of a bluestone quarry operation in Buck-

ingham Township, **Wayne County** affecting 4.0 acres, receiving streams: none. Application received October 11, 2002. Permit issued September 7, 2004.

**58040838. Richard Salsman** (R. R. 2 Box 308, Meshoppen, PA 18630), commencement, operation and restoration of a Small Bluestone Quarry operation in Rush Township, **Susquehanna County** affecting 3.0 acres. Receiving stream: tributary to Deer Lick Creek. Application received June 28, 2004. Permit issued September 8, 2004.

*Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.*

**08040803. Barry Reese** (R. R. 2, Box 213, Wyalusing, PA 18853), commencement, operation and restoration of a small industrial minerals (bluestone) permit in Wilmot Township, **Bradford County** affecting 3 acres. Receiving streams: unnamed tributary to Panther Lick, Panther Lick. Application received April 13, 2004. Permit issued August 24, 2004.

**08040806. Walter A. Dickerson** (R. D. 3, Box 253A, Gillett, PA 16925), commencement, operation and restoration of a small industrial minerals (shale) permit in Ridgebury Township, **Bradford County** affecting 1.5 acres. Receiving streams: tributary to Bentley Creek. Application received April 14, 2004. Permit issued August 23, 2004.

**53040801. Gary L. Reese** (156 Cherry Spring Road, Coudersport, PA 16815), commencement, operation and restoration of a small industrial minerals (bluestone) permit in Sweden Township, **Potter County** affecting 3 acres. Receiving streams: Mill Creek. Application received January 28, 2004. Permit issued August 19, 2004.

#### **ABANDONED MINE RECLAMATION**

*Cambria Office: 286 Industrial Park Road, Ebensburg, PA 15931-4119, (814) 472-1800.*

*Wilkes-Barre Office: Two Public Square, 5th Floor, Wilkes-Barre 18711-0790, (570) 826-2371.*

Bond Forfeiture	<b>BF 511-101.1</b>
Contract Awarded	
Location	Jenner Township, <b>Somerset County</b>
Description	Act 181, Bond Forfeiture Reclamation
Contractor	Commonwealth Stone Somerset, PA
Amount	\$23,6000
Date of Award	August 17, 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.*

**38044101. Hall Explosives, Inc.** (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting at Thistledown Development in South Londonderry Township, **Lebanon County** with an expiration date of August 31, 2005. Permit issued August 25, 2004.

**45044033. Explosive Services, Inc.** (7 Pine Street, Bethany, PA 18431), construction blasting at Maple Ridge Homes in Coolbaugh Township, **Monroe County** with an expiration date of August 29, 2005. Permit issued September 7, 2004.

**09044027. Joao & Bradley Construction** (P. O. Box 20345, Lehigh Valley, PA 18002) and **AJT Blasting, LLC** (P. O. Box 20412, Bethlehem, PA 18002), construction blasting at Laurel Avenue Sanitary Sewer Project in Warminster Township, **Bucks County** with an expiration date of February 27, 2005. Permit issued September 7, 2004.

**28044101. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543), construction blasting in Southampton Township, **Franklin County** with an expiration date of October 30, 2004. Permit issued September 8, 2004.

**45044101. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for Alpine Lake Development in Pocono Township, **Monroe County** with an expiration date of December 31, 2004. Permit issued September 8, 2004.

**45044102. Hayduk Enterprises** (P. O. Box 554, Dalton, PA 18414), construction blasting for Smithfield Waterline in Smithfield Township, **Monroe County** with an expiration date of August 31, 2005. Permit issued September 8, 2004.

**67044101. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Ashley Farms Development in Dover Township, **York County** with an expiration date of August 30, 2005. Permit issued September 8, 2004.

**28044102. R & M Excavating** (403 Hilltop Road, Newburg, PA 17240), construction blasting in Guilford Township, **Franklin County** with an expiration date of November 7, 2004. Permit issued September 9, 2004.

**36044101. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Kitchen Kettle Village in Leacock Township, **Lancaster County** with an expiration date of December 30, 2004. Permit issued September 9, 2004.

**36044102. Gerlach's Drilling & Blasting** (172 Bender Mill Road, Lancaster, PA 17603), construction blasting in Millersville Borough, **Lancaster County** with an expiration date of September 1, 2005. Permit issued September 9, 2004.

**36044103. Gerlach's Drilling & Blasting** (172 Bender Mill Road, Lancaster, PA 17603), construction blasting for Mt. Joy Diner in Mt. Joy Borough, **Lancaster County** with an expiration date of September 1, 2005. Permit issued September 9, 2004.

**15044101. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Smoker Auction House in West Sadsbury Township, **Chester County** with an expiration date of October 30, 2004. Permit issued September 9, 2004.

**06044101. Keystone Blasting Service** (381 Reifsnyder Road, Lititz, PA 17543), construction blasting at Homestead Self Storage in Heidelberg Township, **Berks County** with an expiration date of October 30, 2004. Permit issued September 9, 2004.

*Greensburg District Mining Office: R. R. 2, Box 603-C, Greensburg, PA 15601, (724) 925-5500.*

**04044004. Maronda, Inc.** (202 Park West Drive, Pittsburgh, PA 15275). Permit issued for single family residen-

tial development in Brighton Township, **Beaver County**, with an expected duration of 200 days. Permit issued September 7, 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.

**Actions on applications for the following activities filed under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27), section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and The Clean Streams Law (35 §§ 691.1—691.702) and Notice of Final Action for Certification under section 401 of the FWPCA (33 U.S.C.A. § 1341).**

*Permits, Environmental Assessments and 401 Water Quality Certifications Issued*

### WATER OBSTRUCTIONS AND ENCROACHMENTS

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

**E64-248. Lackawanna River Basin Sewer Authority**, P. O. Box 9068, Dickson City, PA 18519-9068. Clinton Township, **Wayne County**, Army Corps of Engineers Baltimore District.

To construct and maintain a combined sewer overflow outfall consisting of a 20-inch diameter ductile iron pipe,

concrete endwall, backflow preventor and rip-rap outlet protection and to construct and maintain a stormwater outfall consisting of an 18-inch diameter smooth-lined polyethylene pipe and rip-rap stilling basin impacting approximately 500 square feet of floodway of the Lackawanna River (HQ-CWF). The project is adjacent to the Clinton Township Wastewater Treatment Plant approximately 0.25 mile northeast of the intersection of SR 0247 and Main Street (Forest City, PA Quadrangle N: 4.0 inches; W: 11.8 inches).

**E45-462. Department of Transportation, Engineering District 5-0**, 1713 Lehigh Street, Allentown, PA 18103. Jackson Township, **Monroe County**, Army Corps of Engineers Philadelphia District.

To remove the existing structure and to construct and maintain a precast concrete arch culvert having a single span of 36 feet and underclearance of approximately 8 feet in Appenzell Creek (HQ-CWF). The culvert will have a 60.0-foot cast-in-place concrete floor depressed a minimum of 3 feet below the stream bed to reestablish a natural stream channel through the structure. The project is along SR 3018 (Neola Church Road), Segment 110, Offset 2035 at a point approximately 0.2 mile west of the SR 3018 and SR 3021 intersection (Saylorsburg, PA Quadrangle N: 15.1 inches; W: 12.8 inches) (Subbasin: 01E).

**E52-197. Pike County**, 506 Broad Street, Milford, PA 18337. Lehman Township, **Pike County**, Army Corps of Engineers Philadelphia District.

To repair and maintain an existing single-span bridge, having a clear span of 26.3 feet, an underclearance of 7.7 feet and width of approximately 30.0 feet, across Little Bush Kill (HQ-CWF). Work will include concrete repairs to the left abutment footing, wingwalls and parapet walls and placement of riprap along the abutments and in the wingwall/streambank areas for scour and erosion protection. The project is immediately downstream of Lake Maskenozha, along Minks Pond Road (T-322) (Lake Maskenozha, PA-NJ Quadrangle N: 10.6 inches; W: 16.8 inches) (Subbasin: 01D).

**E40-628. Borough of Shickshinny**, 35 West Union Street, Shickshinny, PA 18655. Borough of Shickshinny, **Luzerne County**, Army Corps of Engineers Baltimore District.

To modify and maintain an existing stream enclosure of a tributary to the Susquehanna River (CWF), with work consisting of replacing a section of the enclosure utilizing approximately 174 linear feet of 48-inch SLPP followed by 134 linear feet of 76-inch by 48-inch elliptical concrete culvert. The stream enclosure will be relocated to follow existing roadways rather than run through private properties. The project is at the intersection of Main Street (SR 0011) and Butler Street (SR 4004) (Shickshinny, PA Quadrangle N: 4.7 inches; W: 3.7 inches) (Subbasin: 05D).

**E58-260. Springville Township**, P. O. Box 32, Springville, PA 18844. Springville Township, **Susquehanna County**, Army Corps of Engineers Baltimore District.

To remove the existing structure and to construct and maintain a road crossing of White Creek (CWF), consisting of 45 linear feet of 24.1-foot by 6.5-foot open-bottomed aluminum box culvert. The project is along T-372, approximately 0.7 mile south of the intersection of T-372 and SR 3006 (Springville, PA Quadrangle N: 11.1 inches; W: 10.5 inches) (Subbasin: 04G).

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

**E05-325. John C. Johnston**, 1210 Poplar Avenue, Hollidaysburg, PA 16648-1132 in Woodbury Township, **Bedford County**, ACOE Baltimore District.

To construct and maintain a stream rehabilitation project beginning just upstream of the T-607 bridge (New Enterprise, PA Quadrangle N: 13.95 inches; W: 2.85 inches) and continuing to a point (New Enterprise, PA Quadrangle N: 4.6 inches; W: 3.15 inches) approximately 1,800 feet upstream involving the placement of a total of 731 linear feet of riprap and topsoil at various locations on both left and right streambanks for the purpose of restoring the proper channel width, reducing local bank scour and to establish a riparian buffer on Potter Creek (HQ-CWF, perennial) in Woodbury Township, Bedford County. The project will result in direct impacts to 731 linear feet of the channel of Potter Creek.

**E06-585. Trap Rock Railroad, Inc.**, 234 North 6th Street, Reading, PA 19601 in Birdsboro Borough, **Berks County**, ACOE Baltimore District.

To install and maintain a concrete jacket and riprap around existing piers of Railroad Bridge No. 85, which crosses Hay Creek (CWF, MF) immediately west of SR 0082 (Birdsboro, PA Quadrangle N: 1.8 inches; W: 10.6 inches) in the Borough of Birdsboro, Berks County. The issuance of this permit also constitutes approval of a Water Quality Certification under section 401 of the Federal Water Pollution Control Act.

**E07-367. R & K Creekside Farm**, R. D. 2, Box 120A, Williamsburg, PA 16693 in Huston Township, **Blair County**, ACOE Baltimore District.

To construct and maintain a 50-foot long 51-inch by 66-inch pipe arch with a 24-foot concrete apron all depressed at least 6 inches below the existing streambed and parallel to the existing streambed slope, a 645-foot channel relocation and a 4-inch footer drain outfall with a 3-foot riprap apron in the channel of an unnamed tributary to Piney Creek (HQ-CWF) at a point (Frankstown, PA Quadrangle N: 4.8 inches; W: 3.8 inches) approximately 360 feet downstream of the SR 866 bridge in Huston Township, Blair County. The project will result in direct permanent impacts to a total of 645 feet of the channel of the unnamed tributary to Piney Creek.

**E22-471. Hummelstown Borough**, 136 South Hanover Street, Hummelstown, PA 17036 in Hummelstown Borough, **Dauphin County**, ACOE Baltimore District.

To fill and maintain 0.003 acre of wetlands adjacent to the Swatara Creek (WWF), for the purpose of upgrading, widening and lengthening the Hummel Nature Trail, approximately 1,000 feet north of U. S. 322 on the western side of Hummelstown, east of the Swatara Creek (Hershey, PA Quadrangle N: 3.0 inches; W: 14.0 inches) in Hummelstown Borough, Dauphin County.

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

**E14-461. Chris Hall**, 960 East High Street, Bellefonte, PA 16823. 312 Park Avenue Proposed Residence in Spring Township, **Centre County**, ACOE Baltimore District (Bellefonte, PA Quadrangle N: 5.5 inches; W: 5.9 inches).

To construct and maintain: (1) a 1,750 square foot single family residential house on 24 12-inch diameter, 8-foot high columns; (2) a U-shaped wrap around deck on 24 12-inch diameter, 8-foot high columns; (3) an at-grade driveway in the right floodway of Spring Creek at a 9-1-1

address of 312 Rear Park Avenue, which is 500 feet northeast of the intersection of SR 550 and Park Avenue. This permit was issued under section 105.13(e) "Small Projects."

**E14-464. Paul Fisher**, 168 Beiler Drive, Rebersburg, PA 16872. Fisher Farm Bridge in Miles Township, **Centre County**, ACOE Baltimore District (Millheim, PA Quadrangle N: 12.3 inches; W: 6.6 inches).

To remove an existing silted-in, multiculvert stream crossing and the associated fill, then to construct and maintain a 24-foot clear span concrete/I-beam bridge with the associated concrete wingwalls to allow Elk Creek to restore a natural cross-section at the farm lane stream crossing that is 1.2 miles east of the SR 192 and SR 880 intersection. This project proposes to permanently impact a 40 linear feet of Elk Creek (HQ-CWF). This permit was issued under section 105.13(e) "Small Projects." This permit also includes 401 Water Quality Certification.

**E41-542. Michael Creveling**, 680 Antler Lane, Williamsport, PA 17701. Small Projects Water Obstruction and Encroachment Joint Permit Application in Woodward Township, **Lycoming County**, ACOE Susquehanna River Basin District (Williamsport, PA Quadrangle N: 18.18 inches; W: 14.17 inches).

To remove an existing 20-foot by 12-foot cinder block garage and 144 square feet of residential structure and construct and maintain a 30-foot by 38-foot, three car garage and a 132 square foot residential addition in the floodway of the West Branch of the Susquehanna River, 4.2 miles from the intersection of SR 0015 South and West Fourth Street along Antlers Lane in Woodward Township, Lycoming County. This permit was issued under section 105.13(e) "Small Projects."

**E53-401. Oswayo Borough**, 115 Rumsey Street, Oswayo, PA 16915. Depot Street Bridge Replacement Project in Oswayo Borough, **Potter County**, ACOE Baltimore District (Oswayo, PA Quadrangle N: 8.26 inches; W: 2.61 inches).

To remove an existing structure and construct, operate and maintain a single span prestressed concrete adjacent box beam bridge to carry Depot Street across Oswayo Creek (HQ-CWF). The single span bridge shall be constructed with a minimum span of 42 feet, underclearance of 6.24 feet and curb-to-curb width of 21 feet. All construction and future maintenance work shall be completed during stream low flow and dry work conditions by dams and pumping or fluming stream flow around work areas. Since Oswayo Creek is a wild trout fishery, no maintenance work shall be conducted in or along the unnamed tributary channel between October 1 and December 31, without prior written permission from the Fish and Boat Commission. The project will not impact wetlands, while impacting 110 feet of waterways that is along the eastern right-of-way of SR 0244 approximately at the intersection of Depot Street and SR 0244.

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

**E25-685. Gilbert A. Horvath, Chairperson Board of Supervisors, Amity Township Supervisors**, 15030 Casler Road, Union City, PA 16438. T-490 (Sammons Road Bridge) over UNT Hubbel Run in Amity, **Erie County**, ACOE Pittsburgh District (Union City, PA Quadrangle N: 22.1 inches; W: 7.4 inches).

The applicant proposes to remove the existing structure and to construct and maintain a 40-foot long, 10.67-foot wide by 6.9-foot high structural metal pipe arch

culvert in an unnamed tributary to Hubbel Run (WWF, perennial) on T-490 Sammons Road approximately 0.3 mile east of the intersection of SR 8 and SR 89. The project includes construction of wingwalls. The project proposes to directly affect a total of approximately 60 linear feet of stream channel.

**E62-399, North Penn Pipe and Supply**, 2351 Dorcon Road, Warren, PA 16365. Stream Enclosure Replacement in Mead Township, **Warren County**, ACOE Pittsburgh District (Warren, PA Quadrangle N: 13.9 inches; W: 0.5 inch).

To remove the existing structure and to construct and maintain a 200-foot long, 8-foot diameter CMP stream enclosure in Ott Run (CWF, perennial) at the North Penn Pipe and Supply pipe yard approximately 0.7 mile northwest of the intersection of U. S. Route 6 and SR 59. The existing structure was deteriorated and the fill above the structure was sinking in several places in the pipe yard resulting in a potentially unsafe condition and loss of usable yard space for the business. The Department issued Emergency Permit EP6204601 on June 10, 2004, to construct the stream enclosure and the applicant continued with the permitting process. The project proposes to directly affect a total of approximately 220 linear feet of stream channel.

*Bureau of Waterways Engineering, Water Management Program Manager, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8554, Harrisburg, PA 17105-8554.*

**E4014-001, Department of General Services, Bureau of Engineering and Architecture**, 18th and Herr Streets, Harrisburg, PA 17125. Flood Control Project on Mill Creek, Borough of Dupont, **Luzerne County**, ACOE Baltimore District. Application to amend Permit E40-613.

Permit E40-613 authorized the Department of General Services to maintain the existing concrete trapezoidal channel and to construct and maintain new sections of rectangular concrete channel and concrete box culvert stream enclosure, within a 3,000-foot reach of Mill Creek and a 220-foot reach of Collins Creek, for the purpose of flood control.

The permit is requested to be amended to extend the flood protection project with the following activates associated with the construction of the project in and along approximately 1,870 linear feet (approximately 2.5 acres) of Mill Creek (CWF, perennial):

1. The upstream end of the project will tie into the existing Route 315 South Bridge and the downstream end will be just upstream of the junction of Mill Creek with Lidy Creek. The channel will follow the existing alignment of Mill Creek through a residential section of Dupont and will consist of the following work:

2. An 18-foot wide rectangular concrete channel between Route 315 South and Center Street. This channel will have wall heights between 9 feet and 7 feet high and will extend for a distance of 616 feet.

3. A 45-foot long precast concrete box culvert at Center Street. The box culvert is 18 feet wide and 6 feet high.

4. A 75-foot long rectangular concrete channel will be constructed downstream of Center Street. The channel width will vary between 18 feet and 23 feet and the wall height is 6 feet. This channel will connect to the existing stone walled channel.

5. Remove the sediment and debris from the existing stone walled channel downstream of Center Street. Re-



pair damaged portions of the stone walls and construct a concrete invert to prevent undermining of the stone walls. This portion of the project is 443 feet long.

6. Construct a trapezoidal channel with a concrete invert and grouted riprap side slopes for a distance of 657 feet. The upstream end of this reach is at the downstream outlet of the existing stone walled channel and the downstream end is just above the junction of Mill Creek with Lidy Creek.

The project is just downstream of the Route 315 South Bridge (Avoca, PA Quadrangle N: 13.4 inches, W: 17.0 inches) in the Borough of Dupont, Luzerne County.

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## SPECIAL NOTICES

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### **Intent to Issue a Hazardous Waste Permit under the Resource Conservation and Recovery Act and the Hazardous and Solid Waste Amendments of 1984; Opportunity for a Public Hearing**

#### *Draft Hazardous Waste Permit*

*Permittee:* Bethlehem Apparatus Company, Inc.

*Permit No.:* PAD002390961

*Facility:* Bethlehem Apparatus Company, Inc., Hellertown Borough, Northampton County

The Department of Environmental Protection (Department) intends to issue to Bethlehem Apparatus Company a Solid Waste Management Act Permit. This draft permit is to operate a hazardous waste facility in Hellertown Borough.

#### *Public Review and Public Comment*

Section 270a.80(b) of 25 Pa. Code requires that the public be given 45 days to comment on each draft permit prepared under the Solid Waste Management Act. The comment period will begin on September 28, 2004, and will end on November 11, 2004. Persons interested in commenting on the application or draft permit must do so within this comment period. Copies of the application, draft permit and fact sheet for the hazardous waste facility may be reviewed at the Bethlehem District Office, 4530 Bath Pike (Route 512), Bethlehem, PA 18017. Contact Robert C. Wallace at (570) 826-2511 for further information.

#### *Further Information and Public Hearing*

Persons wishing to comment on permit conditions or the permit application should submit the comments in writing to the Department of Environmental Protection, Waste Management Program, 2 Public Square, Wilkes-Barre, PA 18711-0790, Attn: William Tomayko, Regional Solid Waste Manager. Comments should include reasonably available references, factual grounds and supporting materials.

A public hearing is scheduled for Wednesday, November 10, 2004, at 7 p.m. at the Hellertown Borough Municipal Building, 685 Main Street, Hellertown, PA 18055. The public hearing will be held on the Department's draft permit for hazardous waste storage and processing.

#### *Final Determination*

When making a determination regarding the issuance of a hazardous waste permit to Bethlehem Apparatus Company, the Department will consider written comments received during the comment period and oral or written statements received during the public hearing, the requirements of 25 Pa. Code Chapters 260—270 and the Department's permitting policies.

#### *Facility Description*

The Hellertown Borough facility of Bethlehem Apparatus Company in Northampton County is a treatment and storage facility for primarily mercury bearing materials.

The facility manufactures and refurbishes mercury-containing apparatus. In addition to the recycling/reclamation of mercury bearing hazardous waste and the manufacturing and refurbishing of mercury containing apparatus, the facility also refines by distillation liquid elementary mercury for sale to commercial and industrial users. The treatment process for mercury bearing waste results in the generation of residual and/or hazardous waste, which no longer contain mercury, as well as recovering mercury contained within the waste materials into its elemental form. The facility currently has an office area, a receiving dock, an incoming material sorting area, a container storage area, 23 mercury reclamation retorts and associated equipment and battery and drum crushers. Facility operations include drum sorting and liquid separation, container storage and mercury recovery treatment in the retort recovery furnaces. Storage and treatment operations take place within the enclosed building.

### **Public Hearing for NPDES Permit No. PAI026404006**

The Department will hold a public hearing to accept comment on Individual NPDES Permit Application PAI026404006 for the discharge of stormwater from construction activities at the proposed RETAIL at Texas Township in Texas Township, Wayne County.

The public hearing will be held on Wednesday, November 10, 2004, at 7 p.m. in the White Mills Fire Hall, 47 Main (SR 006), White Mills, Texas Township, Wayne County by the Department of Environmental Protection, Water Management Program, Soils and Waterways Section, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2553. The hearing is in response to an application submitted by R. D. Honesdale, LLC. The NPDES permit application proposes the discharge of stormwater from construction activities to UNT to Lackawaxen River.

The Department requests that individuals wishing to testify at the hearing submit a written notice of intent to Retail at Texas Township Public Hearing, Department of Environmental Protection, Water Management Program, 2 Public Square, Wilkes-Barre, PA 18711. The Department will accept notices up to the day of the hearing. The Department requests that individuals limit their testimony to 10 minutes so that all individuals have the opportunity to testify. The Department can only review comments made with regard to the NPDES Permit Application PAI026404006. Written copies of oral testimony are requested. Relinquishing time to others will not be allowed. Individuals attending the hearing will have the opportunity to testify if they so desire. However, individuals who preregister to testify will be given priority on the agenda.

Persons with a disability who wish to testify and require an auxiliary aid, service or other accommodation should contact Christine Domashinski at (570) 826-2511 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department can meet their needs.

The NPDES permit application is available for review at the Wayne County Conservation District Office, Wayne, PA, (570) 253-0930. For further information, contact Mark Carmon, Northeast Regional Office, (570) 826-2511.

### Public Meeting and Request for Comment for the Proposed Total Maximum Daily Load (TMDL) for the Moose Creek Watershed in Clearfield County

The Department will hold a public meeting to discuss and accept comments on a proposed TMDL for the Moose Creek Watershed in Clearfield County. The meeting will be held on October 27, 2004, at 6:30 p.m. at the Clearfield County Multiservice Center, Daisy Street, Clearfield, PA. Individuals who plan to make a presentation at the public meeting should contact, by 4 p.m. on Friday, October 22, 2004, John Mital, Moshannon District Mining Office, (814) 342-8200. The Department will consider all comments in developing the final TMDL for the Moose Creek Watershed, which will be submitted to the EPA for approval.

The proposed TMDL for the Moose Creek Watershed was established in accordance with the requirements of the Clean Water Act, section 303(d). Two stream segments in the Moose Creek Watershed have been identified as impaired on the 1996 Pennsylvania Section 303(d) list due to depressed pH and/or high concentrations of metals. The listed segment and miles degraded are shown in the following table:

<i>Stream Code (Segment ID)</i>	<i>Stream Name</i>	<i>Miles Degraded</i>
26609	Moose Creek	5.9
26613	Woods Run	2.3

The proposed plan provides calculations of the stream's total capacity to accept metals (aluminum, iron, manganese and acidity), pH and maintain levels below water quality criteria. The applicable water quality criteria are as follows:

<i>Parameter</i>	<i>Criterion Value (mg/l)</i>	<i>Total Recoverable/ Dissolved</i>
Aluminum	0.75	Total Recoverable
Iron	1.5	Total Recoverable
Manganese	1.00	Total Recoverable
pH	6.0–9.0	N/A

The primary pollutant source for the watershed is abandoned mine workings. This watershed was mined for coal in the 1900s. The effects of this are still present.

The proposed TMDL was developed using Monte Carlo Simulation (MCS) to determine long-term average concentrations that each stream segment could accept and still meet water quality criteria 99% of the time. MCS allows for the expansion of a data set based on its statistical makeup. Since there was no critical flow condition where criteria were exceeded, the Department used the average flow to express the loading values in the proposed TMDL. The proposed TMDL for the Moose Creek Watershed sets allowable loading rates for metals and acidity at specified points in the watershed. Field data collected over the past 2 years was used to establish the proposed TMDL for the Moose Creek Watershed. The data and all supporting information used to develop the proposed TMDL are available from the Department.

The Department will accept written comments on the proposed TMDL for the Moose Creek Watershed. Written comments must be postmarked by November 24, 2004, and sent to John Mital, Geologic Specialist, Department of Environmental Protection, Moshannon District Mining Office, 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200, jmital@state.pa.us.

To request a copy of the proposed TMDL and associated information sheet or to obtain directions to the Clearfield

County Multiservice Center, contact John Mital at the previous phone number or e-mail address.

The proposed TMDL for the Moose Creek Watershed can be accessed through the Department's website: [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP Keyword: TMDL). Persons with a disability who require accommodations to attend this meeting should contact the Department at (814) 472-1900 or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users) to discuss how the Department may accommodate their needs.

[Pa.B. Doc. No. 04-1782. Filed for public inspection September 24, 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 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: 150-2302-004. Title: Procedures for the Approval and Accreditation of Laboratories in the Commonwealth of Pennsylvania Utilizing the National Environmental Laboratory Accreditation Conference (NELAC) Standard. Description: This policy establishes minimum criteria that laboratories must meet to obtain and maintain accreditation under the Pennsylvania National Environmental Laboratory Accreditation Program (NELAP). The guidance applies to all laboratories desiring to obtain and maintain accreditation under the Pennsylvania NELAP as an alternative within the Environmental Laboratory Accreditation Program. A draft of this policy was published at 34 Pa.B. 3985 (July 24, 2004) with provision for public comment that ended on August 17, 2004. The Department did not receive any comments on the draft policy. Effective Date: September 25, 2004.

DEP ID: 150-2302-005. Title: Procedures for the Approval and Accreditation of Drinking Water Laboratories in the Commonwealth of Pennsylvania. Description: This policy establishes minimum criteria that laboratories must meet to obtain and maintain accreditation to perform and report environmental analyses on samples from public drinking water supplies in this Commonwealth. A draft of this policy was published at 34 Pa.B. 3985 with provision for public comment that ended on August 17, 2004. The Department did not receive any comments on the draft policy. Effective Date: September 25, 2004.

KATHLEEN A. MCGINTY,  
*Secretary*

[Pa.B. Doc. No. 04-1783. Filed for public inspection September 24, 2004, 9:00 a.m.]

### **Certification Program Advisory Committee for Water and Wastewater System Operators Meeting Cancellation**

The Certification Program Advisory Committee for Water and Wastewater System Operators has cancelled its meeting scheduled for October 6, 2004. The next scheduled meeting will be held on December 9, 2004, at 10 a.m. in the Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA. The agenda and meeting materials for the December 9, 2004, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website: [www.dep.state.pa.us](http://www.dep.state.pa.us) (DEP Keyword: Participate).

Questions concerning the cancellation of the October 6, 2004, meeting or the December 9, 2004, meeting should be directed to Lynn Rice, (717) 787-5236, [mlrice@state.pa.us](mailto:mlrice@state.pa.us).

Persons with a disability who require accommodations to attend the December 9, 2004, meeting should contact the Department at (717) 787-5236 or through 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. 04-1784. Filed for public inspection September 24, 2004, 9:00 a.m.]

### **Council of Great Lakes Governors; Great Lakes Water Management Initiative Draft Annex 2001 Implementing Agreements; Public Meeting**

The Department of Environmental Protection (Department) will hold a public meeting on September 30, 2004, at the Erie County Conservation District, Headwaters Park, 1927 Wager Road, Erie, PA. The purpose of the meeting is to discuss the draft Annex 2001 Implementing Agreements released by the Council of Great Lakes Governors (Council). The first session will be held from 9:30 a.m. to 11 a.m. for the Presque Isle Bay Public Advisory Committee and the Great Lakes Regional Water Resources Advisory Committee to hear a brief presentation and discuss the documents. A second session, with a brief presentation and open house, will be held from 6:30 p.m. to 8 p.m. at the same location. Both sessions are open to the public.

The Council, as part of the Great Lakes Water Management Initiative, released the draft agreements on July 19, 2004. The agreements were created to update the way the Great Lakes and the waters of the Great Lakes Basin are managed and protected. The draft documents are available on the Council's website: [www.cglg.org](http://www.cglg.org). A 90-day public comment period on the draft agreements extends until October 18, 2004.

Questions concerning this meeting should be directed to Lori Boughton, (814) 332-6155, [l Boughton@state.pa.us](mailto:l Boughton@state.pa.us).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Lori Boughton at (814) 332-6155 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. 04-1785. Filed for public inspection September 24, 2004, 9:00 a.m.]

## **DEPARTMENT OF HEALTH**

### **Chronic Renal Disease Advisory Board Meeting**

The Renal Advisory Committee, established by 35 P. S. § 6204, will hold a public meeting on Friday, October 29, 2004, from 10 a.m. to 3 p.m. in the Health and Welfare Building, Room 812, Commonwealth Avenue and Forster Street, Harrisburg, PA.

For additional information or persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Elaine E. Gible, Program Administrator, Chronic Renal Disease Program, Division of Child and Adult Health Services, (717) 772-5138, 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. 04-1786. Filed for public inspection September 24, 2004, 9:00 a.m.]

### **Infant Hearing Screening Advisory Committee Meeting**

The Infant Hearing Screening Advisory Committee, established under the Infant Hearing Education, Assessment, Reporting and Referral (IHEARR) Act (11 P. S. §§ 876-1—876-9), will hold a public meeting on Wednesday, November 3, 2004, from 9:30 a.m. to 2:30 p.m. in 125N, Training Room A, Commonwealth Keystone Building, Commonwealth Avenue and Forster Street, Harrisburg, PA.

For additional information or persons with a disability who wish to attend the meeting and require an auxiliary aid, service or other accommodation to do so, contact Arthur A. Florio, Public Health Program Administrator, Newborn Hearing Screening Program, Division of Newborn Disease Prevention and Identification, (717) 783-

8143, 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. 04-1787. Filed for public inspection September 24, 2004, 9:00 a.m.]

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## 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: UGI Energy Services, Inc., Bethlehem Propane Facility, Crest and Signet Streets, Bethlehem, PA 18015.

The application is for adding nine additional 60,000-gallon LPG storage tanks to the location. The addition of these 9 tanks would make a total of 32 LPG storage tanks at the location with a total storage capacity of 1.64 million gallons of propane. According to the application, the facility will have loading and offloading of transports and is used as a propane air peaking service during the winter.

The due date for protests or comments concerning this application is 45 days after the date of this published notice. A party that fails to file a timely protest will be barred from 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. 04-1788. Filed for public inspection September 24, 2004, 9:00 a.m.]

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## DEPARTMENT OF PUBLIC WELFARE

### Community Mental Health Block Grant Public Hearing

The Office of Mental Health and Substance Abuse Services (Office) is responsible for writing the Community Mental Health Block Grant (grant) for the Commonwealth. This block grant application is for the 2005-2006 year and is a 1-year grant. Previously, the grant application had been a multiyear application. The Office, with

the collaboration of the Mental Health Planning Council, wrote the grant application. A small workgroup gathered comments, suggestions and recommendations for the new application. In accordance to the rules set forth by the Federal government, a public hearing must take place on the block grant. The comments and feedback from the public hearing will be incorporated into the implementation report that is due to the Federal government on December 1, 2004.

The Office will hold two public hearings. The first hearing will be held on September 28, 2004, from 12 p.m. to 4 p.m. at the Harrisburg State Hospital, Beechmont Building No. 23, Harrisburg, PA 17105. The second hearing will be held on September 29, 2004, from 12 p.m. to 4 p.m. at the Mercer County Cooperative Extension Building, Rt. 19N, 463 N. Perry Highway, Mercer, PA 16137.

Questions should be directed to Meri Haunstein, Office of Mental Health and Substance Abuse Services, Beechmont Building, P. O. Box 2675, Harrisburg, PA 17105, (717) 346-0752, fax: (717) 772- 7964.

Persons with a disability who require an auxiliary aid or service may submit comments using the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,  
*Secretary*

[Pa.B. Doc. No. 04-1789. Filed for public inspection September 24, 2004, 9:00 a.m.]

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### Intention to Establish an Additional Class of Disproportionate Share Payments

The purpose of this notice is to provide prior public notice of the Department of Public Welfare's (Department) intent to establish an additional class of disproportionate share payments for certain qualifying hospitals.

The Department intends to make this payment, in addition to the classes of disproportionate share payments already made under the Medical Assistance (MA) Program, to certain hospitals, which the Department has determined provide a high volume of services to MA eligible and low income populations in medically underserved areas. This payment is intended to assure the hospitals' continued participation in the MA Program. For a hospital to qualify for payments, the hospital must be an acute care hospital that met all of the following criteria in State Fiscal Year 1999-2000:

- a) The ratio of MA days to total hospital patient days exceeds 35%.
- b) The hospital provides in excess of 50,000 patient days of service.
- c) The hospital has an occupancy ratio (total patient days used divided by total bed days available) of at least 70%.
- d) The hospital has a Low-Income Utilization Rate of at least 40%.
- e) The hospital is located in a census tract (United States Census 2000) designated by the Bureau of Primary Health Care of the Health Resources and Services Administration as a Medically Underserved Area and serves a market area that is at least 95% minority based.

f) The hospital has a government dependency ratio, comprised of MA Percentage of Net Patient Revenue plus Medicare Percentage of Net Patient Revenue, in excess of the 95th percentile for all Commonwealth acute care hospitals.

The Department intends to allocate \$1.5 million in State Fiscal Year 2004-2005 from the State General Fund for this additional class of payments. Payments will be divided proportionately between qualifying hospitals based on the percentage of each qualifying hospital's MA inpatient days to total MA inpatient days of all qualifying facilities. Payment limitations are still applicable, including those limitations that the Commonwealth may not exceed its aggregate annual disproportionate share allotment and that no hospital may receive disproportionate share payments in excess of its hospital-specific limit.

#### *Fiscal Impact*

For Fiscal Year 2004-2005, the fiscal impact as a result of this additional class of disproportionate share payments will be \$3.316 million in total funds (\$1.5 million in State General funds and \$1.816 million in Federal funds).

#### *Public Comment*

Interested persons are invited to submit written comments to this notice within 30 days of publication to the Department of Public Welfare, Office of Medical Assistance Programs c/o Deputy's Secretary Office, Attn: Regulations Coordinator, Room 515 Health and Welfare Building, Harrisburg, PA 17120. Persons with a disability may use the AT&T Relay Service, (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

ESTELLE B. RICHMAN,  
*Secretary*

**Fiscal Note:** 14-NOT-399. (1) General Fund; (2) Implementing Year 2004-05 is \$1,500,000; (3) 1st Succeeding Year 2005-06 is \$0; 2nd Succeeding Year 2006-07 is \$0; 3rd Succeeding Year 2007-08 is \$0; 4th Succeeding Year 2008-09 is \$0; 5th Succeeding Year 2009-10 is \$0; (4) 2003-04 Program—\$429,061,000; 2002-03 Program—\$372,670,000; 2001-02 Program—\$407,104,000; (7) Medical Assistance—Inpatient; (8) recommends adoption. The costs outlined have been included in the General Appropriation Act of 2004 (Act 7A).

[Pa.B. Doc. No. 04-1790. Filed for public inspection September 24, 2004. 9:00 a.m.]

### **Payments to Nursing Facilities; Proposed Rates for State Fiscal Year 2003-2004**

This notice announces the Department of Public Welfare's (Department) intent to make changes in the payment rates for Medical Assistance (MA) nursing facility providers for the State Fiscal Year 2003-2004 (FY 03-04). The Department is proposing to make these changes because they are required by the case-mix rate-setting methodology in 55 Pa. Code Chapter 1187 (relating to nursing facility services) and the Commonwealth's approved Medicaid State Plan.

Under the Department's case-mix payment methodology, the Department establishes a new case-mix per diem payment rate for each MA nursing facility provider once for each fiscal year. See 55 Pa. Code § 1187.95 (relating to general principles for rate and price setting). Each provider's annual case-mix per diem rate is comprised of

four cost components: (i) resident care; (ii) other resident related; (iii) administrative; and (iv) capital. For each quarter of the fiscal year, the Department adjusts the resident care cost component of each provider's rate by multiplying the resident care cost component by the provider's MA Case-Mix Index for the appropriate picture date as follows: July 1 rate—February 1 picture date; October 1 rate—May 1 picture date; January 1 rate—August 1 picture date; and April 1 rate—November 1 picture date. See 55 Pa. Code § 1187.96 (relating to price and rate setting computations). The Department pays the provider for nursing facility services provided to MA recipients during that quarter using the provider's adjusted quarterly per diem rate.

The Department has calculated new annual case-mix per diem payment rates for FY 03-04 for MA nursing facility providers. The Department is proposing to adopt and make payments to MA nursing facility providers using these rates. Before adopting these rates, the Department is making them available for public review and comment. The proposed FY 03-04 annual per diem rates are available on the Office of Medical Assistance Programs' (OMAP) website: [www.dpw.state.pa.us/omap](http://www.dpw.state.pa.us/omap). The proposed FY 03-04 annual per diem rates are also available at local county assistance offices throughout this Commonwealth or by contacting Tom Jayson, Policy Unit, Bureau of Long Term Care Programs, (717) 705-3705.

The Department has also calculated adjusted quarterly rates for the July, October, January and April quarters of FY 03-04 for each MA nursing facility provider. These adjusted quarterly rates are also available on the OMAP's website, at local county assistance offices and from Tom Jayson.

The database that the Department used to calculate the rates is available on the OMAP's website. Since some of the audited cost reports in the database relate to fiscal periods beginning prior to January 1, 2001, the Department revised the audited costs in the database as specified in 55 Pa. Code § 1187.91(1)(iv)(D) (relating to database) to disregard certain audit adjustments disallowing minor movable property or linen costs. The criteria that the Department used to make these revisions are available on the OMAP's website or by contacting Tom Jayson.

#### *Fiscal Impact*

The estimated increase in annual aggregate expenditures for MA nursing facility services for FY 03-04 is \$142.5 million (\$64.467 million in State funds).

#### *Public Comment*

Interested persons are invited to submit written comments about the proposed rates to the Department within 30 days of publication of this notice in the *Pennsylvania Bulletin*. Comments should be addressed to the Department of Public Welfare, Attn: Gail Weidman, P. O. Box 2675, Harrisburg, PA 17105. 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-387. (1) General Fund; (2) Implementing Year 2003-04 is \$64,467,000; (3) 1st Succeeding Year 2004-05 is \$65,450,000; 2nd Succeeding Year 2005-06 is \$65,450,000; 3rd Succeeding Year 2006-07 is \$65,450,000; 4th Succeeding Year 2007-08 is \$65,450,000; 5th Succeeding Year 2008-09 is \$65,450,000; (4) 2002-03 Program—\$777,084,000; 2001-02 Program—\$761,877,000; 2000-01 Program—\$722,565,000; (7) Medical Assistance—

Long Term Care; (8) recommends adoption. Funding for 2003-04 is included in Act 9-A of 2003. Funding for 2004-05 is included in Act 7-A of 2004.

[Pa.B. Doc. No. 04-1791. Filed for public inspection September 24, 2004, 9:00 a.m.]

## DEPARTMENT OF REVENUE

### Pennsylvania Monopoly '04 Instant Lottery Game

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of the rules for the following instant lottery game:

1. *Name:* The name of the game is Pennsylvania Monopoly '04.

2. *Price:* The price of a Pennsylvania Monopoly '04 instant lottery game ticket is \$2.

3. *Play Symbols:* Each Pennsylvania Monopoly '04 instant lottery game ticket will contain one play area featuring a "HOTEL NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "HOTEL NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SNTN), 18 (EGTN), 19 (NINTN) and 20 (TWTY). The play symbols and their captions located in the "YOUR NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SNTN), 18 (EGTN), 19 (NINTN), 20 (TWTY) and GO Symbol (AUTO).

4. *Prize Symbols:* The prize symbols and their captions located in the "PRIZE" area are: \$1<sup>00</sup> (ONE DOL), \$2<sup>00</sup> (TWO DOL), \$4<sup>00</sup> (FOR DOL), \$5<sup>00</sup> (FIV DOL), \$10<sup>00</sup> (TEN DOL), \$20\$ (TWENTY), \$40\$ (FORTY), \$100 (ONE HUN), \$400 (FOR HUN), \$2,000 (TWO THO) and \$20,000 (TWY THO).

5. *Prizes:* The prizes that can be won in this game are \$1, \$2, \$4, \$5, \$10, \$20, \$40, \$100, \$400, \$2,000 and \$20,000. A player can win up to ten times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 7,200,000 tickets will be printed for the Pennsylvania Monopoly '04 instant lottery game.

#### 7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "HOTEL NUMBERS" play symbols and a prize symbol of \$20,000 (TWY THO) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "HOTEL NUMBERS" play symbols and a prize symbol of \$2,000 (TWO THO) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a GO Symbol (AUTO), and a prize symbol of \$2,000 (TWO THO) appears to the right of the GO Symbol (AUTO) on a single ticket, shall be entitled to a prize of \$2,000.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "HOTEL NUMBERS" play symbols and a prize symbol of \$400 (FOR HUN) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$400.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a GO Symbol (AUTO), and a prize symbol of \$400 (FOR HUN) appears to the right of the GO Symbol (AUTO) on a single ticket, shall be entitled to a prize of \$400.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "HOTEL NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a GO Symbol (AUTO), and a prize symbol of \$100 (ONE HUN) appears to the right of the GO Symbol (AUTO) on a single ticket, shall be entitled to a prize of \$100.

(h) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "HOTEL NUMBERS" play symbols and a prize symbol of \$40\$ (FORTY) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$40.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a GO Symbol (AUTO), and a prize symbol of \$40\$ (FORTY) appears to the right of the GO Symbol (AUTO) on a single ticket, shall be entitled to a prize of \$40.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "HOTEL NUMBERS" play symbols and a prize symbol of \$20\$ (TWENTY) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$20.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a GO Symbol (AUTO), and a prize symbol of \$20\$ (TWENTY) appears to the right of the GO Symbol (AUTO) on a single ticket, shall be entitled to a prize of \$20.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "HOTEL NUMBERS" play symbols and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a GO Symbol (AUTO), and a prize symbol of \$10<sup>00</sup> (TEN DOL) appears to the right of the GO Symbol (AUTO) on a single ticket, shall be entitled to a prize of \$10.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "HOTEL NUMBERS" play symbols and a prize symbol of \$5<sup>00</sup> (FIV DOL) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a GO Symbol (AUTO), and a prize symbol of \$5<sup>.00</sup> (FIV DOL) appears to the right of the GO Symbol (AUTO) on a single ticket, shall be entitled to a prize of \$5.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "HOTEL NUMBERS" play symbols and a prize symbol of \$4<sup>.00</sup> (FOR DOL) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$4.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a GO Symbol (AUTO), and a prize symbol of \$4<sup>.00</sup> (FOR DOL) appears to the right of the GO Symbol (AUTO) on a single ticket, shall be entitled to a prize of \$4.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "HOTEL NUMBERS" play symbols and a prize symbol of \$2<sup>.00</sup>

(TWO DOL) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a GO Symbol (AUTO), and a prize symbol of \$2<sup>.00</sup> (FOR DOL) appears to the right of the GO Symbol (AUTO) on a single ticket, shall be entitled to a prize of \$2.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches either of the "HOTEL NUMBERS" play symbols and a prize symbol of \$1<sup>.00</sup> (ONE DOL) appears to the right of the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$1.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

*When Any of Your Numbers Match Any of the Hotel Numbers, Win With Prize(s) of:*

	<i>Win:</i>	<i>Approximate Odds 1 In:</i>	<i>Approximate No. of Winners Per 7,200,000 Tickets</i>
\$1 x 2	\$2	37.5	192,000
\$2	\$2	37.5	192,000
\$2 w/GO	\$2	23.08	312,000
\$1 x 4	\$4	37.5	192,000
\$4	\$4	37.5	192,000
\$4 w/GO	\$4	37.5	192,000
\$1 x 5	\$5	150	48,000
\$5	\$5	75	96,000
\$5 w/GO	\$5	150	48,000
\$1 x 10	\$10	300	24,000
\$2 x 5	\$10	300	24,000
\$5 x 2	\$10	300	24,000
\$10	\$10	300	24,000
\$10 w/GO	\$10	300	24,000
\$5 x 4	\$20	500	14,400
\$20	\$20	500	14,400
\$20 w/GO	\$20	375	19,200
\$4 x 10	\$40	2,553	2,820
\$5 x 8	\$40	3,000	2,400
\$10 x 4	\$40	3,000	2,400
\$20 x 2	\$40	3,000	2,400
\$40	\$40	3,000	2,400
\$40 w/GO	\$40	3,000	2,400
\$10 x 10	\$100	6,000	1,200
\$20 x 5	\$100	6,000	1,200
\$40 x 2 + \$5 x 4	\$100	6,000	1,200
\$100	\$100	6,000	1,200
\$100 w/GO	\$100	6,000	1,200
\$40 x 10	\$400	17,143	420
\$100 x 4	\$400	17,143	420
\$400	\$400	17,143	420
\$400 w/GO	\$400	20,000	360
\$400 x 5	\$2,000	120,000	60
\$2,000	\$2,000	120,000	60
\$2,000 w/GO	\$2,000	120,000	60
\$20,000	\$20,000	720,000	10

GO = Win prize automatically

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Monopoly '04 instant lottery game tickets. The conduct of the game will be governed by 61 Pa. Code § 819.222 (relating to retailer bonuses and incentives).

10. *Unclaimed Prize Money:* For a period of 1 year from the announced close of Pennsylvania Monopoly '04, prize money from winning Pennsylvania Monopoly '04 instant lottery game tickets will be retained by the Secretary for payment to the persons entitled thereto. If no claim is made within 1 year of the announced close of the Pennsylvania Monopoly '04 instant lottery game, the right of a ticket holder to claim the prize represented by the ticket, if any, will expire and the prize money will be paid into the State Lottery Fund and used for purposes provided for by statute.

11. *Governing Law:* In purchasing a ticket, the customer agrees to comply with and abide by the State Lottery Law, 61 Pa. Code Part V (relating to State Lotteries) and the provisions contained in this notice.

12. *Termination of the Game:* The Secretary may announce a termination date, after which no further tickets from this game may be sold. The announcement will be disseminated through media used to advertise or promote Pennsylvania Monopoly '04 or through normal communications methods.

GREGORY C. FAJT,  
Secretary

[Pa.B. Doc. No. 04-1792. Filed for public inspection September 24, 2004, 9:00 a.m.]

**Pennsylvania Poker Showdown Instant Lottery Game; Change to Game Rules**

Under the State Lottery Law (72 P. S. §§ 3761-101—3761-314) and 61 Pa. Code § 819.203 (relating to notice of instant game rules), the Secretary of Revenue hereby provides public notice of changes to the Pennsylvania Poker Showdown instant lottery game rules that were published at 34 Pa.B. 4979 (September 4, 2004).

This amendment clarifies a description of a \$35 prize level. The correct version of this document is as follows, with ellipses referring to the existing text as it appeared at 34 Pa.B. 4979 and 4980:

\* \* \* \* \*

7. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amounts of prizes and approximate odds of winning:

<i>Win With Prize(s) Of:</i>	<i>Win:</i>	<i>Approximate Odds of 1 In:</i>	<i>Approximate No. of Winners Per 6,000,000 Tickets</i>
	* * * * *		
\$35 BONUS	\$35	300	20,000
3 of a Kind + 2 Pair + \$5 BONUS	\$35	600	10,000
	* * * * *		

GREGORY C. FAJT,  
Secretary

[Pa.B. Doc. No. 04-1793. Filed for public inspection September 24, 2004, 9:00 a.m.]

**Public Utility Realty Tax Act Surcharge Rate for the Tax Year Beginning January 1, 2005**

The Secretary of Revenue is required under 72 P. S. § 8111-A(d) to publish the rate of the Public Utility Realty Tax Act (PURTA) surcharge in the form of a notice in the *Pennsylvania Bulletin* by October 1, 2003, and by each October 1 thereafter. The tax rate established in 72 P. S. § 8111-A(d) shall be imposed upon gross receipts taxes as provided in 72 P. S. § 8111-A(d) for the period beginning the next January 1.

The result of the PURTA surcharge calculation provided in 72 P. S. § 8111-A for the tax year beginning January 1,

2005, is .0006 mill. Therefore, a PURTA surcharge under 72 P. S. § 8111-A(d) will be imposed for the taxable period beginning January 1, 2005. The additional 0.0006 mill shall be paid upon each dollar of gross receipts reported and settled in accordance with 72 P. S. § 8101, except gross receipts from providing mobile telecommunication services and telegraph or telephone messages transmitted in interstate commerce.

GREGORY C. FAJT,  
Secretary

[Pa.B. Doc. No. 04-1794. Filed for public inspection September 24, 2004, 9:00 a.m.]



# DEPARTMENT OF TRANSPORTATION

## Finding York County

Under section 2002(b) of The Administrative Code of 1929 (71 P. S. § 512(b)), the Deputy Secretary for Highway Administration makes the following written finding:

The Department of Transportation plans to replace the existing Kralltown Road Bridge over Bermudian Creek in Washington Township, York County. The project includes minor approach roadway work in conjunction with replacing the Kralltown Road Bridge. The Kralltown Road Bridge is listed in the National Register of Historic Places. The effect of this project on the National Register-listed Kralltown Road Bridge will be mitigated by a Memorandum of Agreement (MOA) for the proposed action, which has been signed by all appropriate agencies. The MOA includes a stipulation for a marketing plan and a commitment to prepare a Historic American Engineering Record documentation package as a permanent record of the Kralltown Road Bridge's existence.

The Deputy Secretary for Highway Administration has considered the environmental, economic, social and other effects of the proposed project as enumerated in section 2002 of The Administrative Code of 1929, and has concluded that there is no feasible and prudent alternative to the project as designed, and all reasonable steps have been taken to minimize effects.

No adverse environmental effect is likely to result from the replacement of the Kralltown Road Bridge.

GARY L. HOFFMAN, P. E.,  
*Deputy Secretary for Highway Administration*

[Pa.B. Doc. No. 04-1795. Filed for public inspection September 24, 2004, 9:00 a.m.]

### Pennsylvania Unified Certification Program

Under 49 CFR 26.81, the Department of Transportation (Department) is announcing the establishment of the Pennsylvania Unified Certification Program (program). Under 49 CFR 26.81, all recipients of funds from the Federal Aviation Administration (FAA), the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) in this Commonwealth are required to create and implement a unified certification program for disadvantaged business enterprises (DBE). The program provides one-stop shopping for DBE certification. A DBE certified by the program will be recognized by all recipients of FAA, FHWA and FTA funds in this Commonwealth.

The Department partnered with four other certifying agencies in this Commonwealth to establish the program.

Reciprocity among certifying agencies is a component of the program. Certifying participants in the program are the City of Philadelphia, Minority Business Enterprise Council, Allegheny County, Office of Minority, Women and Disadvantaged Business Enterprises, Port Authority of Allegheny County, Office of Equal Opportunity, South-eastern Pennsylvania Transportation Authority, Small & Disadvantaged Utilization Department and the Department's Bureau of Equal Opportunity. The certifying participants will retain their certification functions and abide by the same forms, guideline and procedures. DBEs are now certified by the program, instead of having DBE certification from a specific agency.

For more information regarding the program, visit [www.paucp.com](http://www.paucp.com). Information can also be obtained by contacting Michael Schirmer, Director, DBE Supportive Services, Cheyney University of Pennsylvania, P. O. Box 527, Cheyney, PA 19319-0200, (877) 736-6323, (610) 399-2206, [mschirmer@cheyney.edu](mailto:mschirmer@cheyney.edu).

ALLEN D. BIEHLER, P. E.,  
*Secretary*

[Pa.B. Doc. No. 04-1796. Filed for public inspection September 24, 2004, 9:00 a.m.]

## FISH AND BOAT COMMISSION

### Triploid Grass Carp Permit Applications

Under 58 Pa. Code § 71.7 (relating to triploid grass carp), the Fish and Boat Commission (Commission) may issue permits to stock triploid grass carp in Commonwealth waters. Triploid grass carp are sterile fish that may, in appropriate circumstances, help control aquatic vegetation. The Commission has determined, consistent with 58 Pa. Code § 71.7(e)(3), to seek public input with respect to any proposed stockings of triploid grass carp in waters having a surface area of more than 5 acres.

Interested persons are invited to submit written comments, objections or suggestions about the notice to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 10 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted.

Comments also may be submitted electronically to [ra-pfbcregs@state.pa.us](mailto: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, 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.

The following applications to stock triploid grass carp in waters having a surface area of greater than 5 acres are currently undergoing staff review:

<i>Applicant</i>	<i>Water</i>	<i>Location of Water</i>	<i>Description of Water</i>	<i>Nature of Vegetation to be Controlled</i>
Robert Merritt	Merritt Pond	Bedford Township, Bedford County	10-acre lake which discharges into Shobers Run	Elodea canadensis Filamentous algae

<i>Applicant</i>	<i>Water</i>	<i>Location of Water</i>	<i>Description of Water</i>	<i>Nature of Vegetation to be Controlled</i>
John K. Wolff	Le Lac du Loup Restocking request	Oregon Township, Wayne County	13-acre lake which discharges into an unnamed tributary to South Branch Calkins Creek	Potamogeton spp.
Deer Lake Improvement Association	Deer Lake	Wharton Township, Fayette County	60-acre lake which discharges into Meadow Run	Myriophyllum sp.

DOUGLAS J. AUSTEN, Ph.D.,  
*Executive Director*

[Pa.B. Doc. No. 04-1797. Filed for public inspection September 24, 2004, 9:00 a.m.]

## INDEPENDENT REGULATORY REVIEW COMMISSION

### Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 9:30 a.m., Thursday, September 9, 2004, and announced the following:

*Regulation Deemed Approved under section 5(g) of the Regulatory Review Act—Effective September 8, 2004*

Department of Transportation # 18-387: Vehicles Required to Stop at Railroad Grade Crossings (Rescinds 67 Pa. Code Chapter 103)

JOHN R. MCGINLEY, Jr.,  
*Chairperson*

[Pa.B. Doc. No. 04-1798. Filed for public inspection September 24, 2004, 9:00 a.m.]

## INSURANCE DEPARTMENT

### Alleged Violation of Insurance Laws; Jack J. Hetherington, Esq.; Doc. No. SC04-08-040

Notice is hereby given of the Order to Show Cause issued on September 9, 2004, by the Deputy Insurance Commissioner in the previously referenced matter. Violation of the following is alleged: 40 P. S. §§ 46, 47, 234, 237, 252 and 279.

The respondent shall file a written answer to the Order to Show Cause within 20 days of the date of issue. If the respondent files a timely answer, a formal administrative hearing shall be held in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure) and other relevant procedural provisions of law.

Answers, motions preliminary to those at the hearing, protests, petitions to intervene or notices of intervention, if any, must be filed in writing with the Hearings Administrator, Insurance Department, Administrative Hearings Office, 901 North 7th Street, Harrisburg, PA 17102.

Persons with a disability who wish to attend the administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Jeffrey Wallace, Agency ADA Coordinator, (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-1799. Filed for public inspection September 24, 2004, 9:00 a.m.]

### Alleged Violation of Insurance Laws; Richard P. Wilson, Esq.; Doc. No. SC04-08-039

Notice is hereby given of the Order to Show Cause issued on September 9, 2004, by the Deputy Insurance Commissioner in the previously referenced matter. Violation of the following is alleged: 40 P. S. §§ 46, 47, 234, 237, 252 and 279.

The respondent shall file a written answer to the Order to Show Cause within 20 days of the date of issue. If the respondent files a timely answer, a formal administrative hearing shall be held in accordance with 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure), 31 Pa. Code Chapter 56 (relating to special rules of administrative practice and procedure) and other relevant procedural provisions of law.

Answers, motions preliminary to those at the hearing, protests, petitions to intervene or notices of intervention, if any, must be filed in writing with the Hearings Administrator, Insurance Department, Administrative Hearings Office, 901 North 7th Street, Harrisburg, PA 17102.

Persons with a disability who wish to attend the administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Jeffrey Wallace, Agency ADA Coordinator, (717) 787-4298.

M. DIANE KOKEN,  
*Insurance Commissioner*

[Pa.B. Doc. No. 04-1800. Filed for public inspection September 24, 2004, 9:00 a.m.]

### Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insureds have requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68), in connection with the termination of the insureds' automobile policies. The hearings will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearings will be held in the Insurance Department's regional offices in Philadelphia and Pittsburgh, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Philadelphia Regional Office, Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Carl A. Mason; file no. 04-267-03010; State Farm Fire and Casualty Insurance Company; doc. no. PH04-08-036; October 21, 2004, 11 a.m.

Appeal of Jeffery and Kathleen F. Hofmann; file no. 04-266-03453; AAA Mid-Atlantic Insurance Company; doc. no. PH04-08-037; October 21, 2004, 12:30 p.m.

The following hearing will be held in the Pittsburgh Regional Office, Room 304 State Office Building, 300 Liberty Avenue, Pittsburgh, PA 15222.

Appeal of Toni S. Roberts; file no. 04-303-71484; Erie Insurance Exchange; doc. no. PI04-08-035; October 15, 2004, 10 a.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal, and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated represen-

tatives. 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. 04-1801. Filed for public inspection September 24, 2004, 9:00 a.m.]

### Review Procedure Hearings under the Unfair Insurance Practices Act

The following insured has requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with the company's termination of the insured's policy. The administrative hearing will be held in the Insurance Department's regional office in Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Philadelphia Regional Office, Room 1701 State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Patricia A. Port; file no. 04-265-02826; State Farm Fire and Casualty Insurance Company; doc. no. PH04-08-042; October 21, 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. 04-1802. Filed for public inspection September 24, 2004, 9:00 a.m.]

# LEGISLATIVE REFERENCE BUREAU

## Pamphlet Laws and Slip Laws of Pennsylvania Printing and Binding

Sealed proposals will be received by the Legislative Reference Bureau (Bureau), 641 Main Capitol Building, Harrisburg, PA 17120-0033, until 10 a.m. on Wednesday, October 20, 2004, and then publicly opened and read, for a contract for printing and binding of the *Pamphlet Laws* and a contract for printing and binding of the *Slip Laws of Pennsylvania* for the contract period beginning January 1, 2005, and ending December 31, 2006, with provision for optional renewal for one additional 2-year period.

Facilities for offset printing and pamphlet binding are required. The *Pamphlet Law* contract requires case binding by Smyth sewing. At the discretion of the Bureau, subcontracting by bidders will be considered.

Bids must be accompanied by a certified or bank cashier's check in the sum of \$1,000. The Bureau reserves the right to reject any or all parts of bids and to waive technical defects in bids. Blanks and information may be obtained upon application to Marilyn Puskarich, (717) 787-6060, at the previous address.

ROBERT W. ZECH, Jr.,  
Director

[Pa.B. Doc. No. 04-1803. Filed for public inspection September 24, 2004, 9:00 a.m.]

## Pennsylvania Consolidated Statutes Printing, Binding, Storage and Distribution

Sealed proposals will be received by the Legislative Reference Bureau (Bureau), 641 Main Capitol Building, Harrisburg, PA 17120-0033, until 10 a.m. on Wednesday, October 20, 2004, and then publicly opened and read, for printing, binding, storage and distribution of the *Pennsylvania Consolidated Statutes* for the contract period beginning January 1, 2005, and ending December 31, 2006, with provision for optional renewal for one additional 2-year period.

Facilities for offset printing, pamphlet binding, storage and periodic mailing or other distribution are required. At the discretion of the Bureau, subcontracting by bidders will be considered.

Bids must be accompanied by a certified or bank cashier's check in the sum of \$1,000. The Bureau reserves the right to reject any or all parts of bids and to waive technical defects in bids. Blanks and information may be obtained upon application to Marilyn Puskarich, (717) 787-6060, at the previous address.

ROBERT W. ZECH, Jr.,  
Director

[Pa.B. Doc. No. 04-1804. Filed for public inspection September 24, 2004, 9:00 a.m.]

# PENNSYLVANIA INDUSTRIAL DEVELOPMENT AUTHORITY

## Interest Rates

The Pennsylvania Industrial Development Authority (PIDA) gives notice of the change in interest rates for loans approved by the PIDA Board of Directors (Board). Loan applications submitted after September 1, 2004, and until further notice will be subject to the interest rate schedule that follows in the respective counties as determined by the most recent applicable unemployment statistics and will remain in effect until changed by a notice in the *Pennsylvania Bulletin*.

The PIDA Board retains the right to waive or modify the interest rates on a case by case basis for good cause shown.

*Note:* Loan applications are subject to the schedule of interest rates in effect at the time the application is received by the Department of Community and Economic Development. A loan application that is deferred shall be subject to the schedule of interest rates in effect on the date of the PIDA Board meeting at which the application is considered, regardless of when the application was originally submitted.

Further information can be obtained from the Pennsylvania Industrial Development Authority, Commonwealth Keystone Building, 400 North Street, 4th Floor, Harrisburg, PA 17120, (717) 787-6245.

DENNIS YABLONSKY,  
Chairperson

## PIDA Participation and Interest Rates for Counties and Municipalities\* Over 25,000 Population

	Maximum PIDA Participation			Interest Rate**	
	(S)	(L)			%
ADAMS	40	30	***	***	4.25
ALLEGHENY	40	30	***	***	4.25
McKeesport City	60	50			3.25
West Mifflin Borough	40	30	***	***	3.25
ARMSTRONG	50	40		***	3.25
BEAVER	50	40		***	3.25
BEDFORD	60	50			3.25
BERKS	50	30	***	***	3.25
Reading City	60	50			3.25
BLAIR	40	40	***	***	4.25
BRADFORD	40	30	***	***	3.25
BUCKS	40	30	***	***	4.25
BUTLER	40	30	***	***	4.25
CAMBRIA	50	40		***	3.25
Johnstown City	60	50			3.25
CAMERON	50	40		***	3.25

	Maximum PIDA Participation		Interest Rate**
	(S)	(L)	
CARBON	60	50	3.25
CENTRE	40 ***	30 ****	4.25
CHESTER	30 ****	30 ****	4.25
CLARION	40 ***	40 ***	4.25
CLEARFIELD	60	50	3.25
CLINTON	50	40 ***	3.25
COLUMBIA	50	40 **	3.25
CRAWFORD	50	40 **	3.25
CUMBERLAND	40 ***	30 ****	4.25
DAUPHIN	40 ***	30 ****	4.25
Harrisburg City	50	30 ****	3.25
DELAWARE	40 ***	30 ****	4.25
Chester City	60	50	3.25
ELK	50	40 **	3.25
ERIE	50	40 **	3.25
FAYETTE	60	50	3.25
FOREST	70	60	3.25
FRANKLIN	40 ***	30 ****	4.25
FULTON	50	40 **	3.25
GREENE	50	40 **	3.25
HUNTINGDON	60	50	3.25
INDIANA	50	40 **	3.25
JEFFERSON	50	40 **	3.25
JUNIATA	40 ***	40 **	4.25
LACKAWANNA	40 ***	40 **	4.25
LANCASTER	40 ***	30 ****	4.25
Lancaster City	50	30 ****	3.25
LAWRENCE	50	40 **	3.25
New Castle City	60	50	3.25
LEBANON	30 ****	30 ****	4.25
Lebanon City	40 ***	30 ****	4.25
LEHIGH	40 ***	30 ****	4.25
Allentown City	50	30 ****	3.25
Whitehall Township	50	30 ****	3.25
LUZERNE	50	40 **	3.25
LYCOMING	50	40 **	3.25
McKEAN	50	40 **	3.25
MERCER	40 ***	30 ****	4.25
MIFFLIN	50	40 **	3.25
MONROE	50	40 **	3.25
MONTGOMERY	40 ***	30 ****	4.25
Norristown Borough	50	30 ****	3.25
MONTOUR	40 ***	30 ****	4.25
NORTHAMPTON	40 ***	30 ****	4.25
NORTHUMBERLAND	50	40 **	3.25
PERRY	40 ***	30 ****	4.25
PHILADELPHIA	50	40 **	3.25

	Maximum PIDA Participation		Interest Rate**
	(S)	(L)	
PIKE	40 ***	30 ****	4.25
POTTER	50	40 ***	3.25
SCHUYLKILL	50	40 **	3.25
SNYDER	40 ***	30 ****	4.25
SOMERSET	50	40 **	3.25
SULLIVAN	50	40 **	3.25
SUSQUEHANNA	50	40 **	3.25
TIOGA	50	40 **	3.25
UNION	40 ***	30 ****	4.25
VENANGO	50	40 **	3.25
WARREN	50	40 **	3.25
WASHINGTON	50	40 **	3.25
WAYNE	40 ***	40 **	4.25
WESTMORELAND	40 ***	40 **	3.25
WYOMING	40 **	40 **	4.25
YORK	40 ***	30 ****	4.25
York City	60	50	3.25

\* Municipalities are listed only if PIDA rate differs from County rate.

\*\* Based on calendar year 2003 unemployment rate. Subject to change at discretion of the PIDA Board.

(S) Small business (less than 50 existing employees, including parent, subsidiaries and affiliates).

(L) Large Business.

*Special Note:* Projects located in Designated Enterprise Zones, Financially Distressed Municipalities under Act 47, Federal Empowerment Zones, Federal Enterprise Communities, Keystone Opportunity Zones, Keystone Opportunity Expansion Zones, Keystone Opportunity Improvement Zones, Brownfield Sites and companies designated as advanced tech firms will receive an interest rate of 3.25%.

\*\*\* 10% equity required.

\*\*\*\* 20% equity required.

[Pa.B. Doc. No. 04-1805. Filed for public inspection September 24, 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 Commis-

sion, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by October 18, 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.

**Application of the following for amendment to the certificate of public convenience approving the operation of motor vehicles as common carriers for transportation of persons as described under the application.**

**A-00119867, Folder 1, Am-A. John C. Taylor and Ida Taylor, Copartners, t/d/b/a Top Notch Van Services** (2809 Rhawn Street, Philadelphia, PA 19152)—persons in paratransit service, from points in the City and County of Philadelphia, to all State and Federal correctional facilities located in Pennsylvania, and return: *So As To Permit* the transportation of persons in paratransit service, for the Philadelphia Prison System, between points in Pennsylvania.

JAMES J. MCNULTY,  
*Secretary*

[Pa.B. Doc. No. 04-1806. Filed for public inspection September 24, 2004, 9:00 a.m.]

### **West Penn Power Company Joint Petition for Settlement and for Modification of the 1998 Restructuring Settlement**

**R-00039022 and R-00973981. West Penn Power Company.** West Penn Power Company, by its counsel, and on behalf of the joint petitioners, filed a joint petition, set forth as follows, for settlement and for modification of the 1998 restructuring settlement, requesting, inter alia: (1) approval of the terms of the joint petition; (2) direction to West Penn Power Company to file a tariff supplement to become effective on 1 day's notice incorporating the schedule of rates and charges; and (3) approval of certain amendments to West Penn Power Company's 1998 restructuring settlement, consistent with the terms of this joint petition. The joint petition resolves issues relating to the company's stranded cost under-recoveries, by authorizing securitization of the stranded cost under-recovery and extending the stranded cost recovery period and corresponding rate cap period.

Written comments may be filed within 20 days after publication of this notice in the *Pennsylvania Bulletin*. Comments must be filed with the Secretary of the Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Copies of the entire filing are available for full inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday.

*Petitioner:* West Penn Power Company

*Through and By Counsel:* John F. Povilaitis, Ryan, Russell, Ogden and Seltzer, LLP, Suite 101, 800 North Third Street, Harrisburg, PA 17102-2025.

JAMES J. MCNULTY,  
*Secretary*

*Petition of West Penn Power Company for Issuance of a Further Supplement to Its Previous Qualified Rate Orders Under Sections 2808 and 2812 of the Public Utility Code; Doc. No. R-00039022*

*Application of West Penn Power Company for Approval of its Restructuring Plan under Section 2806 of the Public Utility Code; Doc. No. R-00973981*

*Joint Petition for Settlement and for Modification of the 1998 Restructuring Settlement*

The active parties to the above-captioned proceeding, the Office of Consumer Advocate ("OCA"), the Office of Small Business Advocate ("OSBA"), the West Penn Power Industrial Intervenors ("WPPII") and West Penn Power Company ("West Penn" or "the Company"), all of whom may be referred to in this Joint Petition either in their individual capacities or collectively as the "Joint Petitioners," join in this Joint Petition for Settlement and for Modification of the 1998 Restructuring Settlement ("Joint Petition") and respectfully request that, following notice to the parties in the 1998 restructuring proceeding at Docket No. R-00973981 and to customers, as well as an opportunity for affected stakeholders and customers to be heard, the Presiding Officer and the Pennsylvania Public Utility Commission ("Commission"): (1) approve the terms of this Joint Petition, (2) direct West Penn to file a Tariff Supplement to become effective on one day's notice incorporating the schedule of rates and charges attached hereto as Appendix A, and (3) approve certain amendments to West Penn's 1998 Restructuring Settlement, as defined herein, consistent with the terms of this Joint Petition. The Joint Petition resolves issues relating to the Company's Commission-recognized stranded cost under-recoveries, by securitizing the stranded cost under-recovery and extending the stranded cost recovery period and corresponding rate cap, consistent with the underlying intent of the 1998 Restructuring Settlement and Commission precedent. In support of their Joint Petition, the Joint Petitioners represent the following:

#### INTRODUCTION

1. West Penn is a public utility and Pennsylvania corporation authorized pursuant to Commission regulation to provide electric utility service in all or parts of 23 counties in Pennsylvania. It currently provides electric service to approximately 697,000 customers in Pennsylvania. Pursuant to the Electric Generation Competition and Customer Choice Act, West Penn filed with the Commission a restructuring proceeding in August of 1997 at Docket No. R-00973981 that resulted in a settlement among the parties to that proceeding. The settlement at Docket No. R-00973981 was approved by the Commission by Final Order entered November 19, 1998 (collectively hereinafter referred to as the "1998 Restructuring Settlement").

2. On November 25, 2003, West Penn filed a Petition for Issuance of a Second Supplement to its Previous Qualified Rate Orders under Sections 2808 and 2812 of the Public Utility Code. West Penn sought a supplemental qualified rate order ("QRO") to securitize its remaining unsecuritized, unrecovered stranded costs allowed in its 1998 Restructuring Settlement, carrying costs, Company savings, transaction fees and expenses and to recover the supplemental intangible transition charge beyond December 31, 2008, which was to be the end point of West Penn's stranded cost recovery period and generation rate cap as set forth in the 1998 Restructuring Settlement. West Penn proposed securitizing approximately \$115 million in transition bonds. By correspondence dated February 25, 2004, West Penn waived its request for expedited resolution of its supplemental QRO in anticipation of temporary financing being obtained to satisfy maturing debt.

3. The OCA, the OSBA and the WPPII each filed Answers to West Penn's Petition on December 15, 2003. In general, the OCA, OSBA and WPPII opposed West Penn's petition on the grounds, among several reasons, that it sought recovery of stranded cost beyond the stranded cost recovery period and generation rate cap period which were to conclude simultaneously in 2008, without providing for extension of the generation rate caps in 2009 and 2010.

4. The Joint Petitioners, via a Joint Motion to Admit Materials into the Evidentiary Record (Joint Motion), filed with this Joint Petition, have stipulated to the admission of testimony and further exhibits to the evidentiary record of this proceeding. In addition, WPPII submitted testimony, which stressed, inter alia, the importance of West Penn avoiding a scenario in which stranded costs in the form of a competitive transition charge ("CTC") or ITC were still being collected from customers without rate cap protection. West Penn is also submitting testimony in support of the terms of the Joint Petition. Among other things, that testimony stresses the importance of avoiding a scenario in which West Penn would be recovering stranded costs in the form of a competitive transition charge ("CTC") or ITC, but customers would be without rate cap protection. Other Joint Petitioners may submit statements in support of the Joint Petition. Pursuant to the Joint Motion, the record is to include:

a. Statement No. 1, Direct Testimony of John R. Howells and associated Exhibits JRH-1, JRH-2, JRH-3, JRH-4, JRH-5, JRH-6, JRH-7, JRH-8 (Attachment A).

b. Rebuttal Statement No. 1, Rebuttal Testimony of John R. Howells (Attachment B).

c. Petition of West Penn Power Company with Exhibits A, B and C (Attachment C).

d. West Penn Power Company Restructuring Settlement (Attachment D).

e. WPPII Statement No. 1, Direct Testimony of Victor Sawicki (Attachment E).

f. WPPII Statement No. 2, Direct Testimony of Michele Ponchione (Attachment F).

g. Exhibit titled West Penn ITC-2 Projected Annual Activity, (Attachment G).

h. Table depicting breakout of components of West Penn requested securitization (Attachment H).

i. Informal Data Requests Nos. 1, 2 and 3 of OSBA and West Penn responses (Attachment I).

j. Exhibit depicting Projected Shopping Credit Adjustments (Attachment J).

k. It is also agreed to by the parties that OCA shopping statistics may be considered part of the record.

5. The testimony of West Penn witness Howells (Statement No. 1) that accompanied the November 2003 Petition described the background of this proceeding. In its 1998 Restructuring Proceeding at Docket No. R-00973981, the Commission approved the parties' Joint Petition for Full Settlement by Order entered November 19, 1998. West Penn was authorized to recover \$670 million in stranded costs. The Commission also authorized West Penn to securitize the full stranded cost amount of \$670 million. The Commission's Order of November 19, 1998 was the Qualified Rate Order (QRO) necessary for securitization and issuance of transition bonds under Section 2812 of the Public Utility Code. (Howells St. No. 1, pp. 4-5). On April 23, 1999, West Penn requested that

the Commission enter a Supplemental QRO to clarify the mechanics of the issuance and reconciliation of transition bonds. The Commission entered the Supplemental QRO August 12, 1999 at Docket No. R-00994649. (Howells St. No. 1, p. 5). In May of 1999 West Penn Funding LLC was formed as a special purpose entity for the sole purpose of purchasing and owning intangible transition property, and issuing transition bonds. West Penn Funding LLC was formed by West Penn Funding Corporation, a wholly owned subsidiary of West Penn. In November 1999 West Penn Funding issued \$600 million of transition bonds. (Howells St. No. 1, pp. 6-7).

6. West Penn continued to attempt to recover the remainder of its non-securitized stranded costs through its CTC. Since the inception of its CTC, West Penn was underrecovering or not recovering its full authorized CTC. The reason for the underrecovery was that West Penn revenues were constrained by the rate cap and sales levels. Each year since the inception of its CTC in 1999, West Penn as part of its CTC reconciliation proceeding, requested that the Commission direct the deferral of the undercollected CTC amounts as a regulatory asset for full and complete recovery at a future date. The underrecovery in 1999 was \$15.9 million. (Docket No. M-FACE9905). The underrecovery in 2000 was \$6.4 million which, when added to the existing underrecovery of \$15.9 million, resulted in cumulative underrecovery of \$22.3 million. (Docket No. M-FACE0006). The underrecovery in 2001 was approximately \$9.6 million which, when added to the existing underrecovery of \$22.3 million, resulted in a cumulative underrecovery of \$31.9 million. (Docket No. M-FACE-0109). The underrecovery in 2002 was approximately \$16.9 million which, when added to the existing underrecovery of \$31.9 million, resulted in a cumulative underrecovery of \$48.8 million (Docket No. M-FACE0210). In West Penn's CTC Reconciliation Statement for 2003, West Penn showed an underrecovery of \$16.1 million which, when added to the existing underrecovery of \$48.8 million, resulted in a cumulative underrecovery in the amount of \$64.9 million. (Docket M-FACE0308). On August 30, 2004, West Penn filed its CTC reconciliation for the 12 months ended July 31, 2004 showing a 12-month underrecovery of \$13.2 million, for a total cumulative underrecovery of \$78.1 million. The reconciliation and deferral filings and Orders were attached as Exhibits JRH-4 through JRH-8 in the Petition filed November 25, 2003. (Howells St. No. 1, pp. 7-8).

7. The Joint Petitioners have engaged in extensive settlement discussions with the procedural cooperation of the Office of Administrative Law Judge ("ALJ") that have resulted in this mutually acceptable Joint Petition that all parties believe to be in the public interest and that all parties believe should be promptly approved by the Commission so that the benefits to the public achieved by this Joint Petition can be realized as soon as possible. Consistent with Section 2804(4)(ii) of the Competition Act, and the intent of the 1998 Restructuring Settlement Agreement, this Joint Petition satisfies the Intervenor's concerns that customers would not be exposed to unrestricted market prices for generation, while still being responsible for payment of stranded costs.

8. The terms of the Joint Petition reflect the fact that West Penn's need for additional time to recover the stranded costs established in the restructuring proceeding essentially means that the electric competition transition period must be extended for the Company. It is important to note that the Joint Petition does not address West Penn's post-transition POLR period, but rather the continued transition to the POLR period while West Penn

continues to collect stranded costs from its ratepayers. In recognition of the extension of the transition period, the Joint Petition continues the same principles in the Company's 1998 Restructuring Settlement: stranded cost collection, distribution rate caps and gradually increasing generation rates subject to caps.

9. In trying to resolve these issues that arose from the 1998 Restructuring Settlement, the Joint Petitioners sought to reach a settlement that is consistent with the manner in which the parties to the 1998 Restructuring Settlement dealt with issues of stranded costs and generation rate caps. The 1998 Restructuring Settlement provided for stranded cost collection and generation rate caps ending simultaneously by December 31, 2008. The 1998 Restructuring Settlement also called for generation rate increases to occur in 2006 and 2008. Since West Penn has not been able to collect all of its stranded costs within the rates provided in the 1998 Restructuring Settlement, and has had to defer such stranded cost amounts, the Joint Petition provides for a longer period (through 2010) to collect the stranded costs and associated carrying charges previously approved in the 1998 Restructuring Settlement. As set forth below, the Joint Petition provides for additional increases in generation rates in 2007 and 2008. The Joint Petition also provides that during the extended period when these stranded costs are collected (from January 1, 2009 through 2010), West Penn's generation rates will be subject to a rate cap. Furthermore, the Joint Petition extends West Penn's distribution rate cap from December 31, 2005, as agreed in the 1998 Restructuring Settlement, through December 31, 2007, with an additional distribution rate cap in effect throughout 2009. Any distribution rate increase shall become effective no later than October 1, 2008. The 2007 generation rate increase is mitigated by the distribution rate cap extension throughout 2007, which is part of the Joint Petition.

10. The resolution of the issues raised by West Penn's request results in certain modifications and extensions of provisions of West Penn's 1998 Restructuring Settlement. Due to the request for modifications and extensions of the 1998 Restructuring Settlement, the Joint Petition has been served on all parties to the Company's restructuring proceeding at Docket No. R-00973981. West Penn is also providing notice to its customers of the Joint Petition proceeding by way of notices in its regular monthly customer bills during the next available month-long billing cycle. West Penn further requests Commission publication of the Joint Petition in the *Pennsylvania Bulletin*. West Penn requests that the *Pennsylvania Bulletin* notice establish a reasonable deadline for interventions. Customers and other parties with interest in the subject matter of the Joint Petition will thereby have full and adequate notice of these proposals. After full notice of the Joint Petition proposals has been provided, the Administrative Law Judge can determine whether hearings must be scheduled prior to the preparation of a Recommended Decision.

#### 11. TERMS AND CONDITIONS

11a.) The Joint Petitioners agree that the Restructuring Settlement at Docket No. R-00973981, as approved by the Commission by Order entered November 19, 1998, should be amended to provide for changes in rates and rate caps, as set forth herein. The Joint Petitioners agree that the changes in rates and rate caps described in this Joint Petition are reasonable and in the public interest.

11b.) The generation rate cap, consisting of the CTC/ITC plus the generation rates, provided in Section B.3 of

the 1998 Restructuring Settlement, shall continue without amendment for the years 2004, 2005, and 2006, including the system-wide generation rate increase to a West Penn system average rate of 4.135 cents/KWh for 2006, as set forth in Appendix A.<sup>1</sup>

11c.) The system average generation rate cap for year 2007 is amended to provide for an increase from a West Penn system average generation rate of 4.135 cents/kwh to a West Penn system average generation rate cap of 4.431 cents/KWh beginning in 2007. The system average generation rate cap increase to 4.41 cents/KWh anticipated in the 1998 Restructuring Settlement for 2008 is amended to be an increase to the system average generation rate cap of 4.743 cents/KWh beginning in 2008, as set forth in Appendix A. The percentage of the rate increase for 2008 under the Joint Petition is consistent with the percentage rate increase for 2008 established in the 1998 restructuring settlement.

11d.) The period of the generation rate cap shall be extended from the end of 2008 through 2009 and 2010, provided however, that the level of the system average generation rate cap shall increase to 5.587 cents/KWh in 2009 and to 6.061 cents/KWh in 2010, as set forth in Appendix A.

11e.) The cap on distribution charges through the end of the year 2005 as provided in Paragraph B.3 of the 1998 Restructuring Settlement is amended to provide that the cap on distribution charges is extended until December 31, 2007, for all retail customers. West Penn may file to increase distribution rates to become effective on or after January 1, 2008, provided such rates become effective prior to October 1, 2008. In addition, West Penn agrees to distribution rates for the year 2009 at the level of distribution rates in effect as of January 1, 2009. The changes to the distribution rate cap described in this Joint Petition do not apply to, nor do they affect, West Penn's transmission-related charges. West Penn may file to increase or decrease transmission-related charges to be effective at any time after December 31, 2005. West Penn further agrees that it will continue to meet or exceed the reliability requirements for distribution service contained in the applicable Commission regulations and orders.

11f.) West Penn agrees that it shall not recover through customer rates any charges from an automatic rate adjustment mechanism (a "distribution system improvement charge" or "DSIC") that provides rate recovery for fixed costs associated with delivery system improvement and relocation projects made prior to January 1, 2010, even if such DSICs are permitted by state statute. Should a jurisdictional government body direct that certain costs or category of costs may be recovered solely through a DSIC mechanism, the prohibition of DSIC recovery shall not apply. To the extent that West Penn seeks a DSIC mechanism, parties reserve the right to oppose West Penn's request.

11g.) West Penn shall securitize the currently remaining deferred portion of its CTC, including carrying charges, that has been deferred pursuant to Commission Orders each year from 1999 through 2003. West Penn shall also securitize the remaining unrecovered portion of its stranded costs. West Penn shall request additional deferral of its unrecovered 2004 CTC amounts in its annual CTC reconciliation proceeding for 2004. The currently remaining deferred portion of the CTC, plus the remaining unrecovered portion of stranded costs, is approximately \$50 million. Together with Company savings

<sup>1</sup> As used in this Joint Petition, the generation rate cap means the sum of the CTC, the ITC, and the generation rates.



and transaction fees and expenses, the total amount to be securitized is approximately \$115 million. See Attachment H to the Joint Motion to Admit Materials into the Evidentiary Record. Consistent with the terms of the 1998 Restructuring Settlement, savings from securitization will be shared between West Penn and its customers on a 25%-75% basis, respectively.

11h.) West Penn shall be permitted to recover the ITC-2 resulting from the securitization of the approximate \$115 million so long as the ITC-2 ends no later than December 31, 2010. The issuance of Series 2 transition bonds will terminate collection of CTC. Quarterly reconciliation, and potential monthly reconciliations in 2010, will ensure full collection of ITC-2 by December 31, 2010. Shopping credits will be adjusted as necessary pursuant to any necessary ITC-2 reconciliations.

11i.) The Joint Petitioners request that the Commission issue a Supplemental Qualified Rate Order requested by West Penn, as attached hereto as Joint Petition Appendix B. The Qualified Rate Order shall include the following Paragraphs:

1. West Penn is authorized to issue transition bonds up to \$115 million, the "Series 2 Bonds." At the issuance of the Series 2 Bonds, such Bonds shall be entitled to the benefits of the accounts established under the Indenture in connection with the issuance of the Series 1 Bonds. Amounts in the over-collateralization sub-account remaining after the repayment in full of the Series 1 Bonds will remain in the over-collateralization sub-account for the benefit of the Series 2 Bonds. In any event, amounts in such accounts shall be no less than the amounts required to achieve an AAA rating from the rating agencies. West Penn is authorized to charge customers a separate Intangible Transition Charge ("ITC-2") in an amount sufficient to pay principal and interest on the Series 2 Bonds, plus provide credit enhancement by funding the accounts under the Indenture, and to pay servicing fees and other ongoing fees and costs related to Series 2 Bonds contemplated by the Indenture.

2. ITC-2 will be recovered from customers beginning when the Series 1 Bonds have been paid in full and ITC-1 ceases to be collected from customers (estimated to be mid-2008) until the Series 2 Bonds are paid in full, but no later than December 31, 2010. The Series 2 Bonds will be issued as "accretion bonds." During the period from the issuance of the Series 2 Bonds until the beginning of the ITC-2 collection period, interest will not be paid currently but will accrue and be added to principal on a quarterly basis. Current interest payments and principal amortization will commence on a quarterly basis after the commencement of the ITC-2 collection period. Reconciliation of the ITC-2 recovery will occur at least annually, but may occur on a quarterly basis if deemed necessary by the Company or, during 2010, on a monthly basis if deemed necessary by the Company.

3. West Penn's ITC-2 business structure may use the existing business structure used for the issuance and recovery of its ITC-1 bonds, or in the discretion of West Penn, it may use a new or altered business structure. The existing business structure consists of West Penn Funding Corporation, which is a direct subsidiary of West Penn, and West Penn Funding LLC, which is owned by West Penn Funding Corporation. West Penn Funding LLC is the issuer of the transition bonds.

4. This Supplemental QRO is consistent with the QRO (and the First Supplemental QRO), and the QRO together with all Supplements have been validly adopted by the

Commission and are irrevocable and, after the appeal period, are non-appealable, and no further regulatory approvals are required for the issuance of the Series 2 Bonds.

11j.) The Joint Petitioners also request that the Commission approve West Penn's proposed Intangible Transition Charge 2 tariff, attached as Joint Petition Appendix C.

11k.) West Penn agrees to a revenue neutral tariff rate design adjustment for customers at Rate Schedule 20, as attached hereto as Appendix D. The first adjustment is a modification of the hours use provision in the first block, which makes the tariff more equitable and which has minimal impact on other Rate 20 customers. The second adjustment mitigates the rate increases for the first block generation charge, which has the effect of reducing the relative rate increases for smaller and lower load factor customers in the Rate 20 class. These adjustments produce a shopping credit which is more consistent and more equitable among customers within the class.

12. Pursuant to Paragraph D.3 of the Restructuring Settlement, West Penn agreed to establish a sustainable energy fund (SEF), which West Penn agreed to fund with a payment of \$11,425,721 on December 31, 1998. The purpose of that payment was to provide funding for the SEF through December 31, 2005, which was the end of the transmission and distribution rate cap period to which West Penn agreed as part of the Restructuring Settlement. Paragraph D.3 of the Restructuring Settlement further stated that, beginning January 1, 2006, the SEF would be funded from the Company's 1.73 cents per kWh transmission and distribution rate at .01 cents per kWh (less applicable gross receipts tax) on all power sold after that date, unless the Commission established new distribution rates. The settlement also stated that the .01 cents per kWh shall not automatically be considered a cost of service element upon expiration of the transmission and distribution rate cap. In order to provide funding of the SEF at no additional expense to ratepayers during the continuation of the distribution rate cap period proposed this Joint Petition, West Penn agrees that it shall make lump sum payments to the SEF at a level equal to the amount that the .01 cents per kWh charge would have accrued for the period from January 1, 2006, until a new distribution rate becomes effective. West Penn shall not be permitted to seek recovery of such payments for ratemaking purposes. West Penn's tariff, Supplement No. 140 to Electric-Pa. P. U. C. No. 39, Original Page No. 5-2, shall be amended effective January 1, 2006, to eliminate the 0.01 cents per kWh Sustainable Energy Surcharge (less applicable gross receipts tax) on all kWh's delivered to all customers. Elimination of this Surcharge shall not impact West Penn's current state jurisdictional distribution service rates. In its next distribution rate filing, West Penn shall have the option to request from the Commission recovery of future payments to the SEF as an expense for ratemaking purposes, for the period after a new distribution rate is effective. Nothing in this Joint Petition binds any of the parties, in any manner whatsoever, from taking any position in any other proceeding or forum on the issues of the recoverability from customers of an electric distribution company of payments to sustainable energy funds (including, but not limited to, the West Penn SEF), the operation and management of such funds, or the use of the payments made to such funds.

MISCELLANEOUS

13. The provisions of the 1998 Restructuring Settlement and Commission Orders relating thereto shall remain applicable except as specifically amended in the proceeding pursuant to this Joint Petition. In particular the rate cap exceptions provided in the 1998 Restructuring Settlement, which expressly incorporate the rate cap exceptions of Section 2804 of the Public Utility Code, shall remain applicable during the rate cap extensions provided in this Joint Petition.

14. This Joint Petition is conditioned upon the Commission's approval of the terms and conditions contained herein in their entirety. If the Commission should fail to grant such approval in whole or in part, or should it modify the terms and conditions contained herein, participation in this Joint Petition may be withdrawn by any Party upon written notice to the Commission and all Parties within five (5) business days. In the event the Commission does not approve the Joint Petition in its entirety or any Party elects to withdraw, the Parties reserve their respective rights to proceed in any manner allowable under the law. Should the Commission approve the Joint Petition and one or more elements of the Commission's order is reversed on appeal, each of the Joint Petitioners reserve their right to withdraw from the terms of the Joint Petition. Pending any appellate review of a Commission Order adopting the Joint Petition, the parties shall continue to implement the terms of the Joint Petition in good faith as feasible or appropriate.

15. This Joint Petition is proposed by the Joint Petitioners solely for the purpose of fully and completely settling this proceeding and is made without any admission by any party hereto as to any matter of fact or law, is without prejudice to any position advanced by any Party or Joint Petitioner on the record in this proceeding or other proceedings, and is without prejudice to any position that might be adopted or advocated during subsequent litigation before the Commission or elsewhere in this or any other proceeding. This Joint Petition is conditioned upon the Commission's approval of the terms set forth herein in a final order as aforesaid. In the event the Commission does not approve this Joint Petition and the proceeding continues before the Commission or elsewhere, the Joint Petitioners reserve all of their respective rights.

16. This Joint Petition may be executed in counterparts, and when all the Joint Petitioners have each executed a counterpart, they shall be bound hereby as if all of said Joint Petitioners had executed the same counterpart.

17. The Joint Petitioners agree to cooperate with one another and do those things and execute such documents as are reasonably necessary to effectuate the terms and intent of this Joint Petition.

18. If the ALJ, in a Recommend Decision, recommends that the Commission adopt the Joint Petition as herein proposed, the Joint Petitioners agree to waive the filing of Exceptions. However, the Joint Petitioners do not waive their rights to file Exceptions with respect to any modifications to the terms and conditions of this Joint Petition, or any additional matters proposed by the ALJ in the Recommended Decision. In the event Exceptions are filed, the Joint Petitioners reserve the right to file a Reply to those Exceptions.

19. The Joint Petitioners are in full agreement that this Joint Petition represents a fair, just and reasonable resolution of the matters that have been at issue in this proceeding. The benefits reflected in this Joint Petition, and the related concessions and compromises agreed to by each of the Joint Petitioners, are the result of a considerable effort to achieve a reasonable negotiated resolution involving complex matters. In arriving at this Joint Petition, the Joint Petitioners have balanced diverse interests in order to achieve a result that is reasonable and supportable. The Joint Petitioners urge the Administrative Law Judge and Commission to approve this Joint Petition in its entirety.

[Pa.B. Doc. No. 04-1807. Filed for public inspection September 24, 2004, 9:00 a.m.]

## STATE HARNESS RACING COMMISSION

### Evidentiary Hearing Regarding Vorum Stables LLC Application

The State Harness Racing Commission (Commission) gives notice that an application for a license to conduct a harness horse race meeting with pari-mutuel wagering was filed on September 19, 2002, by Vorum Stables LLC, in which the corporation seeks approval to conduct live harness racing and pari-mutuel wagering at a proposed facility to be built in Canton Township, Washington County. An evidentiary hearing concerning this matter will be held on November 17, 2004, at 9 a.m. at the Farm Show Complex, 2300 North Cameron Street, Harrisburg, PA 17110. The hearing will be held to receive evidence concerning the application.

The hearing will be conducted in accordance with 58 Pa. Code § 185.83 (relating to Commission hearings) and 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure). Testimony shall be under oath and witnesses may be cross-examined. The Commission will receive testimony from the applicant.

Individuals who believe they qualify as an intervenor must Petition to Intervene as provided under 1 Pa. Code §§ 35.27—35.32 (relating to intervention). Petitions to Intervene must be filed with Anton J. Leppler, Executive Secretary, State Harness Racing Commission, Agriculture Building, Room 301, 2301 N. Cameron Street, Harrisburg, PA 17110-9408 with a copy to Edward S. Finkelstein, Esq., 700 Green St., Harrisburg, PA 17102-3015, Hearing Examiner for the Commission, on or before October 7, 2004, by 4:30 p.m. and served on all participants by that date and time. Proof of service shall be attached to the Petition to Intervene. No Petition to Intervene will be accepted after October 7, 2004. Answers to a Petition to Intervene must be filed within 7 calendar days after date of service at the previous addresses.

Testimony will only be taken from the applicant and any intervenors. No one else will be entitled to testify.

ANTON J. LEPLER,  
*Executive Secretary*

[Pa.B. Doc. No. 04-1808. Filed for public inspection September 24, 2004, 9:00 a.m.]

# STATE CONTRACTS INFORMATION

## DEPARTMENT OF GENERAL SERVICES

Act 266 of 1982 provides for the payment of interest penalties on certain invoices of "qualified small business concerns". The penalties apply to invoices for goods or services when payments are not made by the required payment date or within a 15 day grace period thereafter.

Act 1984-196 redefined a "qualified small business concern" as any independently owned and operated, for-profit business concern employing 100 or fewer employees. See 4 Pa. Code § 2.32. The business must include the following statement on every invoice submitted to the Commonwealth: "(name of business) is a qualified small business concern as defined in 4 Pa. Code 2.32."

A business is eligible for payments when the required payment is the latest of:

The payment date specified in the contract.

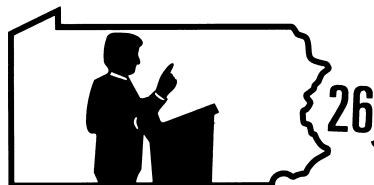
30 days after the later of the receipt of a proper invoice or receipt of goods or services.

The net payment date stated on the business' invoice.

A 15-day grace period after the required payment date is provided to the Commonwealth by the Act.

For more information: contact: Small Business Resource Center  
PA Department of Community and Economic Development  
374 Forum Building  
Harrisburg, PA 17120  
800-280-3801 or (717) 783-5700

### Reader's Guide



Legal Services & Consultation

① Service Code Identification Number

② Commodity/Supply or Contract Identification No.

**B-54137.** Consultant to provide three 2-day training sessions, covering the principles, concepts, and techniques of performance appraisal and standard setting with emphasis on performance and accountability, with a knowledge of State Government constraints.

Department: General Services  
Location: Harrisburg, Pa.  
Duration: 12/1/93-12/30/93  
Contact: Procurement Division  
787-0000

③ Contract Information

④ Department

⑤ Location

⑥ Duration

⑦

(For Commodities: Contact:  
Vendor Services Section  
717-787-2199 or 717-787-4705

### REQUIRED DATA DESCRIPTIONS

- ① Service Code Identification Number: There are currently 39 state service and contractual codes. See description of legend.
- ② Commodity/Supply or Contract Identification No.: When given, number should be referenced when inquiring of contract of Purchase Requisition. If more than one number is given, each number represents an additional contract.
- ③ Contract Information: Additional information for bid preparation may be obtained through the departmental contracting official.
- ④ Department: State Department or Agency initiating request for advertisement.
- ⑤ Location: Area where contract performance will be executed.
- ⑥ Duration: Time estimate for performance and/or execution of contract.
- ⑦ Contact: (For services) State Department or Agency where vendor inquiries are to be made.

(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

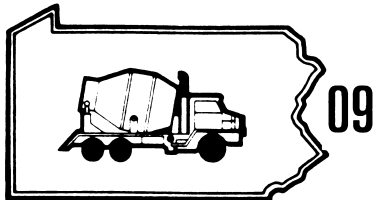
## PA TREASURY BUSINESS OUTLET—PLUG INTO IT!

The Treasury Department's Bureau of Contracts and Public Records can help you do business with state government agencies. Our efforts focus on guiding the business community through the maze of state government offices. The bureau is, by law, the central repository for all state contracts over \$5,000. Services are free except 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*

## SERVICES



### Construction & Construction Maintenance

**62-0098** Fitness Center Flooring Replacement - remove and dispose of approx. 2800 sf of existing rubber tile and mats from existing concrete slab. Furnish and install approx. 2800 sf of resilient rubber flooring. (Mondo, Endura, Nora).

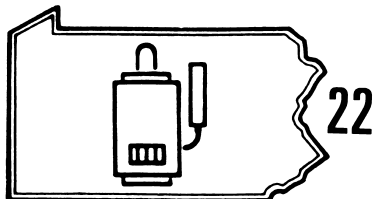
**Department:** State System of Higher Education  
**Location:** West Chester University, Sykes Student Union, 110 W. Rosedale Ave., West Chester, PA 19383  
**Duration:** Project to be completed between Dec. 27, 2004 and Jan. 6, 2005  
**Contact:** Barb Cooper, (610) 436-2706



### Medical Services

**CN00010953** Contractor shall perform endodontic services to include root canals at their place of business for residents of the Loysville Youth Development Center/Loysville Secure Treatment Unit.

**Department:** Public Welfare  
**Location:** Loysville Youth Development Center, 10 Opportunity Drive, Loysville, PA 17047  
**Duration:** December 1, 2004 through November 30, 2005  
**Contact:** Dee Kuhn, Purchasing Agent, (717) 789-5509



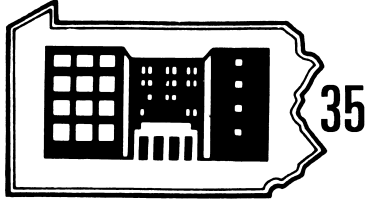
### HVAC Services

**CN00010958** Electric Motor Repair. To request a bid package, please fax your request to: 570-587-7108 and include your company, name, address, telephone and fax numbers, Federal ID number and PA State vendor number. Bid packages cannot be faxed.

**Department:** Public Welfare  
**Location:** Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, PA 18411-9505  
**Duration:** November 1, 2004 through June 30, 2007  
**Contact:** Stanley Rygelski, PA, (570) 587-7291

**CN00010952** Contractor shall perform onsite physician services to include direct clinical services such as examinations, diagnosis and treatment of illness and/or injury and physical examinations for residents of the Loysville Youth Development Center/Loysville Secure Treatment Unit.

**Department:** Public Welfare  
**Location:** Loysville Youth Development Center, 10 Opportunity Drive, Loysville, PA 17047  
**Duration:** January 1, 2005 through December 31, 2005  
**Contact:** Dee Kuhn, Purchasing Agent, (717) 789-5509

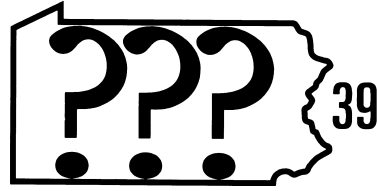


### Real Estate Services

**032324** Department of Transportation - Contemplated Sale of Land No Longer Needed for Transportation Purposes. Notice is hereby given that the Department of Transportation, pursuant to 71 P.S. § 513(e)(7), intends to sell certain lands owned by it. The following is property available for sale by the Department. Danville Borough, Montour County - the parcel contains 5353 square feet of unimproved land situated at 109 Factory St., Danville, Pa. and 20 West Mahoning Street, Danville, Pa. Estimated fair market value is \$7,000.00. Interested public entities are invited to express their interest in purchasing the site within 30 calendar days from the date of publication of this notice to: PENNDOT, 715 Jordan Ave, PO Box 218, Montoursville, PA 17754, Attn: Lenny Confer, Chief Negotiator.

**Department:** Transportation  
**Location:** Danville Borough  
**Contact:** Lenny P. Confer, (570) 368-4337

**RFP-MI-912.G** Millersville University of PA is issuing a Request of Interest for Project MI-912 Biemesderfer Stadium - New Turf & Track. The University intends to upgrade and expand the existing athletic facilities at Biemesderfer Stadium. The project will be done with 2 solicitations resulting in 3 contracts. RFP MI-912.G for the redesign and all general construction work necessary to expand the existing facility, including excavation, grading, new irrigation/drainage system, storm water analysis, relocate some utilities, removal of existing track and natural turf field; provide new synthetic turf athletic field, 8-lane 400-meter synthetic surface running track, runways, field events, and new maintenance equipment. The successful respondent will be responsible to develop a scope of work for plumbing and electrical construction separate prime contractors. The solicitation for separate prime contractors for MI-912.P, plumbing and MI-912.E, electrical construction will be by competitive sealed bidding and will be advertised at a later date. Site visit - 09/21/04, 1:30 p.m. at the site; pre-bid conference immediately afterward in Room 204 Dilworth Hall. Proposal



### Miscellaneous

deadline is 3:00 p.m., 10/22/04. The total project is estimated at \$1,000,000. Bid guaranty, project bonds, liquidated damages, minority participation levels, and prevailing wage rates apply. Bid packet requests: [http://muweb.millersville.edu/~purchase/current\\_bid\\_opportunities.html](http://muweb.millersville.edu/~purchase/current_bid_opportunities.html). Nondiscrimination and Equal Employment Opportunity are the policies of the Commonwealth of Pennsylvania and the State System of Higher Education.

**Department:** State System of Higher Education  
**Location:** Biemesderfer Stadium, Millersville University, Millersville Borough  
**Duration:** Completion Date: 07/22/05  
**Contact:** Jill M. Coleman, (717) 872-3730

**021525** The purpose of this contract is to increase the serviceability and reliability of the Intelligent transportation system (I. T. S.).

**Department:** Transportation  
**Location:** Various locations along I-80 in Centre County  
**Duration:** This will be a one-year contract with four separate optional one-year renewals.  
**Contact:** Russell Hearn, (814) 355/4733

[Pa.B. Doc. No. 04-1809. Filed for public inspection September 24, 2004, 9:00 a.m.]

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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*



United States Postal Service

**Statement of Ownership, Management, and Circulation**

1. Publication Title <b>Pennsylvania Bulletin</b>		2. Publication Number <b>0 1 6 2 - 2 1 3 7</b>			3. Filing Date <b>09/21/04</b>
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8. Complete Mailing Address of Headquarters or General Business Office of Publisher (Not printer) <b>Legislative Reference Bureau, 641 Main Capitol Building, Harrisburg, PA 17120-0033</b>					
9. Full Names and Complete Mailing Addresses of Publisher, Editor, and Managing Editor (Do not leave blank)					
Publisher (Name and complete mailing address) <b>Mary Jane Phelps, Director Pennsylvania Bulletin Legislative Reference Bureau, Harrisburg, PA 17120-0033</b>					
Editor (Name and complete mailing address) <b>Barbara Furjanic, Pennsylvania Bulletin Legislative Reference Bureau Harrisburg, PA 17120-0033</b>					
Managing Editor (Name and complete mailing address) <b>None</b>					

10. Owner (Do not leave blank. If the publication is owned by a corporation, give the name and address of the corporation immediately followed by the names and addresses of all stockholders owning or holding 1 percent or more of the total amount of stock. If not owned by a corporation, give the names and addresses of the individual owners. If owned by a partnership or other unincorporated firm, give its name and address as well as those of each individual owner. If the publication is published by a nonprofit organization, give its name and address.)

Full Name	Complete Mailing Address
<b>Commonwealth of Pennsylvania</b>	<b>Commonwealth of Pennsylvania</b>
<b>Legislative Reference Bureau</b>	<b>Legislative Reference Bureau</b>
<b>641 Main Capitol Building</b>	<b>641 Main Capitol Building</b>
<b>Harrisburg, PA 17120-0033</b>	<b>Harrisburg, PA 17120-0033</b>

11. Known Bondholders, Mortgagees, and Other Security Holders Owning or Holding 1 Percent or More of Total Amount of Bonds, Mortgages, or Other Securities. If none, check box  None

Full Name	Complete Mailing Address

12. Tax Status (For completion by nonprofit organizations authorized to mail at nonprofit rates) (Check one)  
 The purpose, function, and nonprofit status of this organization and the exempt status for federal income tax purposes:  
 Has Not Changed During Preceding 12 Months  
 Has Changed During Preceding 12 Months (Publisher must submit explanation of change with this statement)

13. Publication Title <b>Pennsylvania Bulletin</b>	14. Issue Date for Circulation Data Below <b>September 18, 2004</b>
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15. Extent and Nature of Circulation		Average No. Copies Each Issue During Preceding 12 Months	No. Copies of Single Issue Published Nearest to Filing Date
a. Total Number of Copies (Net press run)		<b>6880</b>	<b>6646</b>
b. Paid and/or Requested Circulation	(1) Paid/Requested Outside-County Mail Subscriptions Stated on Form 3541. (Include advertiser's proof and exchange copies)	<b>6598</b>	<b>6364</b>
	(2) Paid In-County Subscriptions Stated on Form 3541 (Include advertiser's proof and exchange copies)	<b>0</b>	<b>0</b>
	(3) Sales Through Dealers and Carriers, Street Vendors, Counter Sales, and Other Non-USPS Paid Distribution	<b>0</b>	<b>0</b>
	(4) Other Classes Mailed Through the USPS	<b>0</b>	<b>0</b>
c. Total Paid and/or Requested Circulation (Sum of 15b. (1), (2), (3), and (4))		<b>6598</b>	<b>6364</b>
d. Free Distribution by Mail (Samples, complimentary, and other free)	(1) Outside-County as Stated on Form 3541	<b>0</b>	<b>0</b>
	(2) In-County as Stated on Form 3541	<b>0</b>	<b>0</b>
	(3) Other Classes Mailed Through the USPS	<b>0</b>	<b>0</b>
e. Free Distribution Outside the Mail (Carriers or other means)		<b>0</b>	<b>0</b>
f. Total Free Distribution (Sum of 15d. and 15e.)		<b>0</b>	<b>0</b>
g. Total Distribution (Sum of 15c. and 15f.)		<b>6598</b>	<b>6364</b>
h. Copies not Distributed		<b>282</b>	<b>282</b>
i. Total (Sum of 15g. and h.)		<b>6880</b>	<b>6646</b>
j. Percent Paid and/or Requested Circulation (15c. divided by 15g. times 100)		<b>100</b>	<b>100</b>

16. Publication of Statement of Ownership  
 Publication required. Will be printed in the **September 25, 2004** issue of this publication.  Publication not required.

17. Signature and Title of Editor, Publisher, Business Manager, or Owner  
 Editor Date **Sept 21, 2004**

I certify that all information furnished on this form is true and complete. I understand that anyone who furnishes false or misleading information on this form or who omits material or information requested on the form may be subject to criminal sanctions (including fines and imprisonment) and/or civil sanctions (including civil penalties).