

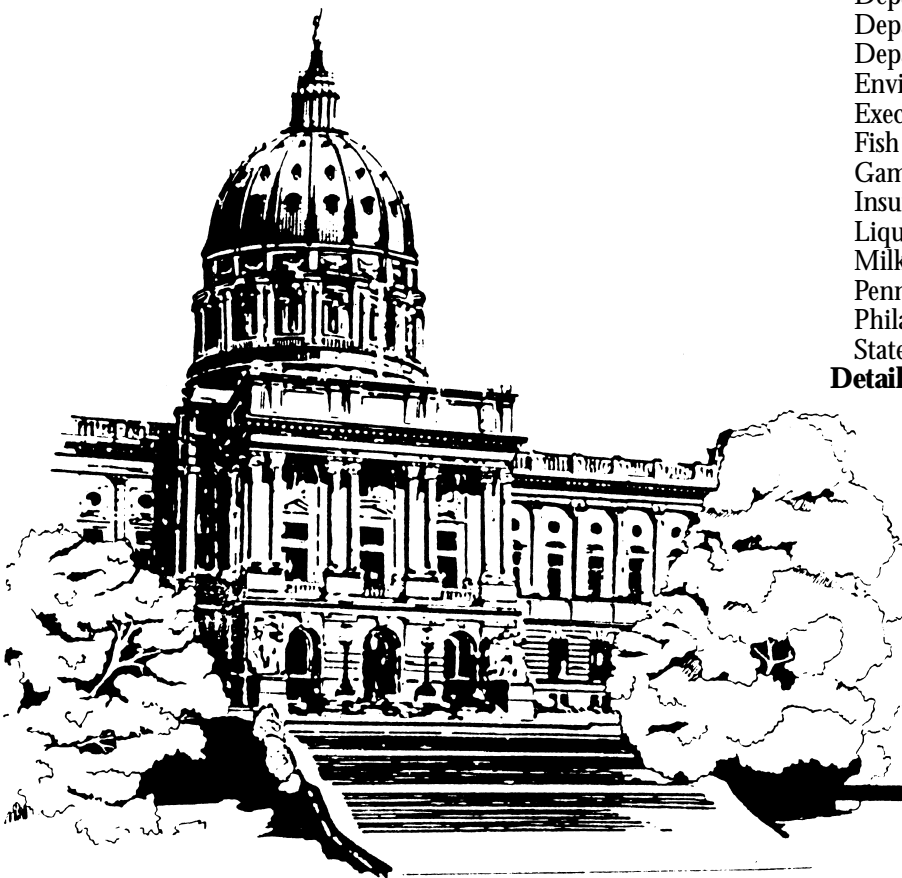
PENNSYLVANIA BULLETIN

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Agencies in this issue:

The General Assembly
The Courts
Department of Agriculture
Department of Banking
Department of Education
Department of Environmental Protection
Department of General Services
Department of Health
Department of Public Welfare
Department of Revenue
Environmental Quality Board
Executive Board
Fish and Boat Commission
Game Commission
Insurance Department
Liquor Control Board
Milk Marketing Board
Pennsylvania Public Utility Commission
Philadelphia Regional Port Authority
State Real Estate Commission

Detailed list of contents appears inside.



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No. 361, December 2004

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CONTENTS

THE GENERAL ASSEMBLY

Recent actions during the 2004 regular session of the General Assembly (2 documents) 6499, 6501

THE COURTS

JUDICIAL SYSTEM GENERAL PROVISIONS

Amendment of rule 213 of the Pennsylvania Rules of Disciplinary Enforcement; no. 35 disciplinary rules; doc. no. 1 6504

LOCAL COURT RULES

Wyoming and Sullivan Counties

2005 court calendar; no. 2004-1241 6506

RULES OF CIVIL PROCEDURE

Amendment of rule 223.3 governing jury instructions on noneconomic loss in an action for bodily injury or death; no. 423 civil procedural rules; doc. no. 5 6505

RULES OF JUDICIAL ADMINISTRATION

Promulgation of rule 1904 governing medical professional liability actions; no. 264 judicial administration; doc. no. 1 6504

SUPREME COURT

Accreditation of the American Board of Certification as a certifying organization; no. 36 disc. rules doc. no. 1 6507
Reestablishment of the magisterial district within the 5th judicial district; no. 212 magisterial doc. no. 1 6507

EXECUTIVE AGENCIES

DEPARTMENT OF AGRICULTURE

Notices

Partial revocation of plum pox virus quarantine 6557

DEPARTMENT OF BANKING

Notices

Action on applications 6557

DEPARTMENT OF EDUCATION

Notices

Application of the University of Florida for approval to operate in this commonwealth and to offer graduate degree programs 6559

DEPARTMENT OF ENVIRONMENTAL PROTECTION

See *also* ENVIRONMENTAL QUALITY BOARD

Notices

Applications, actions and special notices 6560
Availability of technical guidance 6604
Bond rate guidelines for the calculation of land reclamation bonds on coal mining operations 6604
Oil and Gas Technical Advisory Board workgroup meetings 6605

Proposed revision to the state implementation plan for architectural and industrial maintenance coatings; ChemMasters variance application for concrete curing compounds, waterproofing sealers and waterproofing concrete/masonry sealers; public hearings 6606

State Board for Certification of Sewage Enforcement Officers meeting cancellation 6607

State Water Plan Water Resources Regional Committee meetings schedule for 2004 6607

DEPARTMENT OF GENERAL SERVICES

Notices

State contracts information 6625

DEPARTMENT OF HEALTH

Notices

Applications for exception:
Hahnemann University Hospital 6607
Roxborough Memorial Hospital 6608
Sunbury Community Hospital 6608
Requests for exception; long-term care nursing facilities 6608
Stakeholder's meeting for newborn screening and follow-up program 6609

DEPARTMENT OF PUBLIC WELFARE

Proposed Rulemaking

Home health agency services 6544

Notices

Medical Assistance program fee schedule revisions; National procedure codes for ambulance services 6609

DEPARTMENT OF REVENUE

Notices

Pennsylvania Lucky Hearts instant lottery game . . . 6610
Pennsylvania Platinum Payout instant lottery game 6612
Rates of tax on aviation gasoline and jet fuel for 2005; oil company franchise tax rate for 2005; alternative fuels tax rates for 2005 6615

ENVIRONMENTAL QUALITY BOARD

Rules and Regulations

Small sources of NO_x, cement kilns and large internal combustion engines 6509

EXECUTIVE BOARD

Statements of Policy

Reorganizations:
Department of Banking 6553
Department of Corrections 6553
Department of Public Welfare 6553

FISH AND BOAT COMMISSION

Proposed Rulemaking

Boating 6546

Now Available Online at <http://www.pabulletin.com>

GAME COMMISSION

Proposed Rulemaking

Hunting and trapping; furbearers..... 6547
 Special permits;
 Bobcats 6549
 Possession of deer accidentally killed by a motor
 vehicle 6549

INSURANCE DEPARTMENT

Notices

CRL Holdings, L. P.; hearing 6616
 Cigna Health Plan; employer group base medical
 and pharmacy rate filing 6616
 Dubiel, Paul, D.O.; prehearing..... 6618
 List of names of qualified unlicensed reinsurers 6617
 Review procedure hearings; cancellation or refusal
 of insurance 6618
 Review procedure hearings under the unfair insur-
 ance practices act..... 6619

LIQUOR CONTROL BOARD

Notices

Expiration of leases 6619

MILK MARKETING BOARD

Notices

Public hearings for regulatory proposals..... 6620

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Proposed Rulemaking

Advance notice of proposed rulemaking order..... 6550

Notices

Opinion and order 6620
 Service of notice of motor carrier applications..... 6621
 Telecommunications (3 documents)..... 6623
 Tentative order 6623

PHILADELPHIA REGIONAL PORT AUTHORITY

Notices

Request for prequalification submittals..... 6624

STATE REAL ESTATE COMMISSION

Rules and Regulations

Education 6530

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.

1 Pa. Code (General Provisions)

Adopted Rules

301	1681
303	1681
305	1681
307	1681
309	1681
311	1681

4 Pa. Code (Administration)

Adopted Rules

1	2057, 2685
5	366, 2287
6 (with correction)	366, 2162, 2164, 2288, 3236, 4550
7	3238, 4013
61	6402
63	6403
91	1442
93	1442
95	1442
97	1442
99	1442
101	1442
105	1442
110	1442

Proposed Rulemaking

161	3146
-----	------

Statements of Policy

9	855, 1234, 1335, 1337, 1966, 2075, 2332, 2830, 3277, 3608, 3723, 4154, 4734, 5264, 6553
114	63

7 Pa. Code (Agriculture)

Adopted Rules

21	6019
76	4139
104	4573
130d	4575
138	2421
138e	2421, 4435
138l	2421

Proposed Rulemaking

76	831
104	561

12 Pa. Code (Commerce, Trade and Local Government)

Adopted Rules

145	6024, 6133
-----	------------

Statements of Policy

123	488, 4925
-----	-----------

22 Pa. Code (Education)

Adopted Rules

11	5798
14	2324
403	2975, 3355, 3358

Statements of Policy

52	5267
----	------

25 Pa. Code (Environmental Protection)

Adopted Rules

86	388
93	6133
109	1758, 1762, 3130, 4435
121	6509
129	6509
145	6509
207	2041
215	3823
216	3823
217	3823
218	3823
219	3823
220	3823
221	3823
223	3823
224	3823
225	3823
226	3823
227	3823
228	3823
230	3823
240	3823

Proposed Rulemaking

83	4361
91	4353
92	4353
93	2067
261a	6421
401	1329
901	5557, 5559

28 Pa. Code (Health and Safety)

Adopted Rules

18	3695
25	2711, 2808
1001	677
1003	677
1005	677
1007	677
1051	677

Proposed Rulemaking

25	5807
----	------

31 Pa. Code (Insurance)

Adopted Rules

115	6404
146c	4146
147	4591
151	4598
167	6405

Proposed Rulemaking

147	844
151	850
167	3255

34 Pa. Code (Labor and Industry)

Adopted Rules

401	319
403	319

405 319

Proposed Rulemaking

3 6033

3a 6033

Statements of Policy

123 1684

37 Pa. Code (Law)

Adopted Rules

23 6325

41 5134

Proposed Rulemaking

42 853

91 3010

93 3010

94 3010

191 5032

411 5032

Statements of Policy

200 2573

40 Pa. Code (Liquor)

Adopted Rules

1 6139

3 6139

5 6139

7 6139

9 6139

11 6139

13 6139

15 6139

Proposed Rulemaking

1 3411

3 3411

5 3411

7 3411

9 3411

11 3411

13 3411

15 3411

49 Pa. Code (Professional and Vocational Standards)

Adopted Rules

3 (with correction) 1574, 1683, 3699

7 2467

9 235

11 1768

13 39

15 4684

16 40, 4686

18 43

19 3410, 4689, 4691, 4693, 6407

21 6409

23 1453, 4147

25 47, 6414

31 388

33 2326, 4882

35 4883, 6530

39 4696

40 3700, 4697

41 6416

Proposed Rulemaking

9 1948

13 1961

16 56, 1963

17 4887

21 851, 4890, 4897

25 58, 563

27 3146, 4901, 5598

29 565, 4902

31 1331

33 1949, 5596

35 61, 4913

39 55

41 60, 4903

43b 5552

45 3143

47 4908

48 4908

49 4908

Statements of Policy

43b 5809

52 Pa. Code (Public Utility)

Adopted Rules

57 5135

Proposed Rulemaking

1 5895

3 5895

5 5895

29 3258

31 3258

62 2071

63 1784, 1795

101 3138

Statements of Policy

41 3912

55 Pa. Code (Public Welfare)

Adopted Rules

1150 3596

3040 1575

Proposed Rulemaking

41 4447

140 6335

285 1774

1187 4462, 4465

1249 6544

3040 5044

3041 5044

Statements of Policy

6000 1234

58 Pa. Code (Recreation)

Adopted Rules

51 6148

61 6328

63 1231, 1232, 3598

65 1231, 3599, 3600, 6328, 6418

69 6328

93 1231, 1232

103 6332

105 4444, 6332

107 6332

111 3601, 6332, 6333

135 3703, 5153

137 5154, 5155

139 3704

141 2328, 2825, 3710, 3711, 3712, 3713, 5156

143 2826, 3713, 3715

147 2329, 2827, 2828, 3716, 5157

147a 2329
 147b 2329

Proposed Rulemaking

1 6150
 21 6150
 51 5161
 61 3603
 63 1457
 65 1458, 1460, 1461, 3603, 4605, 5162
 69 3603
 91 (with correction) 4151, 4887, 6425
 103 4466
 105 4466
 107 4466
 111 (with correction) 4152, 4466, 4887, 6546
 135 1941, 3137
 137 3015
 139 1776
 141 484, 1781, 1941, 3016, 5164, 6547
 143 484, 1782, 1944, 5165
 147 485, 486, 1946, 3017, 3411, 5166, 5167, 6549

61 Pa. Code (Revenue)

Adopted Rules

872 50
 873 4599

Proposed Rulemaking

31 6245
 46 6245
 60 6245
 901 5563

64 Pa. Code (Securities)

Proposed Rulemaking

203 5168
 303 5168
 304 5168
 404 5168

Adopted Rules

207 1940

67 Pa. Code (Transportation)

Adopted Rules

83 3718
 103 6031
 175 1327

Proposed Rulemaking

63 5159
 65 6339
 75 6420
 86 5160
 88 4885
 94 4705
 102 5684
 103 843
 201 4712
 203 4712
 204 4712
 211 4712
 212 951, 4712
 217 4712
 441 5355, 6031

Statements of Policy

86 567
 88 567
 214 5075

201 Pa. Code (Rules of Judicial Administration)

Adopted Rules

19 6504

204 Pa. Code (Judicial System General Provisions)

Adopted Rules

29 5887
 71 2062, 2063, 3102
 81 9, 2537, 4553, 4818, 5126
 83 1547, 2537, 5244, 6504
 85 948, 5013
 87 948
 89 948
 91 5013
 211 5888

Proposed Rulemaking

71 1749
 81 1752, 5549
 83 1749, 3243, 3245, 3862, 4682, 6130
 303 5748

210 Pa. Code (Appellate Procedure)

Adopted Rules

1 1670
 9 1670
 11 1670
 13 1670
 15 1670, 3862, 5677
 17 1670, 3870
 19 2064
 21 1320, 2688, 5888
 31 2688
 33 3870
 37 2688
 65 379

Proposed Rulemaking

3 5014

225 Pa. Code (Rules of Evidence)

Adopted Rules

VII 2065
 IX 1492

Proposed Rulemaking

I 2689
 VI 2987
 VIII 4020, 4021

231 Pa. Code (Rules of Civil Procedure)

Adopted Rules

200 9, 557, 3103, 3677, 4107, 4879, 5351, 5889, 5890, 6505
 400 9
 1000 9, 1926, 4880, 5351, 5889
 1300 22
 1500 9, 5889
 1600 9
 1900 1754
 1910 1754, 6315
 1915 1754
 1920 1754
 1930 1754
 1940 4107
 2000 9
 2020 9
 2050 9
 2100 9
 2120 9
 2150 9

2170 9
 2200 9
 2220 9
 2250 9
 2300 9
 2320 9
 2350 9
 2950 22, 5551, 5890
 3000 9, 22, 5889
 4000 9, 1926, 4881
 Part II 5891

Proposed Rulemaking

100 6395
 1910 5246
 3000 476
 3300 476
 Part II 3104

234 Pa. Code (Rules of Criminal Procedure)

Adopted Rules

1 1547, 1671, 1929, 2541, 2910, 3105, 5016, 5892
 4 1547, 1929
 5 1547, 1932, 2543, 2910, 3105, 5016
 6 3105
 7 1547, 3105
 8 3105
 9 1547, 1671, 3105
 10 5016

Proposed Rulemaking

1 1429, 4412
 2 4412
 4 34, 4412
 5 4412
 6 2543

246 Pa. Code (Minor Court Civil Rules)

Adopted Rules

300 2464
 400 2465, 6131

Proposed Rulemaking

200 480
 300 480
 400 4022
 500 480
 1000 1933

249 Pa. Code (Philadelphia Rules)

Unclassified 36, 6017, 6396

252 Pa. Code (Allegheny County Rules)

Unclassified 2912, 6397

255 Pa. Code (Local Court Rules)

Unclassified 37, 231, 379, 482, 483, 557, 829,
 830, 949, 1229, 1230, 1320, 1321, 1326, 1433, 1570,
 1571, 1573, 1674, 1936, 1937, 2289, 2312, 2545,
 2551, 2690, 2704, 2705, 2706, 2710, 2798, 2801,
 2912, 2914, 2987, 2991, 2998, 3008, 3009, 3110,
 3125, 3247, 3248, 3249, 3250, 3251, 3252, 3253,
 3254, 3371, 3394, 3401, 3404, 3406, 3585, 3587,
 3593, 3678, 3681, 3683, 3687, 3688, 3691, 3873,
 3875, 3876, 3877, 3880, 3881, 3882, 3883, 3884,
 3910, 3911, 4023, 4026, 4107, 4110, 4112, 4121,
 4122, 4127, 4425, 4426, 4428, 4429, 4432, 4433,
 4554, 4572, 4682, 4683, 4881, 5028, 5030, 5126,
 5132, 5247, 5250, 5259, 5263, 5352, 5677, 5678,
 5683, 5794, 5796, 6017, 6132, 6239, 6316, 6397,
 6399, 6400, 6506

THE GENERAL ASSEMBLY

Recent Actions during the 2004 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2004 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2004 GENERAL ACTS ENACTED—ACT 122 through 153					
122	Nov 23	HB0138	PN4594	60 days	Vital Statistics Law of 1953—Vital Statistics Improvement Account, local registrars' fees, reports to county registration commissions and issuance of certificates of death
123	Nov 23	HB0249	PN4736	60 days	First Class Township Code—tax levies
124	Nov 23	HB0310	PN4735	60 days	Colonel George Howard Boulevard and General Richard M. Scott Bridge—designation
125	Nov 23	HB0547	PN0805	60 days	Pennsylvania Securities Act of 1972—assessments
126	Nov 23	HB0552	PN4690	immediately	Pennsylvania Securities Act of 1972—exempt transactions and fees
127	Nov 23	HB0553	PN0655	60 days	Pennsylvania Securities Act of 1972—commission to petition for escrow of extraordinary payments by issuers in certain circumstances
128	Nov 23	HB0561	PN0663	60 days	Pennsylvania Securities Act of 1972—adding definition, prohibited advisory activities and prohibited transactions involving public school districts in this Commonwealth
129	Nov 23	HB0595	PN0697	60 days	Pennsylvania Securities Act of 1972—right of commission to bring actions for injunctions and equitable relief
130	Nov 23	HB0599	PN1483	60 days	Pennsylvania Securities Act of 1972—time limitations on rights of action
131	Nov 23	HB0600	PN0702	60 days	Pennsylvania Securities Act of 1972—denial, suspension and revocation of registration
132	Nov 23	HB0604	PN1484	60 days	Pennsylvania Securities Act of 1972—definitions, registration sanctions and criminal penalties
133	Nov 23	HB1152	PN4379	30 days	Tax Reform Code of 1971—contributions for juvenile diabetes cure research
134	Nov 23	HB1238	PN1522	60 days	Combustible and Flammable Liquids Act—self-service dispensing stations, prohibition and penalties
135	Nov 23	HB1487	PN1877	immediately	First Class City Government Law—repeals relating to the Department of Public Works and the Department of Supplies and Purchases
136	Nov 23	HB1620	PN4717	immediately	Project 500 lands—Wright Township, Luzerne County, release and imposition of restrictions
137	Nov 23	HB2027	PN4051	60 days	Urban Redevelopment Law—appointment and qualifications of members of authority

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
138	Nov 23	HB2218	PN3777	60 days	Liquid Fuels Tax Municipal Allocation Law—definition of “computer-related hardware, software and training,” moneys appropriated to municipalities, and editorial changes
139	Nov 23	HB2227	PN4641	immediately	Forest Lands Beautification Act—funding for Forest Lands Beautification Restricted Account
140	Nov 23	HB2405	PN3381	60 days	Colonel John Craig Memorial Bridge—designation
141	Nov 23	HB2430	PN3558	60 days	Vital Statistics Law of 1953—unidentified dead bodies and fetal remains
142	Nov 23	HB2599	PN4499	60 days	87th Infantry Division Patton's 3rd U.S. Army—WWII Memorial Interchange—designation
143	Nov 23	HB2655	PN3954	60 days	Crimes Code (18 Pa.C.S.)—grading of theft offenses
144	Nov 23	HB2719	PN4482	60 days	Domestic Relations (23 Pa.C.S.)—abolishing common-law marriage and providing for waiting period after application for marriage license
145	Nov 23	HB2745	PN4754	immediately	Highway-Railroad and Highway Bridge Capital Budget Supplemental Act for 2004-2005—enactment
146	Nov 23	HB2794	PN4757	60 days	Private First Class Bradley G. Kritzer Bridge and Senator Edward P. Zemprelli Bridge—designation or redesignation
147	Nov 23	SB0137	PN1921	60 days	Mental health treatment—consent to treatment, release of medical records and requiring report by Legislative Budget and Finance Committee
148	Nov 23	SB0296	PN0311	immediately	Domestic Relations (23 Pa.C.S.)—court orders relating to adoption records
149	Nov 23	SB0844	PN1975	immediately	Highway and Transportation Assistance Capital Budget Project Itemization Act of 2003-2004—enactment
150	Nov 23	SB0921	PN1326	60 days	Fiscal Code—delivery sales of cigarettes
151	Nov 23	SB1112	PN1605	immediately	Rouse Estate—establishing Board of Directors
152	Nov 24	SB0092	PN1995	immediately *	Crimes Code (18 Pa.C.S.) and Judicial Code (42 Pa.C.S.)—omnibus amendments
153	Nov 24	SB0936	PN1250	immediately	Pennsylvania Amber Alert System—establishment, costs, immunity and penalties

* denotes an effective date with exceptions

Effective Dates of Statutes

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

Advance Copies of Statutes

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

Requests for annual subscriptions for advance copies of statutes should be sent to the State Bookstore, State Records Center Building, 1825 Stanley Drive, Harrisburg, PA 17103, accompanied by a check or money order in the sum of \$20, payable to the "Commonwealth of Pennsylvania."

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

[Pa.B. Doc. No. 04-2168. Filed for public inspection December 10, 2004, 9:00 a.m.]

Recent Actions during the 2004 Regular Session of the General Assembly

The following is a summary of recent actions of the General Assembly during the 2004 Regular Session.

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
2004 GENERAL ACTS ENACTED—ACT 154 through 182					
154	Nov 29	HB1211	PN4768	immediately *	Public Welfare Code—omnibus amendments
155	Nov 29	HB1860	PN4744	immediately *	County Code—investment of county funds, definitions and police duties
156	Nov 29	HB1867	PN2433	60 days	Tioga Navigation Company—repeal of provisions relating to fees for measuring grain in Philadelphia
157	Nov 29	HB1868	PN2434	60 days	Market stalls in Philadelphia—repeal of provisions relating to farmers who lease stalls or stands in Philadelphia to sublet them
158	Nov 29	HB1929	PN3940	immediately	Manufactured Housing Improvement Act—enactment
159	Nov 29	HB2155	PN4688	immediately	Fish Code (30 Pa.C.S.)—auditing and reporting, classes of fishing licenses, permits related to fishing, fishing license fees and boat registration fees
160	Nov 29	HB2308	PN4745	60 days	Domestic Relations Code (23 Pa.C.S.)—information relating to prospective child-care personnel
161	Nov 29	HB2315	PN3236	60 days	Real Estate Tax Sale Law—hearing and order for judicial sale and combined judicial sales
162	Nov 29	HB2326	PN3247	60 days	Game Code (34 Pa.C.S.)—tagging and reporting big game kills
163	Nov 29	HB2336	PN3289	60 days	Municipal Claim and Tax Lien Law—judicial sales and procedure for judicial sale of multiple properties
164	Nov 29	HB2387	PN3768	60 days	Agriculture Code (3 Pa.C.S.)—omnibus amendments
165	Nov 29	HB2482	PN4769	60 days	State Railroad Infrastructure Act—enactment
166	Nov 29	HB2572	PN4654	60 days	Judicial Code (42 Pa.C.S.)—summary of offenses involving vehicles
167	Nov 29	HB2587	PN4462	immediately	Conveyance—Commonwealth property in West Chillisquaque Township, Northumberland County
168	Nov 29	HB2638	PN4649	immediately	Real Estate Tax Sale Law—alternative collection of delinquent property taxes and assignment of claims by taxing district

<i>Doc. No.</i>	<i>Date of Action</i>	<i>Bill Number</i>	<i>Printer's Number</i>	<i>Effective Date</i>	<i>Subject Matter</i>
169	Nov 29	HB2748	PN4663	immediately	Pennsylvania Municipal Retirement Law—part-time employees, existing local retirement systems and compulsory and optional membership and return to service relating to certain municipal employees and optional retirement plans
170	Nov 29	HB2798	PN4777	immediately *	Borough Code—eligibility for elective borough office, general powers of mayor and borough powers to convey land
171	Nov 29	HB2804	PN4328	immediately	Coal and Gas Resource Coordination Act—minimum distance between gas wells, voluntary agreements and validity of voluntary agreements
172	Nov 29	HB2980	PN4689	60 days	Local Health Administration Law—omnibus amendments
173	Nov 29	SB0072	PN1998	immediately *	Crimes Code (18 Pa.C.S.)—aggravated assault, expiration of chapter relating to wiretapping and electronic surveillance and expungement
174	Nov 29	SB0079	PN1978	immediately	Dual Party Relay Service and Telecommunication Device Distribution Program Act—expanding scope of act, definitions, establishment of Print Media Access System Program and establishment of dual party relay service
175	Nov 29	SB0095	PN1939	60 days	Probate, Estates and Fiduciaries Code (20 Pa.C.S.) and Domestic Relations Code (23 Pa.C.S.)—omnibus amendments
176	Nov 29	SB0109	PN1999	immediately	Judicial Code (42 Pa.C.S.)—identification of incorrect debtor, summary offenses involving vehicles, law enforcement records, duration of commitment and review and assessments
177	Nov 29	SB0133	PN1982	immediately	Judicial Code (42 Pa.C.S.) and Vehicle Code (75 Pa.C.S.)—omnibus amendments
178	Nov 29	SB0255	PN1989	immediately	Alternative Fuels Incentive Act—enactment
179	Nov 29	SB0432	PN1901	immediately	Public Safety Emergency Telephone Act—Wireless E-911 Emergency Services Fund
180	Nov 29	SB0668	PN1888	immediately *	Uniform Crime Reporting Act—enactment
181	Nov 29	SB0673	PN1902	60 days	Agriculture Education Loan Forgiveness Act—Agriculture Education Loan Forgiveness Program and funding
182	Nov 30	HB2528	PN3671	immediately	Capital Budget Act of 2004-2005—enactment

* denotes an effective date with exceptions

Effective Dates of Statutes

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

[Pa.B. Doc. No. 04-2169. Filed for public inspection December 10, 2004, 9:00 a.m.]

THE COURTS

Title 201—RULES OF JUDICIAL ADMINISTRATION

[201 PA. CODE CH. 19]

Promulgation of Rule 1904 Governing Medical Professional Liability Actions; No. 264 Judicial Administration; Doc. No. 1

Order

Per Curiam:

And Now, this 22nd day of November, 2004, Pennsylvania Rule of Judicial Administration 1904 is promulgated to read as follows.

Whereas prior distribution and publication of this rule would otherwise be required, it has been determined that immediate promulgation is required in the interest of justice and efficient administration.

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

Annex A

TITLE 201. RULES OF JUDICIAL ADMINISTRATION

CHAPTER 19. MISCELLANEOUS ADMINISTRATIVE PROVISIONS

MISCELLANEOUS ADMINISTRATIVE PROVISIONS

Rule 1904. Medical Professional Liability Actions.

(a) The prothonotary of each judicial district shall maintain a docket of all medical professional liability actions by separate docketing code or other appropriate means. When the docket is established by docketing code, the code shall be "Civil Action—Medical Professional Liability Action."

(b) The prothonotary shall record on the medical professional liability action docket:

(1) the separate findings of the trier of fact, including, where applicable:

(i) past damages in lump sums for "medical and other related expenses," "loss of earnings," and "noneconomic loss,"

(ii) future damages in lump sums for "loss of earnings or earning capacity" and "noneconomic loss," and

(iii) future damages by year for "medical and other related expenses," and

Official Note: See Section 509(a) of the Mcare Act, 40 P. S. § 1303.509(a) and Pa.R.C.P. No. 1042.71.

(2) all orders of the court affecting the amount of damages determined by the trier of fact. The orders shall be set forth on the docket verbatim or with specificity sufficient to determine the effect of the orders upon the damages awarded to each plaintiff.

(c) Where a jury has made the separate findings that are recorded pursuant to subdivision (b), the jury's verdict

sheet and interrogatories shall be made part of the official record and shall be maintained in the custody of the prothonotary.

(d) On or before January 20 of each calendar year, the President Judge of each judicial district shall forward to the Court Administrator of Pennsylvania a report of medical professional liability cases. The report shall be prepared in a format prescribed by the Administrative Office of Pennsylvania Courts. Among items to be included are:

(1) a list of all medical professional liability actions filed in the preceding calendar year showing the present caption of

(i) those actions initially filed in the judicial district, and

(ii) those actions transferred into the judicial district. The list of actions transferred shall also show the former caption and the county of origin, and

(2) the separate findings required by subdivision (b) to be set forth on the docket for each action in which a verdict or decision has been entered.

Unofficial Note

The Civil Instructions Subcommittee of the Committee for Proposed Standard Jury Instructions has promulgated suggested special jury interrogatories ("verdict slip") for medical professional liability actions under the Mcare Act. *Pennsylvania Suggested Standard Civil Jury Instructions*, Pennsylvania Bar Institute.

[Pa.B. Doc. No. 04-2170. Filed for public inspection December 10, 2004, 9:00 a.m.]

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART V. PROFESSIONAL ETHICS AND CONDUCT

[204 PA. CODE CH. 83]

Amendment of Rule 213 of the Pennsylvania Rules of Disciplinary Enforcement; No. 35 Disciplinary Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 22nd day of November, 2004, Rule 213 of the Pennsylvania Rules of Disciplinary Enforcement is 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 B. MISCONDUCT

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] handled as follows:

(1) [the hearing committee or special master before whom the subpoena is returnable in the case of] A challenge to a subpoena authorized by subdivision (a)(1)[; or] shall be heard and determined by the hearing committee or special master before whom the subpoena is returnable.

(2) [a member of a hearing committee in the disciplinary district in which the subpoena is returnable in the case of] A challenge to a subpoena authorized by subdivision (a)(2) shall be heard and determined by a member of a hearing committee in the disciplinary district in which the subpoena is returnable.

(3) A determination under paragraph (1) or (2) may not be appealed to the Board, but may be appealed to the Supreme Court under subdivision (g) within ten days after service of the determination on the party bringing the appeal.

* * * * *

(g) *Enforcement of subpoenas; appeal of challenges to subpoenas.*

(1) Either Disciplinary Counsel or a respondent-attorney may petition the Supreme Court [for the enforcement of any subpoena issued by the Prothonotary under these rules] to enforce a subpoena or to review a determination under subdivision (d)(1) or (2) on the validity of a subpoena. No attack on the validity of [such] a subpoena will be considered by the Court unless previously raised as provided in subdivision (d). See also Enforcement Rule 208(f)(5) (relating to emergency temporary suspension orders and related relief).

Official Note. The reference to Enforcement Rule 208(f)(5) is intended to make clear that, where the person who is resisting complying with a subpoena is the respondent-attorney, the provisions of this rule are cumulative of those in Enforcement Rule 208(f)(5).

* * * * *

(3) A petition for review of a determination made under subdivision (d)(1) or (2) must set forth in detail the grounds for challenging the determination. Upon timely receipt of a petition for review, the Court shall issue a rule to show cause upon the party to the proceeding who is not challenging the determination, returnable within ten days, why the determination should not be reversed. If the period for response has passed without a response having been filed, or after consideration of any response, the Court shall issue an appropriate order.

[Pa.B. Doc. No. 04-2171. Filed for public inspection December 10, 2004, 9:00 a.m.]

Title 231—RULES OF CIVIL PROCEDURE

PART I. GENERAL

[231 PA. CODE CH. 200]

Amendment of Rule 223.3 Governing Jury Instructions on Noneconomic Loss in an Action for Bodily Injury or Death; No. 423 Civil Procedural Rules; Doc. No. 5

Order

Per Curiam:

And Now, this 1st day of December, 2004, the first paragraph of Pennsylvania Rule of Civil Procedure 223.3, promulgated on August 20, 2004 and effective December 1, 2004, is amended to read as follows.

Whereas prior distribution and publication of this amendment would otherwise be required, it has been determined that immediate promulgation is required in the interest of justice and efficient administration.

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

Annex A

TITLE 231. RULES OF CIVIL PROCEDURE

PART I. GENERAL

CHAPTER 200. BUSINESS OF COURTS

Rule 223.3. Conduct of the Trial. Actions for Bodily Injury or Death. Jury Instructions on Noneconomic Loss.

In any action for bodily injury or death in which a plaintiff has raised a claim for a damage award for noneconomic loss that is viable under applicable substantive law, the court shall give the following instructions to the jury.

* * * * *

[Pa.B. Doc. No. 04-2172. Filed for public inspection December 10, 2004, 9:00 a.m.]

Title 255—LOCAL COURT RULES

WYOMING AND SULLIVAN COUNTIES

2005 Court Calendar; No. 2004-1241

Order of Court

And Now, the 15th day of November, 2004,

It Is Ordered that the Court Calendar of the Court of Common Pleas of the 44th Judicial District of Pennsylvania for the Year 2005, be and the same is hereby established in accordance with the schedule following hereto and made a part hereof.

By the Court

BRENDAN J. VANSTON,
President Judge

2005—Wyoming County Court Calendar

Arraignments, Sentences & ARD

January 12
February 9
March
April 13
May 11
June 8
July 13
August 10
September 14
October 12
November 9
December 7

Juveniles

January 5
February 2
March 9
April 6
May 4
June 1
July 6
August 3
September 7
October 5
November 2
December 5

De Novos

January 11
February 8
March
April 12
May 10
June 6
July 12
August 9
September 13
October 11
November 8
December 9

General Call

September 6

Status Call & Guilty Pleas

January 7
February 4
March
April 8
May 6
June 3
July 8
August 5
September 9
October 7
November 4
December 2

Dependency

January 13
February 10
March
April 14
May 12
June 9
July 14
August 11
September 15
October 13
November 10
December 8

Dro Contempts

January 13
February 10
March
April 14
May 12
June 9
July 14
August 11
September 15
October 13
November 10
December 8

Criminal Trial Weeks

February 14
April 25
June 13
August 15
October 17
December 12

Prison Board & Acct. Confirmation

January 4
February 1
March 1
April 5
May 3
June 7
July 5
August 2
September 6
October 4
November 1
December 6

Civil Trial Week

January 17
March 28
May 16
July 25
September 19
November 14

Close/Civil Trial

Oct. 1, 2004 . . . (Jan. 2005)
Dec. 5, 2004 . . . (March 2005)
February 4 (May, 2005)
April 1 (July, 2005)
June 3 (Sept. 2005)
August 5 (Nov. 2005)
October 7 (Jan., 2006)
Dec. 2 (March, 2006)

2005—Sullivan County Court Calendar*Regular Court Day*

January 6
 February 3
 March 3 (Arraignments Only—
 No Regular Court)
 April 7
 May 5
 June 2
 July 7
 August 4
 September 8
 October 6
 November 3
 December 1

Trial Weeks—Civil & Criminal

January 24
 April 18
 June 20
 September 26
 October 24

Close Dates For Civil Trial List

October 1, 2004	(January 2005 Term)
December 3, 2004	(April, 2005 Term)
April 1, 2004	(June, 2005 Term)
June 3	(September, 2005 Term)
August 5	(October, 2005 Term)
October 7	(January, 2006 Term)
December 2	(March, 2006 Term)

General Call

September 8, 2005

[Pa.B. Doc. No. 04-2173. Filed for public inspection December 10, 2004, 9:00 a.m.]

SUPREME COURT

Accreditation of the American Board of Certification as a Certifying Organization; No. 36 Disc. Rules Doc. No. 1

Order*Per Curiam:*

And Now, this 30th day of November, 2004, upon consideration of the recommendation of the Pennsylvania Bar Association Review and Certifying Board, the American Board of Certification is hereby accredited as a certifying organization in the area of bankruptcy law for a period of five calendar years.

[Pa.B. Doc. No. 04-2174. Filed for public inspection December 10, 2004, 9:00 a.m.]

Reestablishment of the Magisterial District Within the 5th Judicial District; No. 212 Magisterial Doc. No. 1

Order*Per Curiam:*

And Now, this 29th day of November, 2004, upon further consideration of the Petition for Realignment filed

by the former President Judge of the Fifth Judicial District dated November 15, 2002, relating to the proposed Central Court and the evaluation of the current Pittsburgh Magistrates Court to gauge the feasibility of transitioning the Pittsburgh Magistrates Court into the statewide district justice system, it is hereby *Ordered*:

Pursuant to the authority set forth by Article V, Section 10(c) of the Constitution of Pennsylvania and the general supervisory and administrative authority of the Supreme Court of Pennsylvania as set forth by 42 Pa.C.S. Section 1701, et seq., (Judicial Code), it is directed that an administrative judicial unit hereinafter referred to as the Pittsburgh Municipal Court is established within the Fifth Judicial District, to which all matters within the jurisdiction of the Pittsburgh Magistrates Court are assigned, except those matters within the jurisdiction of Pittsburgh Housing Court pending further Order of this Court. Pursuant to 42 Pa.C.S. Section 325, (Judicial Code), the President Judge of the Fifth Judicial District shall assign, on a rotating basis, Allegheny County District Justices to hear all matters before the Pittsburgh Municipal Court and Pittsburgh Housing Court. The President Judge of the Fifth Judicial District shall exercise full administrative authority over the Pittsburgh Municipal Court and Pittsburgh Housing Court. The responsibilities and duties of the district justices assigned to Pittsburgh Municipal Court and Pittsburgh Housing Court shall be the same as those of the minor judiciary and district justices as provided by law. All fines, fees, costs, restitution, and other reparations collected by the Pittsburgh Municipal Court shall be distributed in accord-

ance with 42 Pa.C.S. Sections 3571, 3572, 3573, and all other relevant legal authority.

The provisions of this Order shall be effective January 1, 2005.

Messrs. Justice Saylor and Eakin dissent, by reference to Section 21 of the Schedule to Article V of the Pennsylvania Constitution.

[Pa.B. Doc. No. 04-2175. Filed for public inspection December 10, 2004, 9:00 a.m.]

RULES AND REGULATIONS

Title 25—ENVIRONMENTAL PROTECTION

ENVIRONMENTAL QUALITY BOARD

[25 PA. CODE CHS. 121, 129 AND 145]

Small Sources of NO_x, Cement Kilns and Large Internal Combustion Engines

The Environmental Quality Board (Board) by this order amends Chapters 121, 129 and 145 (relating to general provisions; standards for sources; and interstate pollution transport reduction). The amendments establish ozone season nitrogen oxide (NO_x) emission limits for certain boilers, turbines and stationary internal combustion units that are small sources of NO_x in the Counties of Bucks, Chester, Delaware, Montgomery and Philadelphia. This final-form rulemaking also establishes ozone season NO_x emission limits for large stationary internal combustion engines and Portland cement kilns across this Commonwealth.

This order was adopted by the Board at its meeting of August 17, 2004.

A. *Effective Date*

This final-form rulemaking will go into effect upon publication in the *Pennsylvania Bulletin*.

B. *Contact Persons*

For further information contact J. Wick Havens, Chief, Division of Air Resource Management, Bureau of Air Quality, P. O. Box 8468, Rachel Carson State Office Building, Harrisburg, PA 17105-8468, (717) 787-9495; or Kristen M. Campfield, Assistant Counsel, Bureau of Regulatory Counsel, P. O. Box 8464, Rachel Carson State Office Building, Harrisburg, PA 17105-8464, (717) 787-7060. Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD users) or (800) 654-5988 (voice users). This final-form rulemaking is available electronically through the Department of Environmental Protection's (Department) website at www.dep.state.pa.us.

C. *Statutory Authority*

This final-form rulemaking is being made under the authority of section 5 of the Air Pollution Control Act (APCA) (35 P. S. § 4005), which grants the Board the authority to adopt regulations for the prevention, control, reduction and abatement of air pollution.

D. *Background of the Amendments*

When ground-level ozone is present in concentrations in excess of the Federal health-based standards, public health is adversely affected. The Environmental Protection Agency (EPA) has concluded that there is an association between ambient ozone concentrations and increased hospital admissions for respiratory ailments, such as asthma. Further, although children, the elderly and those with respiratory problems are most at risk, even healthy individuals may experience increased respiratory ailments and other symptoms when they are exposed to ambient ozone while engaged in activity that involves physical exertion. Though these symptoms are often temporary, repeated exposure could result in permanent lung damage. The implementation of additional measures

to address ozone air quality nonattainment in this Commonwealth is necessary to protect the public health.

The purpose of this final-form rulemaking is to reduce emissions of NO_x, so as to reduce levels of ground-level ozone. Ground-level ozone is not directly emitted by pollution sources, but is created as a result of the chemical reaction of NO_x and volatile organic compounds (VOC), in the presence of light and heat. The reduction of NO_x will also help protect the public health from high levels of fine particulates, of which NO_x is a precursor component. Fine particulates, as well as ozone, are health hazards. The reduction of NO_x also reduces visibility impairment and acid deposition. This final rulemaking is part of the Commonwealth's specific action plan and is part of a regional effort among the states in the Ozone Transport Region (OTR) to reduce transported ozone. The final-form regulation is necessary to satisfy the Commonwealth's commitments under the EPA-approved state implementation plan for the five-county Southeast Pennsylvania area (Philadelphia State Implementation Plan (SIP)) and establishes emission reductions that are integral to maintaining the EPA's approval of the attainment demonstration contained in the Philadelphia SIP. Full implementation of the reductions is required by May 1, 2005.

The amendments to Chapters 121 and 129 establish ozone season (May 1 through September 30) emission limits for NO_x from certain existing and new boilers, turbines and stationary internal combustion engines located at industrial, utility and commercial sites in the Counties of Bucks, Chester, Delaware, Montgomery and Philadelphia. These counties are in a severe nonattainment area for ozone. The amendments require the emission limits to be implemented by May 1, 2005. The amendments to Chapters 121 and 129 do not affect large sources that are regulated under Chapter 145. This final-form rulemaking is based on model rules developed by the Ozone Transport Commission (OTC), which was created to address ozone problems in the OTR. The Commonwealth is a member of the OTC. The final-form rulemaking is also consistent with the recommendations of the Southeast Pennsylvania Ozone Stakeholders Working Group.

In 1998, the EPA published its requirement that 22 eastern states and the District of Columbia submit revised SIPs (NO_x SIP Call) prohibiting those amounts of NO_x emissions that significantly contribute to ozone attainment problems in downwind states. In 2000, the Commonwealth promulgated Chapter 145, Subchapter A (relating to NO_x budget trading program), which contains the NO_x cap and trade program for fossil fuel-fired combustion units and electric generating units, to satisfy the first phase of the NO_x SIP Call. Subchapter A was published and adopted at 30 Pa.B. 4899 (September 30, 2000) and was approved by the EPA as a SIP revision on August 21, 2001 (66 FR 43795). In this final rulemaking, Chapter 145, Subchapters B and C (relating to emission of NO_x from stationary internal combustion engines; and emissions of NO_x from cement manufacturing) are needed to satisfy the Commonwealth's remaining obligation under the NO_x SIP Call.

Subchapters B and C in the final-form rulemaking establish ozone season emission requirements for NO_x from large stationary internal combustion engines that emitted or emit more than 153 tons of NO_x per ozone

season in 1995 or any ozone season thereafter, and from Portland cement kilns. Revisions pertaining to large stationary internal combustion engines and cement kilns were originally part of the 2000 proposal, but final action was deferred on them. The final-form rulemaking reflects further revisions made in response to comments received on the previous proposal and the current final rulemaking, and is based on EPA emission limits and control technologies published April 21, 2004 (69 FR 21604), and October 21, 1998 (63 FR 56394) (proposed).

Subchapter B will impact owners and operators of an estimated 14 large stationary internal combustion engines owned by four companies and institutions. Subchapter C will impact the owners and operators of cement kilns. There are presently 21 kilns in operation across the Commonwealth.

This final rulemaking also represents the Commonwealth's continuing commitment to do its fair share in reducing ozone transport both within this Commonwealth and throughout the northeast.

The Department worked with the Air Quality Technical Advisory Committee (AQTAC) in the development of this final rulemaking. The Department presented drafts of the final-form regulation to AQTAC on July 24, 2003, September 25, 2003, November 20, 2003, and February 27, 2004. The Department made numerous amendments to the final-form regulation in response to comments from AQTAC. At its April 27, 2004 meeting, AQTAC members expressed concern about the compliance deadline in the final-form rulemaking. The committee recommended that the Department present the final-form regulation to the Environmental Quality Board for adoption.

E. Summary of Regulatory Requirements and Major Changes to the Proposed Rulemaking

This final-form rulemaking adds definitions of "MWH," "ppmvd," "stationary internal combustion engine," "tradable renewable certificate" and "tradable renewable certificate issuing body" to § 121.1 (relating to definitions).

The final amendments to Chapter 129 apply during the ozone season (May 1 to September 30) to existing and new small sources of NO_x located in Bucks, Chester, Delaware, Montgomery or Philadelphia County (the five-county Philadelphia area). The final amendments establish methods for determining NO_x "allowable emissions" for certain boilers, stationary combustion turbines and stationary internal combustion engines located at industrial, utility and commercial sites in §§ 129.201—129.203 (relating to boilers; stationary combustion turbines; and stationary internal combustion engines). The owner or operator of a unit covered by these sections must calculate the difference between NO_x allowable emissions and NO_x actual emissions under § 129.204 (relating to emission accountability). Some boilers and turbines may demonstrate compliance through the opt-in provisions of §§ 145.80—145.88 (relating to opt-in process).

Section 129.204 establishes methods for calculating NO_x "actual emissions" for the units covered by §§ 129.201—129.203. Excess allowable emissions at a facility may be used to offset actual emissions at the owner or operator's other subject facilities in the five-county Philadelphia area. Section 129.204 requires surrender of NO_x allowances for actual emissions that exceed allowable emissions. Section 129.204 establishes a three-to-one NO_x allowance surrender requirement for failure to surrender NO_x allowances in accordance with this section.

Section 129.205 (relating to zero emission renewable energy production credit) authorizes NO_x credit in ex-

change for zero emission renewable energy production. Among other requirements, the zero emission renewable energy production must be certified in a tradable renewable certificate and generated in the five-county Philadelphia area.

Amended § 145.42 (relating to NO_x allowance allocations) provides that for each ton of NO_x deducted under § 129.205, the Department will retire one NO_x allowance from the new source set-aside governed by § 145.42(d).

New Subchapter B of Chapter 145 establishes allowable emissions for three categories of large existing and new stationary internal combustion engines listed in § 145.111 (relating to applicability). Section 145.112 (relating to definitions) defines terms that are used in Subchapter B: "CEMS—Continuous Emission Monitoring System," "diesel stationary internal combustion engine," "dual-fuel stationary internal combustion engine," "engine rating," "lean-burn stationary internal combustion engine," "rich-burn stationary internal combustion engine," "stationary internal combustion engine," "stoichiometric air/fuel ratio" and "unit." Section 145.113 (relating to standard requirements) establishes methods for calculating NO_x allowable and actual emissions. Section 145.113 requires surrender of NO_x allowances for actual emissions that exceed allowable emissions. Excess allowable emissions at a facility may be used to offset actual emissions at the owner or operator's other subject facilities in this Commonwealth. Section 145.113 establishes a three-to-one NO_x allowance surrender requirement for failure to surrender NO_x allowances in accordance with this section.

New Subchapter C of Chapter 145 applies to existing and new Portland cement kilns. See § 145.141 (relating to applicability). Section 145.142 (relating to definitions) defines the following terms for the purposes of this subchapter: "CEMS—Continuous Emission Monitoring System," "clinker," "Portland cement" and "Portland cement kiln." Section 145.143 (relating to standard requirements) establishes methods for calculating allowable and actual emissions. It requires surrender of NO_x allowances for actual emissions that exceed allowable emissions. Excess allowable emissions at a facility may be used to offset actual emissions at the owner or operator's other subject facilities in this Commonwealth. Section 145.143 establishes a three-to-one NO_x allowance surrender requirement for failure to surrender NO_x allowances in accordance with this section.

The major changes that were made to the proposed rulemaking include the following: the proposed definitions of "emergency stationary internal combustion engine" and "fire-fighting stationary internal combustion engine" in § 121.1 are not included in the final-form regulation; the emission limits have been standardized in §§ 129.201—129.203, 145.113 and 145.143; the allowable emission rate of 1.5 grams per brake horsepower-hour in § 129.203 was changed to 3.0 grams to align it with the allowable rate for the same class of engines affected by the final-form regulation under § 145.113; the need to submit written requests for averaging has been eliminated from §§ 129.201—129.203 and 145.114; §§ 129.201—129.203 do not apply to Naval marine combustion units operated by the United States Navy for the purpose of testing and operational training; § 129.201 clarifies that it does not apply to units that combust municipal waste at a facility that is permitted as a resource recovery facility under Article VIII (relating to municipal waste) of the Department's regulations; NO_x emissions from stationary internal combustion engines that are or were replaced by an electric motor may be counted as allowable emissions

under §§ 129.203 and 129.204; § 129.204 has been added; §§ 129.204, 145.113 and 145.143 authorize compliance with NO_x emission limits in this final-form rulemaking through emission averaging or NO_x allowance surrender; emissions from fire-fighting turbines, fire-fighting stationary internal combustion engines, emergency gas turbines and emergency stationary internal combustion engines are not exempt from calculation of actual emissions under § 129.204; NO_x emission monitoring options are included in § 129.204; a zero emission renewable energy production credit provision has been added in § 129.205 and a corresponding reduction of NO_x allowances from the new source set-aside is included in amended § 145.42; § 145.113 allows for maintenance of records offsite and requires the owner or operator of a facility to provide records to the Department upon request; proposed §§ 145.114 and 145.115 (relating to compliance determination; reporting, monitoring and recordkeeping) have been deleted; additional NO_x emission monitoring options have been added to § 145.113; the proposed definitions of “low NO_x burner” and “mid-kiln firing” in § 145.142 have been deleted; the proposed control technologies in § 145.143 have been deleted; and proposed § 145.144 (relating to reporting, monitoring and recordkeeping) has been deleted.

The final-form rulemaking will be submitted to the EPA as an amendment to the SIP.

F. *Summary of Comments and Responses on the Proposed Rulemaking and Draft Final-Form Rulemaking*

The Board held three public hearings in Harrisburg, Pittsburgh and Conshohocken on November 18, 20 and 25, 2002, respectively during the 69-day comment period on the proposed rulemaking. (32 Pa.B. 5178 (October 19, 2002)). Comments were received from 31 commentators. As a result of those comments and input from AQTAC, the Department published an advance notice of final rulemaking (ANFR) in the *Pennsylvania Bulletin* for additional comment. (33 Pa.B. 6226 (December 20, 2003)). The Department had a 30-day public comment period on that draft final-form rulemaking which closed on January 19, 2004. Comments were received from 24 commentators.

Summary of Public Comments on the Proposed Rulemaking

Program Design—Averaging and Allowance Trading

Two commentators opposed allowing the use of both allowance trading and averaging to meet the emission limitations because of their concern that local adverse health effects may result. The Department disagrees that averaging and allowance trading will result in localized adverse health impacts because most of the averaging from multiple units is expected to occur at individual facilities. The expanded averaging program will achieve acceptable levels of emission reductions while minimizing compliance costs. This final-form rulemaking allows the use of allowances to demonstrate compliance and allows averaging within a facility and across facilities under common control.

One commentator opposed allowing source operators to achieve compliance through the use of allowances. The commentator was concerned that the surrender of allowances as a compliance option could allow emission increases to occur in the nonattainment area and said they should not be an option. The Department does not believe that the use of allowances will result in increased emissions in the area. Although owners or operators of some facilities may use allowances to avoid the installation of

controls or implementation of other emission reduction measures, the Department anticipates that the program will result in the level of emission reductions necessary to satisfy the Commonwealth's obligations. These obligations are to achieve the emission reductions and budgets established by the NO_x SIP Call that are also integral to maintaining the EPA's approval of the 1-hour ozone attainment demonstration contained in the Philadelphia SIP. The final-form rulemaking allows the use of allowances to demonstrate compliance and allows averaging across facilities under common control.

One commentator strongly supported the opportunity for the use of averaging as a compliance option. The commentator suggested that the provisions should specify that averaging can extend over the entire ozone season, across facilities within the five-county Southeast Pennsylvania ozone nonattainment area, and at most be limited to a 30-day rolling average. The final-form rulemaking provides for the use of averaging throughout the ozone season and across facilities under common control. The final-form rulemaking does not contain provisions limiting averaging to a 30-day rolling average.

One commentator suggested that the final-form rulemaking should allow averaging between all classes of small affected sources—boilers, turbines, and engines in the nonattainment area. The final-form rulemaking does allow averaging between all classes of affected sources and among facilities under common control.

One commentator suggested that, inasmuch as decisions regarding what constitutes an acceptable averaging proposal affect industry and competitiveness, definitive standards need to be established in the final-form rulemaking. The commentator asked about the averaging time period, calculation methodologies, types of sources that may average together, ownership of sources allowed to average, and the geographical extent of the averaging area. The commentator stated that the proposed rulemaking concerning averaging lacked clarity and could have been applied inconsistently. In this regard, the commentator stated that the final-form rulemaking should specify the particular conditions and calculations for averaging emissions from multiple sources, define the review process, including appeal provisions and the opportunity for the applicant to make changes, and include time frames and deadlines related to Department determinations on averaging plans.

The final-form rulemaking addresses the commentator's issues regarding averaging. The requirement for source owners or operators to submit an averaging plan for approval prior to averaging has been deleted. The final-form rulemaking includes requirements related to the conditions and calculations required to demonstrate compliance based on an emissions average. Sections 129.201(b), 129.202(b), 129.203(b) and 145.143(d) of the final-form rulemaking specify the averaging period. Section 129.204(d) allows owners or operators of units subject to §§ 129.201—129.203 to average among the units at a facility throughout the ozone season and to average with other facilities subject to these provisions under their common ownership or operation within the five-county Southeast Pennsylvania ozone nonattainment area. Sections 145.113(e) and 145.143(e) contain similar provisions for large internal combustion engines and cement kilns, respectively, with a statewide geographic area. Ownership and the disposition of averaging credit is determined by the legal agreements and decisions made between owners. A similar type of issue has been successfully resolved by owners of units subject to acid rain

requirements, and the same principles apply here. As long as the credit is not double-counted, the owners or operators may distribute and utilize it as provided for in the final-form rulemaking. Since the requirement for an owner or operator to submit an averaging plan has been deleted from the final-form rulemaking, there is no need to define time frames for action and appeal procedures.

The same commentator questioned why the Board did not include an option for sources to comply by purchasing allowances. The final-form rulemaking contains this option.

One commentator stated that averaging and trading provide more flexibility and thereby enhance economic development without harming air quality. The commentator stated that they should be extended to Chapter 145 sources as well. The Chapter 145 provisions in the final-form rulemaking allow the use of averaging and the use of allowances to achieve compliance.

One commentator stated that the averaging provisions in §§ 129.201—129.203 imply that the Department will approve all proposals. The commentator suggested that if discretion is intended, the language should be changed to clarify that that is the case. The Department has deleted from the final-form rulemaking the provisions that require prior approval of averaging plans.

One commentator supported the provisions that allow a source owner or operator to use averaging to achieve compliance. The commentator said that the provisions allowing averaging should be retained and the Department should provide specific averaging guidance and acceptable means of demonstrating compliance. The Department responds that the final-form rulemaking specifies that a source owner or operator is to aggregate all of the allowable and all of the actual emissions from the affected units. The owner or operator then determines whether there are greater actual or allowable emissions. If the calculated allowable emissions exceed the actual emissions, the source is in compliance. If the actual emissions exceed the allowable emissions by greater than 0.50 ton, the owner or operator must obtain and surrender to the Department allowances equal to the excess actual emissions.

Two commentators suggested that all “alternative procedures” should be approved by the Department in writing and be transparent to the public. The commentators said that all records must be accessible and NO_x reductions claimed must be measurable, verifiable, permanent and enforceable. The Department deleted the “alternative procedures” provisions from the final-form rulemaking. Affected unit owners and operators, the Department, and the public can easily and readily determine compliance.

One commentator supported the Board’s flexible “cap and trade” approach to achieving NO_x reductions in the Philadelphia area. The commentator said that it would provide effective, targeted reductions at the least possible cost. The requirements in the final-form rulemaking provide flexibility for owners and operators of affected sources by allowing limited averaging and the simultaneous use of allowances to demonstrate compliance. The final-form rulemaking is not a “cap and trade” regulation.

Program Design—Cost and Form of Emission Limits

One commentator stated that the Board should provide a detailed compliance cost analysis for each class of unit the rule affects and justify why control of these sources is the most cost effective alternative to achieve the National Ambient Air Quality Standards (NAAQS). The Department responds that the regulatory analysis form provides

the Board’s cost-benefit analysis and identifies the source of the cost data. Both the EPA and the Southeast Pennsylvania Ozone Stakeholder Working Group estimates were used. The Southeast Pennsylvania Ozone Stakeholder Working Group recommended these classes of sources for consideration for additional emission reductions. The classes of units covered by this final-form rulemaking are those which have high potential emission rates and which are generally controllable in a cost effective manner. Because the final-form rulemaking offers flexibility for sources to demonstrate compliance through the surrender of allowances and averaging and because of the diversity of sources covered by the this final-form rulemaking, precise estimation of the compliance costs is difficult. The flexibility for demonstrating compliance allows source owners and operators to implement the most cost effective compliance program for their operations.

One commentator stated that, historically, sources have frequently overstated the costs and technical difficulty of implementing new requirements. The commentator felt that, upon implementation, it is often found that more easily applied and less expensive solutions are identified. In the final-form rulemaking, the Department has included the compliance options of emissions averaging and allowance purchase to assure that the compliance costs and technical difficulty are minimized. These options allow owners and operators to implement cost-effective compliance programs.

Two commentators stated that the alternative compliance option that allows percentage reductions from 1990 levels creates the possibility that the rule will not achieve the target level of reductions. They suggested that this would occur as a result of age related deterioration bringing unit emission rates significantly higher than they were in 1990. In addition, they suggested that the measurement techniques used in 1990 were not necessarily very accurate. The commentators felt that well-controlled units would essentially be penalized by this option since they would have to make more reductions than dirtier units. For these reasons, the commentators said that more recent data should be used as the basis for making the reductions. The Department has removed this option from the final-form rulemaking.

One commentator said that the 1990 base year emission rate for determining the alternative reduction should also include the 1995 base year used to establish the NO_x Budget Program since 1990 may not be representative of normal operations and controlling to these levels will be more costly. The Department responds that the final-form rulemaking specifies straightforward emission limits for affected classes of sources. Requirements related to specification of base year emission are not necessary.

One commentator stated that given that large sources control on an ozone season basis, it is appropriate that small sources have the flexibility to do so as well. The commentator stated that this would still provide ozone season improvements. The Department agrees. The final-form rulemaking requires that sources affected by these regulations demonstrate compliance on an ozone season basis.

The same commentator stated that the rule as proposed will impose a relatively larger compliance cost on smaller NO_x sources than larger ones. The commentator stated that small sources cannot affordably “opt-in” to the NO_x Budget Program and that, therefore, the Department should allow them to purchase allowances from sources located in the nonattainment area as a compliance alter-

native. The final-form rulemaking authorizes the purchase of allowances as a compliance alternative.

Program Design—Area of Applicability

One commentator suggested that different control requirements are appropriate in attainment and nonattainment areas. The commentator stated that stricter controls are needed to attain the ozone standards in nonattainment areas but that the stricter standards would be an unnecessary burden if imposed in the attainment areas. The final-form rulemaking applies only to sources in the five-county Philadelphia ozone nonattainment area for small sources of NO_x.

Two commentators stated that the Chapter 129 requirements for the five-county Philadelphia area are reasonable and should apply Statewide. They said that Statewide application recognizes that NO_x transports over hundreds of miles. They said that the requirements should apply over the entire Ozone Transport Region (OTR). These commentators also pointed out that NO_x contributes year round to other air pollution problems in addition to ozone, including fine particulate, acid deposition, and visibility impairment. They suggested that the requirements should be enacted for no other reason than that the benefits outweigh the costs. The Department responds that the Chapter 129 provisions of the final-form rulemaking apply only to the five-county Southeast Pennsylvania ozone nonattainment area. The Department recognizes the adverse impacts of NO_x. In addition to being an ozone precursor, NO_x contributes to fine particulate, acid deposition and visibility impairment. However, the focus of the Chapter 129 portion of this rulemaking is to satisfy the Commonwealth's commitments under the EPA-approved state implementation plan for the five-county Southeast Pennsylvania area (Philadelphia SIP) and to establish emission reductions that are integral to maintaining the EPA's approval of the attainment demonstration contained in the Philadelphia SIP. Full implementation of the reductions is required by May 1, 2005.

Additional NO_x reductions may be necessary as part of the Commonwealth's initiatives to address the 8-hour ozone and PM 2.5 standards. This final-form rulemaking is based on an OTC model rule that serves as the basis for NO_x reductions, as needed, throughout the OTR.

One commentator asked how application of these standards Statewide and for the entire year would bring the Commonwealth into compliance for the ozone months. The Department responds that the final-form Chapter 129 regulations are limited to the five-county Philadelphia nonattainment area. The Chapter 145 final-form regulations are required Statewide to complete the Department's obligations under the NO_x SIP Call and to maintain the EPA's approval of the 1-hour ozone attainment demonstration contained in the Philadelphia SIP. Both chapters address ozone season emissions.

One commentator stated that the Chapter 129 rules are necessary to target local ozone attainment issues. The commentator said that Statewide, sizable reductions have been achieved: larger sources have existing controls under Chapter 145, and smaller sources are controlled under RACT. The Department responds that the Chapter 129 final-form rulemaking is designed to achieve NO_x emission reductions to address ozone nonattainment in the five-county Southeast Pennsylvania ozone nonattainment area. The Chapter 145 final-form regulations are required to complete the Department's obligations under the NO_x SIP Call and to maintain the EPA's approval of the 1-hour ozone attainment demonstration contained in the Philadelphia SIP.

Two commentators thought that extending the Chapter 129 requirements Statewide would exceed the Department's authority under the APCA because the reductions would not be useful toward attainment of the ozone air quality standard. The commentators said that the Department studied only the effects of reductions in the five-county Southeast Pennsylvania ozone nonattainment area in formulating this regulatory initiative. The commentators added that the small amount of reductions that this would achieve would not be beneficial. The final-form Chapter 129 regulations apply only to the five-county Southeast Pennsylvania ozone nonattainment area.

One commentator suggested that the SIP Call or Chapter 145 requirements should not be promulgated until upwind states impose similar regulations; otherwise, new sources will locate upwind and adversely impact Southwest Pennsylvania's air quality and economy. The Department responds that upwind states are also under the legal obligation to implement the NO_x SIP Call. The final-form rulemaking is necessary to satisfy the Commonwealth's commitments under the EPA-approved state implementation plan for the five-county Southeast Pennsylvania area (Philadelphia SIP) and establishes emission reductions that are integral to maintaining the EPA's approval of the attainment demonstration contained in the Philadelphia SIP. Full implementation of the reductions is required by May 1, 2005.

Program Design—Seasonal vs. Year-Round Limits

Several commentators suggested that year-round controls would not be necessary to achieve the stated purpose of the final-form rulemaking. Two commentators thought that year-round control would violate the APCA and would not provide ozone season benefits. Another commentator suggested that expanding this rulemaking to apply for the entire year is outside the stated purpose for this rulemaking. Another commentator thought that the final-form rulemaking should apply only during the ozone season because sources upwind of the five-county Southeast Pennsylvania ozone nonattainment area may impact the area and the additional emissions restrictions may represent a competitive disadvantage. Another commentator thought that annual requirements should not apply until it is shown that this is required to meet the 8-hour ozone standard. The final-form rulemaking addresses ozone season emissions.

Program Design—Timing and General Issues

One commentator said that 3 years are needed to plan and implement control strategies and suggested that the compliance date should be extended to provide this amount of time to comply with the control requirements. The final-form rulemaking provides a number of compliance options in addition to the option of implementing control programs. Because owners and operators of affected sources have the flexibility to average and use NO_x allowances, there is no need to extend the compliance deadline.

One commentator asked the Board to explain why the May 1, 2005 deadline is reasonable, feasible and necessary. The deadline is necessary to assure that the reductions occur to help ensure that the five-county Southeast Pennsylvania ozone nonattainment area achieves and maintains the 1-hour ozone standard by November 15, 2005, the attainment deadline in the Clean Air Act. The final-form rulemaking includes provisions that allow the use of averaging and allowances to demonstrate compliance. Implementation of these alternatives does not require long lead-time.

One commentator stated that the proposed NO_x reductions are vital remaining strategies for ozone attainment and public health. The Department agrees. The final-form rulemaking is necessary to satisfy the Commonwealth's commitments under the EPA-approved state implementation plan for the five-county Southeast Pennsylvania area (Philadelphia SIP) and establishes emission reductions that are integral to maintaining the EPA's approval of the attainment demonstration contained in the Philadelphia SIP. Full implementation of the reductions is required by May 1, 2005.

The commentator stated that emission reductions from municipal waste combustors (MWCs) are not needed for attainment since these reductions were not included in implementation plans. The final-form rulemaking clarifies that it does not apply to municipal waste combustors.

One commentator stated that the Board should consider either using a separate proposed rulemaking or publishing an Advance Notice of Final Rulemaking if it added any language to the final-form rulemaking in response to any comments. The Department published an Advance Notice of Final Rulemaking in the *Pennsylvania Bulletin* on December 20, 2003.

The same commentator noted that many commentators stated that controls have already been installed under other requirements or that the units typically operate only a few hours. These commentators argued that further requirements would yield minimal additional reductions. The final-form rulemaking requires units to be accountable for actual emissions and does not require control installation, ensuring that owners and operators have a cost effective compliance option under any operating scenario.

Two commentators suggested that the proposed rulemaking be amended to allow participation in the NO_x Budget Program on an individual basis in lieu of complying with the proposed rules. One commentator questioned, "Why didn't the Board include amendments in this rulemaking that would allow these other sources to 'opt-in'?" The Department responds that the NO_x Budget Program is specifically designed to support an emission control program for large boilers. Considerable technical and administrative issues would need to be resolved in order to support other types of units in the budget program that are beyond the scope of this rulemaking.

Boilers

One commentator said that the definition of boiler, which references the existing § 145.2 provision, should be amended to ensure it does not include process heaters. The interpretation of this definition generally follows the Federal applicability that does not include direct-fired process heaters.

Several commentators provided a technology and cost assessment, as requested by the Board. The commentators concluded that the rule should not require lower emission limits for Municipal Waste Combustors (MWCs) because Selective Catalytic Reduction (SCR) technology is not reliable enough or is too expensive. In addition, the commentators indicated that the EPA has set the limits for MACT higher, and SNCR, the only generally feasible MWC control technology, is not able to meet the 0.17 pound per million Btu limit in the proposed regulation. The final-form rulemaking clarifies that it does not apply to municipal waste combustors.

Another commentator asked the Board to explain why MWCs were chosen for further reductions and what equipment would work at MWCs to achieve compliance.

The commentator asked the Board to provide the associated costs of installation and operation of the equipment and to demonstrate that technically feasible solutions are not cost prohibitive. The commentator made reference to some commentators' claims that the Board's requirements for MWCs are not technologically feasible and that the EPA has indicated that it does not intend to regulate MWCs further. The commentator said that some commentators argue that MWCs should be exempt from the requirements of this rulemaking for reasons including: the difficulty of predicting emissions due to the variability of fuel; the facilities have already implemented MACT; the limits set by this proposed rulemaking may not be achievable; and these facilities provide other environmental benefits. The final-form rulemaking clarifies that it does not apply to municipal waste combustors.

One commentator stated that neither the Department nor the OTC included MWCs in its cost or technical analyses, and that promulgating a rule in this instance is not legal. The final-form rulemaking clarifies that it does not apply to municipal waste combustors.

The Naval Surface Warfare Center Ship Systems Engineering Station located in Philadelphia recommended that naval units that are used to simulate shipboard conditions be exempted. This request was based on several rationales, including technical infeasibility and low utilization rates. Extensive technical data and analysis were provided. The final-form rulemaking does not apply to these units.

One commentator said that auxiliary boilers that serve larger electric generating units emit very little over the course of the year. The commentator stated that controls to meet the proposed regulatory limits would not achieve substantive reductions. The commentator recommended a cost effectiveness threshold of \$3,000 per ton reduced. The Department responds that the final-form rulemaking allows source operators to use averaging and NO_x allowances to demonstrate compliance with the emission limits. Therefore, establishment of a cost-effectiveness level in the regulation is not necessary.

One commentator suggested that boilers greater than 250 MMBTU/hr should be afforded the 60% reduction option. The final-form rulemaking specifies straightforward emission limits for affected classes of sources. Requirements related to specification of base year emissions are not necessary.

Combustion Turbines

One commentator stated that the control requirements of this rule for combustion turbines would not be cost-effective due to permit caps at 5% of annual capacity, high operating expenses and resultant low utilization rates of 1-2.5%. The commentator said that averaging would be useful for some of these units. The commentator stated that the combustion turbine portion of the rule would achieve about a 55% reduction, and that based on historical data, 25 to 45 tons would have been reduced in 2000 and 2002, respectively, from the 23 units the company operates. The commentator recommended that the following options be considered: de minimis or cost-effectiveness exemptions, or NO_x allowance surrender—which the commentator said should be an option in any event. The commentator felt that limiting allowances to the area of allocation does not make sense if this option is provided. The Department responds that the final-form rulemaking includes NO_x allowance surrender and averaging as compliance options. The inclusion in the final-form rulemaking of de minimis and cost-effectiveness exemptions is not necessary.

The same commentator stated that the rule, as it pertains to combustion turbines, should apply Statewide for competitive and environmental reasons. The commentator said that if the rule does not apply Statewide, peaking units located outside the five-county Southeast Pennsylvania ozone nonattainment area will be cheaper to run and will pick up the load from the units affected by this rule, the emissions will just occur in upwind areas and the benefits of the rule will be defeated. The Department does not expect the rule to result in load shifting because the control costs for existing combustion turbines are small in relation to operating expenses.

The Naval Surface Warfare Center Ship Systems Engineering Station located in Philadelphia recommended that naval units that are used to simulate shipboard conditions be exempted. This request was based on several rationales, including technical infeasibility and low utilization rates. Extensive technical data and analysis were provided. The final-form rulemaking does not apply to these units.

Internal Combustion (IC) Engines

The Naval Surface Warfare Center Ship Systems Engineering Station located in Philadelphia recommended that naval units that are used to simulate shipboard conditions be exempted. This request was based on several rationales, including technical infeasibility and low utilization rates. Extensive technical data and analysis were provided. The final-form rulemaking does not apply to these units.

One commentator stated that the final-form rulemaking should focus on sources where emission reductions can be achieved instead of infrequently used sources, where the cost of control of NO_x reduced can be very high—in one instance, \$40,000—\$400,000 per ton. The commentator stated that this is not a cost-effective way for the Commonwealth to achieve required emission reductions. The Department responds that the Chapter 145 provisions in the final-form rulemaking allow the use of averaging and allowances to achieve compliance. These provisions allow a source owner or operator to implement the most cost-effective strategy for the affected activities.

One commentator said that both the Chapter 129 and Chapter 145, Subchapter B provisions should include an exemption for emergency gas turbines and firefighting turbines, wet weather storm pumps, and any engine that is used infrequently or for emergencies. The final-form rulemaking exempts facilities that emit less than 0.50 tons of NO_x during the ozone season. In addition, the final-form rulemaking includes provisions that allow the use of averaging and allowances to demonstrate compliance. Exemptions for these specific classes of sources are not included in the final-form rulemaking.

One commentator supported exemptions for emergency equipment. The commentator said that the proposed Chapter 145 threshold of 1 ton per day effectively exempts emergency or back-up units that would have much lower control cost-effectiveness. In Chapter 145 of the final-form rulemaking the 1-ton per day threshold was not intended to exempt emergency or back up units. The threshold stems from EPA's NO_x SIP Call, which used this cutoff as a way to identify and control sources with enough emissions to reduce the interstate transport of ozone.

One commentator recommended that the Chapter 121 definition of "emergency stationary internal combustion engine" be amended to allow emergency equipment to run up to 100 hours for routine testing and maintenance. The

Department responds that the final-form Chapter 129 regulations exempt facilities that emit less than 0.50 tons of NO_x during the ozone season. In addition, the final-form rulemaking includes provisions that allow the use of averaging and allowances to demonstrate compliance. Exemptions for specific classes of sources are not included in the final-form rulemaking.

One commentator recommended that the definition of "emergency stationary internal combustion engine" include specific language, as follows: "(ii) A stationary internal combustion engine located at a nuclear power plant that operates pursuant to Nuclear Regulatory Commission (NRC) requirements." The commentator said that these back-up IC engines are generally only operated for testing required by NRC, or during real emergencies. In the 2000 ozone season, NRC-required periodic testing resulted in a total of 9.5 tons of NO_x emissions. The commentator stated that an exemption was warranted because the nuclear generators typically produce thousands of megawatts of emission free electricity. The Department responds that the final-form rulemaking does not contain a definition of "emergency stationary internal combustion engine." Back-up IC engines, such as those at the commentator's nuclear facility, are not exempted in the final-form rulemaking. If the ozone season actual emissions from the units exceed the allowable emission requirements in the final-form rulemaking, the owner or operator will be required either to average emissions from other of the owner or operator's affected sources or to obtain allowances to demonstrate compliance. Exemption from the requirements in the final-form rulemaking for these types of sources is not warranted.

One commentator stated that subset engines should be exempted from the Chapter 129 emission limits because they could not afford to run. The commentator claimed that the Department's analysis fails to account for all of the benefits and factors bearing on the permitting and operation of these units, including emission displacement to higher emitting units, and adverse electric market impacts. The Department responds that the final-form Chapter 129 regulations exempt facilities that emit less than 0.50 tons of NO_x during the ozone season. In addition, the final-form rulemaking includes provisions that allow the use of averaging and allowances to demonstrate compliance. Exemptions for specific classes of sources are not included in the final-form rulemaking.

Two commentators said that general permits should not be issued for internal combustion engines. The commentators said that permits should contain requirements that are specific to the source to ensure compliance. The commentators explained that it is possible, for instance, that a source could be installed claiming to be for emergency use only, but then be used for non-emergencies. The final-form rulemaking does not exempt emergency use engines.

The same commentators said that the distinction between mobile and stationary can be false. The commentators said that mobile units can fulfill the functions of stationary units and should be covered by these regulations. The final-form rulemaking defines stationary internal combustion engines in a way that ensures that only those engine emissions that occur during operations as mobile air contamination sources are not covered.

One commentator suggested that the proposed IC engine definition should be amended from including engines remaining on one location for 30 days or more to only those engines that remain in one location for 12 months or more. The commentator said that states are precluded

by Clean Air Act section 209 from regulating engines that remain in one location for less than 12 months. The commentator suggested that amending the definition of nonroad engine to conform to 40 CFR 90 would remedy this problem. The Department responds that the final-form rulemaking specifies "in-use" measures, which are not preempted by the Clean Air Act. Additionally, the final-form rulemaking defines stationary internal combustion engines in a manner that ensures that those engine emissions that occur during operations as mobile air contamination sources, as defined under § 121.1, are not covered.

One commentator asked why the Board used 30 days in the stationary internal combustion engine definition. The intent in the proposed rulemaking was to mirror the OTC model rule. The rationale for eliminating the 30-day criterion in the final-form rulemaking is discussed in the preceding paragraph.

One commentator said that the Chapter 145 IC engine threshold, based on 1995 emissions or those occurring in the future, leaves operators uncertain about control obligations and should be changed to provide certainty. The commentator asked what the deadlines for newly affected engines would be. The final-form rulemaking clarifies that engines that become subject to Chapter 145, Subchapter B, in any year after 2004 must comply with Subchapter B by May 1 of the following calendar year.

Two commentators stated that the applicability criterion of § 145.111 (one-ton per day threshold) poses an unwarranted exemption from the control requirements. The commentators said that a lower threshold is warranted considering the contribution of these sources and the magnitude of the problems we are facing. The final-form rulemaking implements the Federal NO_x SIP Call, which uses the 1-ton per day threshold to determine the largest contributors to NO_x transport.

One commentator stated that the emission limits for large IC engines may not be feasible for every engine, and that the Department may want to review them in light of recent EPA re-examination of the issue. The commentator suggested that the allowance option would possibly resolve the issue. The Department responds that the final-form rulemaking contains the same level of reductions the EPA determined to be technically feasible, cost-effective, and achievable for lean burn engines and that were used to establish the Phase II NO_x SIP Call emission budgets. The final-form rulemaking also includes provisions that allow the use of averaging and allowances to demonstrate compliance.

One commentator suggested that the structure of the IC engine provisions in Chapters 129 and 145 should be amended to remove overlapping and conflicting requirements in a manner that achieves reductions where they are most needed. Specifically, the commentator suggested that the final-form rulemaking retain the 1000-2400 hp requirements in the nonattainment areas as proposed in Chapter 129 and contain separate standards for units above 2,400 hp. In addition, the commentator suggested that the final-form rulemaking establish less stringent standards for those 2,400 hp and above units located in attainment areas. The Department responds that the rules for attainment areas in the final-form rulemaking follow the NO_x SIP Call requirements. The rules do not overlap or conflict. The Chapter 129 provisions in the final-form rulemaking state that sources falling under the applicability thresholds of Chapter 129 but that are already subject to Chapter 145 are not covered by Chapter 129 requirements.

The same commentator supported the proposed Chapter 129 standards for IC engines, saying they are achievable with after-treatment technologies. The commentator said that for some older higher emitting engines, however, depending on the costs of local power, the economics may be unfavorable. The commentator said that maximum flexibility should be provided in meeting these limits because of this. The final-form rulemaking authorizes a range of compliance techniques that enables the owner or operator to choose the most cost effective option.

The same commentator said that the Chapter 145 emission limit requiring a 90% reduction from 1990 levels does not give credit for previous control efforts. The commentator said that catalysts, for instance, could have been installed, or rich burn engines replaced, with lower emitting lean burn engines. The commentator believed it may be technologically or economically infeasible to make further reductions, and suggested that specific emission limits would avoid this problem. The commentator said that available technologies can achieve the following: 1.5 g/bhp-hr for rich burn spark ignited engines; 0.9 gm/bhp-hr for lean burn spark ignited engines; and 2.3 gm/bhp-hr for compression ignition engines. The commentator suggested that engines located in attainment areas should have higher limits: 1.5 gm for lean burn and 4.8 for compression ignited (prevailing non-road engine standard). The Department responds that the final-form rulemaking is structured to provide credit for previous control efforts. The emission limits for each class of engine are based on control levels that have been determined to be achievable by the majority of the units in that class.

One commentator recommended that the Chapter 129 and Chapter 145 IC engine controls allow flexible compliance options in order to enable the maximum amount of reductions to be achieved and with more cost-effectiveness. The commentator suggested that more control technology vendors would be able to respond, which would also enhance the cost effectiveness. The final-form rulemaking authorizes a range of compliance techniques that enables the owner or operator to choose the most cost effective option.

Three commentators believed that the emission limitations are more stringent than Federal standards and therefore not permissible under the APCA. The limits in the final-form rulemaking are permissible. The final-form rulemaking is necessary to satisfy the Commonwealth's commitments under the EPA-approved state implementation plan for the five-county Southeast Pennsylvania area (Philadelphia SIP) and establishes emission reductions that are integral to maintaining the EPA's approval of the attainment demonstration contained in the Philadelphia SIP. Full implementation of the reductions is required by May 1, 2005.

One commentator stated that the § 129.203 limit could not be met on most lean-burn engines (1.5 gm/brake hp-hr) whereas a higher limit (3.0 gm/brake hp-hr) could be met. The final-form rulemaking contains the same level of reductions the EPA determined to be technically feasible, cost-effective, and achievable for lean burn engines and that were used to establish the Phase II NO_x SIP call emission budgets.

The same commentator stated that it would be difficult to comply with the May 1, 2005, compliance deadline because planning and installation of controls and monitors take from 1 1/2 to 3 years. The commentator stated that pipeline operators request a 2009 deadline because of permitting issues, and retrofit downtime prohibitions of

FERC and Pennsylvania Public Utility Commission. The final-form rulemaking retains the May 1, 2005, compliance deadline. The emission reductions and budgets established by the NO_x SIP call are also integral to maintaining the EPA's approval of the one-hour ozone attainment demonstration contained in the Philadelphia SIP. Full implementation of the NO_x SIP call reductions is required by May 1, 2005. The final-form rulemaking includes provisions that allow the use of averaging and allowances to demonstrate compliance. Implementation of these alternatives does not require long lead-time, and most of the controls needed to comply with this final-form rulemaking were already installed in response to the 1995 RACT regulation requirements.

One commentator said that the Board should explain how the lower § 129.203 limit on lean-burn engines (1.5 gm/brake hp-hr) could be met. The final-form rulemaking contains the same level of reductions the EPA determined to be technically feasible, cost-effective, and achievable for lean burn engines and that were used to establish the Phase II NO_x SIP Call emission budgets.

The same commentator noted that § 145.115 specifies that records must be maintained at the facility. The commentator asked the Board to explain the need for onsite recordkeeping requirements as opposed to allowing a source to keep records at a centralized location. The Department responds that the requirements for maintenance of records onsite have been deleted from the final-form rulemaking. The final-form rulemaking allows an owner or operator who is not required to use CEMS to use an alternative monitoring and recordkeeping procedure if the Department approves it in writing in advance. Depending on the proposal, onsite recordkeeping will not necessarily be required but the facility will be required to provide the records to the Department upon request.

One commentator noted that the Federal guidance on IC engine control has not been finalized and therefore the EPA does not know what level of control is required under the NO_x SIP Call. The commentator felt that the final-form rulemaking should be delayed for this reason. The commentator said that the EPA is preparing to issue a "Phase II" NO_x SIP Call rule that will likely require the current installed level of control. The commentator thought that the proposed rulemaking would violate the statutory regulatory policy by exceeding Federal requirements. The commentator said that Federal guidelines also allow the limits to be met on an average basis or with allowances rather than individual units as proposed in the regulation. The commentator suggested that, because the limits are based on average engine population, and because engines respond differently to control equipment, this flexibility option would allow operators to meet the limits. The commentator said that it is a key feature of the OTC model rule that makes it feasible and cost-effective. The commentator felt that averaging was not a useful option. The Department responds that the final-form rulemaking is consistent with the EPA's guidance on recommended achievable emission levels for large IC engines. The final-form rulemaking incorporates averaging and allowance surrender as compliance options.

The same commentator said that for lean burn IC engines under the Chapter 145 proposed rules, an 82% reduction is achievable, and has been implemented. The commentator said that the EPA docket supports this finding. The commentator noted that the Department was requiring a 91% reduction in the proposed rulemaking and said the justification for doing so relies on old EPA guidance as opposed to more recent findings. The com-

mentator said that the EPA believes that SCR is not justified. The commentator said that other states have proposed less restrictive rules and as a result the delivery of gas to Pennsylvania may be hampered. The final-form rulemaking contains the same level of reductions the EPA determined to be technically feasible, cost-effective, and achievable for lean burn engines and that were used to establish the Phase II NO_x SIP call emission budgets.

The same commentator said that the final-form rulemaking is unnecessary because the pipeline industry has achieved the reductions called for under the proposed Chapter 129 IC engine regulations, and no further emission reduction will be achieved by the proposed rulemaking. The commentator said that increased NO_x control requirements for these engines would result in increased VOC emissions, something the commentator thought the Department had not considered. The Department responds that the level of additional control that might be needed to comply with the limits contained in the final-form rulemaking should not result in additional VOC emissions.

The same commentator requested an exemption from NSR for the pipeline industry per the EPA's recent pollution control project rules. The types of possible control project modifications needed to meet the revised emission limits in the final-form rulemaking should not result in emission increases above the NSR applicability thresholds.

One commentator said that Continuous Emission Monitoring Systems (CEMS) should not be required for smaller sources. The commentator said the Department should allow simplified procedures, including those using either the averaging or allowance purchase compliance options. The Department agrees and has incorporated various monitoring options that allow the owner or operator to choose the most efficient monitoring method.

Two commentators said that the CEMS requirement for large IC engines subject to Chapter 145, in conjunction with the control requirements, could render some installations cost-ineffective. The commentators suggested that parametric monitoring should be a specifically authorized alternative in the regulation, rather than requiring an approval process for alternative systems. The commentators felt that this alternative would be readily available and cost-effective. The final-form rulemaking allows alternative monitoring techniques.

One commentator asked whether the Board had considered further exemptions for units that are not run for many hours in the ozone season, such as electric generation peaking units, emergency back up generators and power generation sources used for research, development and testing purposes. The commentator asked how many tons of reductions these sources represented and what the cost per ton was for them to comply. The commentator said the Board should explain the need to regulate these sources and why this is cost effective. The Department responds that the final-form rulemaking does not exempt these units. The affected engines and turbines emit NO_x at rates from approximately 0.05 ton to over 1 ton per day. The emissions can quickly become highly significant. It is estimated that these units can emit from 60 to 100 tons per day during high electric demand days, which coincides with and contributes to ozone episodes. There are approximately 120 engines covered by the Chapter 129 regulations, which at the lowest emission rate, 0.05 ton per day, would emit well in excess of 3 tons of NO_x if operated for a day. This is equal to the entire amount of reductions this final-form rulemaking needs to achieve.

These units, if left uncontrolled, will negate the emission reductions achieved by the other affected sources. Therefore, it is not overall cost effective to exempt these units when they can contribute significant amounts of emissions. The applicability threshold of 0.5 tons for the ozone season ensures that only those operations with significant actual emissions during the ozone season are subject to emission limits. The final-form rulemaking will result in reduction of these emissions by an average of 80% or an equivalent surrender of NO_x allowances.

Cement Kilns

One commentator noted that some commentators indicate that low NO_x burners are infeasible and cost ineffective. The commentator said that the Board needs to demonstrate that compliance is possible and what equipment will be needed to comply. The commentator said that the Board also needs to demonstrate that technically feasible solutions are not cost prohibitive. The Department responds that controls, including selective noncatalytic reduction (SNCR), low NO_x burners, mid-kiln firing, and process controls are installed and operating on kilns in this Commonwealth to meet various requirements. While cost effective controls are available for every type of unit evaluated, some units may be inherently uneconomic even without controls. Some of these older kilns are being phased out of operation or the owners have plans for modification of the units. Adding controls may not be a good investment under such circumstances. In such cases, the allowance compliance option allows operation of such units without the need for controls.

Two commentators suggested that the Department should require the most effective control to be used instead of allowing cement kiln operators to choose from among alternative control technologies. The final-form rulemaking allows the owner or operator to choose the most cost effective control option.

Several commentators would like reinstatement of a single kiln-based emission limit expressed in pounds of NO_x per ton of clinker produced that the Department had proposed earlier as included in the Federal implementation plan (FIP) proposals. Some commentators also asked that this option also allow that it be achieved on an average basis across the facility as well as from uncontrolled 1990 levels rather than actual levels. The final-form rulemaking incorporates an emission limit and compliance options that provide the requested options.

One commentator stated that its kiln has not installed controls to comply with the 1996 RACT regulations, as presumed in the preamble. The commentator stated that the facility utilizes toxic wastes for some of its fuel and must retain high combustion temperatures to handle these wastes. The commentator said the proposed rulemaking would require substantial modification of the kiln. The final-form rulemaking does not require a source to be modified.

The same commentator stated that short wet kilns cost more per ton to control and, as a result, were not controlled by the proposed FIP. The commentator stated that this represents a cost inequity for short kilns and that because the Federal rules did not require this type of unit to be controlled it should be exempted. The Department responds that the EPA included all kilns in its cost analysis for the proposed FIP for the Commonwealth and included all of the kilns in the NO_x SIP Call budget. The emission limit in the final-form rulemaking is designed to protect the budget, as required by the NO_x SIP Call. The final-form rulemaking provides for averaging and trading

to ensure that costs do not exceed a reasonable threshold. With cost effective compliance mechanisms available to all sources, exemptions would be unnecessary and would create an inequity among competitors.

One commentator asked the Department to change the definition of "Low NO_x Burner" to, "A type of kiln burner (a device that functions as an injector of fuel and combustion air into the kiln to produce a flame that burns as close as possible to the center line of the kiln) that has a series of channels or orifices that (1) allow for the adjustment of the volume, velocity, pressure, and direction of the air carrying the fuel (known as primary air) and the combustion air (secondary air) into the kiln, and (2) impart high momentum and turbulence to the fuel stream to facilitate mixing of the fuel and secondary air." The "Low NO_x Burner" definition is not needed in the final-form rulemaking and was eliminated.

The same commentator suggested that the final-form rulemaking should include definitions for malfunction, shutdown, and startup, as provided. The commentator also asked that the final-form rulemaking exempt emissions occurring during these periods. The Department disagrees that these emissions should be exempted. The final-form rulemaking requires the owner or operator to include all actual emissions from the units in the compliance calculations.

The same commentator asked that the final-form rulemaking provide exemptions based on case-by-case cost analysis using the EPA alternative control technology (ACT) document or for those undergoing NSR. The Department responds that the emission limits in the final-form rulemaking would readily be met by a source that applied the recommended controls in the ACT document, or underwent NSR, and was rebuilt to modern standards. The source owner or operator can choose alternative compliance mechanisms available to avoid installing controls if controls are deemed impractical or too expensive.

Two commentators stated that CEMS are not necessary to demonstrate compliance with the final-form rulemaking. The commentators said that monitors are too expensive, and monitors are not required by other states or by the FIP. The commentators said that alternatives to monitoring are allowed in other regulations for compliance demonstrations. The Department responds that the majority of Pennsylvania kilns have CEMS. Monitoring data from cement kilns with CEMS show that emission variability is large and unpredictable over both short and long time scales. It is also not possible to offer flexible compliance alternatives based on averaging or allowance trading without accurate monitoring.

One commentator asked why the Board foreclosed cement kilns from complying by using alternatives to CEMS. The Department responds that there are no sufficiently accurate alternatives for monitoring NO_x emissions from cement kilns. Monitoring data from cement kilns with CEMS show that emission variability is large and unpredictable over both short and long time scales. It is also not possible to offer flexible compliance alternatives based on averaging or allowance trading without accurate monitoring.

The same commentator asked why the Board used the actual 1990 emissions as the basis for calculation of emission reductions in the alternative control option of § 145.143(3). The commentator noted that some commentators believe the final-form rulemaking should allow an uncontrolled 1990 baseline. The final-form rulemaking does not include the alternative control option.

*Summary of Public Comments on ANFR**Compliance Mechanism/Effectiveness of the Final-Form Rulemaking to Reduce Emissions*

Several commentators stated that the draft final-form rulemaking provided adequate compliance and monitoring options to enable operators to comply cost effectively. The Department agrees.

One commentator stated that the regulations should not combine the emission requirements for all sources at a facility, and several commentators stated that the regulations should not absolutely require that allowances be surrendered when the overall facility emissions exceed the allowable rates. The commentators suggested that enforcement and a monetary penalty are appropriate for noncompliance. The Department responds that the final-form rulemaking requires combining of facility emissions to provide for a simple, standard, and accurate basis for averaging. The owner or operator of affected sources can avoid the need to obtain allowances by maintaining overall emissions below the specified limits, by controlling unit emissions, or by averaging with lower emitting units under the owner or operator's control in the five-county Southeast Pennsylvania ozone nonattainment area.

One commentator stated that sources should not be allowed to average as permitted in § 129.204(d) because it will make it more difficult to meet the ozone standards. The Department responds that averaging under § 129.204 is not expected to make meeting the ozone standards more difficult because averaging is only allowed among facilities within five-county Southeast Pennsylvania ozone nonattainment area.

Two commentators stated that the requirement to surrender allowances will create an undue demand for allowances causing allowance price increases that will harm both source operators and sources subject to the NO_x budget requirements. The Department responds that the NO_x budget contains more than 500,000 allowances per ozone season. The amount of emission reductions required by the final-form rulemaking is insignificant in comparison. Most of the NO_x SIP Call and Chapter 129 controls are already, or will be, in place by May 2005. The allowance demand will be very small in relation to the budget. The maximum number of allowances that would be used to comply with the final-form rulemaking is estimated to be fewer than several hundred allowances per ozone season. The Department does not anticipate that the increased level of demand for allowances that may result from the final-form rulemaking will negatively impact cost and availability of allowances.

Two commentators stated that cement kilns and other sources covered by these regulations are not allowed to participate in the NO_x Budget trading program and may be subject to high allowance prices. The Department responds that the final-form rulemaking provides options in addition to the use of allowances to demonstrate compliance. The final-form rulemaking does not require source owners or operators to use the allowance compliance option. An owner or operator may use averaging, install controls, or implement other programs to reduce emissions.

One commentator stated that the efforts made to develop a rule that achieves the level of control required by the NO_x SIP Call, while providing flexibility to the cement industry, is appreciated. The commentator supports the basic structure and concept of the rule. The Department concurs.

One commentator expressed support for the Department's efforts to reduce air pollution in the five-county Southeast Pennsylvania ozone nonattainment area from the sources subject to this proposed rule. The Department concurs.

Several commentators stated that the 3:1 compliance penalty for violations should be removed. They stated that it is highly punitive, could drain the market and increase compliance costs for everyone. The Department responds that this type and level of penalty are consistent with existing regulations that provide for compliance with emission limits through allowance surrender. The penalty has to be sufficient that a source owner or operator does not gain advantage by failing to comply. The 3:1 ratio is sufficient. The level of potential noncompliance and relatively small amount of emissions involved, along with the size of the allowance market, ensures the market will not see any discernible impact. Most of the NO_x SIP Call and Chapter 129 controls are already in place. The allowance demand will be very small in relation to the NO_x budget.

Two commentators stated that if the Department wants to regulate units not currently covered under the Chapter 145 budget program, then a market based regulation with its own budget, monitoring and reporting, and penalties should be developed for those units. The Department responds that a separate trading system for the smaller and more numerous sources covered by the final-form rulemaking is not feasible or cost-effective. The final-form rulemaking takes into account the fact that the population of Chapter 145 NO_x budget units has an enormous reserve capacity of available and low-cost allowances. Regulations such as this can draw from that capacity to everyone's benefit. This will provide additional incentive for NO_x budget sources, which can profit from their ability to control more cheaply and sell allowances. Owners and operators of sources affected by the final-form rulemaking can benefit by having a less expensive compliance option, if control costs are high or if averaging is not an option. Consumers will see lower prices as a result of the overall efficiency savings to the economy.

Two commentators stated that the 3:1 compliance penalty should be retained, as it is necessary to ensure compliance under a trading program. The Department agrees.

One commentator commended the Department for considering excess emissions as a separate violation for each day of the 153-day ozone season. The Department agrees this is a necessary component of a rule that allows allowances to be used for compliance. This provision is consistent with existing regulations.

Three commentators opposed the separate day of violation provision as unnecessarily punitive. The Department responds that the number of days may be reduced to the actual number of days during which the actual excess emissions occurred, upon satisfactory demonstration to the Department.

One commentator stated that the requirement to surrender only current and future year allowances is needed to ensure the best level of compliance. The Department agrees. The requirement for the surrender of only current and future year allowances is retained in the final-form rulemaking.

One commentator stated that emission limits are not very aggressive; however, given that old and new units must comply, the averages will still deliver significant improvements over the status quo. The Department agrees.

The State of New Jersey believes that the regulation is not as strict as the OTC model rule and with rules that New Jersey plans to promulgate. New Jersey requests that the stringency and applicability of the regulation be increased to the levels contained in the OTC model rule. The Department responds that the OTC model rule was intended to provide states with a common basis to regulate source emissions to assist owners, operators and states by having consistent requirements. The Department has followed the model rule sufficiently to accomplish this goal and to achieve the necessary level of reductions.

One commentator stated that this regulatory action is necessary to achieve and maintain the 1-hour ozone standard by May 15, 2005. The commentator stated that emission averaging, or other compliance method, endangers our ability to achieve the needed controls on time. The final-form rulemaking establishes emission reductions that are integral to maintaining the EPA's approval of the 1-hour ozone attainment demonstration contained in the Philadelphia SIP. Full implementation of the reductions is required by May 1, 2005. The ability to use allowances or averaging to demonstrate compliance assures that owners and operators that otherwise might need to install control equipment to meet the limits have additional compliance options.

Two commentators suggested that the Chapter 129 regulations should be year round and Statewide. The Department responds that the final-form rulemaking is needed to establish emission reductions that are integral to maintaining the EPA's approval of the 1-hour ozone attainment demonstration contained in the Philadelphia SIP. The attainment demonstration requires emission control from May 1 through September 30. Year round NO_x reductions would not assist in satisfying the attainment demonstration requirements. Additional NO_x reductions may be necessary as part of the Commonwealth's initiatives to address the 8-hour ozone and PM 2.5 standards.

One commentator suggested that output based emission limits should be used instead of heat input to encourage energy efficiency and pollution reductions. The Department responds that establishment of output-based limits is outside the scope of this rulemaking. Assessment of the cost impacts of an output-based approach requires data that is not readily available to the Department at this time.

Two commentators expressed support for the Chapter 129 regulations as necessary to the 1-hour ozone standards. The commentators said that the affected sources have long escaped control and should do their share. The commentators stated that the regulations afford adequate flexibility to achieve the emission reduction goals without undue economic hardship. The Department agrees.

One commentator stated that the effective date of the regulation does not provide enough time for implementation of compliance strategies. The commentator said that more time should be provided for operators to achieve compliance. The Department responds that the final-form regulation provides for a variety of compliance options, including averaging and use of allowances. If there is insufficient time to implement a control strategy, the source owner or operator may use allowances or averaging as an interim compliance measure.

One commentator stated that the definition of "stationary internal combustion engine" should be moved to one location with the other definitions. The definition is contained in § 121.1 of the final-form rulemaking.

Boilers

One commentator stated that some boilers cannot operate at their design capacity and that the Department should allow derating to avoid applicability of the regulation. The Department responds that the precise rate of boiler firing is not crucial to achieving the needed emission reductions, whereas the boiler rating is used to identify those units that have significant potential emissions. Allowing owners or operators to derate units to avoid regulation would defeat the emission reduction goals of the final-form rulemaking.

The same commentator stated that there should be emission limits for dual fuel use since the emission rates guaranteed by the vendor for the units are usually only at the higher rates. The Department responds that there is no need for dual-fuel limits since the allowable emissions are calculated in terms of the amount of BTU's combusted for each type of fuel. Although the fuels are burned together, the allowable emissions can be calculated separately.

Several commentators stated that the Department has indicated that the regulations do not include municipal waste combustors. The commentators stated, however, that the regulations are not clear on this point. The commentators recommend specific language. The final-form rulemaking clarifies that it does not apply to municipal waste combustors.

Combustion Turbines

Three commentators stated that an exemption for units that take a 5% capacity factor permit should be provided. They stated that in the past, these units have emitted 3 tons or less each during the ozone season. The Department responds that, because these units frequently operate during high ozone days and have high tons-per-day emission rates, they contribute to the ozone problem. Many of the units affected by the final-form rulemaking only emit a small fraction of a ton per day, but collectively their emissions are significant.

One commentator stated that units that take a 5% capacity limit should be exempted because the limit would ensure the emissions from these units would be adequately controlled. The Department responds that the suggestion would result in no emission reductions from these units.

Two commentators stated that the applicability rating for turbines in § 129.202 should be changed from 250 million Btu/hr to 25 MW to be consistent with Chapter 145 applicability. The Department responds that the applicability cutoffs need to be retained because the emission limits were established as achievable for units with the specified heat input ratings.

Internal Combustion (IC) Engines

One commentator stated that the definition of stationary internal combustion engine in § 129.204 may include engines exempt from state regulation under the Clean Air Act. The Department responds that the final-form rulemaking specifies "in-use" measures that are not preempted. Additionally, the final-form rulemaking defines internal combustion stationary engines in a manner that ensures that those engine emissions that occur during operations as mobile air contamination sources as defined under § 121.1 are not covered.

One commentator stated that the Chapter 145 requirement for monthly testing of large IC engines was too costly and unwarranted given the data showing that emissions do not vary significantly. Engines that operate

less than 500 hours should be exempt from testing. The Department responds that in order to allow averaging, the emission data must be representative of actual emissions. Data submitted to the Department shows that large emission rate variability still occurs with some engines. Some engines already have established data adequate to reduce the testing frequency. Because the amount of operating time is the critical factor in accurately determining the emissions and not simply the passage of time, the final-form rulemaking is amended to specify testing not less frequently than every 735 hours of operation instead of monthly. This frequency can also be reduced to one test per season with a demonstration of sufficiently consistent data. This can be accomplished before the final-form rulemaking becomes effective.

One commentator stated that monthly testing for large IC engines should be retained. The Department amended the final-form rulemaking to reduce the testing burden, as specified in the preceding paragraph, while assuring that the monitoring data adequately reflect actual emissions.

Several commentators stated that emergency and other infrequently used engines should be exempt because their emissions are insignificant and, in terms of technical and cost feasibility, the recordkeeping is an additional burden. The Department responds that stand-alone units with low emission rates will be excluded under the 0.5-ton per ozone season threshold allowed by the final-form rulemaking. The engines that are affected by the final-form rulemaking have high emission rates. The actual emissions in terms of tons per day place them among the very largest sources that are potential contributors to ozone. With the averaging, the 0.5-ton facility waiver, and the allowance compliance mechanism, there is insufficient rationale to exclude these units. The final-form rulemaking adds a minor addition to the existing recordkeeping and emission reporting requirements.

One commentator stated that it is a mistake to allow "peaking" units that operate during high electricity demand periods in the summer to rely on seasonal averaging to determine compliance. The commentator explained that this allows diesel units to run at capacity, emitting extremely high levels of NO_x and exacerbating unhealthy air on high electricity demand days that often coincide with high ozone days. The commentator urged an averaging scheme that encourages either control or a transition to less polluting peaking generation. The Department responds that in order to generate credit for averaging, units at a facility must run at reduced emission rates. Increased operation is more likely to occur during times of high energy demand for both the controlled and uncontrolled units. The overall effect of averaging, when measured across the entire population of affected sources, should provide sufficient overlap in control to provide a relatively continuous level of reductions. In addition, seasonal averaging is part of the rationale for eliminating "emergency" exemptions that could be used to avoid applicability to diesel peaking units. Averaging is preferable because the high dollar-per-ton costs make it difficult to justify outright control requirements on these units. By allowing averaging and including these units, the economics of being accountable for all emissions from them may provide an incentive to use of existing cleaner generation first and an eventual transition to lower emitting technologies.

Two commentators suggested that if the emergency exemption is not reinstated, one should be provided for those units that are integral to nuclear power plants. The

commentators stated the impact of those units on air quality is negligible, their emissions cannot be controlled, their emissions were 9.5 tons during the 2000 ozone season, and the recordkeeping would be burdensome. The commentators added that given the large amount of emission free generation provided to the area, this is not a desirable public policy. The final-form rulemaking does not contain a definition of "emergency stationary internal combustion engine." Back-up IC engines, such as those at the commentator's nuclear facility, are not exempted in the final-form rulemaking. If the ozone season actual emissions from the units exceed the allowable emission requirements in the final-form rulemaking, the operator will be required either to average emissions from other of the owner or operator's affected sources or to obtain allowances to demonstrate compliance. Exemption from the requirements in the final-form rulemaking for these types of sources is not warranted.

One commentator stated that retaining the 1.5 grams per brake horsepower-hour emission limit would not be more stringent than the Clean Air Act. The commentator stated that the 1.5 grams per brake horsepower-hour limit should be retained in order to ensure attainment of the ozone standard. The Department responds that the overall level of control provided by the final-form rulemaking will provide a similar level of reductions as the proposed rulemaking.

One commentator stated that the change to 3 grams per brake horsepower for spark ignited engines is supported, and recommended that compression ignited engines be permitted the same rate. The Department responds that the limit for emissions from spark-ignited engines was changed to correspond with the limit selected for the same class of large IC engines. That limit was technically justified as more appropriate and achievable. The compression ignited engine limit is technically justified and was not changed.

The same commentator stated that the 3 grams per brake horsepower limit amendments in Chapters 129 and 145 are achievable, consistent with the anticipated Federal rules and supported. The Department agrees.

The same commentator stated that the additional monitoring options will allow the gas industry to use methods more appropriate to the gas transmission facilities. The Department agrees.

One commentator stated that the applicability requirements for IC engines under Chapter 145 are based on 1995 emissions or any year thereafter. The commentator stated that only units that operated in 1995 should be included because using later years is more stringent than the Federal requirements. The Department responds that this requirement is not more stringent than the Federal requirements. The Federal requirements are to achieve the emission budgets contained in the NO_x SIP Call. The budgets were established using 1995 as the base year; however, applying the rule only to units that operated in 1995 does not ensure the budget will be achieved in any year except 1995. The FIP is only a "stopgap" proposed rule that may not achieve the budgets if ever implemented. States that invoke the FIP remain obligated to adopt state rules that will achieve the SIP Call budgets.

Three commentators suggested that engines that are replaced with electrically powered equipment should be allowed to include these engines in their compliance determination. The Department agrees. The final-form rulemaking authorizes credit for such a replacement, based upon the difference between the actual emissions

that would have resulted from the utilization of the replaced engine and the emissions resulting from the generation of the electricity to power the motor. The electricity generation will be assumed at the nominal rate under the NO_x budget program of 1.5 lbs/MWH.

One commentator stated that engines subject to Chapter 145 that did not emit over 153 tons after 1995 could be subject to monitoring requirements, whereas the rule intends only to require monitoring for those that did. The commentator requests that the regulation specifically state this. The final-form rulemaking specifies that a unit that emitted 153 tons or more in any ozone season from 1995 through 2004 must comply with Subchapter B of Chapter 145, including the monitoring requirements, by May 1, 2005. Any unit that did not emit 153 tons or more in any ozone season since 1995, but does so after 2004, is not subject to Subchapter B until the following calendar year.

Emission Accountability

One commentator stated that § 129.204(b)(2)(ii) should include consideration for sources without final permits that are operating under plan approval and which may not have a short term limit (hourly limit) in the permit. The final-form regulation provides for sources operating under plan approval and those without express hourly emission limits.

One commentator stated that the emission monitoring methodology should be the most protective of public health. The commentator suggested that the rule specify that the most recent permit limits or best available control technology (BACT) or best available technology (BAT) limits be used. The Department responds that those lower limits continue to apply to the extent that there are units with permit limits lower than those in this final-form rulemaking. The imposition of BACT or BAT requirements on sources other than those already subject to the BACT or BAT requirements would not be cost-effective.

Several commentators suggested that the requirement in § 145.143(h) to notify the Department prior to May 1 each year if allowances will be used that season should be eliminated since it is difficult to predict if this will be the case. The provision has been deleted from the final-form rulemaking.

Two commentators stated that, based on experience with other facilities, 1 year is insufficient to install and certify a monitor. The commentators suggested that a more realistic date or schedule should be included in the regulations. The Department responds that most facilities are able to install and certify CEMS within 1 year. The regulated source owners and operators have been aware of the pending CEMS requirement since prior to October 2002.

One commentator stated that the CEMS requirements are more stringent than the Federal requirements and that stack tests would suffice. The Department responds that the CEMS requirements are necessary and permissible. There are no sufficiently accurate alternatives for monitoring NO_x emissions from cement kilns. The majority of Pennsylvania kilns have CEMS. Monitoring data from cement kilns with CEMS show that emission variability is large and unpredictable over both short and long time scales. It is also not possible to offer flexible compliance alternatives based on averaging or allowance trading without accurate monitoring.

The same commentator asked whether the data availability requirements in § 139.101(12) apply. All Chapter

139 requirements are applicable if the owner or operator elects to use a Chapter 139 monitor. If a Part 75 monitor is selected, the requirements of Part 75 apply.

Two commentators requested a clarification or more specific guidance in the regulations or CEMS manual regarding how to substitute missing data from CEMS to comply with these regulations. The commentators suggested using previous 24-hour data or ozone season averages. The final-form rulemaking specifies that invalidated (or missing) data must be substituted with data calculated using the unit's potential emissions. The owner or operator may request, in writing, to use any alternative that adequately reflects the actual emissions.

One commentator suggested that the rule specify that the CEMS requirement applies only during the ozone season. The only time period for which the final-form rulemaking requires NO_x emissions monitoring is the time period of May 1 through September 30 each year.

The same commentator asked whether the CEMS reports should be submitted on a calendar quarter basis and whether emission in lbs/hr should be reported. The final-form rulemaking specifies that CEMS reports must be submitted as required under Chapter 139 or 40 CFR Part 75, as applicable. Both require the submission of quarterly reports of emission rates in terms of the applicable standards.

Three commentators stated that emergency combustion turbines and engine units with 5% capacity factor limits should be exempt because they would be forced to run to do emission testing to comply. The commentators stated that these units do not have emission limits in their permits and the emissions are calculated using AP-42 emission factors. The final-form rulemaking allows the use of the permit limit in lieu of testing to calculate actual emissions. The final-form rulemaking specifically provides for the use of emission factors from AP-42 or the EPA's "Factor Information Retrieval (Fire)" Data System to determine emissions without the need for additional testing.

Renewable Energy

One commentator supported the ability to create credit from renewable power and suggested that it be expanded to the entire State, as is done in other states. The Department responds that the allowance provisions in the final-form rulemaking are different from the programs in other states. The reason the provisions do not provide for Statewide credit is to spur renewable generation within the five-county Southeast Pennsylvania ozone nonattainment area.

One commentator expressed strong support for the Zero Emission Reduction Credit provision. The commentator stated that the provision will have only a very small impact on other industries buying and selling NO_x allowances, but will have a positive impact on the ability of persons or companies to build renewable energy generation. The commentator stated that the credit is not a subsidy but a recognition of the improved air quality that the avoided NO_x represents to society. The Department agrees.

Two commentators stated that the definition of Tradable Renewable Credit (TRC) should clearly prohibit biomass, incineration, and hydro as renewable resources, and that the zero emission character should be retained. The Department responds that the qualifying renewable power is limited to zero emission generation and excludes hydropower from dams.

One commentator stated that the credit, if retained, should also be given for power generated by a dam since it has zero emissions. The commentator suggested that this should be the sole determinant. The Department responds that the goal of the final-form rulemaking is to reduce ozone. The zero emission credit provisions will reduce ozone by encouraging the installation of new zero emission renewable energy generation resources. Dams are not known to emit significant levels of NO_x, but can emit varying levels of other pollutants, including VOCs that contribute to ozone production. Non-zero emission renewable energy sources are not included because quantification of the overall air quality benefits must be done on an individual basis, entails a degree of uncertainty, and imposes costs and administrative requirements that are beyond the scope of this initiative.

One commentator stated that mobile sources should not be allowed to generate credits under these rules. The Department disagrees. In the event new zero emission mobile activities are developed to replace existing activities and the emission reduction benefits can be quantified, the opportunity for credit generation should be available. The mobile emission reductions would only be creditable if they were surplus, permanent, quantifiable, and Federally enforceable emission reductions.

Two commentators stated that the demand for allowances from the set-aside should be modest because the potential for wind is small in the five-county Southeast Pennsylvania ozone nonattainment area and the cost of the most likely source, photo-voltaics, is relatively high. The commentators stated that this pilot program is low risk and a worthwhile opportunity to explore market-driven renewable programs and should be retained. The Department agrees.

One commentator suggested that allowances should be deducted from the new source set-aside to create the credits for renewable energy. The commentator suggested that a 15% allocation to renewable energy generation is possible using the 5% set-aside and should be made available for this purpose. The Department disagrees. The final-form rulemaking authorizes deducting allowances from the set-aside only when a unit affected by an emissions limit in §§ 129.201–129.301 uses a renewable energy credit against its actual emissions that are in excess of those limits. The purpose is to provide a positive incentive to the owners and operators of these units to turn to renewable energy as an alternative to increasing output from NO_x emitting units.

One commentator expressed support for the zero emission renewable credit provisions. The commentator stated that fine particulate, ozone and NO_x will be reduced to the benefit of public health. The commentator stated that these pollutants result in increased health care costs, lost workdays, and cardiopulmonary effects that may result in hospitalization or even death. The Department agrees.

The same commentator stated that the zero emission renewable credit provisions are a welcome and appropriate catalyst for the renewable energy industry in this Commonwealth, and pose no undue hardship on other industries. The commentator stated that the Department is acting responsibly by including this encouragement to the development of pollution-reducing energy generation technology and is supported because of the benefits to public health now and in the future. The Department agrees.

Three commentators stated that the 1.5 pound per MWH set-aside retirement has the potential to signifi-

cantly reduce the amount of allowances available for new service units. The commentators stated that the amount of credit is ten times higher than that for new generation resources. One of the commentators suggested that if the provision is retained, 0.2 lb/MWH is more appropriate. The commentators stated that renewable energy generation threatens the economic viability of critical standby generation and that there are better ways for the state to promote renewables such as purchasing more of it. The commentators asked that the provision be eliminated. The Department disagrees. This provision will not materially impact the new source set-aside. This provision is only one part of a broader Pennsylvania initiative to encourage more environmentally friendly power sources.

One commentator stated that they commended the Department on the renewable energy portion of this rule. The commentator stated that Pennsylvania must reduce the air pollution impact of its energy production, and increasing the production of renewable energy is one of the most effective means to this end. The Department agrees.

Cement Kilns

Two commentators stated that the proposed FIP should be the basis for the emission limits. The emission limit contained in the final-form rulemaking is based upon the least stringent FIP limit.

Three commentators requested inter-company trading or participation in the allowance program, since this would encourage additional reductions in the cement industry. The commentators suggested that the enforceability issue could be rectified with a requirement for agreements between companies. The Department responds that the ability to trade allowances between companies requires emission limits to be established for each facility, and the limits to be protective of the overall SIP Call budget for the state. A minority of the industry indicates support for the "opt-in" approach, and given the competitive nature of the cement industry, a consensus on these limits would be difficult to establish and would require a lengthy process. A lengthy negotiation was conducted previously with regard to including the units in the NO_x budget program. This negotiation led to no agreement among source operators.

One commentator suggested that the cement kiln emission limit should be lower than 6 pounds of NO_x per ton of clinker to better protect human health. The commentator stated that best available control technology (BACT) and best available technology (BAT) levels of two to three pounds are achievable for precalciner kilns. The Department responds that the kilns that are achieving these low emission rates are required to continue to meet their permit limits that require these rates. The 6-pound per ton of clinker limit will require units that have not recently undergone BACT or BAT analysis to maintain their emissions at or below 6 pounds of NO_x per ton of clinker.

One commentator stated that white cement kilns have different heat input and operating requirements than comparable kilns and should be given additional consideration regarding the emission limit in the rule. The commentator stated that the limit is inconsistent with the NO_x SIP Call and represents a competitive disadvantage. The commentator stated that control technology is the preferred option to an emission-based limit. The Department responds that the budget for the NO_x SIP Call includes controls for all kilns. The emission limit requires less control for the white cement kiln than that estab-

lished in the budget. However, in conjunction with changes that have occurred at other facilities since the budget was established, the limit is adequate to meet the budget. Emission test data for the only white cement kiln in this Commonwealth indicate that the operators of the kiln have a demonstrated ability to meet the 6 pounds of NO_x per ton of clinker limit.

One commentator stated that the limit of 6 pounds of NO_x per ton of clinker emission is in accordance with the FIP and is reasonable for wet process kilns. The Department agrees.

The same commentators stated that the rules should contain provisions that will streamline the RACT and emission limits in these regulations. The Department responds that the RACT emission limits are rate-based limits that are based on previously required controls or operating practices, or both. The final-form rulemaking does not authorize the removal of previously established requirements.

G. Benefits, Costs and Compliance

Benefits

Overall, the citizens of this Commonwealth will benefit from this final-form rulemaking because the changes will result in improved air quality by reducing ozone and fine particulate precursor emissions and encourage new technologies and practices, which will reduce emissions. The final-form rulemaking will also reduce visibility impairment and acid deposition. Financial savings resulting from the final-form rulemaking in terms of effects on mortality, hospital admissions, acute bronchitis, acute respiratory systems, worker productivity, crops and forests could exceed \$16 million per year, based on the EPA estimates.

Compliance Costs

The boilers, turbines and stationary internal combustion engines subject to the final-form Chapter 129 amendments are expected to reduce NO_x emissions by approximately 3 tons per day in the Southeast Pennsylvania ozone nonattainment area. Emission reductions can be achieved through installation of control equipment, combustion unit modification or fuel switching. Cost to reduce emissions for these sources has been estimated to be \$1,500 to \$3,500 per ton of NO_x for boilers; \$3,000 per ton of NO_x for turbines; and \$1,700 to \$4,400 per ton of NO_x for stationary internal combustion engines. Cost estimates for the boilers, turbines and stationary internal combustion engines in the Southeast Pennsylvania ozone nonattainment area are within the recommended control cost range suggested by the Southeast Pennsylvania Ozone Stakeholder Working Group. The enhanced and simplified averaging and allowance compliance mechanisms will reduce average costs well below these estimates for operators of multiple units. A single unit without averaging opportunities that relies on allowances would also likely encounter costs well below the maximum estimates by obtaining allowances at the 2005 projected allowance cost of \$2,000 per ton.

Large stationary internal combustion engines regulated by the final-form Chapter 145 regulations may install control equipment to meet the emission reduction requirements. Controls are estimated to cost \$1,500 to \$2,000 per ton of NO_x reduced. Cement kilns may achieve emission reductions through improved fuel efficiency, resulting in a potential cost savings. The operators of three kilns will need to install continuous emission monitors at a cost of approximately \$60,000 to \$100,000 each.

Compliance Assistance Plan

The Department plans to educate and assist the regulated community and the public with understanding these new regulatory requirements through various means, including field inspector contacts, mailings and the Small Business Compliance Assistance Program.

Paperwork Requirements

Aside from electronic CEMS reports that will be required of the cement kiln owners or operators, the regulatory revisions will require a small amount of recordkeeping that is in addition to existing emission monitoring and reporting requirements, which includes the annual compliance calculations, test data generated (if any), and allowance transactions (if any).

H. Pollution Prevention

The Federal Pollution Prevention Act of 1990 established a National policy that promotes pollution prevention as the preferred means for achieving state environmental protection goals. The Department encourages pollution prevention, which is the reduction or elimination of pollution at its source, through the substitution of environmentally friendly materials, more efficient use of raw materials, or the incorporation of energy efficiency strategies. Pollution prevention practices can provide greater environmental protection with greater efficiency because they can result in significant cost savings to facilities that permanently achieve or move beyond compliance. This final-form rulemaking has incorporated the following pollution prevention provisions and incentives:

Section 129.205 provides for zero emission renewable energy production credit. This provision is intended to encourage the installation and production of new renewable generation. Production of energy from the renewable energy types authorized in this provision creates dramatically lower multi-media impacts than traditional energy production.

The overall structure of the emission requirements and compliance mechanism provides an incentive for greater production from cleaner units and encourages innovative ways to minimize emissions. Operators are given credit for implementing emission reduction measures that go beyond the minimum requirements. The emission requirements and compliance mechanism in these regulations provide a simple and flexible averaging mechanism to give a strong incentive for greater production from cleaner units and at the same time, a guaranteed reward for superior emissions control efforts.

I. Sunset Review

These regulations will be reviewed in accordance with the sunset review schedule published by the Department to determine whether the regulations effectively fulfill the goals for which they were intended.

J. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 29, 2004, the Department submitted a copy of the notice of proposed rulemaking, published at 32 Pa.B. 5178, to the Independent Regulatory Review Commission (IRRC) and the Chairpersons of the House and Senate Environmental Resources and Energy Committees for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the Committees were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing

these final-form regulations, the Department has considered all comments from IRRC, the Committees and the public.

Under section 5.1(j.2) of the Regulatory Review Act, on November 3, 2004, these final-form regulations were deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 4, 2004, and approved the final-form rulemaking.

K. Findings of the Board

The Board finds that:

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

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

(3) These regulations do not enlarge the purpose of the proposal published at 32 Pa.B. 5278.

(4) These regulations are necessary and appropriate for administration and enforcement of the authorizing acts identified in Section C of this order.

(5) These regulations are necessary for the Commonwealth to achieve and maintain ambient air quality standards and to satisfy related Federal Clean Air Act requirements.

(6) These regulations are necessary for the Commonwealth to avoid sanctions under the Federal Clean Air Act.

L. Order

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

(a) The regulations of the Department, 25 Pa. Code Chapters 121, 129 and 145, are amended by amending §§ 121.1 and 145.42 and adding §§ 129.201—129.205, 145.111—145.113 and 145.141—145.143 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

(c) The Chairperson of the Board shall submit this order and Annex A to IRRC and the Senate and House Environmental Resources and Energy Committees as required by the Regulatory Review Act.

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

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

KATHLEEN A. MCGINTY
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 34 Pa.B. 6292 (November 20, 2004).)

Fiscal Note: Fiscal Note 7-378 remains valid for the final adoption of the subject regulations.

Annex A

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

Subpart C. PROTECTION OF NATURAL RESOURCES

ARTICLE III. AIR RESOURCES

CHAPTER 121. GENERAL PROVISIONS

§ 121.1. Definitions.

The definitions in section 3 of the act (35 P. S. § 4003) apply to this article. In addition, the following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise:

* * * * *

MWH—Megawatt Hour

* * * * *

ppmvd—Parts per million dry volume.

* * * * *

Stationary internal combustion engine—For purposes of § 129.203 (relating to stationary internal combustion engines), an internal combustion engine of the reciprocating type that is either attached to a foundation at a facility or is designed to be capable of being carried or moved from one location to another and is not a mobile air contamination source.

* * * * *

Tradable renewable certificate—A certificate issued by a tradable renewable certificate issuing body in recognition of renewable energy generation. A certificate represents a specific amount of electricity or thermal power equivalent that was generated.

Tradable renewable certificate issuing body—An entity approved by the Department to issue and account for tradable renewable certificates in accordance with a protocol consistent with the laws and renewable energy programs of the Commonwealth.

* * * * *

CHAPTER 129. STANDARDS FOR SOURCES

ADDITIONAL NO_x REQUIREMENTS

§ 129.201. Boilers.

(a) By May 1, 2005, and each year thereafter, the owner or operator of a boiler that meets the definition of a boiler in § 145.2 (relating to definitions) located in Bucks, Chester, Delaware, Montgomery or Philadelphia County shall comply with this section and § 129.204 (relating to emission accountability). This section does not apply to naval marine combustion units operated by the United States Navy for the purposes of testing and operational training or to units that combust municipal waste at a facility that is permitted as a resource recovery facility under Part I, Subpart D, Article VIII (relating to municipal waste).

(b) By October 31, 2005, and each year thereafter, the owner or operator of the boiler shall calculate the difference between the actual emissions from the unit for the period from May 1 through September 30 and the allowable emissions for that period.

(c) The owner or operator shall calculate allowable emissions by multiplying the unit's cumulative heat input for the period by the applicable emission rate set forth in paragraph (1) or (2).

(1) The emission rate for a boiler with a nameplate rated capacity of greater than 100 million Btu/hour but less than or equal to 250 million Btu/hour shall be as follows:

(i) For a boiler firing natural gas or a boiler firing a noncommercial gaseous fuel, 0.10 pounds NO_x per million Btu heat input.

(ii) For a boiler firing solid or liquid fuel, 0.20 pounds of NO_x per million Btu heat input.

(2) The emission rate for a boiler with a nameplate rated capacity of greater than 250 million Btu/hour that is not subject to §§ 145.1—145.7, 145.10—145.14, 145.30, 145.31, 145.40—145.43, 145.50—145.57, 145.60—145.62 and 145.70—145.76 shall be 0.17 pounds NO_x per million Btu heat input. The owner or operator of a boiler may demonstrate compliance with this paragraph through the provisions of §§ 145.80—145.88 (relating to opt-in process).

§ 129.202. Stationary combustion turbines.

(a) By May 1, 2005, and each year thereafter, the owner or operator of a stationary combustion turbine with a nameplate rated capacity of greater than 100 million Btu/hour located in Bucks, Chester, Delaware, Montgomery or Philadelphia County shall comply with this section and § 129.204 (relating to emission accountability). This section does not apply to naval marine stationary combustion turbines operated by the United States Navy for the purposes of testing and operational training.

(b) By October 31, 2005, and each year thereafter, the owner or operator of the stationary combustion turbine shall calculate the difference between the actual emissions from the unit for the period from May 1 through September 30 and the allowable emissions for that period.

(c) The owner or operator shall calculate allowable emissions by multiplying the unit's cumulative heat input for the period by the applicable emission rate set forth in paragraph (1) or (2).

(1) The emission rate for a stationary combustion turbine with a nameplate rated capacity of greater than 100 million Btu/hour but less than or equal to 250 million Btu/hour heat input shall be as follows:

(i) A combined cycle or regenerative cycle stationary combustion turbine:

(A) When firing natural gas or a noncommercial gaseous fuel, 0.17 lbs NO_x /MMBtu or 1.3 lbs NO_x/MWH.

(B) When firing oil, 0.26 lbs NO_x/MMBtu or 2 lbs NO_x/MWH.

(ii) A simple cycle stationary combustion turbine:

(A) When firing natural gas or a noncommercial gaseous fuel 0.20 lbs NO_x/MMBtu or 2.2 lbs NO_x/MWH.

(B) When firing oil, 0.30 lbs NO_x/MMBtu or 3 lbs NO_x/MWH.

(2) The emission rate for a stationary combustion turbine with a nameplate rated capacity of greater than 250 million Btu/hour heat input that is not subject to §§ 145.1—145.7, 145.10—145.14, 145.30, 145.31, 145.40—145.43, 145.50—145.57, 145.60—145.62 and 145.70—145.76 is 0.17 lb NO_x per million Btu heat input. The owner or operator of a stationary combustion turbine may

demonstrate compliance with this paragraph through the provisions of §§ 145.80—145.88 (relating to opt-in process).

§ 129.203. Stationary internal combustion engines.

(a) By May 1, 2005, the owner or operator of a stationary internal combustion engine rated at greater than 1,000 horsepower and located in Bucks, Chester, Delaware, Montgomery or Philadelphia County shall comply with this section and § 129.204 (relating to emission accountability). This section does not apply to naval marine combustion units operated by the United States Navy for the purposes of testing and operational training or to stationary internal combustion engines regulated under Chapter 145, Subchapter B (relating to emissions of NO_x from stationary internal combustion engines).

(b) By October 31, 2005, and each year thereafter, the owner or operator of the stationary internal combustion engine shall calculate the difference between the actual emissions from the unit during the period from May 1 through September 30 and the allowable emissions for that period.

(c) The owner or operator shall calculate allowable emissions by multiplying the cumulative hours of operations for the unit for the period by the horsepower rating of the unit and by the applicable emission rate set forth in paragraph (1) or (2).

(1) For a spark-ignited engine, 3.0 grams of NO_x per brake horsepower-hour.

(2) For a compression ignition stationary internal combustion engine firing diesel fuel or a combination of diesel fuel and natural gas, 2.3 grams of NO_x per brake horsepower-hour.

(d) Emissions from a stationary internal combustion engine that has been or is replaced by an electric motor may be counted as allowable emissions for purposes of this section and § 129.204, as follows:

(1) For a replaced spark-ignited engine, 3.0 grams of NO_x per brake horsepower-hour of the replacement motor, less 1.5 pounds of NO_x per MWH of electricity consumed by the replacement motor.

(2) For a replaced compression ignition stationary internal combustion engine that fired diesel fuel or a combination of diesel fuel and natural gas, 2.3 grams of NO_x per brake horsepower-hour, less 1.5 pounds of NO_x per MWH of electricity consumed by the replacement motor.

§ 129.204. Emission accountability.

(a) This section applies to units described in §§ 129.201—129.203 (relating to boilers; stationary combustion turbines; and stationary internal combustion engines).

(b) The owner or operator shall determine actual emissions in accordance with one of the following:

(1) If the owner or operator of the unit is required to monitor NO_x emissions with a CEMS operated and maintained in accordance with a permit or State or Federal regulation, the CEMS data reported to the Department to comply with the monitoring and reporting requirements of this article shall be used. Any data invalidated under Chapter 139 (relating to sampling and testing) data shall be substituted with data calculated using the potential emission rate for the unit or, if approved by the Department in writing, an alternative amount of emissions that is more representative of actual emissions that occurred during the period of invalid data.

(2) If the owner or operator of the unit is not required to monitor NO_x emissions with a CEMS, one of the following shall be used to determine actual emissions of NO_x:

(i) The 1-year average emission rate calculated from the most recent permit emission limit compliance demonstration test data for NO_x.

(ii) The maximum hourly allowable NO_x emission rate contained in the permit or the higher of the following:

(A) The highest rate determined by use of the emission factor for the unit class contained in the most up-to date version of the EPA publication, "AP-42 Compilation of Air Pollution Emission Factors."

(B) The highest rate determined by use of the emission factor for the unit class contained in the most up-to date version of EPA'S "Factor Information Retrieval (FIRE)" data system.

(iii) CEMS data, if the owner or operator elects to monitor NO_x emissions with a CEMS. The owner or operator shall monitor emissions and report the data from the CEMS in accordance with Chapter 139 or Chapter 145 (relating to interstate pollution transport reduction). Any data invalidated under Chapter 139 shall be substituted with data calculated using the potential emission rate for the unit or, if approved by the Department in writing, an alternative amount of emissions that is more representative of actual emissions that occurred during the period of invalid data.

(iv) An alternate calculation and recordkeeping procedure based upon emissions testing and correlations with operating parameters. The operator of the unit shall demonstrate that the alternate procedure does not underestimate actual emissions throughout the allowable range of operating conditions. The alternate calculation and recordkeeping procedures must be approved by the Department, in writing, prior to implementation.

(c) The owner or operator of a unit subject to this section shall surrender to the Department one NO_x allowance, as defined in § 145.2 (relating to definitions), for each ton of NO_x by which the combined actual emissions exceed the allowable emissions of the units subject to this section at a facility from May 1 through September 30. The surrendered NO_x allowances shall be of current year vintage. For the purpose of determining the amount of allowances to surrender, any remaining fraction of a ton equal to or greater than 0.50 ton is deemed to equal 1 ton and any fraction of a ton less than 0.50 ton is deemed to equal zero tons.

(d) If the combined allowable emissions from units subject to this section at a facility from May 1 through September 30 exceed the combined actual emissions from units subject to this section at the facility during the same period, the owner or operator may deduct the difference or any portion of the difference from the amount of actual emissions from units subject to this section at the owner or operator's other facilities.

(e) By November 1, 2005, and by November 1 of each year thereafter, an owner or operator of a unit subject to this section shall surrender the required NO_x allowances to the Department's designated NO_x allowance tracking system account and provide to the Department, in writing, the following:

(1) The serial number of each NO_x allowance surrendered.

(2) The calculations used to determine the quantity of NO_x allowances required to be surrendered.

(f) If an owner or operator fails to comply with subsection (e), the owner or operator shall by December 31 surrender three NO_x allowances of the current or later year vintage for each NO_x allowance that was required to be surrendered by November 1 of that year.

(g) The surrender of NO_x allowances under subsection (f) does not affect the liability of the owner or operator of the unit for any fine, penalty or assessment, or an obligation to comply with any other remedy for the same violation, under the CAA or the act.

(1) For purposes of determining the number of days of violation, if a facility has excess emissions for the period May 1 through September 30, each day in that period (153 days) constitutes a day in violation unless the owner or operator of the unit demonstrates that a lesser number of days should be considered.

(2) Each ton of excess emissions is a separate violation.

§ 129.205. Zero emission renewable energy production credit.

In calculating actual emissions from a facility under § 129.204 (relating to emission accountability), the owner or operator may deduct 1.5 pounds of NO_x per MWH of electricity or thermal power equivalent for each MWH of zero emission renewable energy produced, if the following conditions are met:

(1) The zero emission renewable energy production is certified in a tradable renewable certificate.

(2) The zero emission renewable energy was generated by a power source that produced zero emissions and used 100% renewable energy, such as solar or wind power, in producing the renewable energy. For hydropower, the power must be generated without the use of a dam.

(3) The zero emission renewable energy power source was originally brought into production on or after December 11, 2004.

(4) The zero emission renewable energy power source is located in Bucks, Chester, Delaware, Montgomery or Philadelphia County.

(5) The owner or operator surrenders the renewable tradable certificate to the Department.

(6) The owner or operator certifies that the conditions of this section have been satisfied.

CHAPTER 145. INTERSTATE POLLUTION TRANSPORT REDUCTION

**Subchapter A. NO_x BUDGET TRADING PROGRAM
NO_x ALLOWANCE ALLOCATIONS**

§ 145.42. NO_x allowance allocations.

* * * * *

(d) For each control period specified in § 145.41(d), the Department will allocate NO_x allowances to NO_x budget units in a given State under § 145.4(a) (except for units exempt under § 145.4(b)) that commence operation, or are projected to commence operation, on or after May 1, 1997 (for control periods under § 145.41(a)); May 1, 2003 (for control periods under § 145.41(b)); and May 1 of the year 5 years before the beginning of the group of 5 years that includes the control period (for control periods under § 145.41(c)). The Department may also use this set-aside to address allocation revisions to units under subsections (a)—(c). For each ton of NO_x deducted under § 129.205 (relating to zero emission renewable energy production credit), the Department will retire one NO_x allowance

from the allowances in the set-aside for the subsequent control period. The Department will make the allocations under this subsection in accordance with the following procedures:

* * * * *

Subchapter B. EMISSIONS OF NO_x FROM STATIONARY INTERNAL COMBUSTION ENGINES

Sec.

145.111. Applicability.

145.112. Definitions.

145.113. Standard requirements.

§ 145.111. Applicability.

(a) An owner or operator of an engine described in subsection (c) that emitted 153 tons or more of NO_x from May 1 through September 30 in any year from 1995 through 2004 shall comply with this subchapter by May 1, 2005, and each year thereafter.

(b) An owner or operator of an engine described in subsection (c) that emits 153 tons or more of NO_x from May 1 through September 30 in any year after 2004 shall comply with this subchapter by May 1 of the following calendar year and each year thereafter.

(c) Subsections (a) and (b) apply to the following engines:

(1) A rich burn or lean burn stationary internal combustion engine with an engine rating equal to or greater than 2,400 brake horsepower.

(2) A diesel stationary internal combustion engine with an engine rating equal to or greater than 3,000 brake horsepower.

(3) A dual-fuel stationary internal combustion engine with an engine rating equal to or greater than 4,400 brake horsepower.

§ 145.112. Definitions.

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

CEMS—Continuous Emission Monitoring System—The equipment required under this subchapter or Chapter 139 (relating to sampling and testing) to sample, analyze, measure and provide, by readings taken at least every 15 minutes of the measured parameters, a permanent record of NO_x emissions.

Diesel stationary internal combustion engine—A compression-ignited two- or four-stroke engine in which liquid fuel injected into the combustion chamber ignites when the air charge has been compressed to a temperature sufficiently high for auto-ignition.

Dual-fuel stationary internal combustion engine—A compression-ignited stationary internal combustion engine that is burning liquid fuel and gaseous fuel simultaneously.

Engine rating—The output of an engine as determined by the engine manufacturer and listed on the nameplate of the unit, regardless of any derating.

Lean-burn stationary internal combustion engine—Any two- or four-stroke spark-ignited engine that is not a rich-burn stationary internal combustion engine.

Rich-burn stationary internal combustion engine—A two- or four-stroke spark-ignited engine where the manufacturer's original recommended operating air/fuel ratio divided by the stoichiometric air/fuel ratio is less than or equal to 1.1.

Stationary internal combustion engine—For the purposes of this subchapter, an internal combustion engine of the reciprocating type that is either attached to a foundation at a facility or is designed to be capable of being carried or moved from one location to another and is not a mobile air contamination source.

Stoichiometric air/fuel ratio—The air/fuel ratio where all fuel and all oxygen in the air/fuel mixture will be consumed.

Unit—An engine subject to this subchapter.

§ 145.113. Standard requirements.

(a) The owner or operator of a unit subject to this subchapter shall calculate the difference between the unit's actual emissions from May 1 through September 30 and the allowable emissions for that period by the following dates:

(1) For a unit described in § 145.111(a) (relating to applicability), by October 31, 2005, and each year thereafter.

(2) For a unit described in § 145.111(b), by October 31 of the calendar year following the year that this subchapter becomes applicable to the unit and each year thereafter.

(b) The owner or operator shall calculate allowable emissions by multiplying the unit's cumulative hours of operation for the period by the unit's horsepower rating and the unit's applicable emission rate set forth in paragraph (1), (2) or (3).

(1) The emission rate for a rich burn stationary internal combustion engine with an engine rating equal to or greater than 2,400 brake horsepower shall be 1.5 grams per brake horsepower-hour.

(2) The emission rate for a lean burn stationary internal combustion engine with an engine rating equal to or greater than 2,400 brake horsepower shall be 3.0 grams per brake horsepower-hour.

(3) The emission rate for a diesel stationary internal combustion engine with an engine rating equal to or greater than 3,000 brake horsepower, or a dual-fuel stationary internal combustion engine with an engine rating equal to or greater than 4,400 brake horsepower shall be 2.3 grams per brake horsepower-hour.

(c) The owner or operator shall determine actual emissions by using one of the following:

(1) If the owner or operator of the unit is required to monitor NO_x emissions with a CEMS operated and maintained in accordance with a permit or State or Federal regulation, data reported to the Department to comply with the monitoring and reporting requirements of this article. Any data invalidated under Chapter 139 (relating to sampling and testing) shall be substituted with data calculated using the potential emission rate for the unit or, if approved by the Department in writing, an alternative amount of emissions that is more representative of actual emissions that occurred during the period of invalid data.

(2) If the owner or operator of the unit is not required to monitor NO_x emissions with a CEMS, one of the following shall be used to determine actual emissions of NO_x:

(i) CEMS data, if the owner or operator elects to monitor NO_x emissions with a CEMS. The owner or operator shall monitor emissions and report the data from the CEMS in accordance with Chapter 139 or Chapter

145 (relating to interstate pollution transport reduction). Any data invalidated under Chapter 139 shall be substituted with data calculated using the potential emission rate for the unit or, if approved by the Department in writing, an alternative amount of emissions that is more representative of actual emissions that occurred during the period of invalid data.

(ii) An alternate calculation and recordkeeping procedure based upon emissions testing and correlations with operating parameters. The operator of the unit shall demonstrate that the alternate procedure does not underestimate actual emissions throughout the allowable range of operating conditions. The alternate calculation and recordkeeping procedures must be approved by the Department, in writing, prior to implementation.

(iii) The average emission rate calculated from test data from NO_x emission tests conducted from May 1 through September 30 of that year. The emissions tests must be conducted in accordance with the permit emission limit compliance monitoring procedures. Tests must be conducted at least once every 735 hours of operation. The Department may reduce the frequency of the emission testing for a unit based on the consistency of the data gathered from the testing. At least one test is required during the period of May 1 through September 30.

(d) The owner or operator of a unit subject to this section shall surrender to the Department one NO_x allowance, as defined in § 145.2 (relating to definitions), for each ton of NO_x by which the combined actual emissions exceed the allowable emissions of the units subject to this section at a facility from May 1 through September 30. The surrendered NO_x allowances shall be of current year vintage. For the purposes of determining the amount of allowances to surrender, any remaining fraction of a ton equal to or greater than 0.50 ton is deemed to equal 1 ton and any fraction of a ton less than 0.50 ton is deemed to equal zero tons.

(e) If the combined allowable emissions from units subject to this subchapter at a facility from May 1 through September 30 exceed the combined actual emissions from units subject to this subchapter at the facility during the same period, the owner or operator may deduct the difference or any portion of it from the amount of actual emissions from units subject to this subchapter at the owner or operator's other facilities located in this Commonwealth for that same period.

(f) By November 1 of each year, an owner or operator of a unit subject to this subchapter shall surrender the required NO_x allowances to the Department's designated NO_x allowance tracking system account, as defined in § 121.1 (relating to definitions), and shall provide in writing to the Department the following:

- (1) The serial number of each NO_x allowance surrendered.
- (2) The calculations used to determine the quantity of NO_x allowances required to be surrendered.

(g) If an owner or operator fails to comply with subsection (f), the owner or operator shall by December 31 surrender three NO_x allowances of the current or later year vintage for each NO_x allowance that was required to be surrendered by November 1.

(h) The surrender of NO_x allowances under subsection (g) does not affect the liability of the owner or operator of units for any fine, penalty or assessment, or other

obligation to comply with any other remedy for the same violation, under the CAA or the act.

(1) For purposes of determining the number of days of violation, if a facility has excess emissions for the period May 1 through September 30, each day in that period (153 days) constitutes a day in violation unless the owner or operator of the unit demonstrates that a lesser number of days should be considered.

(2) Each ton of excess emissions is a separate violation.

Subchapter C. EMISSIONS OF NO_x FROM CEMENT MANUFACTURING

Sec.

- 145.141. Applicability.
- 145.142. Definitions.
- 145.143. Standard requirements.
- 145.144. Reporting, monitoring and recordkeeping.

§ 145.141. Applicability.

Beginning May 1, 2005, an owner or operator of a Portland cement kiln shall comply with this subchapter.

§ 145.142. Definitions.

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

CEMS—Continuous Emission Monitoring System—The equipment required under this subchapter or Chapter 139 (relating to sampling and testing) to sample, analyze, measure and provide, by readings taken at least every 15 minutes of the measured parameters, a permanent record of NO_x emissions.

Clinker—The product of a Portland cement kiln from which finished cement is manufactured by milling and grinding.

Portland cement—A hydraulic cement produced by pulverizing clinker consisting essentially of hydraulic calcium silicates, usually containing one or more of the forms of calcium sulfate as an interground addition.

Portland cement kiln—A system, including any solid, gaseous or liquid fuel combustion equipment, used to calcine and fuse raw materials, including limestone and clay, to produce Portland cement clinker.

§ 145.143. Standard requirements.

(a) By October 31, 2005, and each year thereafter, the owner or operator of a Portland cement kiln shall calculate the difference between the actual emissions from the unit during the period from May 1 through September 30 and the allowable emissions for that period.

(b) The owner or operator shall determine allowable emissions by multiplying the tons of clinker produced by the Portland cement kiln for the period by 6 pounds per ton of clinker produced.

(c) The owner or operator shall install and operate a CEMS, and shall report CEMS emissions data, in accordance with the CEMS requirements of either Chapters 139 or 145 (relating to sampling and testing; and interstate pollution transport reduction) and calculate actual emis-

sions using the CEMS data reported to the Department. Any data invalidated under Chapter 139 shall be substituted with data calculated using the potential emission rate for the unit or, if approved by the Department in writing, an alternative amount of emissions that is more representative of actual emissions that occurred during the period of invalid data.

(d) The owner or operator of a Portland cement kiln subject to this section shall surrender to the Department one NO_x allowance, as defined in § 145.2 (relating to definitions), for each ton of NO_x by which the combined actual emissions exceed the allowable emissions of the Portland cement kilns subject to this section at a facility from May 1 through September 30. The surrendered NO_x allowances shall be of current year vintage. For the purposes of determining the amount of allowances to surrender, any remaining fraction of a ton equal to or greater than 0.50 ton is deemed to equal 1 ton and any fraction of a ton less than 0.50 ton is deemed to equal zero tons.

(e) If the combined allowable emissions from Portland cement kilns at a facility from May 1 through September 30 exceed the combined actual emissions from Portland cement kilns subject to this section at the facility during the same period, the owner or operator may deduct the difference or any portion of the difference from the amount of actual emissions from Portland cement kilns at the owner or operator's other facilities located in this Commonwealth for that period.

(f) By November 1, 2005, and each year thereafter, an owner or operator subject to this subchapter shall surrender the required NO_x allowances to the Department's designated NO_x allowance tracking system account, as defined in § 121.1 (relating to definitions), and shall provide in writing to the Department, the following:

(1) The serial number of each NO_x allowance surrendered.

(2) The calculations used to determine the quantity of NO_x allowances required to be surrendered.

(g) If an owner or operator fails to comply with subsection (f), the owner or operator shall by December 31 surrender three NO_x allowances of the current or later year vintage for each NO_x allowance that was required to be surrendered by November 1.

(h) The surrender of NO_x allowances under subsection (g) does not affect the liability of the owner or operator of the Portland cement kiln for any fine, penalty or assessment, or an obligation to comply with any other remedy for the same violation, under the CAA or the act.

(1) For purposes of determining the number of days of violation, if a facility has excess emissions for the period May 1 through September 30, each day in that period (153 days) constitutes a day in violation unless the owner or operator of the Portland cement kiln demonstrates that a lesser number of days should be considered.

(2) Each ton of excess emissions is a separate violation.

[Pa.B. Doc. No. 04-2176. Filed for public inspection December 10, 2004, 9:00 a.m.]

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE REAL ESTATE COMMISSION

[49 PA. CODE CH. 35]

Education

The State Real Estate Commission (Commission) amends Chapter 35 (relating to State Real Estate Commission) to read as set forth in Annex A. This final-form rulemaking addresses practice when the broker or broker of record dies or is incapacitated, liberalizes the delivery system for real estate prelicensure and continuing education courses, consolidates duplicative prelicensure and continuing education provisions and revises real estate education provider requirements.

Statutory Authority

This final-form rulemaking is authorized under sections 402, 404, 404.1 and 513 of the Real Estate Licensing and Registration Act (RELRA) (63 P. S. §§ 455.402, 455.404, 455.404a and 455.513).

Response to Public Comments and Regulatory Review and Amendments in the Final-Form Rulemaking

Notice of the proposed rulemaking was published at 33 Pa.B. 4571 (September 13, 2003). Publication was followed by a 30-day public comment period during which the Commission received comments from four real estate education providers. Following the close of the public comment period, the Commission received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC). The Senate Consumer Protection and Professional Licensure Committee (SCP/PLC) did not comment.

Administration of Real Estate Education Providers

The HPLC questioned the mechanism by which the Commission will ensure compliance with the provider requirements by providers outside of this Commonwealth. Real estate education providers outside of this Commonwealth must be approved by the real estate licensing authority from the jurisdiction where the provider is located. The Commission relies upon those licensing authorities to police those real estate education providers. Compliance with Commission regulations concerning schools and continuing education is answered through applications and renewal procedures and processes irrespective of where the provider is located. In addition, the Commission investigates matters when complaints are filed by students and licensees. These investigations are conducted by the Bureau of Enforcement and Investigation in cooperation with the licensing authority of the jurisdiction where the provider does business.

Use of "real estate education provider" generally.

IRRC recommended that the Commission use the term "real estate education provider" throughout instead of "real estate education provider" "education provider" or "provider." The Commission believes that this recommendation is reasonable and has changed "education provider" or "provider" to "real estate education provider" throughout the regulations.

Section 35.341. Approval of real estate education provider.

In the proposed rulemaking, the Commission deleted the requirements that someone over the age of 21 own

the real estate education provider. The HPLC questioned why the Commission deleted this requirement. In response, the Commission believes that age is not a relevant factor in light of the other requirements, such as having a director of operations with a minimum experience level and a custodian of records, as well as the financial security requirements.

Paragraph (4) requires a real estate education provider to designate a person or entity to serve as custodian of records if the provider were to terminate operations. The HPLC questioned why the Commission has removed the requirement that the custodian be located within the Commonwealth. The Commission understands that applicants and licensees obtain their preclosure and continuing education from providers within and outside of this Commonwealth. Sections 35.271(b)(3)(iii), 35.272(b)(2)(ii), 35.273(b)(4)(ii), 35.275(b)(3)(ii), 35.388(3) and 35.385(e) specifically allow real estate education providers outside of this Commonwealth to provide education in this Commonwealth provided that the provider is approved by the real estate education licensing in the jurisdiction where the provider is located. Because licensees will be able to obtain their education from providers outside of this Commonwealth, the Commission believes that the custodian of records could be located within or outside of this Commonwealth.

Paragraph (5) directs real estate education providers to post a \$10,000 surety bond to the Commonwealth for the protection of the contractual rights of the students. The HPLC and IRRC asked the Commission to explain how the \$10,000 would be sufficient in the event a real estate education provider fails to perform. Since the surety bond requirement was placed in the regulations, no real estate education providers have gone bankrupt or closed taking student moneys. Based upon this prior experience combined with the relatively low cost of real estate courses, the Commission believes that the \$10,000 bond is sufficient to protect students in the event the provider abruptly terminates its services and does not reimburse students.

Paragraph (6) delineates the documents that must accompany a real estate education provider's application. In proposed form, the Commission deleted the requirement in paragraph (1)(i)(C) that required real estate education providers to provide a notarized pro forma profit and loss statement and balance sheet. The HPLC questioned why this documentation was removed. Pro forma profit and loss statements and balance sheets do not contain actual profit and loss figures. As projections, the Commission believes that these documents are unnecessary—especially in light of the surety bond.

In proposed rulemaking, the Commission also deleted the requirement in subparagraph (vi) that the real estate education provider provide the Commission with copies of the student enrollment agreement, the school transcript, a statement of the prerequisites for admission, a statement of policy regarding refund of tuition and a sketch or photograph of the sign for each location. A public commentator suggested that the Board continue to require these documents. Additionally, IRRC suggested that the Commission retain the requirement of a student enrollment agreement. The Commission believes that these suggestions are reasonable and has reinserted these requirements on final form.

The Commission also retained subparagraphs (viii)—(ix) in final form. One commentator suggested that this list be retained, even in a separate document, as guidance for inspectors and real estate education providers. Rather

than creating another regulatory document, the Commission reinserted these provisions as well.

Section 35.344. Withdrawal of Real Estate Education Provider or Director Approval.

Subsection (b)(5) authorizes the Commission to withdraw a real estate education provider's approval for having been convicted of, pled guilty or nolo contendere to a misdemeanor related to the practice of real estate, forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud or any similar offense. The HPLC questioned why the Commission replaced "moral turpitude" with enumerated offenses. The Commission modified this provision to parallel the language in section 604(a)(14) of the RELRA (63 P. S. § 455.604(a)(14)), regarding convictions.

Section 35.351a. Assistant school director.

The Commission has deleted all references to assistant school directors. One commentator suggested that by removing this provision, a program director would be prohibited from delegating responsibilities to assistant directors. The Commission does not agree that this amendment dilutes the authority of the director. As the Commission explained in the preamble of the proposed rulemaking, the sole reason the Commission has eliminated this provision was because the RELRA does not contain provisions delineating the qualifications or responsibilities for assistant directors. Under the RELRA, the director has the ultimate responsibility for the real estate education provider and has the discretion to delegate responsibilities to an assistant director.

Section 35.352. Location and facilities.

Subsection (b)(2) prohibits a real estate education provider from sharing office space, instruction space or common space with a real estate franchise, network or organization. IRRC and several commentators questioned whether this provision conflicts with the Commission's June 3, 2003, Guideline regarding the relationship between real estate education providers and real estate companies.

In its Guideline, the Commission explained that a real estate company/broker or group of companies/brokers may contract with a real estate education provider to provide an approved continuing education course at the provider's location or any other location that complies with § 35.352. Courses which are not approved for continuing education under § 35.384 (relating to qualifying courses) such as specific company policies or documents, may also be provided but will not receive continuing education credit.

The Commission does believe that the regulation and the Guideline conflict with one another. However, in order to clarify the Commission's position, in final form, the Commission has added another exclusion to subsection (b)(2) that would allow real estate licensees to contract with real estate education providers to provide continuing education courses. As is currently the rule, where an approved course would be presented at a location other than the real estate education provider's main location, the real estate education provider would have to obtain approval for a satellite location.

The Commission has chosen not to eliminate subsection (b)(2) as suggested by one commentator because it believes that the separation between real estate education providers and real estate companies is appropriate. At the same time, the Commission believes that allowing real

estate companies to contract with real estate education providers for continuing education courses does not breach that separation.

Current subsection (b)(4)—(6) delineates illumination, floor space and airspace requirements. In proposed form, the Commission recommended removing these provisions. The HPLC requested an explanation for the deletion of these provisions. Paragraph (3) requires conformance with applicable building, fire safety and sanitary standards. The Commission believes that the requirements in subsection (b)(4)—(6) fall within the gamut of paragraph (3) and as such, are redundant.

Current subsection (c) requires that where a real estate education provider rents facilities for a main or satellite location, the lease shall be in effect for the period when the real estate education provider is in session. The Commission has removed this provision. One commentator questioned whether deleting this provision conflicted with the requirement in § 35.360(a)(2)(ii) which requires that the lease be retained. The Commission does not believe that this revision creates a conflict. Former subsection (c) addressed the time frame when the lease was in effect. Section 35.360 (relating to records) addresses what documents a real estate education provider must retain.

Section 35.353. Selection of instructors.

Subsection (a)(2) decreased the number of years of experience an instructor must have from 5 to 3. One commentator suggested that instead of permitting “practical or teaching” experience for the reduced number of years, the requirement should be “practical and teaching experience.” In addition, the commentator suggested that instructors be required to take a Commission-developed training course each biennium. Another commentator suggested that the Commission should develop additional instructor approval standards for use by directors.

The Commission has declined to implement any of the suggestions. The Commission believes that 3 years of practical and teaching experience is unnecessary to teach real estate courses. Further, decisions regarding instructors’ capabilities rest with the director based upon the director’s observations and student comments. Because the Commission does not license instructors, the Commission lacks the enforcement mechanism to assure that all instructors attend training. Nonetheless, directors may impose this requirement on their staff.

Section 35.357. Student enrollment agreements.

The Commission recommended eliminating the student enrollment agreement because it wanted to avoid involving itself in contractual matters between real estate education providers and students and because the agreement was exemplary and not mandatory. IRRC agreed that the form agreement should be removed from the regulation; however, it suggested that the requirement for an agreement as well as minimum provisions be added to the regulation. The Commission finds this suggestion warranted and has reinserted these provisions accordingly.

Section 35.358. Administration of curriculum.

Current subsection (a)(3) delineates course hour credit for Real Estate Fundamentals and Real Estate Practice. In the proposed rulemaking, the Commission moved this provision to new subsection (b). One commentator questioned if the Commission was changing its position regarding the course hour credit in the revision. The sole reason for the change was to segregate provisions that

apply to prelicensure and continuing education from those that apply only to prelicensure. No other change is contemplated by this revision.

New subsection (a)(4) permits prelicensure and continuing education courses to be taught by distance education. As in 34 other states, the Commission retains authority over course content under § 35.384 (relating to qualifying courses). Distance education courses require additional review and approval of the delivery method by the Association of Real Estate License Law Officials (ARELLO) or another certifying body deemed acceptable to the Commission.

The HPLC and several commentators questioned the mechanics of ARELLO approval. Prior to submitting a prelicensure or continuing education course taught by distance education to the Commission for content approval, either the primary provider (the author of the course) or the secondary provider (the actual provider of the course) must obtain approval of the delivery method for courses from ARELLO.

The provider must provide ARELLO with a detailed description and implementation plan for the course and meet standards set forth in ARELLO’s Distance Education Standards Manual. (The ARELLO approval process as well as a list of states requiring ARELLO approval can be obtained from ARELLO’s web page at www.arello.org.) The delivery method may be, for example, the Internet, satellite, video, computer disc, audiotape or other remote instruction. Once approved, ARELLO issues an approval number which the provider must report to the Commission.

Several commentators also questioned the cost of ARELLO approval. Because the Commission is not requiring both primary and secondary ARELLO approval, the cost to the real estate education providers will be significantly reduced. Nonetheless, the Commission believes that the cost associated with ARELLO approval is necessary in order to assure that the delivery method is sufficient.

Subsection (b)(2) requires that prelicensure courses be graded by written examination. One commentator suggested that all examinations be proctored. After reviewing the distance examination requirements for other states’ prelicensure courses, the Commission believes that this suggestion is worthwhile and has amended this provision to require that the prelicensure examinations be proctored.

Section 35.361. Display of documents and approved name.

Subsections (a) and (c) require that real estate education providers prominently display the certificate of approval and letter of approval at the main location and any satellite locations. One commentator suggested that the Commission eliminate subsection (c) and modify subsection (a) since the Commission acknowledged in the Preamble in proposed form that instruction occurs in multiple locations. The Commission concurs with this suggestion and has deleted subsection (c) and amended subsection (a) to reflect that the certificate of approval only be displayed at the main location. Because real estate education providers will still be required to register satellite locations, investigators will still be able to determine where all of the courses are being taught.

Section 35.381. Purposes and goals.

Section 35.381 sets out the three goals of continuing education. In proposed form, the Commission eliminated this provision. One commentator suggested that these

goals be maintained. While the Commission agrees with the commentator that these goals are appropriate, the Commission does not believe that the goals should be placed in regulations. Accordingly, the Commission has not reinserted this provision.

Section 35.383. Waiver of continuing education requirement.

New subsection (b) requires licensees seeking a waiver of the continuing education requirement to file the request by March 31 of the renewal year unless it is impracticable to do. One commentator suggested that the deadline for requests be set back to February 15th to give the Commission additional time to review the requests. For many years, licensees have been advised on the renewal form that waiver requests must be filed by March 31st. During that time, the Commission has not had any difficulty in reviewing these requests as the March 31st deadline gives the Commission two meetings to accomplish this task. The Commission has not amended this provision.

Section 35.384. Qualifying courses.

Subsection (a) instructs licensees that they may complete their 14-hour continuing education requirement in acceptable topics. Rather than referring to "acceptable courses," in proposed form, the Commission referred to "acceptable topics." In final-form, the Commission implemented the suggestion of a commentator who recommended that the word "courses" be substituted for "topics." Also in final-form the Commission reduced the minimum hour increment from 3 1/2 to 2 hours. The Commission believes that reducing the numbers of hours for each course will provide licensees with more flexibility in their course selection without eroding the educational content of the courses. Additionally, because 2 hour courses are standard in other states, Pennsylvania licensees will be also able to avail themselves of these courses.

Current subsection (b) requires licensees to complete a required course each biennium. In proposed form, the Commission removed this requirement in all but pre-notified instances. Two commentators suggested that by eliminating the required course, licensees would not receive sufficient training in fair housing.

In determining whether to retain the required course, the Commission considered the frequency of amendments to the RELRA and the regulations as well as the number of fair housing disciplinary cases. The Commission determined that except in cases where the RELRA or regulations are substantially modified or where, in the Commission's view, licensees require specific Commission-guidance, licensees should be able to take continuing education in subjects that directly benefit their practice or interest. As part of its ongoing review of its regulations, however, the Commission intends to monitor trends in disciplinary proceedings. When the Commission finds an increase in specific violations, it will consider reinstating a required course. As in the past, if a required course becomes necessary, the Commission will notify all licensees and real estate education providers at least 6 months prior to the end of the renewal period.

Subsection (c) lists acceptable topics for continuing education credit. New paragraph (19) adds "management of real estate brokerage operations." The HPLC opined that this paragraph conflicts with subsection (d) which precludes office management courses that do not have a bearing on the public interest. The course contemplated in paragraph (19) tracks the exclusion in section 404.1(c) of the RELRA for a broker's continuing education course

involving the deposit and maintenance of escrow accounts, document preparation and retention, recordkeeping, conflicts of interest, disclosures to prospective sellers and buyers and the general ethical responsibilities of licensees.

Section 35.385. Continuing education providers.

Section 35.385 contains a list of providers that may offer continuing education courses: accredited colleges, universities and institutes of higher learning and real estate education providers in this Commonwealth and outside of this Commonwealth. One commentator suggested that this list of real estate education providers should apply to prelicensure as well as continuing education. The definition of "school" in section 201 of the RELRA (63 P. S. § 455.201) specifically excludes colleges, universities or institutes of higher learning accredited by the Middle States Association of Colleges and Secondary Schools or equivalent accreditation. As such, the Commission does not have jurisdiction over these prelicensure programs. Conversely, the Commission's authority over continuing education instruction is broad.

The commentator also suggested that in-State and out-of-State providers should be treated the same. The Commission concurs and requires approval for both in-State and out-of-State providers. In both the prelicensure and continuing education realm, all providers, other than those specifically exempted, must be approved either by this Commission or the appropriate licensing/regulatory authority in another jurisdiction where the provider is located. In addition, both must electronically transfer their continuing education rosters to the Commission.

Finally, another commentator questioned whether in-State providers would be given processing preference over out-of-State providers. The Commission does not anticipate that this regulation will cause a backlog in processing. The Commission staff will continue to process applications in the order in which they are received.

Sections 35.386 through 35.392

The Commission proposed to delete §§ 35.386—35.392. One commentator suggested that these provisions should be amended instead of deleted. In the preamble to the proposed rulemaking, the Commission explained that these provisions are being deleted because they mirror existing provisions. Former § 35.387 has been consolidated into § 35.358 (relating to administration of curriculum), former § 35.388 has been consolidated into § 35.352 (relating to location and facilities). Former § 35.390 has been consolidated into §§ 35.354 and 35.355 (relating to prohibited forms of advertising and solicitation; and prospectus material). Former § 35.391 has been consolidated into § 35.359 (relating to course transcripts) and former § 35.392 has been consolidated into § 35.362 (relating to inspection of real estate education providers). Accordingly, the Commission has not amended these provisions.

Fiscal Impact and Paperwork Requirements

This final-form rulemaking should have no fiscal impact on the Commonwealth, its political subdivisions or the public. This final-form rulemaking should have a positive fiscal impact on the regulated community because the amendments reduce the legal, accounting, reporting or other paperwork requirements on the regulated community.

Sunset Date

The Commission continually monitors the effectiveness of its regulations through communication with the regulated population; accordingly, no sunset date has been set.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 13, 2003, the Commission submitted a copy of the notice of proposed rulemaking, published at 33 Pa.B. 4571, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on October 19, 2004, the final-form rulemaking was approved by the HPLC. On November 3, 2004, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 4, 2004, and approved the final-form rulemaking.

Contact Person

Further information may be obtained by contacting Deborah Sopko, Administrative Assistant, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649, www.state.pa.us/bpoa/recomm/mainpage.

Findings

The Commission finds that:

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

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

(3) This final-form rulemaking does not enlarge the purpose of proposed rulemaking published at 33 Pa.B. 4571.

(4) The final-form rulemaking is necessary and appropriate for administering and enforcing the RELRA identified in this preamble.

Order

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

(a) The regulations of the Commission, 49 Pa. Code Chapter 35, are amended by amending §§ 35.201, 35.203, 35.228, 35.229, 35.252, 35.271—35.273, 35.275, 35.341—35.344, 35.351, 35.352—35.363, and 35.382—35.385; by adding §§ 35.253 and 35.254; and by deleting §§ 35.351a, 35.381 and 35.386—35.392 to read as set forth in Annex A, with ellipses referring to the existing text of the regulations.

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

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

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

JOSEPH J. MCGETTIGAN,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission relating to this document, see 34 Pa.B. 6292 (November 20, 2004).)

Fiscal Note: Fiscal Note 16A-561 remains valid for the final adoption of the subject regulations.

Annex A

TITLE 49. PROFESSIONAL AND VOCATIONAL STANDARDS

PART I. DEPARTMENT OF STATE

Subpart A. PROFESSIONAL AND OCCUPATIONAL AFFAIRS

CHAPTER 35. STATE REAL ESTATE COMMISSION

Subchapter B. GENERAL PROVISIONS

§ 35.201. Definitions.

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

* * * * *

Distance education—Real estate instruction delivered in an independent or instructor-led format during which the student and the instruction are separated by distance and sometimes time.

* * * * *

Independent learning—An interactive educational program, including computer-based technology courses, that provides no contact with an instructor.

* * * * *

Instructor-led learning—An interactive educational program, including a classroom or simulated classroom, that provides significant ongoing contact from the instructor to the participant during the learning process.

* * * * *

Real estate education provider—A person or institution who offers real estate education regardless of whether the learning is instructor-led or independent, excluding colleges, universities or institutes of higher learning accredited by the Middle States Association of Colleges and Secondary Schools or equivalent accreditation.

* * * * *

§ 35.203. Fees.

The following fees are charged by the Commission:

* * * * *

Table with 2 columns: Fee description and Amount. Rows include: Approval of real estate education provider (\$120), Reinspection of real estate education provider after first failure (\$65), Annual renewal of approval of real estate education provider (\$250 plus \$10 for each satellite location, course and instructor).

* * * * *

Change of ownership or directorship of real estate education provider \$75

Change of name of real estate education provider . . .	\$45
Change of location of real estate education provider .	\$70
Addition of satellite location or instructor for real estate education provider	\$20
Addition of course for real estate education provider.	\$25
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**Subchapter C. LICENSURE
LICENSURE REQUIREMENTS**

§ 35.228. Licensure as campground membership salesperson.

(a) An individual who wants to obtain a Pennsylvania campground membership salesperson's license shall:

- (1) Be 18 years of age or older.
- (2) Have successfully completed the one-credit (15 hours), Commission-developed course titled Campground Membership Sales, provided the following conditions are met:
 - (i) The course was taken prior to onsite training.
 - (ii) The course was taught at an accredited college, university or institute of higher learning in this Commonwealth or a real estate education provider in this Commonwealth approved by the Commission.

(3) Have successfully completed 30 days of onsite training at a campground membership facility subject to the following conditions:

- (i) The 30 days of onsite training shall be completed during a 90-day period within 3 years prior to the submission of a license application.
- (ii) The trainee shall be actively supervised and trained by a broker.

(4) Submit a completed license application to the Commission with:

- (i) An official transcript evidencing acquisition of the qualifying coursework or degree.
- (ii) A sworn statement from the broker under whom the applicant received his onsite training certifying that he actively trained and supervised the applicant and providing other information regarding the onsite training as the Commission may require.

(b) An individual who sells campground memberships without a license may be subject to disciplinary action by the Commission for unlicensed practice as a campground membership salesperson under section 301 of the act (63 P. S. § 455.301).

§ 35.229. Licensure as time-share salesperson.

(a) An individual who wants to obtain a Pennsylvania time-share salesperson's license shall:

- (1) Be at least 18 years of age.
- (2) Have successfully completed the two-credit (30 hours), Commission-developed course titled Time Share Sales, provided the following conditions are met:
 - (i) The course was taken prior to onsite training.
 - (ii) The course was taught at an accredited college, university or institute of higher learning in this Commonwealth or a real estate education provider in this Commonwealth approved by the Commission.

(3) Have successfully completed 30 days of onsite training at a time share facility subject to the following conditions:

(i) The 30 days of onsite training shall be completed during a 90-day period within 3 years prior to the submission of a license application.

(ii) The trainee shall be actively supervised and trained by a broker.

(4) Submit a completed license application to the Commission with:

(i) An official transcript evidencing acquisition of the qualifying coursework or degree.

(ii) A sworn statement from the broker under whom the applicant received his onsite training certifying that he actively trained and supervised the applicant and providing other information regarding the onsite training the Commission may require.

(b) An individual who sells time shares without a license may be subject to disciplinary action by the Commission for unlicensed practice as a time-share salesperson under section 301 of the act (63 P. S. § 455.301).

STATUS OF LICENSURE

§ 35.252. Termination of business of deceased broker with sole proprietorship.

(a) Within 15 days following the death of a broker with a sole proprietorship, the deceased broker's estate shall notify the Commission that the estate has appointed another licensed broker to supervise the termination of the deceased broker's business. The appointment is subject to verification that the appointed broker has a current license.

(b) The appointed broker shall observe the following rules during the termination period:

- (1) New listing agreements may not be entered into.
- (2) Unexpired listing agreements may be promoted unless the seller or lessor elects to cancel the agreement. Unexpired listings will expire automatically 90 days after the broker dies and may not be renewed.
- (3) Pending agreements of sale or lease may proceed to consummation.
- (4) New licensees may not be hired.

§ 35.253. Replacement of broker of record due to death.

Within 15 days following the death of a broker of record, a partner or corporate officer shall file an application with the Commission designating another individual to serve as broker of record.

§ 35.254. Substitution of broker or broker of record due to illness or injury.

If a broker with a sole proprietorship or broker of record is unable to act as a broker/broker of record due to illness or injury, the broker's attorney or another with power of attorney for the broker in a sole proprietorship, a corporate officer or partner shall notify the Commission within 15 days that it has appointed another licensed broker to act as the interim broker/broker of record for the corporation, partnership or sole proprietorship until the broker/broker of record is able to resume his responsibilities.

Subchapter D. LICENSING EXAMINATIONS

§ 35.271. Examination for broker's license.

(a) An individual who wants to take the broker's examination for a Pennsylvania broker's license shall:

- (1) Be 21 years of age or older.

(2) Be a high school graduate or have passed a high school general education equivalency examination.

(3) Have worked at least 3 years as a licensed salesperson, with experience qualifications that the Commission considers adequate for practice as a broker, or possess at least 3 years of other experience, education, or both, that the Commission considers the equivalent of 3 years' experience as a licensed salesperson.

(4) Have acquired 16 credits, or 240 hours of instruction, in professional real estate education as determined by the Commission under subsection (b).

(5) Submit a completed examination application to the Commission or its designee with:

(i) Official transcripts evidencing the acquisition of course credits.

(ii) A detailed resume of real estate activities performed by the candidate while working as a salesperson and a sworn statement from the candidate's employing broker confirming that these activities were performed if the candidate is a licensed salesperson.

(iii) A complete description of work experience and education that the candidate considers relevant to the requirements of paragraph (3) if the candidate is not a licensed salesperson.

(iv) A certification from the real estate licensing authority of the jurisdiction in which the candidate is licensed stating that the candidate had an active license for each year that credits are claimed if the candidate is applying brokerage experience to satisfy the professional education requirement.

(v) The fee for review of the candidate's qualifications to take the examination prescribed in § 35.203 (relating to fees) and the fees for administration of the examination.

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(4):

(1) A candidate who has obtained one of the following degrees will be deemed to have met the education requirement and will not be required to show completion of coursework in specific areas of study:

(i) A bachelor's degree with a major in real estate from an accredited college, university or institute of higher learning.

(ii) A bachelor's degree from an accredited college, university or institute of higher learning, having completed coursework equivalent to a major in real estate.

(iii) A juris doctor degree from an accredited law school.

(2) Except as provided in paragraph (6), 2 of the required 16 credits shall be in a Commission-developed or approved real estate office management course and 2 of the required 16 credits shall be in a Commission-developed or approved law course. At least 6 of the remaining 12 credits shall be in 3 or more of the Commission-developed courses listed in this paragraph. The remaining 6 credits shall be in real estate courses but not necessarily those listed in this paragraph. A candidate may not apply credits used to qualify for the salesperson's examination toward fulfillment of the broker education requirement.

(i) Real Estate Law.

(ii) Real Estate Finance.

(iii) Real Estate Investment.

(iv) Residential Property Management.

(v) Nonresidential Property Management.

(vi) Real Estate Sales.

(vii) Residential Construction.

(viii) Valuation of Residential Property.

(ix) Valuation of Income-Producing Property.

(3) To be counted toward the education requirement, a real estate course shall have been offered by:

(i) An accredited college, university or institute of higher learning, whether in this Commonwealth or outside this Commonwealth.

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(iii) A real estate education provider outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider is located. The course transcript or certificate of completion shall state that the course is approved by the licensing authority of the jurisdiction where the real estate education provider is located.

(iv) A real estate industry organization outside this Commonwealth, if the course is approved by the licensing jurisdiction of another state. The course transcript or certificate of completion shall state that the course is approved by the licensing jurisdiction which has approved it.

(4) A maximum of four credits will be allowed for each real estate course. A maximum of four credits will be allowed for each area of real estate study listed in paragraph (2).

(5) Courses shall have been completed within 10 years prior to the date of successful completion of the licensing examination.

(6) Two credits will be allowed for each year of active practice the candidate has had as a licensed broker in another jurisdiction during the 10-year period immediately preceding the submission of the examination application.

§ 35.272. Examination for salesperson's license.

(a) An individual who wants to take the salesperson's examination for the purpose of obtaining a Pennsylvania salesperson's license shall:

(1) Be 18 years of age or older.

(2) Have successfully completed four credits, or 60 hours of instruction, in basic real estate courses as determined by the Commission under subsection (b).

(3) Submit a completed examination application to the Commission or its designee with the examination fee.

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(2):

(1) A candidate who has obtained one of the following degrees will be deemed to have met the education requirement and will not be required to show completion of coursework in specific areas of study:

(i) A bachelor's degree with a major in real estate from an accredited college, university or institute of higher learning.

(i) A bachelor's degree from an accredited college, university or institute of higher learning, having completed coursework equivalent to a major in real estate.

(iii) A juris doctor degree from an accredited law school.

(2) Credits will be allowed for each of the Commission-developed real estate courses—Real Estate Fundamentals and Real Estate Practice—when offered by:

(i) An accredited college, university or institution of higher learning located outside this Commonwealth.

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(3) Credits will be allowed for acceptable basic real estate courses when offered by:

(i) An accredited college, university or institution of higher learning located outside this Commonwealth.

(ii) A real estate education provider outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider is located.

(4) Courses shall have been completed within 10 years prior to the date of successful completion of the licensing examination.

§ 35.273. Examination for cemetery broker's license.

(a) An individual who wants to take the salesperson's examination for the purpose of obtaining a Pennsylvania cemetery broker's license shall:

(1) Be 21 years of age or older.

(2) Have worked at least 3 years as a licensed salesperson or cemetery salesperson, with experience qualifications that the Commission considers adequate for practice as a cemetery broker, or possess at least 3 years of other experience, education, or both, that the Commission considers the equivalent of 3 years' experience as a licensed salesperson or cemetery salesperson.

(3) Have successfully completed four credits, or 60 hours of instruction, in basic real estate courses as determined by the Commission under subsection (b).

(4) Submit a completed examination application to the Commission or its designee with:

(i) Official transcripts evidencing the acquisition of degrees or course credits.

(ii) A detailed resume of real estate activities performed by the candidate while working as a salesperson or cemetery salesperson, and a sworn statement from the candidate's employing broker confirming that these activities were performed if the candidate is a licensed salesperson or cemetery salesperson.

(iii) A complete description of work experience and education that the candidate considers relevant to the requirements of paragraph (2) if the candidate is not a licensed salesperson or cemetery salesperson.

(iv) The fee for review of the candidate's qualifications to take the examination prescribed in § 35.203 (relating to fees) and the fee for administration of the examination.

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(3):

(1) A candidate who has obtained one of the following degrees will be deemed to have met the education requirement and will not be required to show completion of course work in specific areas of study:

(i) A bachelor's degree with a major in real estate from an accredited college, university or institute of higher learning.

(ii) A bachelor's degree from an accredited college, university or institute of higher learning, having completed course work equivalent to a major in real estate.

(iii) A juris doctor degree from an accredited law school.

(2) Credits will be allowed for each of the Commission-developed real estate courses—Real Estate Fundamentals and Real Estate Practice—when offered by:

(i) An accredited college, university or institute of higher learning in this Commonwealth.

(ii) A real estate education provider approved by the Commission in this Commonwealth.

(3) Credits will be allowed for cemetery courses when offered by:

(i) An accredited college, university or institute of higher learning in this Commonwealth.

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(4) Credits will be allowed for acceptable basic real estate courses when offered by:

(i) An accredited college, university or institute of higher learning located outside this Commonwealth.

(ii) A real estate education provider outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider is located.

(iii) A cemetery association outside this Commonwealth, if the course taught by the cemetery association is equivalent to a course taught by a real estate school in this Commonwealth approved by the Commission.

(5) Courses shall have been completed within 10 years prior to the date of successful completion of the licensing examination.

§ 35.275. Examination for rental listing referral agent's license.

(a) An individual who wants to take the salesperson's examination for the purpose of obtaining a Pennsylvania rental listing referral agent's license shall:

(1) Be 18 years of age or older.

(2) Have successfully completed four credits, or 60 hours of instruction, in basic real estate courses as determined by the Commission under subsection (b).

(3) Submit a completed examination application to the Commission or its designee with the examination fee.

(b) The Commission will apply the following standards in determining whether an examination candidate has met the education requirement of subsection (a)(2):

(1) A candidate who has obtained one of the following degrees will be deemed to have met the education requirement and will not be required to show completion of coursework in specific areas of study:

(i) A bachelor's degree with a major in real estate from an accredited college, university or institute of higher learning.

(ii) A bachelor's degree from an accredited college, university or institute of higher learning, having completed coursework equivalent to a major in real estate.

(iii) A juris doctor degree from an accredited law school.

(2) Credits will be allowed for each of the Commission-developed real estate courses—Real Estate Fundamentals and Real Estate Practice—when offered by:

(i) An accredited college, university or institute of higher learning in this Commonwealth.

(ii) A real estate education provider in this Commonwealth approved by the Commission.

(3) Credits will be allowed for acceptable basic real estate courses when offered by:

(i) An accredited college, university or institute of higher learning in this Commonwealth.

(ii) A real estate education provider outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider is located.

(4) Courses shall have been completed within 10 years prior to the date of successful completion of the licensing examination.

Subchapter F. REAL ESTATE EDUCATION PROVIDERS

APPROVAL OF REAL ESTATE EDUCATION PROVIDERS

§ 35.341. Approval of real estate education provider.

A real estate education provider shall obtain the Commission's approval before commencing operations in this Commonwealth. To obtain approval from the Commission, the real estate education provider shall:

(1) Be owned by persons who possess good moral character, or, if the owner is a corporation, have officers and directors who meet this requirement.

(2) Have a name that is acceptable to the Commission.

(3) Have a director of operations who meets the requirements of § 35.342 (relating to approval of director).

(4) Designate a person or entity to serve as custodian of records if the real estate education provider were to terminate operations.

(5) Post a surety bond of \$10,000 to the Commonwealth for the protection of the contractual rights of the real estate education provider's students.

(6) Submit a completed real estate education provider approval application to the Commission with:

(i) A completed real estate education provider owner application with:

(A) A resume of the applicant's experience in owning, administrating or teaching in, a college or university or as a real estate education provider.

(B) Two letters of reference from responsible persons relating to the applicant's integrity and to the applicant's previous experience, if any, in the administration of an educational program.

(C) Certified copies of court documents related to a conviction of, or plea of guilty or nolo contendere to, a felony or misdemeanor and the sentence imposed.

(ii) A completed real estate education provider director application with:

(A) Credentials evidencing the qualifications required of the applicant under § 35.342.

(B) Certified copies of court documents related to conviction of, or plea of guilty or nolo contendere to, a felony or misdemeanor and the sentence imposed.

(iii) A fictitious name registration, if the real estate education provider has a fictitious name.

(iv) A certificate of incorporation, if the real estate education provider is a corporation.

(v) A copy of the surety bond required under paragraph (5).

(vi) A statement of policy regarding refund of tuition and other fees.

(vii) A copy of the school transcript.

(viii) A statement of the prerequisites for admission.

(ix) A statement of policy regarding refund of tuition and other fees.

(x) The approval fee prescribed in § 35.203 (relating to fees).

(xi) For the main school location and each proposed satellite location, a sketch or photograph of the real estate education provider's sign.

§ 35.342. Approval of real estate educational director.

(a) A real estate education provider shall obtain the Commission's approval of its director before commencing operations in this Commonwealth. The applicant for director shall have a combination of experience in teaching, supervision and educational administration which, in the opinion of the Commission, will enable the applicant to competently administer a real estate education program in areas that include, but are not limited to, the following: evaluation of instructor performance; evaluation of curriculum and specific course content; analysis of course examinations; and management of records and facilities.

(b) The Commission may provisionally approve an otherwise qualified applicant for director who lacks sufficient background in teaching, supervision or educational administration. A provisionally approved director shall obtain the requisite qualifications in the time and manner prescribed by the Commission.

(c) An approved real estate education provider shall obtain the Commission's approval before changing directors. The prospective director shall submit to the Commission the information required by § 35.341(6)(ii) (relating to approval of real estate education provider).

(d) If the director dies, withdraws or is terminated, an approved real estate education provider will not lose its approved status, nor will it be required to terminate operations within the Commonwealth provided that:

(1) The real estate education provider shall submit the name of an interim director to the Commission within 15 days of the death, withdrawal or termination of the director.

(2) The interim director is authorized to operate for up to 90 days following the death, withdrawal or termination of the director. Thereafter, continued operation is contingent upon approval of a director under subsection (a) or (b).

(3) No changes may be made to the curriculum, testing or facilities until the new director is approved by the Commission.

§ 35.343. Renewal of real estate education provider approval.

An approved real estate education provider shall renew its approval annually. To obtain renewal of approval, a real estate education provider shall submit a completed renewal of approval application to the Commission with:

- (1) A notarized certification of compliance with this chapter signed by the director.
- (2) A copy of the \$10,000 surety bond showing coverage for the upcoming renewal period.
- (3) The fee for renewal of approval prescribed in § 35.203 (relating to fees).

§ 35.344. Withdrawal of real estate education provider or director approval.

(a) The Commission may, following notice and hearing under 2 Pa. C.S. §§ 501—508 (relating to practice and procedure of Commonwealth agencies), withdraw the approval of a real estate education provider that it finds guilty of:

- (1) Having acquired the Commission's approval by misrepresentation.
- (2) Failing to maintain compliance with § 35.341 (relating to approval of real estate education provider).
- (3) Violating a requirement of §§ 35.351—35.363 (relating to administration of real estate education providers).

(b) The Commission may, following notice and hearing under 2 Pa.C.S. §§ 501—508, withdraw the approval of a director that it finds guilty of:

- (1) Any conduct in connection with the administration of a real estate education provider which demonstrates bad faith, dishonesty, untrustworthiness or incompetency.
- (2) Failing to comply with § 35.341 (relating to approval of real estate education provider).
- (3) Having had a real estate license revoked or suspended by the Commission or by a real estate licensing authority of another jurisdiction.
- (4) Having been convicted of, or having pled guilty or nolo contendere to a felony.
- (5) Having been convicted of, or having pled guilty or nolo contendere to a misdemeanor related to the practice of real estate, forgery, embezzlement, obtaining money under false pretenses, bribery, larceny, extortion, conspiracy to defraud, or any similar offense.

ADMINISTRATION OF REAL ESTATE EDUCATION PROVIDERS

§ 35.351. Duty of director.

The director for a real estate education provider is responsible for day-to-day administration, including evaluation of instructor performance, evaluation of curriculum and specific course content, analysis of course examinations, management of records and facilities and otherwise assuring compliance with §§ 35.352—35.363.

§ 35.351a. (Reserved).

§ 35.352. Location and facilities.

(a) A real estate education provider shall have a main location that contains its administrative offices, its records, and a telephone with a listed number for the real estate education provider's exclusive use.

(b) The location where classes are taught must:

- (1) Be suitable for classroom space.
- (2) Not share office space, instruction space or a common space with a real estate franchise, network or organization. This paragraph does not apply to a real estate trade association or to a contractual arrangement between a real estate licensee and a real estate education provider to provide continuing education courses.
- (3) Be in conformance with applicable building, fire safety and sanitary requirements imposed by State, county and municipal governments.

§ 35.353. Selection of instructors.

(a) *Qualified instructors.* A real estate education provider shall employ instructors who are qualified to teach the courses for which the instructors have been hired. The real estate education provider may consider an individual qualified to teach a course if the individual satisfies one of the following criteria:

- (1) Possesses an undergraduate, graduate or post-graduate degree in the subject matter of the course to be taught.
- (2) Has 3 years of practical or teaching experience in a profession, trade or occupation directly related to the subject matter of the course to be taught.

(b) *Proof of qualifications.* A real estate education provider shall maintain documentation substantiating the instructor's education and experience.

§ 35.354. Prohibited forms of advertising and solicitation.

(a) A real estate education provider may not:

- (1) Hold itself out under a name other than the name approved for it by the Commission under § 35.341 (relating to approval of real estate education provider).
- (2) Hold itself out as being recommended or endorsed by the Commission, the Department of Education or other agency of the Commonwealth, except that the real estate education provider may advertise that it has been approved by the Commission to provide instruction in real estate courses and that credits earned in certain named courses will be accepted by the Commission toward fulfillment of the professional education prerequisite for taking the Pennsylvania real estate licensing examinations.
- (3) Hold itself out to be an educational institution that conforms to the standards and requirements prescribed for colleges and universities by the Department of Education, unless the real estate education provider meets those standards and requirements.

(4) Make a guarantee of employment, conditional or unconditional, to a student or prospective student.

(5) Guarantee that successful completion of its curriculum will result in the student's passing a real estate licensing examination.

(6) Promote the business of a real estate licensee or a real estate organization, franchise or network.

(7) Recruit students for employment or affiliation with a real estate licensee or a real estate organization, franchise or network.

(8) Solicit students for membership in a real estate organization, franchise or network.

(9) Permit an instructor or guest lecturer while on the real estate education provider's premises to wear any

identification relating to the name of the real estate licensee or a real estate organization, franchise or network.

(10) Solicit enrollments by means of advertisements in the employment columns of newspapers and other publications.

(11) Engage in advertising that is false, misleading, deceptive or degrading to the dignity of the real estate profession.

(b) A real estate education provider may not allow its main or satellite locations to be used by others for the solicitation or recruitment of students for employment or affiliation with a real estate licensee or a real estate organization, franchise or network. Students shall be informed of this prohibition through a written statement which shall contain the following:

"No recruiting for employment opportunities for any real estate brokerage firm is allowed in this class. Any recruiting should be promptly reported to the State Real Estate Commission by calling this number: 1-800-822-2113."

§ 35.355. Prospectus materials.

(a) A real estate education provider shall provide copies of catalogs, bulletins, pamphlets and other prospectus materials to the Commission upon request. Prospectus materials shall state the following in clear and unambiguous terms:

- (1) Admission requirements.
 - (2) Curriculum, including a specification of courses that meet the Commission's requirements for prelicensure education or continuing education.
 - (3) Tuition and other fees, and the refund policy in the event of cancellation.
 - (4) Completion requirements.
- (b) Prospectus materials for courses shall be directed towards the general licensee population without regard to the licensees' affiliation with a particular educational institution or a particular real estate organization, franchise or network.

§ 35.356. Tuition and other fees.

A real estate education provider shall charge tuition that bears a reasonable relationship to the quality and quantity of instructional services rendered. If additional fees are charged for books, supplies and other materials needed for coursework, the real estate education provider shall itemize the fees and the books, supplies and materials, upon payment therefor, shall become the property of the student.

§ 35.357. Student enrollment agreements.

A real estate education provider shall require each of its students to enter into a student enrollment agreement. The agreement must:

- (1) Itemize the tuition and other fees and the services and materials to be received from them.
- (2) State the real estate education provider's policy regarding the refund of tuition and fees if the student were to withdraw or be dismissed or if the school were to terminate operations before the end of the academic year.
- (3) Contain the Bureau's toll-free telephone number, (800) 822-2113, that the student may call to obtain information about filing a complaint against the real estate education provider.

§ 35.358. Administration of curriculum.

(a) Real estate education providers shall observe the following standards in the administration of prelicensure and continuing education curriculum:

(1) Instructor-led learning may not exceed 7 1/2 clock hours of instruction per day. For purposes of this section, a clock hour is defined as a 60-minute period comprising 50 minutes of instruction and a 10-minute break. A student may not be required to attend class for more than 90 consecutive minutes without a break.

(2) The substantive content of the course, as evidenced by the course outline, text and other instructional materials, shall adequately reflect the stated purpose of the course, as evidenced by the course title and course description. Instruction in a Commission required course shall conform to the content or the outline developed by the Commission for the course.

(3) Unless the course is taught by means of distance education, a student shall be physically present during at least 80% of the classroom instruction for a prelicensure course and during at least 90% of the classroom instruction for a continuing education course, to receive credit. The real estate education provider shall be responsible for verifying student attendance.

(4) Courses delivered by distance education, in addition to meeting the content requirements in § 35.384 (relating to qualifying courses), must have the delivery method approved by the Association of Real Estate License Law Officials or another certifying body with similar approval standards approved by the Commission.

(b) In addition to the requirements in subsection (a), a real estate education provider shall observe the following standards in the administration of its prelicensure curriculum:

- (1) A prelicensure course must be assigned one credit for every 15 clock hours of instruction.
- (2) A prelicensure course must be graded by proctored examination, except when a student's handicap or disability would make grading by examination impractical.

§ 35.359. Course transcripts.

(a) *Prelicensure.* Within 30 days after a course has been taught, a real estate education provider shall provide each student in the course with an official course transcript that contains the information in § 35.360(a)(5) (relating to records) and is signed by the director.

(b) *Continuing education.* Effective with the renewal period commencing June 1, 2004, within 30 days after a continuing education course has ended, the continuing education provider shall provide the Commission with a roster in a format approved by the Commission, listing each licensee who satisfactorily completed/taught the course. Continuing education providers shall be required to issue course transcripts/certificates of instruction to students only upon request.

§ 35.360. Records.

(a) A real estate education provider shall maintain complete and accurate records in the following areas:

- (1) *Financial.* The real estate education provider's assets and liabilities and the sources and amounts of its income.
- (2) *Physical plant.* For the main location and for each satellite location, the following:

(i) Copies of documentation showing compliance with applicable building, fire safety and sanitary requirements imposed by state, county or municipal governments.

(ii) A copy of the lease or rental agreement, if the real estate education provider does not own the building being used.

(3) *Personnel.* The qualifications of each instructor and the documentary evidence of those qualifications. See § 35.353 (relating to selection of instructors).

(4) *Curriculum.* For each course the real estate education provider has offered, the following:

- (i) The course title.
- (ii) The course prerequisites.
- (iii) The course objectives.
- (iv) The course outline.
- (v) The requirements for successful completion of the course.
- (vi) Copies of texts and other instructional materials used in teaching the course.
- (vii) The supplies required of students for the course.
- (viii) The course schedule.
- (ix) Copies of published descriptions of the course.
- (x) The course instructor.

(5) *Scholastic.* An academic transcript for each student which must contain the following:

- (i) The real estate education provider's name and Commission approval number.
- (ii) The location at which the course was taught.
- (iii) The name of the student.
- (iv) The course title.
- (v) The date that the student completed the course.
- (vi) The number of hours of the course.
- (vii) The student's final grade in the course, if an examination is required for the course.
- (viii) The date that the transcript was issued.
- (ix) The fact that the course will be accepted by the Commission towards fulfillment of the education requirement for either the real estate broker's examination or real estate salesperson's examination, as the care may be.

(6) *Attendance.*

(b) A real estate education provider shall store its records at its main location. Upon termination of operations, a real estate education provider shall transfer its records to the designated custodian of records. The real estate education provider shall notify the Commission whenever it changes the custodian of records.

(c) A real estate education provider shall produce its records for examination by the Commission or its representatives upon written request or pursuant to an inspection under § 35.362 (relating to inspection of real estate education providers).

(d) A real estate education provider shall make copies of a student's scholastic and attendance records available to the student upon request.

(e) A real estate education provider must retain attendance and scholastic records as follows:

- (1) Continuing education records must be maintained for 4 years.

- (2) All other records must be retained for 10 years.

§ 35.361. Display of documents and approved name.

(a) A real estate education provider's certificate of approval shall be displayed prominently at the real estate education provider's main location.

(b) A real estate education provider's approved name must be displayed prominently at each location where courses are taught.

(c) An alphabetical list of the real estate education provider's satellite locations shall be displayed prominently at the real estate education provider's main location.

§ 35.362. Inspection of real estate education providers.

(a) *Routine inspections.* No more than four times a year while classes are in session, the Commission or those authorized representatives may conduct a routine inspection of the main location or satellite location of a real estate education provider for the purpose of determining whether the real estate education provider is in compliance with §§ 35.351—35.363 (relating to administration of real estate education providers).

(b) *Special inspections.* In addition to the routine inspections authorized by subsection (a), the Commission or its authorized representatives may conduct a special inspection of a real estate education provider's main location or satellite location:

(1) Upon a complaint or reasonable belief that the real estate education provider is not in compliance with §§ 35.351—35.363.

(2) As a follow-up to a previous inspection that revealed the real estate education provider's noncompliance with §§ 35.351—35.363.

(c) *Scope of inspection.* Prior to the start of a routine or special inspection, the Commission or its authorized representatives will advise the real estate education provider, director or other person in charge at the time of the inspection that the inspection is being made under this section and is limited in scope by this section.

(d) During the course of a routine or special inspection or investigation, the Commission or its authorized representatives will be permitted to:

- (1) Examine real estate education provider records.
- (2) Inspect all areas of the real estate education provider's premises.
- (3) Monitor the performance of instructors in classrooms.
- (4) Interview the real estate education provider, director and other administrative personnel, instructors and students.

§ 35.363. Termination of operations.

A real estate education provider that desires to terminate operations shall submit to the Commission, within 60 days of the planned termination, a termination plan that includes the following:

- (1) The date of termination.
- (2) The date that real estate education provider records will be transferred to the designated records custodian.
- (3) The procedure for refunding tuition and allocating credits to currently enrolled students.

Subchapter H. CONTINUING EDUCATION**§ 35.381. (Reserved).****§ 35.382. Requirement.**

(a) *Condition precedent to renewal of current license.* A broker or salesperson who desires to renew a current license shall, as a condition precedent to renewal, complete 14 hours of Commission-approved continuing education during the preceding license period. The continuing education must be completed by the May 31 renewal deadline.

(b) *Condition precedent to reactivation and renewal of noncurrent license.* A broker or salesperson who desires to reactivate and renew a noncurrent license shall, as a condition precedent to reactivation and renewal, complete 14 hours of Commission-approved continuing education during the 2-year period preceding the date of submission of the reactivation application. A broker or salesperson may not use the same continuing education coursework to satisfy the requirements of this subsection and subsection (a).

(c) *Exception.* The continuing education requirement does not apply to cemetery brokers, cemetery salespersons, builder-owner salespersons, timeshare salespersons, campground membership salespersons and rental listing referral agents.

(d) *Documentation.* A licensee shall provide the Commission with information necessary to establish the licensee's compliance with this subchapter.

§ 35.383. Waiver of continuing education requirement.

(a) The Commission may waive all or part of the continuing education requirement of § 35.382 (relating to requirement) upon proof that the licensee seeking the waiver is unable to fulfill the requirement because of illness, emergency or hardship. The following are examples of situations in which hardship waivers will be granted.

(1) A licensee who seeks to renew a current license that was initially issued within 6 months of the biennial license period for which renewal is sought will be deemed eligible, on the basis of hardship, for a full waiver of the continuing education requirement.

(2) A licensee who seeks to renew a current license that was reactivated from noncurrent status within 6 months of the biennial license period for which renewal is sought will be deemed eligible, on the basis of hardship, for a full waiver of the continuing education requirement.

(3) A licensee who is a qualified continuing education instructor will be deemed eligible for the waiver of 1 hour of continuing education for each hour of actual classroom instruction in an approved continuing education topic. Duplicate hours of instruction in the same topic during the same biennial license period will not be considered for waiver purposes.

(b) Requests to waive the continuing education requirement must be filed with the Commission on or before March 31 of the renewal year unless the applicant proves to the satisfaction of the Commission that it was impracticable to do so.

§ 35.384. Qualifying courses.

(a) Except as provided in subsection (b), a licensee shall complete 14 hours of continuing education in acceptable courses in a minimum of 2-hour increments.

(b) The Commission may, for a given biennial license period and with adequate notice to licensees, require that all or part of the 14 hours be completed in required topics.

(c) Acceptable courses include the following:

- (1) Real estate ethics.
- (2) Laws affecting real estate.
- (3) Real estate financing and mathematics.
- (4) Real estate valuation and evaluation.
- (5) Property management.
- (6) Land use and zoning.
- (7) Income taxation as applied to real property.
- (8) Ad valorem tax assessment and special assessments.
- (9) Consumer protection and disclosures.
- (10) Agency relationships.
- (11) Landlord-tenant laws.
- (12) Environmental issues in real estate.
- (13) Antitrust issues in real estate.
- (14) Current litigation related to real estate.
- (15) Legal instruments related to real estate transactions.
- (16) Legalities of real estate advertising.
- (17) Developments in building construction techniques, materials and mechanical systems.
- (18) Real estate investment analysis.
- (19) Management of real estate brokerage operations.
- (20) Property development.
- (21) Real estate securities and syndication.
- (22) Real property exchange.
- (23) Broker courses encompassing supervisory duties and standards of conduct and practice contained in Subchapter E (relating to standards of conduct and practice).
- (24) Marketing promotion and advertising of real estate inventory.
- (25) Use of technology in delivering real estate services.

(d) Unacceptable courses include: mechanical office and business skills; for example, typing, speed writing, preparation of advertising copy, development of sales promotional devices, word processing, calculator and computer operation and office management and related internal operations procedures that do not have a bearing on the public interest.

§ 35.385. Continuing education providers.

The following providers may offer instruction for continuing education:

- (1) An accredited college, university or institute of higher learning, whether in this Commonwealth or outside this Commonwealth.

(2) A real estate education provider in this Commonwealth approved by the Commission.

(3) A real estate education provider outside this Commonwealth that has been approved by the real estate licensing authority of the jurisdiction where the real estate education provider is located.

§ 35.386. (Reserved).

§ 35.387. (Reserved).

§ 35.388. (Reserved).

§ 35.389. (Reserved).

§ 35.390. (Reserved).

§ 35.391. (Reserved).

§ 35.392. (Reserved).

[Pa.B. Doc. No. 04-2177. Filed for public inspection December 10, 2004, 9:00 a.m.]

PROPOSED RULEMAKING

DEPARTMENT OF PUBLIC WELFARE

[55 PA. CODE CH. 1249]

Home Health Agency Services

The Department of Public Welfare (Department), under the authority of sections 403, 443.2(2) and 509 of the Public Welfare Code (62 P. S. §§ 403, 443.2(2) and 509), proposes to amend Chapter 1249 (relating to home health agency services) to read as set forth in Annex A.

Purpose of the Proposed Rulemaking

The proposed amendments to Chapter 1249 remove the requirement that a recipient be homebound to qualify for Home Health Agency (HHA) services and remove service limits for home health services from the regulation by relocating them to the Medical Assistance (MA) Outpatient Fee Schedule.

Need for the Proposed Rulemaking

In accordance with the Department's move to provide for increased emphasis on home and community based services, rather than providing more restrictive and expensive alternatives such as nursing home care, as well as a Federal directive clarifying Federal regulations regarding the Medicaid home health benefit, the Department is removing the requirement that individuals must be homebound to receive home health services.¹

Requirements

In accordance with this determination, the Department proposes to amend Chapter 1249 to remove the requirement that an MA recipient must be homebound to qualify for HHA services. The Department proposes to eliminate the definition and references to "homebound" in §§ 1249.2, 1249.42(1)(ii), 1249.52 and 1249.57(b).

With the removal of the homebound requirement throughout the regulations, and the specific exemption to this requirement in § 1249.57(b) it is no longer appropriate to list prenatal care in this section. Since the remainder of § 1249.57(b) only deals with postpartum and child services, the Department proposes to remove the term "prenatal" from this section. The amount and scope of the MA Fee Schedule prenatal services are not changed by this revision.

The Department also proposes to amend § 1249.59(2) (relating to limitations on payment), which currently provides that, after the first 28 days of unlimited home health care, payment is limited to 15 home visits per month, per treatment plan. The Department proposes to remove this limit on service from regulation and, instead, place it in the MA Fee Schedule, consistent with limits on other MA services. The existing limits will not be altered, however, by removing this requirement from the regulation. A program exception may be granted to exceed this limit if ordered by the attending physician's plan of care and deemed medically necessary. The purpose of this amendment is to allow the flexibility to meet the docu-

mented medical needs of recipients in the least restrictive and most cost-effective setting possible.

Affected Organizations and Individuals

The proposed amendments to Chapter 1249 will have a positive affect on MA participating physicians, HHAs and recipients of MA HHA services. The proposed rulemaking will permit the attending physician to prescribe medically necessary home health services to recipients who are not homebound. In addition, the proposed removal of HHA visit limitations from the regulation will improve access to medically necessary care. This formalizes a process whereby individuals with medically necessary and appropriate need for continued care in excess of the MA Fee Schedule limitations, will be able to apply for a program exception to the fee schedule limitations rather than seeking a waiver from the Secretary of the Department.

Accomplishments/Benefits

The proposed rulemaking benefits MA recipients who meet medically necessary criteria and prior authorization requirements for home health services. There are times when MA eligible individuals are in need of medical care that can be provided cost-effectively in their own homes, rather than in a hospital, long-term care facility or other institutional setting. The proposed rulemaking allows for medically necessary treatment to be provided in the home for clients who normally remain in the home, but who from time to time may, with assistance, be able to go to a doctor's appointment or to visit family for a holiday.

In addition, recipients of MA HHA services and their physicians will benefit from the proposed rulemaking. The proposed amendment to § 1249.59 would permit the attending physician to prescribe, and the MA recipient to receive, medically necessary home health services beyond the existing service limits, if approved through a program exception.

Fiscal Impact

Public Sector

Commonwealth

It is anticipated that there will be minimal cost to the Department based on the proposed rulemaking. The Department has covered and continues to cover medically necessary services. This proposed rulemaking will allow those services to be provided in a home setting, as opposed to a hospital or institutional setting, offsetting any increase in the number of MA recipients qualifying for home health care.

Political Subdivisions

There will be no fiscal impact on political subdivisions as a result of this proposed rulemaking.

Private Sector

There will be no fiscal impact on the private sector as a result of this proposed rulemaking.

General Public

There will be no fiscal impact on the general public as a result of this proposed rulemaking.

Paperwork Requirements

No additional reporting, paperwork or record keeping is required to comply with the proposed rulemaking.

¹ On July 25, 2000, the Health Care Financing Administration, now the Centers for Medicare and Medicaid Services (CMS), issued "Olmstead Update No. 3." See Attachment 3-g: Prohibition of Homebound Requirements in Home Health (www.cms.hhs.gov/states/letters/smd725a0.asp). Based upon *Olmstead v. L.C.*, 527 U.S. 581 (1999), this document clarified the CMS's position that the use of a "homebound" requirement to qualify for Medicaid HHA services is a violation of Federal regulatory requirements in 42 CFR 440.230(c) and 440.240(b).

Effective Date

This proposed rulemaking will be effective upon final publication in the *Pennsylvania Bulletin*.

Sunset Date

There is no sunset date.

Public Comments

Interested persons are invited to submit written comments, suggestions or objections regarding the proposed rulemaking to the Department of Public Welfare, Office of Medical Assistance Programs, Attention: Regulations Coordinator, c/o Deputy Secretary's Office, Room 515, Health and Welfare Building, Harrisburg, PA 17120 within 30 days after the date of publication of this proposed rulemaking in the *Pennsylvania Bulletin*. Persons with a disability may use the AT&T Relay Service at (800) 654-5984 (TDD users) or (800) 654-5988 (voice users).

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on November 30, 2004, the Department submitted a copy of this proposed rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Health and Human Services and the Senate Committee on Public Health and Welfare. A copy of this material is available to the public upon request.

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

ESTELLE B. RICHMAN, Secretary

Fiscal Note: 14-491. No fiscal impact; (8) recommends adoption

Annex A

TITLE 55. PUBLIC WELFARE

PART III. MEDICAL ASSISTANCE MANUAL

CHAPTER 1249. HOME HEALTH AGENCY SERVICES

GENERAL PROVISIONS

§ 1249.2. Definitions.

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

* * * * *

[**Homebound**—A condition due to illness or injury that restricts the individual's ability to leave his residence without assistance or makes leaving medically contraindicated. The term does not relate to maternal/child services.]

* * * * *

PROVIDER PARTICIPATION

§ 1249.42. Ongoing responsibilities of providers.

Ongoing responsibilities of providers are established in Chapter 1101 (relating to general provisions). The home health agency shall:

(1) Have written policies concerning the acceptance of recipients and the feasibility of meeting the recipient's needs in the home care setting, which include, but are not limited to:

* * * * *

(ii) [**The homebound status of the recipient. Assessment and documentation of the need for continued home health agency services.**]

* * * * *

PAYMENT FOR HOME HEALTH SERVICES

§ 1249.52. Payment conditions for various services.

(a) Home health agencies are reimbursed for services furnished to MA recipients **within the MA Program Fee Schedule limits** if the following conditions are met:

* * * * *

(2) [**The attending physician certifies that the recipient is homebound and as part of the treatment plan review certifies that the recipient continues to remain homebound. To be considered homebound, the recipient shall have a condition due to illness or injury that restricts the individual's ability to leave his residence without assistance or makes leaving medically contraindicated. The attending physician certifies that the recipient requires care in the home and either of the following conditions exist:**

(i) **The only alternative to home health agency services is hospitalization.**

(ii) **The recipient has an illness, injury or mental health condition, documented in the recipient's medical records, which justifies that the service must be provided at the recipient's residence instead of a physician's office, clinic or other outpatient setting.**

(3) The attending physician certifies that the recipient requires the skilled services of a nurse, physical therapist, occupational therapist [or], speech therapist or **home health aide**. If the recipient requires only home health aide services, the physician shall certify the need for these services.

* * * * *

(6) **A new treatment plan may be started with the onset of a new primary diagnosis or the exacerbation of an existing diagnosis which causes a significant change in the recipient's condition and requires a change in the treatment. If home health services are provided following the onset of an illness which does not involve a hospitalization, the initial evaluation home health visit begins a new treatment plan.**

(7) **The Department has determined that prior authorization requirements have been met.**

* * * * *

§ 1249.57. Payment conditions for maternal/child services.

* * * * *

(b) [**Prenatal, postpartum Postpartum and child services. [A recipient is not required to be homebound to receive these services.]** When the mother no longer requires postpartum visits for medical reasons, but the child continues to need medical services,

payment will be made for the additional visits for care of the child only if the services are ordered by the attending physician and are part of a written plan of care written specifically for the child.

§ 1249.59. Limitations on payment.

The following limits apply to payment for covered services:

* * * * *

(2) [After the first 28-days of unlimited home health care, payment is limited to 15 home visits per month per treatment plan. A new period of unlimited care begins following hospitalization, the onset of a new primary diagnosis or the exacerbation of an existing diagnosis which causes a change in the recipient's conditions and requires a change in the plan of treatment, subject to § 1249.52(a)(4) (relating to payment conditions for various services).] Home visits which exceed the MA Program Fee Schedule maximums are not compensable. If a new treatment plan is instituted, the payment limitations begin with the first service provided in the new treatment plan.

(3) [If home health services are provided following the onset of an illness which does not involve a hospitalization, payment is made for the initial evaluation home health visit which will begin the 28-day period of unlimited service.

(4)] For prenatal and postpartum care, the following limits apply:

(i) [Payment for prenatal care is limited to one visit per month.] Complications [attributable to] of pregnancy are not counted as [part of the one visit per month limit] prenatal care but are classified for invoicing purposes as acute illness.

* * * * *

[(5)] (4) * * *

[Pa.B. Doc. No. 04-2178. Filed for public inspection December 10, 2004, 9:00 a.m.]

FISH AND BOAT COMMISSION

[58 PA. CODE CH. 111]

Boating

The Fish and Boat Commission (Commission) proposes to amend Chapter 111 (relating to special regulations counties). The Commission is publishing this proposed rulemaking under the authority of 30 Pa.C.S. (relating to the Fish and Boat Code) (code). This proposed rulemaking creates a slow, no wake zone in the Kernsville Pool of the Schuylkill River, Berks County, and convert the 8 miles per hour zones on the McKean County portion of Willow and Sugar Bays, Allegheny River Reservoir, to slow, no wake and remove the 8 miles per hour restriction on the Warren County portion of the bays.

A. Effective Date

The proposed rulemaking, if approved on final-form, will go into effect immediately upon publication in the *Pennsylvania Bulletin*.

B. Contact Person

For further information on the proposed rulemaking, contact Laurie E. Shepler, Esq., P. O. Box 67000, Harrisburg, PA 17106-7000, (717) 705-7815. This proposed rulemaking is available on the Commission's website: www.fish.state.pa.us.

C. Statutory Authority

The proposed amendments to §§ 111.6, 111.42 and 111.62 (relating to Berks County; McKean County; and Warren County) are published under the statutory authority of section 5124 of the code (relating to particular areas of water).

D. Purpose and Background

The proposed rulemaking is designed to update, modify and improve the Commission's boating regulations. The specific purpose of the proposed rulemaking is described in more detail under the summary of proposals. The Commission's Boating Advisory Board considered the proposed amendments and recommended that the Commission publish a proposed rulemaking containing the proposed amendments.

E. Summary of Proposals

(1) *Section 111.6.* The Commission received a petition from Blue Mountain Wildlife, Inc. (BMW) to amend this section to prohibit the operation of internal combustion motors on boats using the Schuylkill River behind the Kernsville Dam to encourage the preservation of the peacefulness and beauty of the impoundment. The Kernsville Dam is located in Berks County near Hamburg, PA. The dam is owned by the Commonwealth and is managed by the Department of Environmental Protection (Department). BMW holds a lease to manage and develop the area around the impoundment for passive recreational use. The Department maintains an access area at the impoundment that has been closed because it falls within a 200-foot restricted area near this dam. Only hand-carry access is currently available.

Commission staff reviewed BMW's petition to ensure that it met the requirements of § 51.6 (relating to petitions or requests for regulations) and determined that it was appropriate for further consideration. In accordance with the Commission's regulations, BMW was afforded an opportunity to make a presentation at the January 2004 Commission meeting. The Commission accepted the petition for further review and directed staff to prepare a report and recommendations.

Staff recently completed its report. Based upon the recommendations contained in the report, the Commission proposes the creation of a slow, no wake zone in the Kernsville Pool. The Commission proposes that § 111.6 be amended to read as set forth in Annex A.

(2) *Sections 111.42 and 111.62.* In 1980, the Commission adopted regulations to control the speed of boats on the various bays of the Kinzua Reservoir. All of the larger bays were restricted to 8 miles per hour while the smaller ones were made slow, no wake. These regulations were subsequently modified in 1989 and 1994. Boat speed was restricted to slow, no wake in most of the coves, but in Willow Bay and Sugar Bay, an 8 mph speed limit was retained. This speed was selected because the size of the bays was too large for slow, no wake but not large enough for unrestricted operation.

The Commission has reviewed these restrictions and has determined that the regulations could be further improved and provide additional boating opportunities by

converting the 8 mph zones on the McKean County portion of Willow and Sugar Bays to slow, no wake and by removing the 8 miles per hour restriction on the Warren County portion of these bays. The Commission proposes that §§ 111.42 and 111.62 be amended to read as set forth in Annex A.

F. Paperwork

The proposed rulemaking will not increase paperwork and will create no new paperwork requirements.

G. Fiscal Impact

The proposed rulemaking will have no adverse fiscal impact on the Commonwealth or its political subdivisions. The proposed rulemaking will impose no new costs on the private sector or the general public.

H. Public Comments

Interested persons are invited to submit written comments, objections or suggestions about the proposed rulemaking to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 30 days after publication of this proposed rulemaking in the Pennsylvania Bulletin. Comments submitted by facsimile will not be accepted.

Comments also may be submitted by completing the form at www.state.pa.us/Fish/regcomments. If an acknowledgment of electronic comments is not received by the sender within 2 working days, the comments should be retransmitted to ensure receipt.

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

Fiscal Note: 48-163. No fiscal impact; (8) recommends adoption.

Annex A
TITLE 58. RECREATION
PART II. FISH AND BOAT COMMISSION
Subpart C. BOATING
CHAPTER 111. SPECIAL REGULATIONS
COUNTIES

§ 111.6. Berks County.

* * * * *

(e) Schuylkill River; Kernsville Pool. Boats are limited to slow, no wake speed.

§ 111.42. McKean County.

Allegheny River Reservoir (Kinzua Dam).

(1) [Boats are limited to a maximum of 8 miles per hour, and water skiing is prohibited in the following areas:

- (i) Willow Bay.
(ii) Sugar Bay.

(2)] Boats are limited to slow, no wake swell speed in the following areas:

* * * * *

(ii) [The bay formed by Morris Run] Morrison Run Bay.

* * * * *

- (iv) Willow Bay.
(v) Sugar Bay.

[(3)] (2) * * *

§ 111.62. Warren County.

(a) Allegheny River Reservoir[.] (Kinzua Dam).

(1) [Boats are limited to a maximum of 8 miles per hour and waterskiing is prohibited in the following areas:

- (i) Willow Bay.
(ii) Sugar Bay.

(2)] Boats are limited to slow, no wake speed in the following areas:

* * * * *

(vii) Willow Bay beginning at the boat launch ramp

[(3)] (2) * * *

* * * * *

[Pa.B. Doc. No. 04-2179. Filed for public inspection December 10, 2004, 9:00 a.m.]

GAME COMMISSION

[58 PA. CODE CH. 141]

Hunting and Trapping; Furbearers

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 5, 2004, meeting, proposed the following rulemaking:

Amend § 141.63 (relating to definitions) to expand the listed definitions and add § 141.66 (relating to cable restraints) to permit the use of cable restraints for taking certain furbearers.

This proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for this proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

This proposed rulemaking was made public at the October 5, 2004, meeting of the Commission, and comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until January 21, 2005.

1. Purpose and Authority

Commonwealth trappers have requested that the use of cable restraints be permitted to take certain furbearers, namely coyotes and foxes. The Commission has weighed this public input against wildlife management interests and determined that the use of this additional device for these specific furbearers can be reasonably permitted. To make cable restraints lawful for taking these specific furbearers the Commission is proposing to expand the list of definitions found in § 141.63 to include and specifically define "cable restraint" and also add § 141.66 to establish the lawful methods, uses and periods during which cable restraints may be used.

Section 2102(d) of the code (relating to regulations) authorizes the Commission to "promulgate regulations stipulating the size and type of traps, the type of firearms and ammunition and other devices which may be used, the manner in which and the location where the devices may be used, the species the devices may be used for and the season when the devices may be used." Section

322(c)(5) of the code (relating to powers and duties of the commission) specifically empowers the Commission to "Fix the type and number of devices which may be used to take game or wildlife." Section 2102(b)(1) of the code (relating to regulations) authorizes the commission to "promulgate regulations relating to . . . the number and types of devices and equipment allowed, the identification of devices and the use and possession of devices." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to . . . the ways, manner, methods and means of . . . furtaking . . . in this Commonwealth." This rulemaking is proposed under this authority.

2. *Regulatory Requirements*

This proposed rulemaking will specifically define "cable restraint" and will establish the lawful methods, uses and periods during which cable restraints may be used.

3. *Persons Affected*

Persons wishing to use cable restraints for the taking of certain furbearers, namely coyotes and foxes, will be affected by this proposed rulemaking.

4. *Cost and Paperwork Requirements*

This proposed rulemaking should not result in additional cost or paperwork.

5. *Effective Date*

This proposed rulemaking will be effective on final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. *Contact Person*

For further information regarding this proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Chairperson

Fiscal Note: 48-196. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 141. HUNTING AND TRAPPING

Subchapter D. TRAPPING

§ 141.63. Definitions.

In addition to the definitions contained in the act and this part, the following words, when used in the enforcement of section 2361(a)(11) of the act (relating to unlawful acts concerning taking of furbearers) have the following meanings, unless the context clearly indicates otherwise:

Cable restraint—A galvanized stranded steel cable with a minimum diameter of 3/32 inches. The cable must be constructed of either 7 bundles comprised of 7 wires per bundle or 19 bundles comprised of 7 wires per bundle and be equipped with a mechanical sliding metal release lock. The

cable may not exceed 6 feet in length from the anchor point to the relaxing lock contacting the loop stop, must be equipped with at least one swivel device (which allows for 360° rotation) between the loop and the anchor and must have stops affixed to the cable to ensure that the circumference of the cable which makes up the loop may not be greater than 38 inches when fully open, or less than 8 inches when fully closed. A cable restraint must include a breakaway device affixed to the lock or cable that is rated at 325 pounds or less. The cable must be maintained in good condition so that all components operate properly.

* * * * *

§ 141.66. Cable restraints.

(a) Cable restraint devices may be used from January 1 until the end of the established trapping season to harvest red fox, gray fox and coyote.

(b) Cable restraint devices may only be set by furtakers who possess a valid furtakers license and who have completed a certified cable restraint training course approved by the Director. The Director will establish a fee for the course and the fee will only be what is necessary to cover the cost of the course. The trapper shall have a certificate from this course in possession while setting or checking sets using cable restraints and present the certificate upon the request of any person whose duty it is to enforce this title.

(c) Cable restraints must be anchored to prevent the animal caught in the restraint from moving the restraint from the point it was originally anchored.

(d) Cable restraints must be set to allow the animal caught in the restraint to move freely in a 360° arc for the entire length of the restraint without the risk of the cable restraint becoming entangled by any object.

(e) Cable restraints must be set so that the bottom of the restraint cable loop is no less than 6 inches or greater than 12 inches above the first surface beneath the bottom of the cable restraint where the surface is ground, ice, crusted or packed snow or any other hard material.

(f) Cable restraints will be considered traps for the purposes of the section 2361(a)(3), (4), (7), (8), (10), (12) and (14)—(16) of the act (relating to unlawful acts concerning taking of furbearers).

(g) Unlawful acts. It is unlawful to:

(1) Use a bent washer as a relaxing lock that has an outside diameter less than 1 1/4 inches.

(2) Set any cable restraint where entanglement may occur or in any manner which could result in an animal held in the restraint being suspended.

(3) Use a device commonly known as a drag with any cable restraint.

(4) Equip cable restraints with a spring-activating mechanism or any device designed to aid the closing of the cable loop.

(5) Fail to comply with any other provisions of this section.

[Pa.B. Doc. No. 04-2180. Filed for public inspection December 10, 2004, 9:00 a.m.]

**[58 PA. CODE CHS. 147]
Special Permits; Bobcats**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 5, 2004, meeting, proposed the following rulemaking:

Amend § 147.701 (relating to general) to permit the Executive Director to set application submission period requirements for bobcat hunting-trapping permits to facilitate a more convenient and standardized application process for permit applicants.

This proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

This authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

This proposed rulemaking was made public at the October 5, 2004, meeting of the Commission, and comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until January 21, 2005.

1. *Purpose and Authority*

Currently, the Commission maintains specific submission and post marking requirements related to bobcat hunting-trapping permits within its regulations. To make the process of applying for bobcat hunting-trapping permits more convenient for applicants and also standardize the procedures for paper and online applications among different species, the Commission is proposing to require all applications to be submitted in accordance with periods set by the Executive Director. This proposed rulemaking would continue to give applicants the option of applying for bobcat hunting-trapping permits online, using the Commission's Outdoor Shop or applying through the mail.

Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit . . ." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife . . . in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife . . . in this Commonwealth." This proposed rulemaking is made under this authority.

2. *Regulatory Requirements*

This proposed rulemaking will require applicants for bobcat hunting-trapping permits to abide by submission requirements established by the Executive Director to facilitate a more convenient and standardized application process for applicants.

3. *Persons Affected*

Persons who wish to apply for a bobcat hunting-trapping permit will be affected by this proposed rulemaking.

4. *Cost and Paperwork Requirements*

This proposed rulemaking should not result in additional cost or paperwork.

5. *Effective Date*

This proposed rulemaking will be effective on final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. *Contact Person*

For further information regarding this proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-198. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter S. BOBCAT HUNTING-TRAPPING PERMIT

§ 147.701. General.

This section provides for permits to be issued for the hunting and trapping of bobcat during the season established and in areas designated under § 139.4 (relating to seasons and bag limits for the license year).

* * * * *

(4) Applications [**may only be submitted between July 1 and the third Friday in August. Applications post marked later than the third Friday in August will be rejected**] **must be submitted in accordance with periods set by the Executive Director.**

* * * * *

[Pa.B. Doc. No. 04-2181. Filed for public inspection December 10, 2004, 9:00 a.m.]

[58 PA. CODE CH. 147]

Special Permits; Possession of Deer Accidentally Killed by a Motor Vehicle

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 5, 2004, meeting, proposed the following rulemaking:

Amend § 147.142 (relating to possession of deer accidentally killed by a motor vehicle) to permit the issuance of permit "numbers" rather than "paper" permits to validate lawful possession of road-killed deer and facilitate cost and personnel timesavings for the Commission.

The proposed rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the proposed rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

The proposed rulemaking was made public at the October 5, 2004, meeting of the Commission, and comments can be sent to the Director, Information and Education, Game Commission, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, until January 21, 2005.

1. *Purpose and Authority*

Currently, any individual who wishes to take possession of an accidentally road-killed deer shall apply for a possession permit through his local Commission regional office within 24 hours of taking possession of the deer. After the Commission receives an application for a per-

mit, its personnel must commit time to completing and issuing the "paper" permit and recording its information. The cumulative cost of the time spent executing these tasks in addition to the postage costs for mailing a "paper" permit to each applicant is quite substantial. To promote cost and personnel timesavings, as well as streamline and simplify the permitting process, the Commission is proposing to amend § 147.142 to allow the issuance of permit "numbers" by phone rather than "paper" permits by mail. This should make it easier for applicants to receive a permit as well as make it less costly and time consuming for the Commission to issue the same.

Section 2901(b) of the code (relating to authority to issue permits) provides "the commission may, as deemed necessary to properly manage the game or wildlife resources, promulgate regulations for the issuance of any permit and promulgate regulations to control the activities which may be performed under authority of any permit issued." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife . . . in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife . . . in this Commonwealth." The proposed rulemaking is made under this authority.

2. Regulatory Requirements

The proposed rulemaking will require possession permit applicants to obtain a permit "number" rather than a "paper" permit to validate lawful possession of an accidentally road-killed deer.

3. Persons Affected

Persons who wish to take possession of an accidentally road-killed deer will be affected by the proposed rulemaking.

4. Cost and Paperwork Requirements

The proposed rulemaking should reduce cost and paperwork related to possession permits for accidentally road-killed deer.

5. Effective Date

The proposed rulemaking will be effective on final-form publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

6. Contact Person

For further information regarding the proposed rulemaking, contact Michael A. Dubaich, Director, Bureau of Law Enforcement, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

VERNON R. ROSS,
Executive Director

Fiscal Note: 48-197. No fiscal impact; (8) recommends adoption.

Annex A

TITLE 58. RECREATION

PART III. GAME COMMISSION

CHAPTER 147. SPECIAL PERMITS

Subchapter H. PROTECTED SPECIMEN

§ 147.142. Possession of deer accidentally killed by a motor vehicle.

(a) A resident of this Commonwealth may immediately take possession of a deer accidentally killed on the

highway and transport it to a place of safekeeping within this Commonwealth. The person taking possession shall **[apply, through]** contact a regional office or a local **[commission]** Commission officer, for a permit **number** within 24 hours after having taken possession of the deer. The permit **number shall be considered a valid permit for the purposes of the act and this part** and shall be valid for a period not to exceed 120 days from the date of issuance **[and shall set forth other conditions which may be required. The deer shall be retained on the premises of the permittee unless otherwise provided on the permit]**. The whole or any part of the deer may not be given to any person nor may any edible part be removed from the recipient's place of residence. The recipient may not sell or transfer the hide to another party except the hide may be given to the deer processor. Unused parts of the deer must be disposed of lawfully.

(b) It is unlawful:

(1) To possess a deer accidentally killed on the highway for more than 24 hours without applying for a permit number.

* * * * *

(3) To fail to comply with one or more conditions **[on]** of the permit.

* * * * *

[Pa.B. Doc. No. 04-2182. Filed for public inspection December 10, 2004, 9:00 a.m.]

**PENNSYLVANIA PUBLIC
UTILITY COMMISSION**

Advance Notice of Proposed Rulemaking Order

Public Meeting held
November 18, 2004

Commissioners Present: Wendell F. Holland, Chairperson;
Robert K. Bloom, Vice Chairperson; Glen R. Thomas;
Kim Pizzingrilli

Advance Notice of Proposed Rulemaking for Revision of 52 Pa. Code Chapter 57 pertaining to adding Inspection and Maintenance Standards for the Electric Distribution Companies; Doc. No. L-00040167

Advance Notice of Proposed Rulemaking Order

By the Commission:

On May 7, 2004, the Commission entered a Final Rulemaking Order¹ at L-00030161 which amended the Electric Distribution Companies' (EDCs) reporting requirements found at 52 Pa. Code § 57.195. The Final Rulemaking Order improved the Commission's ability to monitor EDC service reliability.

Specifically, the Commission now receives quarterly and annual reliability reports as opposed to only annual reports. This allows the Commission to better track a company's performance and contact the company earlier regarding corrective action. The rulemaking also increased the amount of information an EDC must report to

¹ On September 18, 2004, the Final Rulemaking Order was published in the *Pennsylvania Bulletin* at 34 Pa.B. 5135; thus, the regulations stemming from that Order are effective as of September 18, 2004.

the Commission. EDCs must now provide the causes of outages and percentages categorized by type as well as an annual report of each company's plans for the upcoming year's inspection and maintenance of transmission systems including: (1) vegetation management; (2) distribution and substation maintenance activity; and (3) capital improvement projects. The EDC must report its own standards regarding vegetation management and other inspection and maintenance procedures. The EDC must report whether it is meeting its goals regarding inspection, maintenance and repair and, if not, explain what efforts are being made to do so in the future.

The Commission also determined that, based on more recent experience and information, the issue of whether EDCs should be subject to specific inspection and maintenance standards should be evaluated.

In particular, new information arising out of the blackout in August 2003 formed a basis for evaluating the need for inspection and maintenance standards. One of the causes of the blackout was the failure to adequately manage tree growth along transmission lines. *Final Report on the August 14 Blackout in the U.S. and Canada*, U.S.—Canada Power System Outage Task Force, pp. 17, 57-64 (April 2004). In the wake of the blackout, the Federal Energy Regulatory Commission (FERC) commissioned a study of utility vegetation management practices. This led to a report entitled "Utility Vegetation Management Final Report" prepared by CN Utility Consulting, LLC and released by FERC in March, 2004. The report concluded, among other things, that the "[c]urrent oversight of UVM [utility vegetation management] activities by appropriate agencies or organizations is overwhelmingly inadequate" (Report, p. 68).

To remedy this inadequacy, the report recommended that oversight organizations should work with the utilities, the utility vegetation management industry and other stakeholders to develop measurable and achievable program objectives to identify what can be done to reduce the likelihood of a recurrence of tree and power line conflicts. (Report at 68-69).

Furthermore, the Public Utility Code at 66 Pa.C.S. § 2802(20) provides:

(20) Since continuing and ensuring the reliability of electric service depends on adequate generation and on conscientious inspection and maintenance of transmission and distribution systems, the independent system operator or its functional equivalent should set, and the Commission shall set through regulations, inspection, maintenance, repair and replacement standards and enforce those standards.

In view of this provision, and in light of the national attention to inspection and maintenance standards with particular regard to vegetation management procedures, a rulemaking proceeding is hereby initiated at this docket to consider revising 52 Pa. Code, Chapter 57, relating to electric distribution reliability.

The Commission will be considering the establishment of inspection, maintenance, repair and replacement standards under Chapter 57 of the *Pennsylvania Code*. This advance notice solicits comments from electric distribution companies and other parties of interest.

Comments are requested on the following topics:

1. Whether it is appropriate for the Commission to adopt specific inspection and maintenance standards.
2. Whether standards should be placed in the regulations which are specific to each individual EDC, or

whether all EDCs should be held to the same standard, and how would this be monitored and regulated.

3. What the standards should be regarding vegetation management practices, pole inspections, transmission and distribution line inspections, substations, transformers, reclosers, and other types of inspection and maintenance practices.

4. Whether standards should be established for repair and maintenance of electric distribution company equipment or facilities that are critical for system reliability.

5. Whether there should be automatic civil penalties written into the regulations for failure to meet standards for more than three consecutive quarters or some other reasonable time period, depending upon the type of inspection and maintenance that is at question.

Comments may be filed by any interested person or on behalf of an entity, and each comment should clearly indicate: (1) the numerical designation of the subject section(s) if applicable; (2) the reason for the proposed change(s); and (3) specific proposed language for the regulation(s). These three factors are vital to enable the Commission to give due consideration to each comment received.

Due to the comprehensive nature of a rulemaking and the fact that there are no pre-existing inspection and maintenance standards, interested parties will be given 60 days from the date of publication of the Advance Notice of Proposed Rulemaking in the *Pennsylvania Bulletin* for the submission of an original and 15 copies of comments and 90 days from the date of publication to submit an original and 15 copies of reply comments. Since the comment periods are generous, no extensions will be granted for the filing of comments. An electronic copy of all comments should be electronically mailed to Elizabeth Barnes at ebarnes@state.pa.us.

The contact persons are Blaine Loper, Bureau of Conservation, Economics and Energy Planning, (717) 787-3810 (technical) and Elizabeth Barnes, Law Bureau, (717) 772-5408 (legal).

This is an advance notice of proposed rulemaking and is in addition to the normal rulemaking procedures for publication and comment established under the act of July 31, 1968 (P. L. 769, No. 240), known as the Commonwealth Documents Law.

Therefore,

It Is Ordered That,

1. A rulemaking proceeding is hereby initiated at this docket to consider the revision of the regulations appearing in 52 Pa. Code, Chapter 57, relating to electric distribution reliability.

2. An Advance Notice of Proposed Rulemaking regarding revision of regulations appearing in 52 Pa. Code, Chapter 57 be published in the *Pennsylvania Bulletin*.

3. Interested parties shall have 60 days from the date of publication in the *Pennsylvania Bulletin* of the Advance Notice of Proposed Rulemaking to file written comments and 90 days from the date of publication to file reply comments.

4. Comments should, where appropriate, address the five issues identified in this Order and should include, where applicable, a numerical reference to the existing regulation(s) which the comment(s) address, proposed language for revision, and a clear explanation for the recommendation.

5. Interested parties should file an original plus 15 copies of each comment to the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265.

6. An electronic copy of the comments should be electronically mailed to Elizabeth Barnes, Assistant Counsel, at ebarnes@state.pa.us, and these comments in turn will be placed on the Commission's website for public viewing at www.puc.state.pa.us.

7. The contact persons for this rulemaking are Blaine Loper (Bureau of Conservation, Economics and Energy Planning, (717) 787-3810 (technical) and Elizabeth Barnes, Law Bureau, (717) 772-5408 (legal).

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-2183. Filed for public inspection December 10, 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 Banking

The Executive Board approved a reorganization of the Department of Banking effective November 19, 2004.

The organization chart at 34 Pa.B. 6554 (December 11, 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. 04-2184. Filed for public inspection December 10, 2004, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Corrections

The Executive Board approved a reorganization of the Department of Corrections effective November 19, 2004.

The organization chart at 34 Pa.B. 6555 (December 11, 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. 04-2185. Filed for public inspection December 10, 2004, 9:00 a.m.]

PART II. EXECUTIVE BOARD

[4 PA. CODE CH. 9]

Reorganization of the Department of Public Welfare

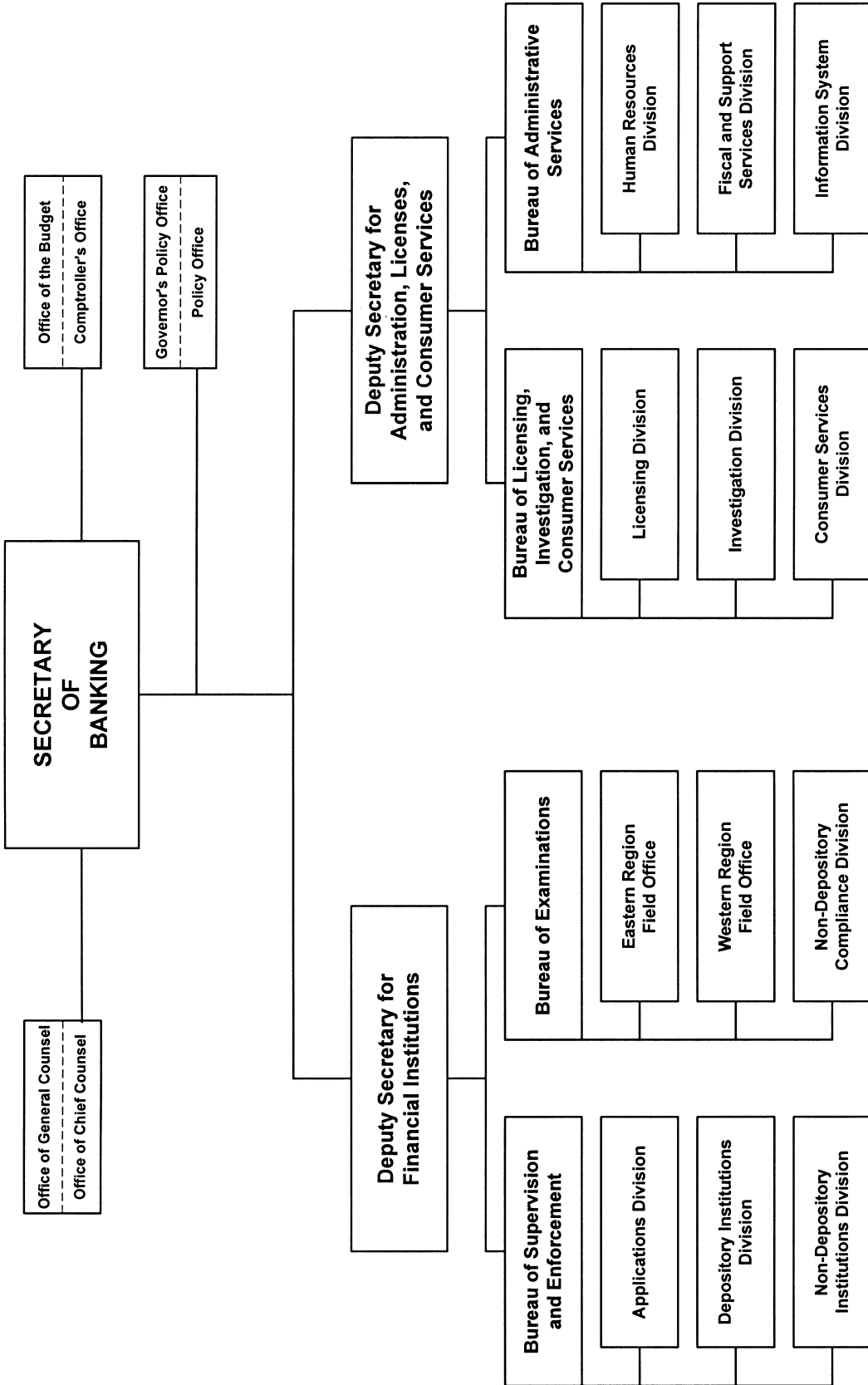
The Executive Board approved a reorganization of the Department of Public Welfare effective November 19, 2004.

The organization chart at 34 Pa.B. 6556 (December 11, 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).

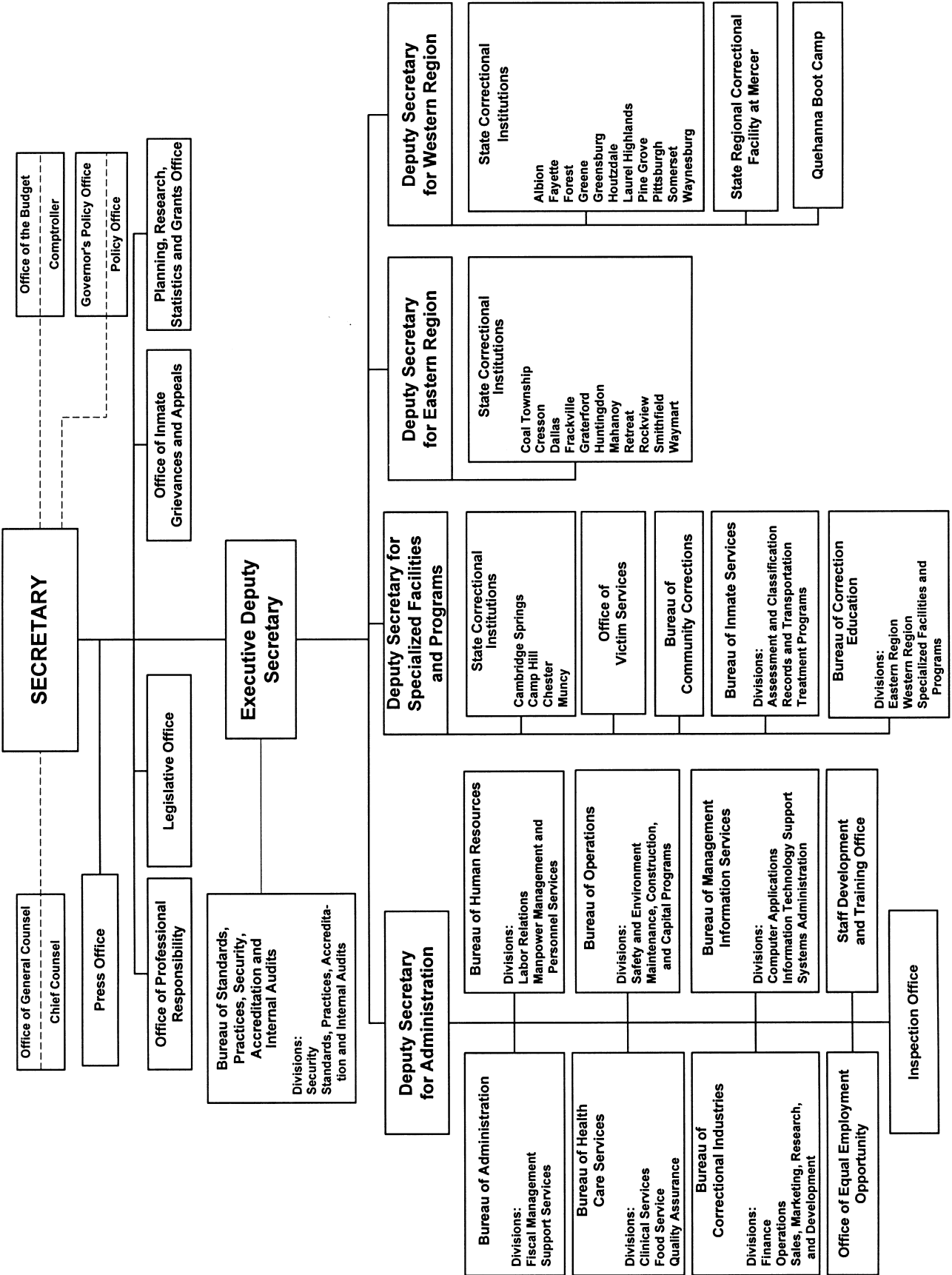
(Editor's Note: The Joint Committee on Documents has found organization charts to be general and permanent in nature. This document meets the criteria of 45 Pa.C.S. § 702(7) (relating to contents of Pennsylvania Code) as a document general and permanent in nature which shall be codified in the Pennsylvania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

[Pa.B. Doc. No. 04-2186. Filed for public inspection December 10, 2004, 9:00 a.m.]

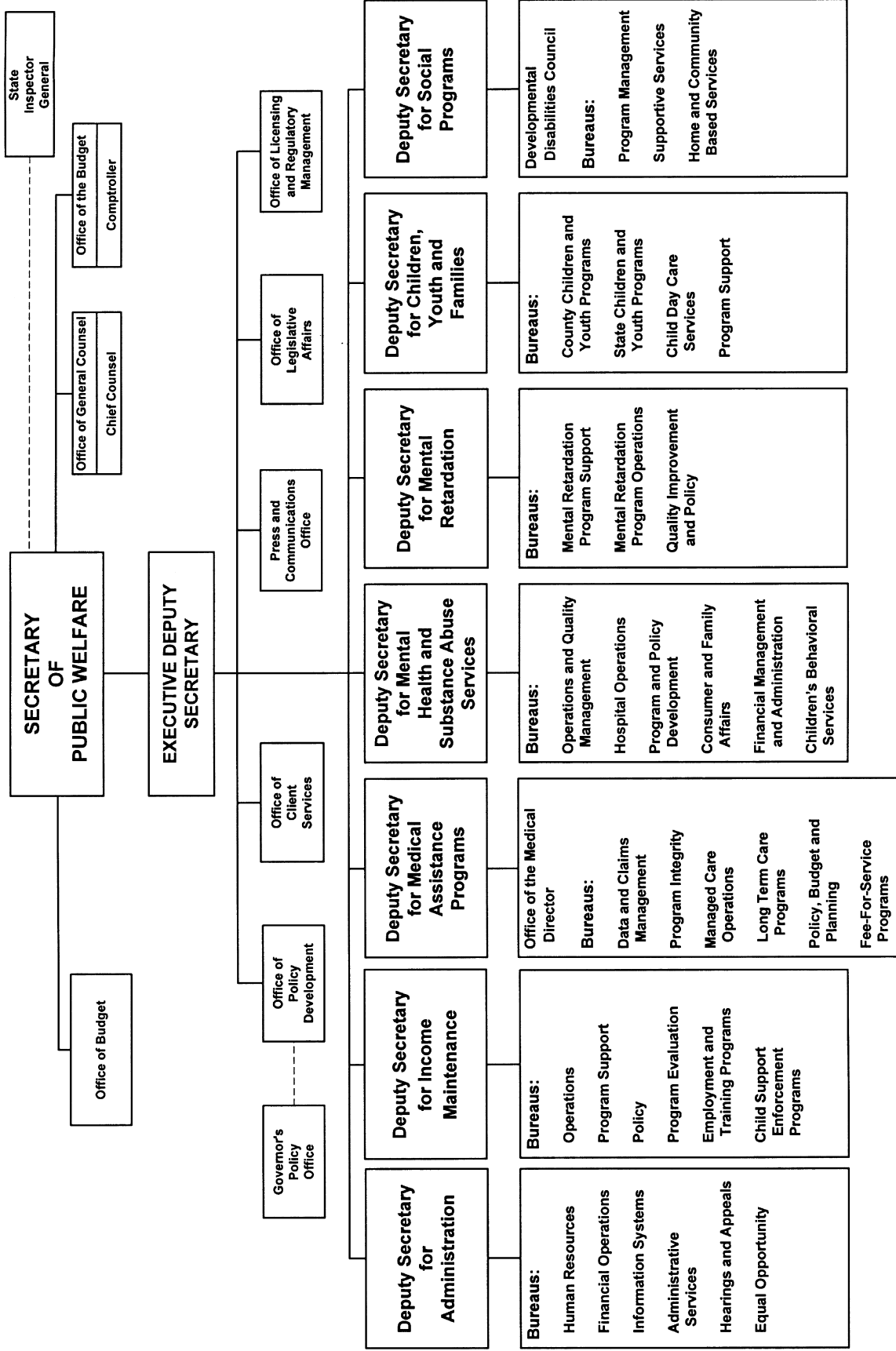
DEPARTMENT OF BANKING



DEPARTMENT OF CORRECTIONS



DEPARTMENT OF PUBLIC WELFARE



NOTICES

DEPARTMENT OF AGRICULTURE

Partial Revocation of Plum Pox Virus Quarantine

Recitals

1. The Plant Pest Act (act) (3 P. S. §§ 258.1—258.27), empowers the Department of Agriculture (Department) to take various measures to detect, contain and eradicate plant pests in this Commonwealth.

2. The powers granted the Department under section 21 of the act (3 P. S. § 258.21) include the power to establish quarantines to prevent the dissemination of plant pests within this Commonwealth.

3. Plum Pox Virus (PPV) is a serious nonnative plant pest that injures and damages stone fruits such as peaches, nectarines, plums and apricots by drastically reducing the fruit yields from these stone fruit trees and by disfiguring the fruit to the point it is unmarketable and has been detected in certain areas of this Commonwealth.

4. The Department has exercised its authority under the act and issued several Orders of Quarantine affecting portions of Adams, Cumberland, Franklin and York Counties in an effort to contain, identify and eradicate PPV.

5. The Department is satisfied it is appropriate to rescind the Order of Quarantine applicable to Washington Township, York County, since 3 consecutive years of extensive testing have failed to detect the presence of PPV among stone fruit trees in this area.

Order

Under authority of section 21 of the act, the Department hereby enters the following order:

The portion of the Order of Quarantine dated June 22, 2001, and published at 31 Pa.B. 3560 (July 7, 2001) that pertains to Washington Township, York County, is hereby rescinded. This Order had imposed a quarantine on all properties in Franklin Township and Washington Township, both in York County, to facilitate the containment and eradication of PPV and to make the affected stone fruit tree owners eligible for reimbursement of certain costs related to the destruction of stone fruit trees,

herbicide applications, insect control measures and other PPV eradication activities under the Department's Commercial Orchard and Fruit Tree Indemnity Program and the Department's Plum Pox Noncommercial Prunus Tree and Landscape Nursery Prunus Tree Indemnity Program. All PPV-infected stone fruit trees and all stone fruit trees within 500 meters of the infected trees have since been removed from the quarantined locations, and the owners of those trees compensated for the losses attendant to this removal. Three consecutive years of intensive sampling and testing stone fruit leaves in Washington Township, York County, have not yielded any additional positive detections of PPV. Therefore, the Washington Township locations covered by the referenced June 22, 2001, Order of Quarantine are no longer considered a potential reservoir of the PPV virus, and as a result can be considered free of PPV. The location hereby released from quarantine is as follows:

All properties and land located in Washington Township, York County, PA.

The referenced quarantine order of June 22, 2001, shall remain in full force and effect with respect to Franklin Township, York County.

The Department will consult with the United States Department of Agriculture, European experts and scientific authorities with respect to the most efficacious measures by which to contain and eliminate this serious plant pest. The Department will issue further restrictions under authority of this Quarantine Order, as is required under section 21(a) of the act. These restrictions may address aphid control, elimination or reduction of aphid habitat, destruction of PPV-infected stone fruit trees and budwood, destruction of endangered or exposed stone fruit trees or budwood and any other measures necessary to the containment and elimination of the PPV in this Commonwealth.

This quarantine is effective as of November 19, 2004, and shall remain in effect until terminated by subsequent order.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 04-2187. Filed for public inspection December 10, 2004, 9:00 a.m.]

DEPARTMENT OF BANKING

Action on Applications

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

BANKING INSTITUTIONS

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-15-04	1st Summit Bank Johnstown Cambria County	WalMart 2600 Plank Road Commons Altoona Blair County	Opened
11-18-04	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	Giant Eagle 3701 State Route 88 Finleyville Washington County	Opened
11-19-04	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	Giant Eagle 223 Grove City Road Slippery Rock Butler County	Opened
11-23-04	Integrity Bank Camp Hill Cumberland County	440 Bridge Street New Cumberland Cumberland County	Approved
11-24-04	Greater Delaware Valley Savings Bank d/b/a Alliance Bank Broomall Delaware County	82 East Lancaster Avenue Tredyffrin Chester County	Filed

Branch Relocations/Consolidations

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-15-04	Northwest Savings Bank Warren Warren County	<i>To:</i> 4525 Buffalo Road Erie Harborcreek Township Erie County <i>From:</i> 4423 Buffalo Road Erie Harborcreek Township Erie County	Effective
11-20-04	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	<i>To:</i> 1065 West County Line Road Hatboro Montgomery County <i>From:</i> 200 Blair Mill Road Horsham Montgomery County	Effective
11-24-04	Northwest Savings Bank Warren Warren County	<i>Into:</i> 1265 West Chestnut Street Washington Canton Township Washington County <i>From:</i> 125 West Beau Street Washington Washington County	Filed

Branch Discontinuances

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
11-23-04	AmeriServ Financial Bank Johnstown Cambria County	231 State Street Harrisburg Dauphin County	Filed
11-29-04	Community Bank & Trust Co. Clarks Summit Lackawanna County	97 College Avenue Factoryville Wyoming County	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

Conversion to Community Charter

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
11-22-04	Fairless Credit Union Morrisville Bucks County	Morrisville	Filed

Conversion to community charter will result in an amendment to the credit union's Articles of Incorporation, Article 8, to read: The membership of the Credit Union will be limited to persons who live, work, worship or attend school in, and businesses and other legal entities located in Bucks County.

Consolidations, Mergers and Absorptions

<i>Date</i>	<i>Name of Credit Union</i>	<i>Location</i>	<i>Action</i>
11-19-04	Citadel Federal Credit Union, Thorndale, and Atlantic Credit Union, Newtown Square Surviving Institution— Citadel Federal Credit Union, Thorndale	Thorndale	Filed
11-23-04	Franklin Credit Union, Franklin, and Oil Region Federal Credit Union, Oil City Surviving Institution— Franklin Credit Union, Franklin	Franklin	Approved

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 04-2188. Filed for public inspection December 10, 2004, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Application of the University of Florida for Approval to Operate in this Commonwealth and to Offer Graduate Degree Programs

Opportunity for Hearing and Invitation to Protest

Under 24 Pa.C.S. § 6503(e) (relating to certification of institutions), the Department of Education (Department) will consider the application of the University of Florida for approval of a Certificate of Authority to operate the program in "Working Professional Doctor of Audiology Distance Learning" leading to the Doctor of Audiology degree in Philadelphia and Pittsburgh and the program in "Working Professional Doctor of Pharmacy Distance Learning" leading to the Doctor of Pharmacy degree in Philadelphia and Pittsburgh.

In accordance with 24 Pa.C.S. § 6503(e), the Department will act upon the application without hearing, unless within 30 days after the publication of this notice in the *Pennsylvania Bulletin* a written request for public

hearing is filed with the Department, along with a notice of intervention, a petition to intervene or protest in accordance with 1 Pa. Code §§ 35.23 and 35.24 (relating to protest) or 1 Pa. Code §§ 35.27—35.32 (relating to intervention).

Petitions to intervene, protest and request for hearing shall be filed with Carol Gisselquist, Higher Education Specialist, (717) 787-4448 or Paula Fleck, Chief, Division of Program Services, (717) 772-3623, 333 Market Street, Harrisburg, PA 17126-0333 on or before 4 p.m. on the due date prescribed by this notice. Persons wishing to review the application should phone or write to the aforementioned office to schedule a time for an in-office review. Duplicate copies of the application are not available.

Persons with a disability who wish to attend the hearing, if held, and require an auxiliary aid, service or other accommodation to participate should contact Carol Gisselquist, (717) 787-4448 to discuss how the Department may best accommodate their needs.

FRANCIS V. BARNES, Ph.D.,
Secretary

[Pa.B. Doc. No. 04-2189. Filed for public inspection December 10, 2004, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the EPA Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for a public hearing on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0033529	The Pennsylvania State University Penn State Wilkes-Barre 101P Physical Plant Building University Park, PA 16802-1118	Luzerne Lehman Township	Harvey (5B)	Y

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA-0063142	Gregory Chrin Chrin Brothers, Inc. 635 Industrial Drive Easton, PA 18042	Williams Township Northampton County	An UNT of the Lehigh River (2C)	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed #)</i>	<i>EPA Waived Y/N ?</i>
PA0086941 (Sewage)	Dwayne Kocher Stardust Motel R. D. 4 Box 4960 Duncannon, PA 17020	Perry County Watts Township	Susquehanna River/6-C	Y
PA0080756 (Sewage)	Hershey Farms, Inc. P. O. Box 159 Strasburg, PA 17579	Lancaster County Strasburg Township	Pequea Creek/7-K	Y
PA0007391 (Industrial Waste)	The York Water Company 130 East Market Street York, PA 17405-7089	York County Spring Garden Township	South Branch Codorus Creek/7-H	Y
PA0086142 (Sewage)	Washington Township Municipal Authority P. O. Box 421 Bally, PA 19503-0421	Berks County Washington Township	West Branch Perkiomen Creek/3-E	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0031798 Sewerage	Bucktail Council Inc. Boy Scouts of America 209 First Street DuBois, PA 15801	Huston Township Clearfield County	Mountain Run 8-A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0221236	Brocklehurst Mobile Home Park 306 Fox Mine Road Jackson Center, PA 16133	Jackson Township Mercer County	Unnamed Tributary to Fox Run 20-A	Y
PA0102067	Nystrom Martin Subdivision P. O. Box 332 Sugar Grove, PA 16350	Sugar Grove Township Warren County	Unnamed Tributary to Stillwater Creek 16-B	Y

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

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

No. PA0058408, Sewage, **River Crest Homeowners Association and Toll PA IV, L.P.**, 1321 Black Rock Road, Phoenixville, PA 19460.

This application is for amendment of an NPDES permit to discharge treated sewage from River Crest STP in Upper Providence Township, **Montgomery County**. This is a new discharge to Unnamed Tributary to Schuylkill River (001) and Doe Run (002). The amendment addresses plant expansion from 86,025 gpd to 112,150 gpd.

The first downstream potable water supply intake from the point of discharge 001 is Philadelphia Suburban Water Company—Pickering Creek Water Filtration Plant and from the point of discharge 002 is Philadelphia Suburban Water Company in Upper Providence Township.

The receiving streams are classified for the following uses: WWF, TSF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfalls 001 and 002, based on an average flow of 112,150 gpd, are as follows:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	10	15	20
Total Suspended Solids	10	15	20
Ammonia (as N)	3.0		6.0
Fecal Coliform	200 colonies/100 ml as a geometric average		
Dissolved Oxygen	minimum of 5.0 mg/l at all times		
pH	Within limits of 6.0—9.0 Standard Units at all times		

The EPA Waiver is in effect.

PA0052353, Sewage, **Buckingham Township**, 2380 Durham Road, P. O. Box 413, Buckingham, PA 18912.

This proposed facility is located in Buckingham Township, **Bucks County**.

Description of Proposed Activity: Renewal of a permit to discharge treated sewage from a facility known as Buckingham Village WWTP. This is a seasonal discharge to Mill Creek, from November 1 to April 30. The discharge from this facility is diverted to offsite spray irrigation fields when not discharged to Mill Creek.

The receiving stream, Mill Creek (Stream Code 02596), is in the State Water Plan Watershed 2F and is classified for: CWF, MF. The nearest downstream public water supply intake for AQUA PA, INC., is located on Neshaminy Creek at Oakford, PA.

The proposed effluent limits for Outfall 001 are based on a seasonal design flow of 236,000 gpd.

<i>Parameters</i>	<i>Average Monthly (mg/l)</i>	<i>Average Weekly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
CBOD ₅	20	30		40
Total Suspended Solids	30	45		60
Ammonia Nitrogen	10			20
Phosphorus, Total	Monitor/Report			
Fecal Coliform	200/100 ml as a geometric mean			
pH	Between 6.0 and 9.0 standard units at all times			
Dissolved Oxygen	Minimum of 2.0 mg/l at all times			

In addition to the effluent limits, the permit contains the following major special conditions:

1. Notification of Responsible Operator
2. Average Weekly Definition
3. Remedial Measures
4. No Stormwater
5. Necessary Property Rights
6. Small Stream Discharge
7. Optimize Chlorine Dosage
8. Sewage Sludge Disposal
9. Submit Data for TMDL/WLA Analysis
10. I-Max Limits
11. No Discharge Report
12. Laboratory Certification
13. Seasonal Stream Discharge

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

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

PA0064386, Industrial, **Pittsburgh Terminals Corporation**, P. O. Box 2621, Harrisburg, PA 17105.

This proposed facility is located in Allentown City, **Lehigh County**.

Description of Proposed Activity: Issuance of a new NPDES Permit.

The receiving stream, Lehigh River, is in the State Water Plan watershed No. 2C and is classified for: TSF. The nearest downstream public water supply intake for Keystone Water Co. is located on Delaware River over 10 miles below the point of discharge.

The proposed effluent limits for Outfalls 001 and 002 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>
Total Recoverable Petroleum Hydrocarbons				Monitor/Report

In addition to the effluent limits, the permit contains the following major special conditions: requirements for petroleum marketing terminals.

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

PA0228869, Sewage 4952, **PA Dept. of Conversation and Natural Resources**, North Central Engineering Office, Bureau of Facility Design and Construction, R. R. 4 Box 212, Emporium, PA 15834.

This proposed facility is located in Leidy Township, **Clinton County**.

Description of Proposed Activity: The proposed wastewater treatment facility for the Kettle Creek State Park's Lower Campground. The proposed facility will serve 44 campsites with an anticipated average flow of 2,200 gpd. The proposed treatment will consist of an equalization tank, a packaged activated sludge treatment plant, a sludge holding tank, rapid sand filters, and ultraviolet disinfection. The proposed discharge will be to Kettle Creek downstream of the Alvin Bush Dam.

The receiving stream, Kettle Creek, is in the State Water Plan watershed 9B and is classified for TSF. The nearest downstream public water supply intake is located on the West Branch Susquehanna River approximately 105 miles downstream of the proposed point of discharge, near Milton, PA.

The proposed effluent limits, based on a design flow of 0.0022 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/L)</i>	<i>Instantaneous Maximum (mg/L)</i>
Flow		Report
Fecal Coliforms	200/100mL	
CBOD ₅	25	50
Total Suspended Solids	30	60
Total Chlorine Residual	1.0	2.3
pH	Within the Range of 6.0 to 9.0	

PAS234803, Industrial Waste SIC, 2869, **Rutgers Organics Corporation**, 201 Struble Road, State College, PA 16801.

This existing facility is located in College Township, **Centre County**.

Description of Proposed Activity: This proposed action is for issuance of an NPDES permit for an existing discharge of stormwater.

The receiving stream, an UNT to Spring Creek, is in the State Water Plan watershed 9C and classified for: HQ-CWF. The nearest downstream public water supply intake is assumed to be the proposed intake at Lock Haven located approximately 30 miles below the point of discharge.

The proposed effluent limits for Outfall S01 are:

<i>Parameter</i>	<i>Maximum Daily (mg/l)</i>
CBOD ₅	Report
COD	Report
Oil and Grease	Report
pH	Report
SARA Title III Section 313 Water Priority Chemicals	Report
TSS	Report
Total Phosphorous	Report
Total Kjeldahl Nitrogen	Report
Total Iron	Report

Best Management Practices

Inspect all containers prior to loading and unloading and use drip pans when loading or unloading liquids; where possible perform loading and unloading indoors and/or avoid rain events.

Provide for adequate separation between process and nonprocess areas; ensure no cross connections exist between process and storm sewers.

Ensure sufficient secondary containment around all chemical storage areas; provide automated equipment to prevent overtopping of storage vessels and leak detection.

Provide adequate inventory control and management for all raw and spent materials.

Perform regular inspection and maintenance of valves, couplings, hoses and pipes to prevent leaks and spills.
 Provide employees with spill response information and training.
 Maximize opportunities to reduce hazardous material usage (such as, source reduction and recycling).
 The EPA waiver is in effect.

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

PA0021822, Sewage, **Borough of Berlin**, 700 North Street, P. O. Box 115, Berlin, PA 15530-0115.

This application is for renewal of an NPDES permit to discharge treated sewage from the Berlin Borough STP in Berlin Borough, **Somerset County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Buffalo Creek, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Ohiopyle Borough Water Works.

Outfall 001: existing discharge, design flow of 0.8 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅				
(5/1 to 10/30)	15	22.5		30
(11/1 to 4/30)	25	37.5		60
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5/1 to 10/30)	3.0	4.5		6.0
(11/1 to 4/30)	7.5	11.3		15.0
Fecal Coliform				
(5/1 to 9/30)	200/100 ml as a geometric mean			
(10/1 to 4/30)	2000/100 ml as a geometric mean			
Total Residual Chlorine	0.1			0.3
Dissolved Oxygen	not less than 6 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0092835, Sewage, **Maronda Farms, Inc.**, 202 Park West Drive, Pittsburgh, PA 15126.

This application is for renewal of an NPDES permit to discharge treated sewage from the Washington Acres STP in Washington Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an UNT of Pucketa Creek, which are classified as a TSF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Oakmont Borough Municipal Authority.

Outfall 001: existing discharge, design flow of 0.1 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	10			20
Suspended Solids	10			20
Ammonia Nitrogen				
(5/1 to 10/31)	2.0			4.0
(11/1 to 4/30)	4.0			8.0
Fecal Coliform				
(5/1 to 9/30)	200/100 ml as a geometric mean			
(10/1 to 4/30)	2000/100 ml as a geometric mean			
Total Residual Chlorine	.02			.07
Dissolved Oxygen	not less than 6.0 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0095362, Sewage, **Mt. Pleasant**, PA 15666-8908.

This application is for renewal of an NPDES permit to discharge treated sewage from Laurelville Mennonite Church Center Sewage Treatment Plant in Mt. Pleasant Township, **Westmoreland County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Jacobs Creek, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Westmoreland County Municipal Authority-McKeesport.

Outfall 001: existing discharge, design flow of 0.012 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	10			20
Suspended Solids	25			50
Ammonia Nitrogen				
(5/1 to 10/31)	3.0			6.0
(11/1 to 4/30)	9.0			18.0
Fecal Coliform				
(5/1 to 9/30)	200/100 ml as a geometric mean			
(10/1 to 4/30)	2,000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0205982, Sewage, **D. Bruce Wise**, 225 Horseshoe Drive, Ebensburg, PA 15931.

This application is for renewal of an NPDES permit to discharge treated sewage from the Wise's Mobile Home Terrace STP in Cambria Township, **Cambria County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as an UNT of Howells Run, which are classified as a CWF with existing and/or potential uses for aquatic life, water supply and recreation. The first downstream potable water supply intake from this facility is the: Saltsburg Municipal Water Works.

Outfall 001: existing discharge, design flow of 0.02 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Fecal Coliform				
(5/1 to 9/30)	200/100 ml as a geometric mean			
(10/1 to 4/30)	2000/100 ml as a geometric mean			
Total Residual Chlorine	1.4			3.3
Dissolved Oxygen	not less than 3 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0216470, Sewage, **Consolidation Coal Company**, P. O. Box 355, 172 Route 519, Eighty Four, PA 15330.

This application is for renewal of an NPDES permit to discharge treated sewage from Dilworth Mine Airshaft No. 3 STP in Jefferson Township, **Greene County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as UNT of Pumpkin Run, 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: Tri County Joint Municipal Authority.

Outfall 001: existing discharge, design flow of 0.03 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25			50
Suspended Solids	30			60
Ammonia Nitrogen				
(5/1 to 10/30)	1.9			3.8
(11/1 to 4/30)	2.9			5.8
Fecal Coliform				
(5/1 to 9/30)	200/100 ml as a geometric mean			
(10/1 to 4/30)	2,000/100 as a geometric mean			
Total Residual Chlorine	0.018			0.042
Dissolved Oxygen	not less than 5 mg/l			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

PA0218766-A1, Sewage, **Edward Hallisey**, 1252 Lovi Road, Freedom, PA 15042.

This application is for amendment of an NPDES permit to discharge treated sewage from Hallisey Small Flow STP in New Sewickley Township, **Beaver County**.

The following effluent limitations are proposed for discharge to the receiving waters, known as Drainage Swale to Snake Run Via PennDOT Storm Sewer Culvert, 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: Nova Chemicals, Beaver Valley Plant, on the Ohio River.

Outfall 001: existing discharge, design flow of 0.0008 mgd.

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
CBOD ₅	10			20
Suspended Solids	10			20
Fecal Coliform	200/100 ml as a geometric mean			
Total Residual Chlorine	Monitor and Report			
pH	not less than 6.0 nor greater than 9.0			

The EPA waiver is in effect.

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

PA0023124-Amendment No. 2, Sewage, **Albion Borough**, 15 Smock Avenue, Albion, PA 16401.

This proposed facility is located in Conneaut Township, **Erie County**.

Description of Proposed Activity: Amendment to an existing discharge of treated sewage.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride, phenolics, sulfate and chloride, the existing/proposed downstream potable water supply (stream and Public Water Supplier) considered during the evaluation is Conneaut Creek and the PA/OH state line located approximately 14.2 miles below point of discharge.

The receiving stream, Conneaut Creek, is in watershed 15 and classified for: WWFs, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 002 are based on a design flow of n/a mgd.

Parameter	Loadings			Concentrations	
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
	This outfall shall be composed entirely of nonpolluting stormwater runoff in accordance with Special Condition Number 4.				

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. 6704412, Sewerage, **Stewartstown Borough Sewer Authority**, 6 North Main Street, Stewartstown, PA 17363.

This proposed facility is located in Hopewell Township, **York County**.

Description of Proposed Action/Activity: Replacement of the Oakhill Pump Station.

WQM Permit No. 2804406, Sewerage, **Leroy E. Beeler**, 2984 Sollenberger Drive, Chambersburg, PA 17201.

This proposed facility is located in Guilford Township, **Franklin County**.

Description of Proposed Action/Activity: Construction/Operation of a spray irrigation system to serve their single family residence.

WQM Permit No. 2204409, Sewerage, **Susquehanna Township Authority**, 1900 Linglestown Road, Harrisburg, PA 17110.

This proposed facility is located in Susquehanna Township, **Dauphin County**.

Description of Proposed Action/Activity: Construction of a sewer extension to serve Dennison Estates.

WQM Permit No. 3804403, Sewerage, **Eastern Lebanon County (ELCO) School District**, 180 ELCO Drive, Myerstown, PA 17067-2697.

This proposed facility is located in Jackson Township, **Lebanon County**.

Description of Proposed Action/Activity: Rehabilitation of Sewage Treatment Plant at the High School.

WQM Permit No. 3804404, Sewerage, **Fredericksburg Sewer and Water Authority**, P. O. Box 161, Fredericksburg, PA 17026.

This proposed facility is located in Bethel and Swatara Township, **Lebanon County**.

Description of Proposed Action/Activity: Consturction of Sewage Treatment Plant to serve the Camp Strauss and Monroe Valley areas.

WQM Permit No. 2180402, Amendment 04-2, Sewerage, **Hampden Township Sewer Authority**, 230 South Sporting Hill Road, Mechanicsburg, PA 17055.

This proposed facility is located in Hampden Township, **Cumberland County**.

Description of Proposed Action/Activity: Phase II Biosolids Handling Improvements at the Roth Lane Treatment Plant.

WQM Permit No. 0704404, Sewerage, **Gary and Christine Stillwell**, 901 Popular Run Road, Duncansville, PA 16635.

This proposed facility is located in Juniata Township, **Blair County**.

Description of Proposed Action/Activity: Construction/Operation of small flow sewage treatment system to serve their single family residence at 1260 Dry Run Road, Duncansville.

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

WQM Permit No. 4104403, Sewerage, **Borough Of Duboistown**, 2651 Euclid Avenue, Duboistown, PA 17702.

This proposed facility is located in Borough of Duboistown, **Lycoming County**.

Description of Proposed Action/Activity: Construction of a replacement pump station to increase station capacity to 0.864 mgd and increase the size and relocate a small portion of the forcemain.

IV. NPDES Applications for Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

V. Applications for NPDES Waiver Stormwater Discharges from Municipal Separate Storm Sewer Systems (MS4)

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI011504081	Wilson Run Road, LP c/o Brandolini Companies Hickory Hill Road Treatment Plant 1301 Lancaster Avenue Berwyn, PA 19312	Chester	East Nottingham Township	West Branch Big Elk Creek (HQ-TSF)
PAI011504082	Jason Malany Barr Subdivision Lot 9 561 Northbrook Road West Chester, PA 19382	Chester	West Bradford Township	Broad Run (EV)
Pai011504083	Heritage Building Group, Inc. Brandywine Hill Development 2500 York Road Jamison, PA 18929	Chester	Wallace Township	East Branch Brandywine Creek (HQ-TSF-MF)

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024804041	Dale Nauman DRN Development, LLC 2311 Easton Avenue Bethlehem, PA 18017	Northampton	Moore Township	Monocacy Creek HQ-CWF

Carbon County Conservation District: 5664 Interchange Rd., Leighton, PA 18235-5114, 610-377-4894.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI021304006	Pencor Services Inc. Penns Peak P. O. Box 134 Palmerton, PA 18071	Carbon	Penn Forest Township	Berry Run EV

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI023904039	Robert Bender Heritage Bldg. Group 2500 York Road Jamison, PA 18929	Lehigh	Upper Macungie Township	Schaffer Run HQ-CWF

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

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032804005	PENNDOT District 8-0 2140 Herr St. Harrisburg, PA 17103-1699	Franklin	Chambersburg Boro Antrim & Guilford Townships	Muddy Run/HQ-CWF Conococheague Creek/WWF Falling Spring Branch/HQ-CWF

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

Cambria County Conservation District: 401 Candlelight Drive, Suite 221, Ebensburg, PA 15931, (814) 472-2120.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI051104004	Brian Chirillo John Hill Real Estate 231 Market Street Johnstown, PA 15901 and Randy Straw Straw Construction Co., Inc. 429 Fetterolf Road Boswell, PA 15531	Cambria	Upper Yoder Township	Mill Creek (HQ-CWF)

Greene County Conservation District: 93 East High Street, Room 215, Waynesburg, PA 15370, (724) 852-5278.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI053004001	Southwestern Pennsylvania Water Authority 1442 Jefferson Road P. O. Box 187 Jefferson, PA 15344	Greene	Center, Gray and Richhill Townships	South Fork Tenmile Creek (HQ-WWF) Grays Fork of Tenmile Creek (WWF) Dunkard North Fork Dunkard Fork (TSF)

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

PAG-12	Concentrated Animal Feeding Operations (CAFOs)
PAG-13	Stormwater Discharges from Municipal Separate Storm Sewer Systems (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 may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

SAFE DRINKING WATER

Applications Received under the Pennsylvania Safe Drinking Water Act

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

Permit No. 5204502, Public Water Supply
 Applicant **Pennsylvania American Water Co.**
 Township or Borough Lehman Township
 County **Pike County**
 Responsible Official Steven Dewitt, Operations Supervisor
 Saw Creek Estates
 Box 1083
 Bushkill, PA 18324
 (570) 588-2754
 Type of Facility Community Water System
 Consulting Engineer Richard B. Kresge, Jr., P. E.
 Quad Three Group, Inc.
 37 North Washington Street
 Wilkes-Barre, PA 18701
 (570) 829-4200
 Application Received Date November 16, 2004

Description of Action Construction of a 200,000 gallon storage tank and associated booster pump facility to replace an existing 100,000 gallon potable water storage tank, along with construction of approximately 800 feet of water main.

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

Permit No. 5004506, Public Water Supply.
 Applicant **Penn Township Municipal Authority**
 Municipality Penn Township
 County **Perry County**
 Responsible Official Robert E. Shaffer Sr., Chairman
 102 Municipal Building Road
 Duncannon, PA 17020
 Type of Facility Public Water Supply
 Consulting Engineer Edward A. Ellinger, P. E.
 Herbert Rowland Grubic Inc.
 369 East Park Drive
 Harrisburg, PA 17111
 Application Received Date 11/12/2004

Description of Action Installation of a polyphosphate sequestering agent injection system for treatment of iron and manganese at the Sunshine Hills system.

Permit No. 6704513, Public Water Supply.
 Applicant **Lower Windsor Township**
 Municipality Windsor Township
 County **York County**
 Responsible Official Donald L. Keener, Township Manager
 111 Walnut Valley Court
 Wrightsville, PA 17368
 Type of Facility Public Water Supply
 Consulting Engineer Kent A. Bitting, P. E.
 C. S. Davidson Inc.
 38 North Duke Street
 York, PA 17401

Application Received Date 10/18/2004
 Description of Action New Municipal Building with onsite well requiring the installation of nitrate treatment.

Permit No. 3604512, Public Water Supply.
 Applicant **Warwick Township Municipal Authority**
 Municipality Warwick Township
 County **Lancaster County**

Responsible Official Daniel Zimmerman, Township
Manager Authority
Administrator
315 Clay Road
P. O. Box 336
Lititz, PA 17543

Type of Facility Public Water Supply

Consulting Engineer Vaughan Leer, P. E.
Herbert Rowland Grubic
1846 Charter Lane
P. O. Box 336
Lancaster, PA 17605

Application Received Date 7/2/2004

Description of Action Addition of the Bonfield and
Wrigley Wells to augment the
existing sources of supply.

MINOR AMENDMENT

Applications Received Under the Pennsylvania Safe Drinking Water Act

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

Application No. 4189-T1-MA2, Minor Amendment

Applicant **Erie City Water Authority**

Township or Borough Erie City, **Erie County**

Responsible Official Christopher J. Hebbard, Chief
Operating Officer

Type of Facility PWS

Application Received Date 11/19/2004

Description of Action Replacement of existing pump,
check valves and piping with
installation of new pump and
rotary check valves and piping;
installation of new sodium
hypochlorite system, generator
and electrical equipment.
Activities located at the Sigsbee
Pumping Station.

Application No. 2598501-MA6, Minor Amendment

Applicant **Erie City Water Authority**

Township or Borough Harborcreek Township, **Erie
County**

Responsible Official Christopher J. Hebbard, Chief
Operating Officer

Type of Facility PWS

Application Received Date 11/22/2004

Description of Action Construction of new sodium
hypochlorite rechlorination
facility at the Kuhl Road Storage
Tank, and installation of new
Pressure Reducing and
Sustaining Valve Vault on
Freeman Road.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

Sections 302—305 of the Land Recycling and Environ-
mental 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 Stan-
dard, the Site-Specific Standard or who intend to remedi-
ate 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 demon-
strates attainment of one, a combination of the cleanup
standards or who receives approval of a special industrial
area remediation identified under the act will be relieved
of further liability for the remediation of the site for any
contamination identified in reports submitted to and
approved by the Department. Furthermore, the person
shall not be subject to citizen suits or other contribution
actions brought by responsible persons not participating
in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act,
there is a 30-day public and municipal comment period
for sites proposed for remediation using a Site-Specific
Standard, in whole or in part, and for sites remediated as
a special industrial area. This period begins when a
summary of the Notice of Intent to Remediate is pub-
lished in a newspaper of general circulation in the area of
the site. For the sites identified, proposed for remediation
to a Site-Specific Standard or as a special industrial area,
the municipality within which the site is located may
request to be involved in the development of the remedia-
tion 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 alter-
native form, contact the community relations coordinator
at the appropriate regional office. TDD users may tele-
phone 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.*

Burnhauser Property, Perkasio Borough, **Bucks County**. Scott A. Alderfer, P. G., EMS Env., Inc., 4550 Bath Pike, Bethlehem, PA 18017, on behalf of Erik Burnhauser, 312 N. 5th St., Perkasio, PA 18944, has submitted a Notice of Intent to Remediate. Soil at the site was impacted with no. 2 fuel oil. A summary of the Notice of Intent to Remediate was reported to have been published in the *Intelligencer* on November 12, 2004.

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

Coleville Storage Tank Fac OLD, Keating Township, **McKean County**, Dayne Crowley, MACTEC Ten & Consulting Inc., 700 N Bell Ave. Suite 200, Carnegie, PA 15106, on behalf of Harry Perrine, Pennzoil-Quaker State d/b/a Shell Oil Products US, 260 Elm St., P. O. Box 99, Oil City PA 16301, has submitted a Notice of Intent to Remediate. Facility was operated as a crude oil storage facility by Quaker State Corp and consists of 3 "areas"; Former Tank Areas, Tank Dike Berms and Upland Areas. Soil samples taken in the Upland Areas were found to be contaminated with Aresenic, and 2-Methylnaphthalene, Bis(2-ethylhexyl)phthalate, naphthalene and crysene in the Groundwater.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Applications Received Under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

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

Permit Application No. 101615. Commonwealth Environmental Systems Landfill, Commonwealth Environmental Systems, L. P., P. O. Box 249, Dunmore, PA 18512. A Major Permit Modification for the expansion of this landfill into Frailey and Reilly Townships and to increase the average daily and maximum daily tonnage limitations at this municipal waste landfill, presently located in Foster Township, **Schuylkill County**. The application was received in the Regional Office on February 20, 2004, and it was found to be administratively complete as of May 28, 2004.

Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.

Beneficial Use of Coal Ash Notification, Penns Valley Airport Authority, 100 Airport Road, Selinsgrove, PA 17870, located in Penn Township, Snyder County. This notification is for the beneficial use of coal ash as structural fill in the Penns Valley Airport Authority's planned runway extension project. The notification was received by the Northcentral Regional Office on October 21, 2004.

Comments concerning the application should be directed to Jim Miller, Program Manager, Waste Management Program, 208 West Third Street, Williamsport, PA 17701. Persons interested in obtaining more information about the beneficial use notification may contact the Waste Management Program, (570) 327-3740. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984. Public comments must be submitted within 60 days of this notice and may recommend revisions to and approval or denial of the application.

Southwest Region: Regional Solid Waste Manager, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

Permit ID No. 300369. Allegheny Energy Supply Company, LLC, 4350 Northern Pike, Monroeville, PA 15146. Armstrong Power Station Coal Combustion By-Products Landfill, SR 4006, Kittanning, PA 16201. Application for the renewal of a residual waste class II landfill in Washington Township, **Armstrong County** was received in the Regional Office on November 24, 2004.

AIR QUALITY

PLAN APPROVAL AND OPERATING PERMIT APPLICATIONS

NEW SOURCES AND MODIFICATIONS

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

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

Copies of the applications, subsequently prepared draft permits, review summaries and other support materials are available for review in the regional office identified in this notice. Persons interested in reviewing the application files should contact the appropriate regional office to schedule an appointment.

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

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

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

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.

39-309-062: Lafarge North America, Inc. (5160 Main Street, Whitehall, PA 18052) for installation of a mixing fan on Cement Kiln No. 3 at their facility in Whitehall Township, **Lehigh County**.

39-309-063: Lafarge North America, Inc. (5160 Main Street, Whitehall, PA 18052) for utilization of plastic derived fuel in the existing Cement Kiln No. 2 at their facility in Whitehall Township, **Lehigh County**.

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

01-05016G: ISP Minerals, Inc. (P. O. Box O, 1455 Old Waynesboro Road, Blue Ridge Summit, PA 17214-0914) for installation of a new Headlap Plant in Hamiltonban Township, **Adams County**. This new plant will consist of a crusher and associated dryer, screens, feeders, conveyors and elevators. These sources will be controlled by the use of water sprays and new fabric filter baghouses.

06-05069F: East Penn Manufacturing Co., Inc. (P. O. Box 147, Lyon Station, PA 19536-0147) for modification and construction of various lead/acid battery assembly operations controlled by various fabric collectors and HEPA filters in Richmond Township, **Berks County**. Several of the sources are subject to 40 CFR Part 60, Subpart KK, Standards of Performance for New Stationary Sources.

07-03049A: A. P. Green Refractories, Inc. (R. D. 1, Box 588D, Claysburg, PA 16625) for modification of their rotary dryer and No. 2 castable processes and the replacement of a ball mill and various fabric collectors in Greenfield Township, **Blair County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

41-00064A: Glenn O. Hawbaker, Inc. (711 East College Avenue, Bellefonte, PA 16823) for construction of a jaw crusher, associated feeder and two associated conveyors in a stone crushing plant and for modification of the respective stone crushing plant by increasing the allowable annual throughput at their Hagermans Run Plant (Plant No. 12) in Armstrong Township, **Lycoming County**.

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

65-00966: Greensburg Thermal, LLC—SCI Greensburg (Route 119, Greensburg, PA 17013) for Plant of Cogeneration of Steam and Electricity to serve SCI Greensburg, Hempfield Township, **Westmoreland County**.

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

25-197D: Erie Bronze and Aluminum Co. (6300 Ridge Road, P. O. Box 8099, Erie, PA 16505) for installation of a dust collector to control emissions from six existing electric induction furnaces in the City of Erie, **Erie County**.

10-346A: Scrap Salvage and Surplus, Inc. (690 Glenwood Way, Butler, PA 16001), for installation of a torch cutting facility with a movable building and baghouse in Center Township, **Butler County**. This is a State only facility.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 823-7584.

AMS 04264: University of Pennsylvania (3451 Walnut Street, Philadelphia, PA 19104) for installation of several emergency generators in Philadelphia, **Philadelphia County**.

AMS 04281: Marshall Laboratory (3401 Grays Ferry Avenue, Philadelphia, PA 19146) for installation of four spray booths and for modifying existing spray booth permit conditions in Philadelphia, **Philadelphia County**.

Intent to Issue Plan Approvals and Intent to Issue or Amend Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter B. These actions may include the administrative amendments of an associated operating permit.

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

23-0003F: ConocoPhillips (4101 Post Road, Trainer, Pennsylvania 19061) for modification of their continuous catalyst reforming unit, in the Borough of Trainer, **Delaware County**.

Under 25 Pa. Code §§ 127.44(a) and 127.424(b) as well as 40 CFR 52.21, the Pennsylvania Department of Environmental Protection (Department) intends to issue a Plan Approval to ConocoPhillips, 4101 Post Road, Trainer, PA 19061 for the company's refinery in the Borough of Trainer, Delaware County. This plan approval will authorize the applicant to modify the continuous catalyst reforming unit, as described in the applicant's application of July 1, 2004. ConocoPhillips is modifying the continuous catalyst reforming unit in order to comply with Subpart UUU of 40 CFR Part 63, regarding the National Emission Standards for Petroleum Refineries: Catalytic Cracking Units, Catalytic Reformer Units, and Sulfur Recovery Units. The Plan Approval will subsequently be incorporated into the company's Title V Operating Permit through an administrative amendment in accordance with 25 Pa. Code § 127.450.

Plan Approval No. PA-23-0003F is for the modification of continuous catalyst reforming unit. Based on the information provided by the applicant and Department's own analysis, the modification of the continuous catalyst reforming unit will result in an emissions decrease of 11.89 tons of hydrogen chloride per year. The Plan Approval and Operating Permit will contain requirements to keep the facility operating within all applicable air quality requirements. Further details on the conditions and reasons for their inclusion are available upon request.

Copies of the application, Department's analysis, and other documents used in the evaluation are available for

public inspection between the hours of 8 a.m. and 4 p.m. weekdays. To make an appointment, contact Records Management at (484) 250-5910, for an appointment.

Anyone wishing to provide the Department with additional information they believe should be considered may submit the information to the address shown below. Comments must be received, by the Department, within 30 days of the last day of publication. Written comments should include the following:

1. Name, address and telephone number of the person submitting comments.
2. Identification of the proposed Plan Approval; No. PA-23-0003F.
3. Concise statement regarding the relevancy of the information or any objections to issuance of the Plan Approval.

A public hearing may be held, if the Department, in its discretion, decides that such a hearing is warranted on the comments received during the public comment period. All persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in a local newspaper of general circulation or the *Pennsylvania Bulletin* or by telephone, where the Department determines such notification is sufficient. Written comments or requests for a public hearing should be directed to Francine Carlini, Regional Air Quality Manager, Department of Environmental Protection, Southeast Regional Office, 2 East Main Street, Norristown, PA 19401, (484) 250-5920.

09-0009E: Webcraft, L.L.C. (4371 County Line Road, Chalfont, PA 18914) for modification of operation of Press Nos. 18 and 52 (heat-set web offset printing presses) at their facility in New Britain Township, **Bucks County**. The facility is classified as a major facility for VOCs. Under this Plan Approval application, a site wide limit of 3.0 % by weight limit is being established for fountain solutions for all heat-set web offset printing presses. However, this change will only affect Press Nos. 18 and 52. As a result of this change, there will be an increase of 2.57 tons of VOC per year from Press No. 18. There will be no changes to emission limits for Press No. 52. The following are proposed modifications that will apply specifically to Press No. 18:

1. Removal of the average and maximum limit on VOC content on ink usage.
2. Increasing the source limit of VOCs from 7.40 tons per year to 9.97 tons per 12-month rolling sum.
3. Removal of the fountain solution density limit.
4. Removal of the blanket wash VOC density limit.

Press Nos. 18 and 52 will continue to be subject to 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.

40-399-054: Fairchild Semiconductor, Corp. (125 Crestwood Drive, Mountaintop, PA 18707) for construction of the FAB 8 BEOL (back end of line) and associated air cleaning device at their facility in the Crestwood Industrial Park, Wright Township, **Luzerne County**. The company has also proposed to install up to five point of use scrubbers, five burn boxes, and six coalescing filters to precontrol emissions from the wafer manufacturing processes prior to the effluent being channeled to the

main air cleaning device, a packed bed vertical scrubber. No facility-wide emission increases are anticipated as a result of this project. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system. The expected particulate emission rate will be less than 0.02 grain/dscf. The company will operate the facility and maintain the equipment in accordance with the good engineering practices to assure proper operation of the system. The Plan Approval and Operating permit will contain additional record keeping and operating restrictions, that are designed to keep the facility operating within all applicable air quality requirements. The facility has a valid Synthetic Minor Operating Permit (48-00001). Once the equipment is operational in compliance with all requirements, this plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into the Synthetic Minor Operating Permit.

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

08-399-023F: OSRAM SYLVANIA Products, Inc. (Hawes Street, Towanda, PA 18848-0504) for installation of a fabric collector in their Grade Mix Powders Department to control emissions from various existing powder handling and processing equipment at their facility in North Towanda Township, **Bradford County**.

The Department's review of the information submitted by OSRAM indicates that the source constructed will comply with all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the fugitive air contaminant emission requirement of 25 Pa. Code § 123.1, the applicable particulate matter emission limitation of 25 Pa. Code § 123.13, and the visible emission limitation of § 123.41.

Based upon this finding, the Department proposes to issue plan approval for the installation of the air-cleaning device. 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 Beckert & Hiester fabric collector shall be equipped with a magnahelic gauge to monitor pressure drop across the collector.
2. The pressure drop across the collector be recorded at least once per day and be retained on site for a minimum of 5 years.

08-399-045A: OSRAM SYLVANIA Products Inc. (Hawes Street, Towanda, PA 18848-0504) for construction of a new thermal spray system an associated air cleaning devices (cartridge collector and HEPA filter) at their facility in North Towanda Township, **Bradford County**.

The Department's review of the information submitted by OSRAM indicates that the source constructed will comply with all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the fugitive air contaminant emission requirement of 25 Pa. Code § 123.1, the applicable particulate matter and sulfur oxide emission limitations of 25 Pa. Code §§ 123.13 and 123.21, the visible emission limitation of § 123.41, and the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12.

Based upon this finding, the Department proposes to issue plan approval for the construction of the thermal

spray system. 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 thermal spray system shall be controlled by the cartridge collector and HEPA filter acting in series.
2. The thermal spray system shall only be fired on kerosene.
3. The thermal spray system shall not be operated in excess of 2,800 hours in any 12 consecutive month period.
4. The particulate matter emissions from the thermal spray system shall not exceed 0.01 grain per dry standard cubic foot.
5. The visible emissions from the thermal spray system shall not exceed 5% at any time.
6. The carbon monoxide emission shall not exceed 3.1 pounds per hour and 4.34 tons in any 12 consecutive month period.
7. The cartridge collector and HEPA filter shall be equipped with instrumentation to monitor pressure drop across the collectors.
8. The pressure drop across the collector be recorded at least once per day and be retained on site for a minimum of 5 years.
9. The permittee shall keep on hand a sufficient amount of spare filters and cartridges in order to replace any filter or cartridge in need of replacement.
10. The permittee shall maintain records of the hours of operation of the thermal spray system on a monthly basis.

08-399-019D: OSRAM SYLVANIA Products Inc. (Hawes Street, Towanda, PA 18848-0504) for construction of a new Corp. digestion reactor (CR-6) which the air contaminants are to be controlled by a condenser and a counter current caustic scrubber in their Cobalt Chemical department at their facility in North Towanda Township, **Bradford County**.

The Department's review of the information submitted by OSRAM indicates that the source constructed will comply with all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the fugitive air contaminant emission requirement of 25 Pa. Code § 123.1, the applicable particulate matter and sulfur oxide emission limitations of 25 Pa. Code §§ 123.13 and 123.21, the visible emission limitation of § 123.41, and the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12.

Based upon this finding, the Department proposes to issue plan approval for the construction of the thermal spray system. 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 Corp. digestion reactor (CR-6) shall be controlled by a condenser and a Bionomics Industries counter current caustic scrubber acting in series.
2. The Bionomic scrubber shall achieve an HCl removal efficiency of 99.5%.
3. The total HCl emissions from the entire Acid Digestion Process shall not exceed 0.5 ton in any 12 consecutive month period.

4. The Bionomic scrubber shall be equipped with a continuous flow monitor.

5. The Bionomic scrubber shall maintain a scrubbing solution flow rate of at least 230 gallons per minute.

6. The scrubber shall be equipped with instrumentation to monitor the pressure drop across the collector on a continuous basis.

7. The Bionomic scrubber shall use a sodium hydroxide solution maintained between 1% and 13% NaOH as the scrubbing medium.

8. Only five of the six digestion reactors in the Acid Digestion Process may be operated at any one time (CR-1, CR-2, CR-3, CR-4, CR-5, CR-6).

08-313-004I: OSRAM SYLVANIA Products Inc. (Hawes Street, Towanda, PA 18848-0504) for construction of a two new 4,000 gallon chemical reaction tanks which are to be controlled by an existing air cleaning device (a packed bed scrubber) at their facility in North Towanda Township, **Bradford County**.

The Department's review of the information submitted by OSRAM indicates that the sources constructed will comply with all applicable air quality requirements pertaining to air contamination sources and the emission of air contaminants, including the fugitive air contaminant emission requirement of 25 Pa. Code § 123.1, the applicable particulate matter and sulfur oxide emission limitations of 25 Pa. Code §§ 123.13 and 123.21, the visible emission limitation of § 123.41, and the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12.

Based upon this finding, the Department proposes to issue plan approval for the construction of the thermal spray system. 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 two 4,000 gallon reaction tanks shall be controlled by a Ceilcote model VCP-100 packed bed scrubber.
2. The Ceilcote packed bed scrubber shall use a 10—12% sodium hydroxide scrubbing solution.
3. The scrubber solution recirculation rate shall be at least 80 gallons per minute.
4. The scrubber shall be equipped with a continuous flow monitor.
5. The permittee shall sample the scrubbing solution at least once per shift.
6. The scrubber shall be equipped with instrumentation to monitor the pressure drop across the collector on a continuous basis.

41-318-048: Keystone Leather Distributors, LLC (2925 West Fourth Street, Williamsport, PA 17701) for construction of their leather shoe sole waterproofing operation at 2100 Reach Road in the City of Williamsport, **Lycoming County**.

The proposed shoe sole waterproofing operation will consist of several small dip tanks and a roll coater in which shoe soles will be treated with various VOC containing waterproofing materials. The resultant VOC emissions are not expected to exceed 8.7 tons per year.

The Department of Environmental Protection's (Department) review of the information submitted by Keystone

Leather Distributors, LLC indicates that the proposed shoe sole waterproofing operation will comply with all applicable Air Quality requirements pertaining to air contamination sources and the emission of air contaminants including the best available technology requirements of 25 Pa. Code §§ 127.1 and 127.12. Based on this finding, the Department proposes to issue plan approval for the construction of the shoe sole waterproofing operation.

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 VOC emissions shall not exceed 8.7 tons in any 12 consecutive month period.

2. The VOC content of the materials used to waterproof shoe soles shall not exceed 3.5 pounds per gallon except that 118 gallons of material with a VOC content of up to 4.79 pounds per gallon may be used in any 12 consecutive month period and up to another 824 gallons of material with a VOC content of up to 5.3 pounds per gallon may be used in any 12 consecutive month period. None of these materials may contain any volatile hazardous air pollutants.

3. The vapor pressure of the VOC contained in the waterproofing materials shall not exceed 4.0 millimeters of mercury at 20C.

4. All dip tanks containing waterproofing materials shall be covered except when in actual use, and only the two prime coat tanks shall be heated. Additionally, the larger of the two prime coat dip tanks shall not be heated to a temperature in excess of 100°F and the smaller of the two shall not be heated to a temperature in excess of 180°F.

5. Whenever shoe soles are removed from the waterproofing material in one of the dip tanks, they shall be positioned over the respective tank until all dripping of liquid has ceased before they are moved elsewhere.

6. The VOC containing waterproofing materials shall be used as received from the vendor or manufacturer; no thinner, reducer or other additives shall be added to any of these materials.

7. The VOC content of any material used for cleanup purposes shall not exceed 7.7 pounds per gallon. Additionally, no more than 10 gallons of such material shall be used in any 12 consecutive month period.

8. Should waterproofing materials with a lower VOC emission potential become available, and if they are feasible for use in the respective waterproofing operation, they shall be placed into use.

9. Appropriate records shall be maintained to demonstrate compliance with the limitations and requirements established herein. All such records shall be retained for at least 5 years and shall be made available to the Department upon request.

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

43-336A: Pennsylvania Rail Car Co., Inc. (33 Carbaugh Street, West Middlesex, PA 16159) for construction of a flow coat line at their facility in the Borough of West Middlesex, **Mercer County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the PA Department of Environmental Protection (Department) intends to issue a plan approval for post construction of a flow coat line at their facility in the Borough of West Middlesex, Mercer County. This plan approval will be incorporated into a State Only operating permit at a later date. Issuance of the plan approval is recommended with the appropriate conditions in the plan approval:

1. The source defined in the Plan Approval shall comply with 25 Pa Code §§ 123.1, 123.31 and 123.41 for fugitive, odor and visible emissions, respectively.

2. The source shall use coatings that are compliant with 25 Pa Code § 129.52, Table 1 (10)(e) for the category "air dried," miscellaneous metal parts and products, only.

3. Proposed changes in coatings and formulations shall be indicated to the Department for review at least 2 weeks prior to implementation.

4. Records of coating usage shall be maintained in accordance with 25 Pa Code § 129.52(c). Daily records shall be maintained of coating usage, gallons of diluents used and density of diluents used. The records shall be maintained for a period of 5 years, and shall be made available to the Department upon request.

5. Issuance of an Operating Permit is contingent upon satisfactory compliance with conditions above, upon the source being operated as stated within the application, and upon satisfactory demonstration that the emissions from the source will not be in violation of applicable Rules and Regulations of the Department.

10-235A: Sunshine Greenhouse, Inc. (915 Ekastown Road, Saxonburg, PA 16056) for reactivation of a 5.7 MMBtu/hr bituminous coal fired boiler in Clinton Township, **Butler 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 (pertaining to plan approval terms and conditions) and will demonstrate Best Available Technology for the source:

- The source shall comply with 25 Pa Code §§ 123.1, 123.31 and 123.41.

- The source shall comply with 25 Pa. Code §§ 123.11 and 123.22.

- The maximum sulfur content of the coal shall not exceed 3.34% by weight.

- The source shall be stack tested for PM and SO_x compliance.

- The permittee shall maintain records of the fuel supplier certifications and the coal feed rate.

37-013F: Cemex Wampum Cement Plant (2001 Portland Park Wampum PA 16157) for construction of slag feeding equipment System B in Wayne Township, **Lawrence County**. This is a Title V Facility. The public notice is required for sources required to obtain a Plan Approval at Title V facilities in accordance with 25 Pa. Code § 127.44. 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.

The permit contains the Federal NESHAPS requirements for Portland Cement Manufacturing Industry pertaining to the fugitive emissions. The opacity from the conveyor transfer points is limited to 10%. The EPA Method 9 testing requirements are contained in the permit. Daily inspections using EPA Method 22 to detect the presence of fugitive emissions are required. The facility is required to modify their Startup-Shutdown-Malfunction Plan to include the new sources. The heat input to the kilns is limited to 195 MMBtu/hr. The PM-10 emissions from this source are approximately 0.5 TPY. The Plan Approval and Operating Permit will contain additional record keeping and operating restrictions designed to keep the facility operating within all applicable air quality requirements.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104, Edward Braun, Chief, (215) 823-7584.

AMS 04233: EcoTechnology, Inc. (717 South Columbus Blvd., Suite 1505, Philadelphia, PA 19147) for installation of a gasifier in their existing sewage sludge drying plant in Philadelphia, **Philadelphia County**. Their NOx emissions will increase by 20.5 tons and VOC emissions will increase by 0.3 ton per year. 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 (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter G.

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

06-05085: New Morgan Landfill Co., Inc. (P. O. Box 128, Morgantown, PA 19543) for operation of a municipal solid waste landfill controlled by a gas collection system and two enclosed ground flares in the Borough of New Morgan, **Berks County**. The landfill is subject to 40 CFR Part 60, Subpart WWW, Standards of Performance for New Stationary Sources and Part 63, Subpart AAAA, National Emission Standards for Hazardous Air Pollutants from Municipal Solid Waste Landfills. This action is a renewal of the Title V Operating Permit issued in 2000.

36-05029: High Steel Structures, Inc. (1853 William Penn Way, Lancaster PA 17605-0008) in East Lampeter Township, **Lancaster County**. The facility is a fabricated structural steel manufacturer. This is a renewal of the Title V operating permit issued in November 1999.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

25-00920: Waste Management PA—Lake View Landfill (851 Robinson Road E, Erie, PA 16509) for renewal of their Title V Operating Permit in Erie City, **Erie County**. The initial permit was originally issued on September 15, 1999. Lake View Landfill owns Landfill, Leachate Storage System and IC Engines/Generator. The facility has the potential to emit NOx and VOC below the major emission thresholds. No sources at the facility are subject to Compliance Assurance Monitoring under 40 CFR Part 64. The proposed Title V operating permit contains all applicable regulatory requirements including monitoring, recordkeeping and reporting conditions.

Intent to Issue Operating Permits under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127, Subchapter F.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19428, Edward Jurdon Brown, Facilities Permitting Chief, (484) 250-5920.

46-00245: Neptune Chemical Pump Co., Inc. (215 Keystone Dr., Montgomeryville, PA 18936) for operation of their facility in Lansdale, Montgomery Township, **Montgomery County**. The permit is for a non-Title V (State only) facility. The facility's primary emission sources are two Spray Paint Booths and a Pressurized Drum. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

09-00018: Moore Wallace North American, Inc. (100 American Drive Quakertown, PA 18592) for operation of a printing facility in Richland Township, **Bucks County**. The permit is for a non-Title V (State only) facility. The major sources of air emissions are ten lithographic printing presses, two UV cure printing presses and two boilers. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

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

06-03048: Fusion Coatings, Inc. (P.O. Box 224, Robesonia, PA 19551) for operation of a small metal parts specialty finishing facility in Heidelberg Township, **Berks County**. The facility is not subject to Title V (state only operating permit). The facility has a potential to emit 5 TPY of particulate and 7 TPY of VOCs. The permit will include monitoring, recordkeeping, work practices and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

06-03118: UGI Utilities, Inc. (225 Morgantown Road, Reading, PA 19612-3009) for operation of an emergency generator in the City of Reading, **Berks County**. The generator has an operating limit of 500 hours per year. The permit will include monitoring, work practices, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

22-05050: Waste Management, Inc.—Dauphin Meadows Landfill (4300 Industrial Park Road, Camp Hill, PA 17011) for a State-only operating permit to incorporate renewal of the Landfill's source only operating permit number 22-322-001A, at Washington Township, **Dauphin County**. The emissions from the source

are controlled by an enclosed ground flare. The source primarily emits VOCs, and it has a potential to emit approximately 26 tons of VOC annually. The operating permit will contain monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

67-03046: Cycle Chem, Inc. (550 Industrial Drive, Lewisberry, PA 17339) for operation of its hazardous and residual waste treatment, storage and transfer facility in Fairview Township, **York County**. The facility has the following annual potential emissions: 3 tons VOC and 1 ton aggregate hazardous air pollutants. The State-only operating permit will include emission restrictions, work practice standards, and testing, monitoring, recordkeeping, and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

17-00022: Walker Lumber, Inc. (P. O. Box 60, Woodland, PA 16881) for operation of their sawmill facility in Bradford Township, **Clearfield County**.

The sawmill facility incorporates various pieces of sawmill equipment (band saws, debarker, edger, etc.) as well as four lumber drying kilns and a wood-fired boiler. The air contaminant emissions from the facility are not expected to exceed 2.89 tons of nitrogen oxides, 7.88 tons of carbon monoxide, .33 ton of sulfur oxides, 4.60 tons of particulate matter, 1.10 tons of VOCs and .43 ton of hazardous air pollutants per year.

The respective facility is not a major (Title V) facility for any air contaminant.

The Department of Environmental Protection (Department) proposes to incorporate into the operating permit to be issued for this facility all conditions contained in existing Operating Permit 17-302-013. These conditions include a condition restricting the fuel to be fired in the wood-fired boiler to green and kiln-dried wood waste.

The Department also proposes to establish some new requirements pertaining to record keeping. These conditions include a requirement that records be maintained of the number of board feet of lumber processed through the lumber drying kilns each month and a requirement that records be maintained of the amount of board end sealant and board labeling material used each month.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Eric Gustafson Facilities Permitting Chief, (814) 332-6940.

33-00151: Oak Heritage Furniture—Brockway Borough (11 Industrial Park Drive, Brockway, PA 15824) for issuance of a Natural Minor Operating Permit to operate the Furniture/3 Spray Booth Plant in Brockway Borough, **Jefferson County**.

10-00304: JSP International—Summit Township (150 East Brook Lane, Butler, PA 16002) for issuance of a Natural Minor Operating Permit to operate the three 12.5 MMBtu/hr rated heat input Combustion Units in Summit Township, **Butler County**.

10-00340: Eagle Printing Company, Inc. (114 West Diamond Street, Butler, PA 16001) for a Natural Minor Permit to operate a web offset lithography printing press in the City of Butler, **Butler County**.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.31); 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 Act (52 P. S. §§ 30.51—30.66); the Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to such applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of the application is available for inspection at the District Mining Office indicated above each 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 such certification.

Written comments or objections, or requests for informal conferences on applications, may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the same address within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper advertisement, as provided by 25 Pa. Code §§ 77.121—123 and 86.31—34 (relating to public notices of filing of permit applications, opportunity for comment, and informal conferences).

Where any of the mining activities listed below will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. Such NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition to the above, 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 which have requested review of the NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on those requirements.

Written comments or objections should contain the name, address and telephone number of persons submitting comments or objections; 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; application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor desires 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

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
suspended solids	35 mg/l	70 mg/l	90 mg/l
pH ¹		greater than 6.0; less than 9.0	
alkalinity greater than acidity ¹			

¹ 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: R. R. 2, Box 603-C, Greensburg, PA 15601, 724-925-5500.

63-04-02 and NPDES Permit No. PA0250619. Newgate Development Corp. (2201 Quicksilver Road, McDonald, PA 15057). Application for a Government Financed Construction Contract to remine and reclaim abandoned underground minelands, located in Robinson Township, **Washington County**, affecting 12.5 acres. Receiving streams: Robinson Run and UNT to Robinson Run, classified for the following uses: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. GFCC application received November 22, 2004.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17040110 and NPDES Permit No. PA 0243884. Myers & Supko Contracting (P. O. Box 51, Osceola Mills, PA 16666). Commencement, operation and restoration of a bituminous surface mine-auger permit in Decatur Township, **Clearfield County** affecting 126.8 acres. Receiving streams: Big Run, UNTs to Big Run, Coal Run, Moshannon Creek classified for the following uses: CWF. The first downstream potable water supply intake from the point of discharge is: none within 10 miles. Application received: November 9, 2004.

17040111 and NPDES Permit No. PA 0243892. Swisher Contracting, Inc. (P. O. Box 1223, Clearfield, PA 16830). Commencement, operation and restoration of a bituminous surface mine permit in Lawrence Township, **Clearfield County** affecting 41.8 acres. Receiving streams: UNTs to Moose Creek to the West Branch of the Susquehanna River classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is: none within 10 miles. Application received: November 3, 2004.

Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, 570-621-3118.

54040103. Summit Anthracite, Inc., (196 Vista Road, Klingertown, PA 17941), commencement, operation and restoration of an anthracite surface mine operation in

NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

Blythe and Schuylkill Townships, **Schuylkill County** affecting 793.0 acres, receiving stream: none. Application received November 18, 2004.

Noncoal Permit Applications Received

Moshannon District Mining Office: 186 Enterprise Drive, Phillipsburg, PA 16866, (814) 342-8200.

17813182 and NPDES Permit No. PA 0609692. Penn Coal Land, Inc. (P. O. Box 68, Boswell, PA 15531). Renewal of an existing bituminous surface mine permit in Decatur Township, **Clearfield County** affecting 125.8 acres. Receiving streams: UNT of Big Run, to Big Run, to Moshannon Creek, to West Branch Susquehanna River to Susquehanna River. Application received: September 9, 2004. Permit issued: November 16, 2004.

08040301 and NPDES Permit No. PA 0256102. Glenn O. Hawbaker, Inc. (1952 Waddle Road, State College, PA 16804. Commencement, operation and restoration of a large industrial minerals (sand & gravel) permit in Canton Township, **Bradford County** affecting 23.8 acres. Receiving stream: Towanda Creek classified for the following use: CWF. Application received: November 13, 2004.

FEDERAL WATER POLLUTION CONTROL ACT, SECTION 401

The following permit applications, requests for Environmental Assessment approval and requests for 401 Water Quality Certification have been received by the Department of Environmental Protection (Department). Section 401 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C.A. § 1341) requires the State to certify that the involved projects will not violate the applicable provisions of sections 301—303, 306 and 307 of the FWPCA (33 U.S.C.A. §§ 1311—1313, 1316 and 1317) as well as relevant State requirements. Persons objecting to approval of a request for certification under section 401 of the FWPCA or to the issuance of a Dam Permit, Water Obstruction and Encroachment Permit or the approval of an Environmental Assessment must submit comments, suggestions or objections within 30 days of the date of this notice, as well as questions, to the regional office noted before the application. Comments should contain the name, address and telephone number of the person commenting, identification of the certification request to which the comments or objections are addressed and a concise statement of comments, objections or suggestions including the relevant facts upon which they are based.

The Department may conduct a fact-finding hearing or an informal conference in response to comments if deemed necessary. Individuals will be notified, in writing,

of the time and place of a scheduled hearing or conference concerning the certification request to which the comment, objection or suggestion relates. Maps, drawings and other data pertinent to the certification request are available for inspection between 8 a.m. and 4 p.m. on each working day at the regional office noted before the application.

Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact the specified program. TDD users may contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

Applications received under the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27) and section 302 of the Flood Plain Management Act (32 P. S. § 679.302) and requests for certification under section 401 of the FWPCA (33 U.S.C.A. § 1341(a)).

WATER OBSTRUCTIONS AND ENCROACHMENTS

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

E22-484. East Hanover Township, 8848 Jonestown Road, R. D. 2, P. O. Box 4323, Grantville, PA 17028 in East Hanover Township, **Dauphin County**, ACOE Baltimore District.

To construct and maintain a 12-inch diameter interceptor line with a length of about 1.96 miles along the floodway and floodplain of Bow Creek (WWF), at the channels of its UNT and 0.19 acre of wetland located at a point starting from Shellsville Village and then going south to a point about 0.5 mile northwest of Early's Mill Road (T-431) and SR 743 intersection (Hershey, PA Quadrangle N: 21.5 inches; W: 5.15 inches and N: 17.8 inches; W: 2.65 inches respectively) in East Hanover Township, Dauphin County.

E22-486. Joan E. Bretz, 4081 Greystone Drive, Harrisburg, PA 17112 in West Hanover Township, **Dauphin County**, ACOE Baltimore District

To fill in 0.15 acre of wetland and to construct and maintain outfall pipes and related improvements at the channel and banks of an UNT to Manada Creek (WWF) in order to construct Clover Hill Business Park located on the southeast side of the PA 39 and U.S. 22 intersection (Hershey, PA Quadrangle N: 16.3 inches; W: 11.68 inches) in West Hanover Township, Dauphin County. The applicant is required to provide 0.15 acre of replacement wetland.

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

E65-861. Penneco Oil Company, Inc., P. O. Box 300, 200 U. S. Route 22, Delmont, PA 15626. Construct a box culvert in the Municipality of Murrysville, **Westmoreland County**, Pittsburgh ACOE District. (Murrysville, PA Quadrangle N: 16.09 inches; W: 1.24 inches and Latitude: 40° 27' 49"—Longitude: 79° 38' 02"). The applicant proposes to construct and maintain a box culvert having an opening of 8 feet wide x 5 feet high (invert depressed 1 foot with baffles) in Haymakers Run (HQ-CWF) to gain access to a gas well.

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

E33-224. Jefferson County Commissioners, Jefferson Place, 155 Main Street, Brookville, PA 15825. Jefferson County Bridge No. 17, T-464 Over Little Mill Creek, in Pine Creek Township, **Jefferson County**, ACOE Pittsburgh District (Brookville, PA Quadrangle N: 6.8 inches; W: 4.7 inches).

To 1.) demolish and remove from the floodway/plain the existing concrete arch bridge having a single clear span of 38'-2" an under clearance of 7'-11", a clear roadway width of 14'-5" and a skew of 90° and 2.) to construct and maintain a reinforced concrete box beam bridge having an approximate clear span of 46'-9" an under clearance of 8'-0", a clear roadway width of 28'-0" and a skew of 75° and 3.) to construct a temporary road crossing and 4.) fill a deminimus 0.027 acre of PSS wetlands at a point approximately 1.25 miles north of SR 0322 on T-464 (Sulgar Road) over Little Mill Creek (HQ-CWF).

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 No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA-0020915-A1	Pine Grove Joint Treatment Authority 6 Longstretch Road P. O. Box 426 Pine Grove, PA 17963	Schuylkill County Pine Grove Township	Swatara Creek (7D)	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0088048 (Sewage)	Borough of New Morgan Room 3, Building D, Grace Boulevard Morgantown, PA 19543	Berks County New Morgan Borough	Conestoga River/7-J	Y
PA0020893 (Sewage)	Manheim Borough 15 East High Street Manheim, PA 17545	Lancaster County Manheim Borough	Chickies Creek/7-G	Y
PA0247227 (Sewage)	Dublin Township Supervisors 29195 Green Cove Road Fort Littleton, PA 17223	Fulton County Dublin Township	South Branch Little Aughwick Creek/12-C	Y
PA0038130 (Sewage)	Mont Alto Municipal Authority P. O. Box 427 Mont Alto, PA 17237-0427	Franklin County Quincy Township	West Branch Antietam Creek/13-C	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0114286 Sewerage	New Albany Borough P. O. Box 67 New Albany, PA 18833-0067	New Albany Borough, Bradford County	South Branch Towanda Creek 4-C	Y
PA0010651 IW	GKN Sinter Metals 15420 Route 120, Box 493 Emporium, PA 15834-9797	Shippen Twp. Cameron County	Portage Creek 8-A	Y
PA0100617 IW	GKN Sinter Metals 15420 Route 120, Box 493 Emporium, PA 15834-9797	Emporium Borough Cameron County	West Creek 8-A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N</i>
PA0090328	Green Valley Packing, Inc. 2992 Green Valley Road Claysville, PA 15323	Washington County Buffalo Township	UNT to Buffalo Creek	Y
PA0092380	Warek Manufacturing Company, Inc. P. O. Box 70 Main Street Whitney, PA 15693	Westmoreland County Unity Township	UNT of Nine Mile Run	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name & Address</i>	<i>County & Municipality</i>	<i>Stream Name (Watershed No.)</i>	<i>EPA Waived Y/N ?</i>
PA0104043	Grandview Acres Mobile Home Park 3104 Hadley Road Hadley, PA 16130	Perry Township Mercer County	Unnamed Tributary to Little Shenango River 20-A	Y
PA0101851	Sisters of the Humility of Mary-Villa Maria Community Center 225 Villa Maria Road Villa Maria, PA 16155-0906	Pulaski Township Lawrence County	Unnamed Tributary to Coffee Run 20-B	Y
PA0000329	Pennsylvania American Water-Ellwood Wastewater Treatment Facility 800 West Hersheypark Drive Hershey, PA 17033	Wayne Township Lawrence County	Slippery Rock Creek 20-C	Y
PA000736	Keystone Powdered Metal Company 251 State Street St. Marys, PA 15857	City of St. Marys Elk County	Iron Run and Elk Creek 17-A	Y

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

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

NPDES Permit No. PA0053201, Sewage, **RoyAnn Diner, Inc.** 1318 Route 309, Sellersville, PA 18960. This proposed facility is located in West Rockhill Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage into Three Mile Run in Watershed 2D.

NPDES Permit No. PA0050075, Sewage, **Little Washington Wastewater Company**, 762 West Lancaster Avenue, Bryn Mawr, PA 19010. This proposed facility is located in Willistown Township, **Chester County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage from Willistown Woods STP to an unnamed tributary to Hunters Run in Watershed 3G.

NPDES Permit No. PA0057801, Sewage, **J. Brad Bennington**, 520 Ridge Valley Road, Sellersville, PA 18960. This proposed facility is located in West Rockhill Township, **Bucks County**.

Description of Proposed Action/Activity: Approval for the renewal to discharge treated sewage into an unnamed pond tributary to Ridge Valley Creek in Watershed 3E.

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

PA# 0228877 SIC 4952 **David Ryman**, 15 Stony Brook Road, Orangeville, PA 17859. This proposed action is for a new NPDES permit for discharge of treated sewage to Stony Brook in Orange Township, **Columbia County**.

The receiving stream is in the Fishing Watershed (5-C) and is classified for the following uses: EVF and aquatic life, water supply and recreation.

For the purpose of evaluating effluent requirements for TDS, NO₂-NO₃, fluoride and phenolics, the downstream potable water supply (PWS) considered during the evaluation is United Water PA Bloomsburg located approximately 1.1 miles below the discharge on Fishing Creek.

Outfall 001:

The proposed effluent limits, based on a design flow of 0.0004 mgd, are:

<i>Parameter</i>	<i>Average Monthly (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
C-BOD ₅	10	20
Suspended Solids	10	20
Free Chlorine Residual	Monitor	
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	200/100 ml as a geometric average	
pH	6.0—9.0 SU at all times.	

The EPA waiver is in effect.

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

NPDES Permit No. PA0002976, Industrial Waste, **Zippo Manufacturing Company**, 33 Barbour Street, Bradford, PA 16701-2906. This proposed facility is located in City of Bradford, **McKean County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to East Branch Tunungwant Creek in Watershed 16-C.

NPDES Permit No. PA0024571, Sewage, **Cranberry Township**, Brush Creek Water Pollution Control Plant, Suite 400, 2525 Rochester Road, Cranberry, PA 16066-6499. This proposed facility is located in Cranberry Township, **Butler County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Brush Creek and an Unnamed Tributary to Brush Creek in Watershed 20-C.

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

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

WQM Permit No. 2903401, Sewerage, **Dublin Township Supervisors**, 29195 Green Cove Road, Fort Littleton, PA 17223. This proposed facility is located in Dublin Township, **Fulton County**.

Description of Proposed Action/Activity: Construction/Operation of a sewer system to serve the Burnt Cabins Area.

WQM Permit No. 3604415, Sewerage, **Suburban Lancaster Sewer Authority**, P. O. Box 458, Lancaster, PA 17608-0458. This proposed facility is located in West Lampeter Township, **Lancaster County**.

Description of Proposed Action/Activity: Construction/Operation of the Silver Lane Pump Station.

WQM Permit No. 2104405, Sewerage, **Shippensburg Sewer Authority**, 111 North Fayette Street, P. O. Box 129, Shippensburg, PA 17259. This proposed facility is located in Shippensburg Borough, **Cumberland County**.

Description of Proposed Action/Activity: Construction/Operation of Sewage Treatment Plant BNR conversion.

WQM Permit No. 2877402, Amendment (04-1), Sewerage, **Antrim Township Municipal Authority**, 10655 Antrim Church Road, Greencastle, PA 17225. This proposed facility is located in Antrim Township, **Franklin County**.

Description of Proposed Action/Activity: Modifications/Upgrade to Pump Station No. 10.

WQM Permit No. 0604203, Industrial Waste, **Sunsweet Growers, Inc.**, 105 South Buttonwood Street, Fleetwood, PA 19522. This proposed facility is located in Fleetwood Borough, **Berks County**.

Description of Proposed Action/Activity: Replacement of their residual waste impoundment liner.

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

WQM Permit No. 1904401, Sewerage 4952, **David Ryman**, 15 Stony Brook Road, Orangeville, PA 17859. This proposed facility is located in Orange Township, **Columbia County**.

Description of Proposed Action/Activity: Construction of small flow sewage treatment system.

WQM Permit No. 1499202-A1, Industrial Waste, **Centre County Solid Waste Authority**, 253 Transfer Road, Bellefonte, PA 16823. This existing facility is located in College Township, **Centre County**.

Description of Proposed Action/Activity: Applicant is granted a Water Quality Management Part II amendment for changes to an existing stormwater conveyance and detention facility. Project will consist of the removal of one stormwater inlet and the relocation of another, along with the relocation of a storm culvert in the vicinity of a drop-off area.

WQM Permit No. 1800404-A1, Sewerage Public SIC 4952, **Pine Creek Municipal Authority**, P. O. Box 608, Avis, PA17721. This proposed facility is located in Pine Creek Township, **Clinton County**.

Description of Proposed Action/Activity: Construction of 850 ft. 8-in. PVC gravity collection line, a submersible pump station, and 560 ft. of 1 1/2 in. PVC force main to serve the proposed Pine Mountain Subdivision.

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

WQM Permit No. 6304409, Sewerage, **Tim Zyra**, 150 Lanik Road, Bentleyville, PA 15314. This proposed facility is located in Somerset Township, **Washington County**.

Description of Proposed Action/Activity: Construction of a single residence sewage treatment plant to serve the Zyra residence.

WQM Permit No. 6572410-A2, Sewerage, **Western Westmoreland Municipal Authority**, 12441 Route 993, North Huntingdon, PA 15642. This proposed facility is located in North Huntingdon Township, **Westmoreland County**.

Description of Proposed Action/Activity: treatment plant modification to accommodate additional wet weather flow.

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

WQM Permit No. 6294407, Sewerage, **Mark H. Bergstrom**, 532 East Foster Avenue, State College, PA 16801-5722. This proposed facility is located in Farmington Township, **Warren County**.

Description of Proposed Action/Activity: Sewage discharge for a single residence.

IV. NPDES Stormwater Discharges from MS4 Permit Actions

V. NPDES Waiver Stormwater Discharges from MS4 Actions

VI. NPDES Discharges of Stormwater Associated with Construction Activities Individual Permit Actions

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI010904011	Steven Grabowski Grabowski Property 6550 Meetinghouse Road New Hope, PA 18938	Bucks	Solebury Township	Aquetong Creek (HQ)
PAI011504017	Fred Gunther Auto Collision Repair Center 399 East Market Street West Chester, PA 19380	Chester	East Whiteland Township	Unnamed Tributary Little Valley Creek (EV)
PAI011504073	Edward Thomas Builders, Inc. Morstein Rd. at King Rd. Dev. 21 Crest Avenue Malvern, PA 19355	Chester	East Whiteland Township	Ridley Creek (HQ)

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI024804031	Plainfield Township 6292 Sullivan Trail Nazareth, PA 18064	Northampton	Plainfield Township	Tributary to Little Bushkill Creek, HQ-CWF, MF - and - Tributary to Mud Run, CWF
PAI024804013	Michelman Cancelliere Iron Works, Inc. 7230 Bath Pike Bath, PA 18014	Northampton	East Allen Township	Monocacy Creek, HQ-CWF
PAI024804030	Turkey Hill Minit Markets 257 Centerville Rd. Lancaster, PA 17603-4079	Northampton	Moore Township	Bushkill Creek, HQ-CWF
PAI025203018	PA Dept. of Transportation Engineering District 4-0 P. O. Box 111 Scranton, PA 18501	Pike	Lackawaxen Township - and - Blooming Grove Township	Tributaries to Shohola Creek, HQ-CWF - and - Shohola Creek, HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI032104005	BPC Condominium Development PBC Partners, Inc. 620 N. Reading Rd. Ephrata, PA 17522	Cumberland County	Silver Spring Township	Trindle Spring Run/HQ-CWF
PAI2-0321-04-001	Mark Simpson 171 Associates 3609 Gettysburg Rd. Camp Hill, PA 17011	Cumberland	Silver Spring Township	Trindle Spring Run/CWF,HQ-CWF

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI041804003	Clinton County Economic Partnership 212 North Jay Street Lock Haven, PA 17745	Clinton	Lamar Township	Unt. Fishing Creek HQ-CWF

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

Armstrong County Conservation District: Armsdale Administration Building, Suite B2, 124 Armsdale Road, Kittanning, PA 16201 (724) 548-3425.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI050304001	Department of Transportation District 10-0 P. O. Box 429 2550 Oakland Avenue Indiana, PA 15701	Armstrong	Brady's Bend and Brady Townships and East Brady Borough	Allegheny River (WWF) and Sugar Creek (WWF)

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

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI062003002(1)	Conneaut Lake Sadsbury Elementary School Conneaut School District 219 West School Drive Linesville, PA 16424	Crawford County	Conneaut Lake Borough	UNT Conneaut Lake-HQ

Northwest Region: Oil and Gas Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481. Phone (814) 332-6860.

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>
PAI084204003	Otter Exploration, Inc. 104 College Street Hudson, OH 44236	McKean	Lafayette Township	Lewis Run and Miam Run HQ-CWF

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

The EPA Region III Administrator has waived the right to review or object to this permit action under the waiver provision 40 CFR 123.23(d).

List of NPDES and/or Other General Permit Types

PAG-1	General Permit for Discharges from Stripper Oil Well Facilities
PAG-2	General Permit for Discharges of Stormwater Associated with Construction Activities (PAR)
PAG-3	General Permit for Discharges of Stormwater from Industrial Activities
PAG-4	General Permit for Discharges from Single Residence Sewage Treatment Plants
PAG-5	General Permit for Discharges from Gasoline Contaminated Ground Water Remediation Systems
PAG-6	General Permit for Wet Weather Overflow Discharges from Combined Sewer Systems
PAG-7	General Permit for Beneficial Use of Exceptional Quality Sewage Sludge by Land Application
PAG-8	General Permit for Beneficial Use of Nonexceptional Quality Sewage Sludge by Land Application to Agricultural Land, Forest, a Public Contact Site or a Land Reclamation Site

PAG-8 (SSN)	Site Suitability Notice for Land Application under Approved PAG-8 General Permit Coverage
PAG-9	General Permit for Beneficial Use of Residential Septage by Land Application to Agricultural Land, Forest or a Land Reclamation Site
PAG-9 (SSN)	Site Suitability Notice for Land Application under Approved PAG-9 General Permit Coverage
PAG-10	General Permit for Discharge Resulting from Hydrostatic Testing of Tanks and Pipelines
PAG-11	(To Be Announced)
PAG-12	CAFOs
PAG-13	Stormwater Discharges from MS4 General

Permit Type—PAG-2

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
East Marlborough Township Chester County	PAG2001504084	Longwood Lane Development, Ltd Longwood Hilton 3 Mill Road, Suite 200 Wilmington, DE 19806	East Branch Red Clay Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
West Conshohocken Borough Montgomery County	PAG2004604184	West Conshohocken Municipal Authority P. O. Box 466, 112 Ford Street Conshohocken, PA 19428	Gulf Creek/Schuylkill River (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Horsham Township Montgomery County	PAG2004604096	Frank Pileggi Pileggi Subdivision 606 Welsh Road Horsham, PA 19044	Park Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Springfield Township Montgomery County	PAG2004604150	Federal Realty Investment Trust Flourtown Shopping Center 1626 East Jefferson Street Rockville, MD 20852	Sunnybrook Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Providence Township Montgomery County	PAG2004603128	Toll Brothers, Inc. Fogel Tract—Regency at Providence 3103 Philmont Avenue Huntingdon Valley, PA 19006	Unnamed Tributary Port Providence Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Salford Township Montgomery County	PAG2004603119	Westrum Development Corporation Proposed Westrum Development 370 Commerce Drive Fort Washington, PA 19034	Indian Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Limerick Township Montgomery County	PAG2004604005	Spring Ford Area School District K-4 Elementary School 199 Bechtel Road Collegeville, PA 19426	Lodal Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Salford Township Montgomery County	PAG2004603164	Oakwood Farms Fairway Court Development 3043 Woodlyn Avenue Eagleville, PA 19403	West Branch Skippack Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Hatfield Township Montgomery County	PAG2004604069	Central Montgomery Medical Center 100 Medical Campus Drive Lansdale, PA 19446	West Branch Neshaminy Creeke (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Norriton Township Montgomery County	PAG2004604133	Gambone Development Heatherwood Estates 1030 West Germantown Pike Fairview Village, PA 19409	Unnamed Tributary Stoney Creek (TSF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Whitpain Township Montgomery County	PAG2004604172	BT Blue Bell, LP Yarway Development 2500 Philmont Avenue Huntingdon Valley, AP 19002	Plymouth Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
City of Philadelphia Philadelphia County	PAG2015104023	Penn Park Associates Penn Village Residential Development 2 West Baltimore Pike Suite 210 Media, PA 19063	Schuylkill River (CWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
East Penn Township Carbon County	PAG2001304006	Raymond May 208 May Lane Lehighton, PA 18235	Lizard Creek, TSF	Carbon Co. Cons. Dist. (610) 377-4894
City of Allentown Lehigh County	PAG2003904027	Jewish Community Center 2201 W. Tilghman St. Allentown, PA 18104	Jordan Creek, TSF, MF	Lehigh Co. Cons. Dist. (610) 391-9583
City of Allentown Lehigh County	PAG2003904028	GVH, LP Greg Hurley 323 Union St. STE. 300 Nashville, TN 37201	Jordan Creek, TSF, MF	Lehigh Co. Cons. Dist. (610) 391-9583
Whitehall Township Lehigh County	PAG2003904034	D & L Nat'l Heritage Corridor Commission One South Third St. Easton, PA 18042	Lehigh River, TSF	Lehigh Co. Cons. Dist. (610) 391-9583
East Union Township Schuylkill County	PAG2005404033	Mericle Humboldt, LLC 100 Baltimore Dr. Wilkes-Barre, PA 18702	Catawissa Creek, CWF	Schuylkill Co. Cons. Dist. (570) 622-3742
Washington Twp. Lehigh County	PAG2003904035	David Schneck 6459 Woodbury Dr. Slatington, PA 18080	Coplay Creek, CWF	Lehigh Co. Cons. Dist. (610) 391-9583
Norwegian Twp. Schuylkill Co.	PAG2005404038R	Norwegian Woods Development Co., Inc. One Norwegian Plaza Pottsville, PA 17901	West Branch Schuylkill River, CWF	Schuylkill Co. Cons. Dist. (570) 622-3742
Lancaster County Manheim Township	PAG2003604093	Wetherburn North Partnership 1525 Oregon Pike Suite 1202 Lancaster, PA 17601	Little Conestoga Creek/Bachman Run/TSF	Lancaster CCD 1383 Arcadia Rd. Rm 6 Lancaster, PA 17601 (717) 299-5361
Lancaster County Manheim Township	PAG2003604103	New Generation LLC 1525 Oregon Pike Suite 1102 Lancaster, PA 17601	Bachman Run/WWF	Lancaster CCD 1383 Arcadia Rd. Rm 6 Lancaster, PA 17601 (717) 299-5361
York County Warrington Township	PAG2006704082	Shadow Creek Harry Fox, Jr. 17 Montego Creek Dillsburg, PA 17019	Beaver Creek/WWF	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
York County Fairview Township	PAG2006704076	Best Western Shantilal Patel 860 N. Front St. Wormleysburg, PA 17042	Yellow Breeches/CWF	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
York County West Manchester Township	PAG2006704062	Woodberry Pointe Henry Blevins Ryan Real Estate 4141 Ridge Road Westminster, MD 21157	UNT to Codorus Creek West Branch/WWF	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430

NOTICES

6587

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
York County Manchester Township	PAG2006704077	Rene Debrabander Dauberton Lot 124 1623 Pot Spring Road Timonium, MD 21093	UNT to Hartman Run/WWF	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
York County Lower Windsor Township	PAG2006704111	Dick Hickman Long Level Marina 1809 Long Level Road Wrightsville, PA 17368	Susquehanna River/WWF	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
York County Yoe Borough	PAG2006704107	John D. Adams, Jr. 85 New Comer Road Windsor, PA 17366	Mill Creek/WWF	York CCD 118 Pleasant Acres Road York, PA 17402 (717) 840-7430
Berks County South Heidelberg Township	PAG2000604099	Anthony Corcetto Corecetto Tract 3 Skywind Drive Reinholds, PA 17569	Little Cocalico Creek/TSF	Berks CCD 1238 County Welfare Tract Road Leesport, PA 19533 (610) 372-4657 ext 209
Berks County Maxatawny Township	PAG2000604109	Robert Ciccone Arrowhead Industrial Park P. O. Box 86 Bath, PA 18014	Sacony Creek/TSF	Berks CCD 1238 County Welfare Tract Road Leesport, PA 19533 (610) 372-4657 ext 209
Dauphin County Swatara Township	PAG2002204060	Triple Crown Corporation 5351 Jaycee Avenue Harrisburg, PA 17112	Spring Creek/WWF	Dauphin CCD Peters Mountain Rd. Dauphin, PA 17018 (717) 921-8100
Dauphin County Lower Paxton Township	PAG2002204066	Sierra Glen Developers California Avenue Harrisburg, PA 17109	Beaver Creek/WWF	Dauphin CCD Peters Mountain Rd. Dauphin, PA 17018 (717) 921-8100
Dauphin County City of Harrisburg	PAG2022204067	Struever Rouse Homes of Capital Heights, LP Joy Building at Tide Point 1040 Hull Street Baltimore, MD 21230	Susquehanna River/WWF	Dauphin CCD Peters Mountain Rd. Dauphin, PA 17018 (717) 921-8100
Dauphin County East Hanover Township	PAG202204068	Aquillas and Barbara Peachy P. O. Box 64 Elliottsburg, PA 17024	Manada Creek/CWF	Dauphin CCD Peters Mountain Rd. Dauphin, PA 17018 (717) 921-8100
Beaver County Center Township	PAG2000404020	Carl Griffith P. O. Box 1101 Moon Township, PA 15108	Unnamed Tributary to Moon Run (WWF)	Beaver County CD (724) 774-7090
Washington County Mount Pleasant Township	PAG2006304031	James White 210 Main Street P. O. Box 57 Hickory, PA 15340	Burgetts Fork (WWF)	Washington County CD (724) 228-6774
Elk Conservation District St. Marys Township	PAG2002404007	St. Marys Area Airport Authority 119 Airport Road St. Marys PA 15857	Hellfire Run-CWF	Elk County (814) 776-5373
Venango Conservation District Sugarcreek Borough	PAG2006104009	Sugarcreek Borough 212 Fox Street Franklin PA 16323	UNT to Allegheny River, UNT to Patchel Run West Branch Two Mile Run	Venango County (814) 676-2832

General Permit Type—PAG-3

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Cameron County Lumber Township	PAR224851	Wennin Pallet P. O. Box 106 Emporium, PA 15834	Driftwood Branch Sinnemahoning Creek (TSF)	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3664
Bradford Township Clearfield County	PAR804842	Con-Way Central Express—XLF 1192 Shawville Highway Woodland, PA 16881	Valley Fork Run CWF	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3664
Athens Township, Bradford County	PAR224842	Mill's Pride Pennsylvania 100 Lamoka Road Sayre, PA 18840	Unnamed Tributary To Chemung River WWF	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3664
Wyalusing Township, Bradford County	PAR124808	Taylor Packing Co., Inc. P. O. Box 188 Wyalusing, PA 18853	Wyalusing Creek and Brewer Creek WWF	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3664

General Permit Type—PAG-4

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Upper Hanover Township Montgomery County	PAG040016	Steven M and Joann M. Glueck 1034 Palm Hill Road Palm, PA 18070	UNT to Perkiomen Creek	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Bridgeton Township Bucks County	PAG040007	Thomas J. Martin 1458 Lonely Cottage Road Upper Black Eddy, PA 18972	UNT to Delaware River	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Springfield Township Bucks County	PAG040008	Robert G. Fitton 3260 Mink Road Kintnersville, PA 18930	UNT to Haycock Creek	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Hilltown Township Buck County	PAG040014	Steven and Linda Ziegler 2020 Broad Street Perkasie, PA 18944	UNT to Deep Run	Southeast Regional Office 2 East Main Street Norristown, PA 19401
Blair County Juniata Township	PAG043721	Gary and Christine Stillwell 901 Poplar Run Road Duncansville, PA 16635	UNT Dry Run/WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

NOTICES

6589

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Westmoreland County Mt Pleasant Township	PAG046194	George M Tetteris RD 4, Box 1751 Mt. Pleasant, PA 15666	UNT of Brush Run	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000
Westmoreland County Ligonier Township	PAG046207	Van Ashbrook 241 Mill Road Ligonier, PA 15658-2653	Mill Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000
Washington County Somerset Township	PAG046294	Tim Zyra 1510 Lanik Road Bentleyville, PA 15314	UNT of North Branch Pigeon Creek	Southwest Regional Office: Water Management Program Manager 400 Waterfront Drive Pittsburgh PA 15222-4745 (412) 442-4000
Farmington Township, Warren County	PAG048301	Mark H Bergstrom 532 East Foster Avenue State College, PA 16801-5722	Unnamed Tributary to Kiantone Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Horton Township, Elk County	PAG048328	Raymond L. Romain R. R. 1, Box 295-0 Whetstone Road Brockport, PA 15823	Whetstone Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Delaware Township, Mercer County	PAG048356	Norman W. Eddy 4 Kremis Road Greenville, PA 16125-8422	Lawango Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
Columbus Township, Warren County	PAG048320	Steven J. Brundage R. R. 1, Box 24 Center Road Columbus, PA 16405	Unnamed Tributary to Coffee Creek	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
West Salem Township, Mercer County	PAG048644	James D. Gainor 43 Lininger Road Greenville, PA 16125	Unnamed Tributary to Big Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942
West Salem Township, Mercer County	PAG048649	Gale L. Klingler 523 Orangeville Road Greenville, PA 16125	Unnamed Tributary to Big Run	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
South Pymatuning Township, Mercer County	PAG049010	Christina M. Babnis 3041 North Hermitage Road Sharpsville, PA 16152	Unnamed Tributary to the Shenango River	DEP—NWRO Water Management 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6942

General Permit Type—PAG-5

<i>Facility Location: Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
East Norriton Township, Montgomery County	PAG050012	BP Amoco Corporation 1 West Pennsylvania Avenue Suite 915 Towson, MD 21204-5031	UNT Stony Creek TSF	Southeast Regional Office 2 East Main Street Norristown, PA 19401

General Permit Type—PAG-12

<i>Facility Location & Municipality</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Adams Township, Snyder County	PAG124807-A1	Hamilton Farm LLC 10049 Ferguson Valley Rd. Lewistown, PA 17044	N. Branch Middle Creek, Trout Stocking Fishery (TSF)	Northcentral Regional Office Water Management Program 208 West Third Street, Suite 101 Williamsport, PA 17701 (570) 327-3666

General Permit Type—PAG-13

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>DEP Protocol (Y/N)</i>
PAG133655	West Manchester Township 380 East Berlin Rd. York, PA 17404	York	West Manchester Township	Codus Creek/WWF Honey Run/WWF Little Conewago Creek/TSF	Y
PAG133557	Fairview Township 599 Lewisberry Rd New Cumberland, PA 17070-2399	York	Fairview Township	Fishing Creek/TSF Marsh Run/WWF Yellow Breeches Creek/CWF Susquehanna River/WWF	Y
PAG133671	Jackson Township 439 Roth's Church Rd. Spring Grove, PA 17362	York	Jackson Township	Little Conewago Creek/TSF Codorus Creek/WWF Bunch Creek/WWF	Y
PAG133657	Yoe Borough 150 N. Maple St. York, PA 17313	York	Yoe Borough	Mill Creek/WWF	Y
PAG133654	Hallam Borough 250 W. Beaver St. Hallam, PA 17406	York	Hallam Borough	Kruetz Creek/WWF	Y

NOTICES

6591

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>DEP Protocol (Y/N)</i>
PAG133601	East Manchester Township 5080 N. Sherman St. Ext. Mount Wolf, PA 17347	York	East Manchester Township	Codorus Creek-Main Branch/WWF Conewago Creek/WWF Musser Run/WWF Little Conewago Creek/TSF Hartman Run/WWF Susquehanna River/WWF	Y
PAG133626	Lower Windsor Township 111 Walnut Valley Ct. Wrightsville, PA 17368	York	Lower Windsor Township	Cabin Creek/WWF Susquehanna River/WWF Fishing Creek/WWF Kreutz Creek/WWF	Y
PAG133649	West York Borough 1700 W. Philadelphia St. York, PA 17404	York	West York Borough	Codorus Creek/WWF	Y
PAG133672	York Haven Borough Two N. Pennsylvania Ave. P. O. Box 169 York Haven, PA 17370	York	York Haven Borough	Conewago Creek/WWF Susquehanna Trail/WWF	Y
PAG133605	Penn State York The Commonwealth College 1031 Edgecomb Ave. York, PA 17403	York	Spring Garden Township	Unn Trib to Codorus Creek/WWF	N
PAG133653	Yorkana Borough 36 Main St. Yorkana, PA 17402	York	Yorkana Borough	Trib to Cabin Creek/WWF	Y
PAG133606	The Hershey Medical Center 600 Centerview Dr. Mail Code A330 Hershey, PA 17033	Dauphin	Derry Township	Unn Trib to Swatara Creek/WWF	N
PAG133685	Wrightsville Borough 129 S. Second St. Wrightsville, PA 17368	York	Wrightsville Borough	Kreutz Creek/WWF Susquehanna River/WWF	Y
PAG133676	Dallastown Borough 175 E. Broad St. Dallastown, PA 17313	York	Dallastown Borough	Mill Creek/WWF Barshinger Creek/WWF Inners Creek/WWF	Y
PAG133675	Mount Wolf Borough P. O. Box 458 Mount Wolf, PA 17347	York	Mount Wolf Borough	Hartman Run/WWF	Y
PAG133669	Loganville Borough P. O. Box 88 Loganville, PA 17342	York	Loganville Borough	S. Branch Codorus Creek/WWF Fishel Creek/WWF East Barshinger Creek/WWF	Y
PAG133673	Windsor Borough P. O. Box 190 Windsor, PA 17366	York	Windsor Borough	Fishing Creek/TSF	Y
PAG133670	Windsor Township 1480 Windsor Rd. P. O. Box 458 Red Lion, PA 17356	York	Windsor Township	Cabin Creek/WWF Kreutz Creek/WWF Fishing Creek/TSF	Y

<i>NPDES Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Receiving Water/Use</i>	<i>DEP Protocol (Y/N)</i>
PAG133674	Manchester Township 3200 Farmtrail Rd. York, PA 17402	York	Manchester Township	Hartman Run/WWF Codorus Creek/WWF Little Conewago Creek/TSF	Y
PAG133556	Hummelstown Borough 136 S. Hanover St. P. O. Box 307 Hummelstown, PA 17036	Dauphin	Hummelstown Borough	Swatara Creek/WWF	Y

PUBLIC WATER SUPPLY (PWS) PERMITS

The Department of Environmental Protection has taken the following actions on applications received under the Pennsylvania Safe Drinking Water Act (35 P. S. §§ 721.1—721.17) for the construction, substantial modification or operation of a public water system.

Persons aggrieved by an action may appeal, under section 4 of the Environmental Hearing Board Act (35 P. S. § 7514) and 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law), to the Environmental Hearing Board, Second Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8457, Harrisburg, PA 17105-8457, (717) 787-3483. TDD users should contact the Environmental Hearing Board (Board) through the Pennsylvania Relay Service, (800) 654-5984. Appeals must be filed with the Board within 30 days of publication of this notice in the *Pennsylvania Bulletin*, unless the appropriate statute provides a different time period. Copies of the appeal form and the Board's rules of practice and procedure may be obtained from the Board. The appeal form and the Board's rules of practice and procedure are also available in Braille or on audiotape from the Secretary of the Board at (717) 787-3483. This paragraph does not, in and of itself, create any right of appeal beyond that permitted by applicable statutes and decision law.

For individuals who wish to challenge an action, appeals must reach the Board within 30 days. A lawyer is not needed to file an appeal with the Board.

Important legal rights are at stake, however, so individuals should show this notice to a lawyer at once. Persons who cannot afford a lawyer may qualify for free pro bono representation. Call the Secretary to the Board at (717) 787-3483 for more information.

SAFE DRINKING WATER

Actions taken under the Pennsylvania Safe Drinking Water Act.

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

Operations Permit issued to: **Millersburg Area Authority**, 7220034, Upper Paxton Township, **Dauphin County** on 11/24/2004 for the operation of facilities approved under Construction Permit No. 2203502.

Operations Permit issued to: **Village at Summit Crest, LLC/Bradley Management Group Inc.**, 3060108, Maiden creek Township, **Berks County** on 11/22/2004 for the operation of facilities approved under Construction Permit No. 0603519 MA.

Permit No. 0604514 MA, Minor Amendment, Public Water Supply.

Applicant	Maidencreek Township Authority
Municipality	Maidencreek Township
County	Berks
Type of Facility	This permit approves repainting and minor repairs to the existing Treetops and Peter's Spring storage tanks. Both tanks have a capacity of 423,000 gallons. The permittee plans to repaint the interior and exterior of both tanks.
Consulting Engineer	Gregory T Unger, P. E. Systems Design Engineering, Inc. 1032 James Drive Leesport, PA 19533
Permit to Construct Issued:	10/19/2004

Operations Permit issued to: **Dillsburg Area Authority**, 7670071, Franklin Township, **York County** on 10/19/2004 for the operation of facilities approved under Construction Permit No. 6703503 MA.

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

Permit No. Minor Amendment—Operation Public Water Supply.

Applicant	Osceola Township Municipal Authority
Township or Borough	Osceola Township
County	Tioga
Responsible Official	Jon Seely Osceola Township Municipal Authority P. O. Box 115 Osceola, PA 16942
Type of Facility	Public Water Supply-Operation
Consulting Engineer	Jim Baker Larson Design Group P. O. Box 487 Williamsport, PA 17703-0487
Permit Issued Date	11-24-04
Description of Action	Operation of the two new chlorine contact tanks.

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

Operations Permit issued to: **Skyline Development, Inc.**, P. O. Box 806, Indianola, PA 15051, PWSID No. 6430074, West Salem Township, **Mercer County**, on November 22, 2004, for the operation of the water treatment system including Well No. 2 West and Well No. 2 East as sources of supply, as approved under Construction Permit No. 4399502.

Operations Permit issued to: **St. Paul Homes**, 339 East Jamestown Road, Greenville, PA 16125, PWSID No. 6430024, West Salem Township, **Mercer County**, on November 22, 2004, for the operation of Well No. 105 as a supplemental source of supply, as approved under Construction Permit No. 4304501.

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Upper Macungie Township	8330 Schantz Road, Breinigsville, PA 18031	Lehigh

Plan Description: The approved plan provides for a 253 lot residential subdivision of a 203 acre tract. This Planning Approval is for Phases 1, 2A and 3 of the project. Phase 2B will be constructed at a later date with a separate Planning Approval required for that phase. The proposed 101,200 gpd of sewage flows will be collected by Upper Macungie Township Authority, for conveyance by the Lehigh County Authority Western Lehigh Interceptor to the City of Allentown Wastewater Treatment Plant. Lehigh County Authority will provide public water to the project. The proposed development is located at Ash Lane and Butz Road, Upper Macungie Township, Lehigh County. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal. Any required NPDES Permits or WQM Permits must be obtained in the name of the municipality or authority as appropriate.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Plymouth Township	925 West Main Street, Plymouth, PA 18651	Luzerne

Plan Description: The Plan Update provides for sanitary sewer extensions to service the following Sub-areas as identified in the Plan Update:

- No. 1—West Poplar Street (West Nanticoke);
- No. 2A—Route 29 at Lamoreaux (West Nanticoke);
- No. 4—Barrow Street, East Poplar Street and Route 11;
- No. 5A—Route 11 (South between Joel Hill and Avondale Hill);
- No. 7—Johnson Greene; and,
- No. 8—Curry Hill.

The new wastewater collection and conveyance facilities for these areas will connect to the Wyoming Valley Sanitary Authority's (WVSA) existing conveyance system

for treatment at WVSA's plant located in Hanover Township. The Department's review of the sewage facilities update revision has not identified any significant environmental impacts resulting from this proposal.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Burnhauser Property, Perkasio Borough, **Bucks County**. Scott A. Alderfer, P.G., EMS Env., Inc., 4550 Bath Pike, Bethlehem, PA 18017, on behalf of Erik Burnhauser, 312 N. 5th St., Perkasio, PA 18944, has submitted a Final Report concerning remediation of site soil contaminated with no. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Vacant Property/5040 Belfield Ave., City of Philadelphia, **Philadelphia County**. Staci Nelson-Cottone,

American Resource Consultants, Inc., P. O. Box 579, Quakertown, PA 18951 on behalf of Elliot and Rose Mary Timms, 1862 Lindley St., Philadelphia, PA 19141 has submitted a Final Report concerning remediation of site soil and groundwater contaminated with petroleum. The report is intended to document remediation of the site to meet the Special Industrial Area requirements.

Gelb Residence, Plumstead Township, **Bucks County**. Natalie Hsueh and Jason Plucinski, React Env. Svc., Inc. 6901 Kingsessing Ave., Philadelphia, PA 19142 has submitted a Final Report concerning remediation of site soil contaminated with no. 2 fuel oil. The report is intended to document remediation of the site to meet the Statewide Health Standard.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Penbrook Amrican Legion Post 730, Susquehanna Township, **Dauphin County**. GeoServices, Ltd., 1525 Cedar Cliff Drive, Camp Hill, PA 17011, on behalf of Penbrook American Legion Post No. 730, 3813 Walnut Street, Harrisburg, PA 17109, submitted a Final Report concerning remediation of site soils contaminated with No. 2 fuel oil. The report is intended to document remediation of the site to the Statewide Health standard.

FCI USA, Inc., Hanover, Penn Township, **York County**. HRP Associates, Inc., 4811 Jonestown Road, Suite 235, Harrisburg, PA 17109, on behalf of FCI USA, Inc., 825 Old Trail Road, Etters, PA 17319, submitted a Final Report concerning remediation of site soils and groundwater contaminated with VOCs. The applicant is seeking to attain a combination of the Statewide Health and Site-specific standards.

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

Oil City Check (V-105), Cornplanter Township, **Venango County**. Jennifer Sedora, Remediator, PPL Services Corp. 2 North 9th St., GENTW17, Allentown PA 18101 has submitted a Final Report concerning remediation of site Soil contaminated with Mercury. The report is intended to document remediation of the site to meet the Statewide Health Standards.

Oil City Check (V-105), Cornplanter Township, **Venango County**. Jennifer Sedora, Remediator, PPL Services Corp. 2 North 9th St., GENTW17, Allentown PA 18101 has submitted a Final Report concerning remediation of site Soil contaminated with Mercury. The report is intended to document remediation of the site to meet the Statewide Health Standards.

Tippery Check (V-98), Cranberry Township, **Venango County**. Jennifer Sedora, Remediator, PPL Services Corp. 2 North 9th St., GENTW17, Allentown PA 18101 has submitted a Final Report concerning remediation of site Soil contaminated with Mercury. The report is intended to document remediation of the site to meet the Statewide Health Standards.

Kossuth Check (V-74), Richland Township, **Venango County**. Jennifer Sedora, Remediator, PPL Services Corp. 2 North 9th St., GENTW17, Allentown PA 18101 has submitted a Final Report concerning remediation of site Soil contaminated with Mercury. The report is intended to document remediation of the site to meet the Statewide Health Standards.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan, is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Recchilongo Residence, Pottstown Borough, **Montgomery County**. Jim Gould, Lewis Env. Group, P. O. Box 639, Royersford, PA 19468 has submitted a Final Report

concerning the remediation of site soil and groundwater contaminated with no. 2 fuel oil. The Final report was submitted within 90 days of the release-demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 22, 2004.

Hodge-Highland Rd. Prop., Highland Township, **Chester County**. Tom Brady, RT Env. Svc., 510 Heron Dr., Suite 306, Bridgeport, NJ 08014 on behalf of John Panizza, GenTerra, 101 Marchwood Rd., Exton, PA 19341 has submitted a Final Report concerning the remediation of site soil contaminated with inorganics arsenic. The Final report demonstrated attainment of the Background Standard and was approved by the Department on November 22, 2004.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Samuel Miller & Sons, Inc., City of Lancaster, **Lancaster County**. Lawler, Matusky & Skelly Engineers LLP, 609 Hamilton Mall, Allentown, PA 18101, on behalf of Charter Homes, Inc., 114 Foxshire Drive, Lancaster, PA 17601, submitted a Baseline Environmental Report concerning remediation of site soils and groundwater contaminated with chlorinated solvents, PAHs, Fuel Oil No. 6, lead and inorganics. The site was remediated as a Special Industrial Area. The Baseline Environmental Report was approved by the Department on November 24, 2004.

Envirotest Site, City of Lebanon, **Lebanon County**. Penn E and R, Inc., 2755 Bergey Road, Hatfield, PA 19440, on behalf of Environmental System Products, Inc., 11 Kripes Road, East Granby, CT 06026, submitted a Final Report concerning remediation of site soils and groundwater contaminated with inorganics, lead and PAHs. The report is intended to document remediation of the site to a combination of the Statewide Health and Site-Specific standards. The final report demonstrated attainment of a combination of the Statewide Health and Site-specific standards, and was approved by the Department on November 24, 2004.

Dura-Bond Pipe, LLC, formerly Bethlehem Steel Corporation, Steelton Borough, **Dauphin County**. Alliance Environmental Services, Inc., 1414 North Cameron Street, Suite B, Harrisburg, PA 17130, on behalf of Capital Region Economic Development Corporation, 3211 North Front Street, Harrisburg, PA 17110 AND Dura-Bond Pipe, LLC, 2716 South Front Street, Steelton, PA 17113, submitted a Baseline Environmental Report concerning remediation of site soils and groundwater contaminated with lead and arsenic, metals, VOCs and SVOCs. The site is being remediated as a Special Industrial Area. The Baseline Environmental Report was approved by the Department on November 24, 2004.

Northcentral Region: Environmental Cleanup Program Manager, 208 West Third Street, Williamsport, PA 17701.

Jersey Shore Steel, Pine Creek Township, **Clinton County**. Chambers Environmental, 629 East Rolling Ridge Drive, Bellefonte, PA 16823, on behalf of Jersey Shore Steel, 70 Maryland Avenue, Jersey Shore, PA 17740 has submitted a Final Report concerning soils and groundwater contaminated with waste oil. This Final Report demonstrated attainment of the Statewide Health Standard and was approved by the Department on November 23, 2004.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permit issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and 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. 301341. Svedala Industries Inc., 350 Railroad Street, Danville, PA 17821, located in Danville Borough, **Montour County**. The permit was reissued for name change from Svedala Industries to Metso Minerals Industries, Inc./Pyro Division by the Northcentral Regional Office on November 16, 2004.

Persons interested in reviewing the permit may contact David Garg, P. E., Facilities Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-3653. TDD users may contact the Department through the Pennsylvania Relay Service, (800) 654-5984.

MUNICIPAL AND RESIDUAL WASTE TRANSPORTER AUTHORIZATION

Issued applications for Municipal and Residual Waste Transporter Interim Authorization received under the Waste Transportation Safety Act of June 29, 2002, 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.

Perna Wastewater Management, 60 Schoolhouse Rd., Souderton, PA 18964. Authorization No. WH0928. Effective October 26, 2004.

J. Searles Transportation Co., Inc., Fl 2, 365 21st St., Irvington, NJ 07111. Authorization No. WH4957. Effective November 2, 2004.

Ralph Express, Inc., 2900 New York Ave., #235, Union City, NJ 07087. Authorization No. WH6275. Effective October 1, 2004.

Saltarin Trucking, Inc., 1312 Morrison Ave., Bronx, NY 10472. Authorization No. WH6399. Effective October 26, 2004.

All Waste Recycling & Container Services, 1626 S. Commerce St., Paulsboro, NJ 08066. Authorization No. WH6525. Effective September 27, 2004.

Todd Green, 324 Co. Hwy. 155, Coloversville, NY 12078. Authorization No. WH6536. Effective October 15, 2004.

Eaker Dirt Works, 119 Sycamore Dr., Shippensburg, PA 16254 Authorization No. WH6546. Effective October 5, 2004.

Scott Frank, 46888 Riffle Rd., Rogers, OH 44455. Authorization No. WH6547. Effective October 15, 2004.

T.A.K. Trucking, Apt 26, 300 Britannia Street, Meriden, CT 06450. Authorization No. WH6559. Effective September 29, 2004.

Masseys Trucking, LLC., 12916 Edgewood Ave., Richmond, VA 23222. Authorization No. WH6564. Effective September 15, 2004.

R. Bivens & Son LLC., 7 Owenwood Dr., Lincoln University, PA 19352. Authorization No. WH6567. Effective September 23, 2004.

Med Joya Transport, Inc., 155 Magazine St., Apt. 1, Newark, NJ 07105. Authorization No. WH6568. Effective September 23, 2004.

Julio Alfaro Trucking, 336 Armstrong Ave., Jersey City, NJ 07305. Authorization No. WH6569. Effective September 23, 2004.

RMZ Holdings, Inc., 1 Millennium Dr., Uniontown, PA 15401. Authorization No. WH6570. Effective September 23, 2004.

J. Hughson Excavating, Inc., P. O. Box 557, 5239 SR 52, Jeffersonville, NY 12748. Authorization No. WH6571. Effective October 5, 2004.

Donald J. Norris, 108 Williams St., Apt. 7, Clearfield, PA 16840. Authorization No. WH6572. Effective September 17, 2004.

G & G Blue Corp., Apt. 1810, 19333 Collins Ave., Sunny Isles, FL 33160-2372. Authorization No. WH6573. Effective September 23, 2004.

Malkeet Singh, Green Village Apt. 4, 100 Rt. 46 #37 Building, Budd Lake, NJ 07828. Authorization No. WH6574. Effective September 23, 2004.

Pleasant Valley Jerseys, 3926 Guilford Springs Rd., Chambersburg, PA 17201. Authorization No. WH6575. Effective September 23, 2004.

After Disaster Housing Corp., 640 W. Commodore Blvd., Jackson, NJ 08527-5434. Authorization No. WH6576. Effective September 23, 2004.

C. H. Backhoe & Dozer Service, R. R. 2 Box 59A, Dayton, PA 16222. Authorization No. WH6578. Effective September 28, 2004.

MVG Entriprise, Inc., 544 57th St., West New York, NY 07090. Authorization No. WH6579. Effective September 23, 2004.

Ryon A. Costenbader, 2328 Hemlock Dr., Lehighton, PA 18235. Authorization No. WH6580. Effective September 23, 2004.

Atkinson Roll Off Service, P. O. Box 421, Worthington, PA 16262. Authorization No. WH6581. Effective September 23, 2004.

John A. Royer, R. R. 1 Box 238G, Winfield, PA 17889. Authorization No. WH6582. Effective September 22, 2004.

Iron Mountain Records Management, P. O. Box 6, 1137 Branchton Rd., Boyers, PA 16020. Authorization No. WH6583. Effective September 23, 2004.

Petrosky Service, Inc., 2524 Drane Hwy., Osceola Mills, PA 16666. Authorization No. WH6585. Effective September 23, 2004.

Christopher M. Howells, 601 Heston Rd., Glassboro, NJ 08028. Authorization No. WH6585. Effective September 23, 2004.

Levar Construction Company, 544 Main St., Central City, PA 15926. Authorization No. WH6586. Effective September 23, 2004.

Nex-One, Inc., 29 Beach Ave., Copiague, NY 11726. Authorization No. WH6587. Effective September 23, 2004.

KY Trucking, 403 Bradford Ct., Bordentown, NJ 08505. Authorization No. WH6588. Effective September 23, 2004.

Anthony J. Cerimele, 60 E. Columbus Ave., Nesquehoning, PA 18240-1102. Authorization No. WH6589. Effective September 23, 2004.

Earl Muth, 2381 Carson Hill Rd., Dubois, PA 15801-4914. Authorization No. WH6590. Effective September 28, 2004.

J. A. Luciano & Sons Builders, P. O. Box 525, Bradford, PA 16701. Authorization No. WH6591. Effective September 28, 2004.

Ambrus Company, 239 Hope Dr., P. O. Box 27, Blandon, PA 19510-0027. Authorization No. WH6592. Effective September 28, 2004.

Ra & Rah Trucking, 311 Nichols Ave., Wilmington DE 19803-2590. Authorization No. WH6593. Effective September 28, 2004.

Stephen Champion, P. O. Box 56, 1510 Twelfth Ave., Dorothy, NJ 08317. Authorization No. WH6594. Effective September 28, 2004.

R & T Express Trucking, Inc., First Floor, 117 N. Sixteenth St., Bloomfield, NJ 07003. Authorization No. WH6595. Effective September 28, 2004.

Yannuzzi, Inc., 410 W. Mine St., Hazleton, PA 18201. Authorization No. WH6596. Effective September 28, 2004.

South Williamsport Borough, 329 W. Southern Ave., South Williamsport, PA 17701-7244. Authorization No. WH6597. Effective September 28, 2004.

Rupert Transport, 6943 Rupert Ln., Alexandria, PA 16611. Authorization No. WH6598. Effective September 28, 2004.

Erlyn Pined-Castro, 150 Washington St., 1Y, Hempstead, NY 11550. Authorization No. WH6599. Effective September 29, 2004.

CTT FT LLC., 4 Jannette St., Carteret, NJ 07008. Authorization No. WH6600. Effective September 29, 2004.

Nemeth Contracting, 1619 New York Ave., Port Vue, PA 15133. Authorization No. WH6601. Effective September 29, 2004.

John F. Harper, First Floor, 365 Twenty-first St., Irvington, NJ 07111-4403. Authorization No. WH6602. Effective September 29, 2004.

Fatzinger Auto Salvage, 1420 Lower South Main St., Bangor, PA 18013. Authorization No. WH6603. Effective September 29, 2004.

BK Transport, Inc., 102 Kendall Court, Dover, NJ 07801. Authorization No. WH6604. Effective September 29, 2004.

C. A. Elliott Lumber Co., Inc., P. O. Box 272, 200 Main St., Roulette, PA 16746. Authorization No. WH6605. Effective September 29, 2004.

Abode Realty, LP., 2463 W. Rock Rd., Allentown, PA 18103. Authorization No. WH6606. Effective September 29, 2004.

Cupid Trucking, Inc., 28A Cooper Place, Weehawken, NJ 07087. Authorization No. WH6607. Effective September 29, 2004.

The Enhancement Center, Inc., 3075 Washington Rd., McMurray, PA 15317. Authorization No. WH6608. Effective October 21, 2004.

North East Transfer, Inc., 484 South Mountain Rd., Mountain Top, Pa 18707-0484. Authorization No. WH6609. Effective October 4, 2004.

R & C Housing, 700 Hobart St., P. O. Box 100, Gordon, PA 17936-0100. Authorization No. WH6610. Effective October 4, 2004.

Perry Construction Group, Inc., 1440 W. 21st St., Erie, PA 16502. Authorization No. WH6611. Effective October 4, 2004.

Star Manufactured Homes, LLC., 8191 Peach St., Erie, PA 16509-4716. Authorization No. WH6612. Effective October 4, 2004.

Cruz, Inc., 127 W. Susquehanna Ave., Philadelphia, PA 19122. Authorization No. WH6613. Effective October 4, 2004.

Gregg, Inc., 2329 Hill Church Houston Rd., Canonsburg, PA 15317. Authorization No. WH6614. Effective October 4, 2004.

Liaquat Chaudhary, 51 Heald St., Carteret, NJ 07008. Authorization No. WH6615. Effective October 7, 2004.

S. Salkowski Hauling, 26 Spring Rd., Boyertown, PA 19512. Authorization No. WH6617. Effective September 30, 2004.

Mack N Tosh Construction, Inc., 149 Four Seasons Dr., Hazelton, PA 18201-7643. Authorization No. WH6618. Effective October 7, 2004.

Hobbs Trucking, 4410 Emmitsburg Rd., Fairfield, PA 17320. Authorization No. WH6619. Effective October 5, 2004.

Keys Dump Truck Service, Inc., 8713 Hwy. 79, Pinson, AL 35126. Authorization No. WH6620. Effective October 5, 2004.

Pinnacle Industries, Inc., 700 Division St., Elizabeth, NJ 07201. Authorization No. WH6621. Effective October 5, 2004.

Maranatha Transport, 65 Clearview Dr., Bridgeport, CT 06606. Authorization No. WH6622. Effective October 5, 2004.

Planet Earth Recycling, Inc., P. O. Box 65311, Philadelphia, PA 19155. Authorization No. WH6623. Effective October 5, 2004.

Carroll Industries, Inc., 4 Youngs Rd, Trenton, NJ 08619. Authorization No. WH6624. Effective October 5, 2004.

Milton Phelps, P. O. Box 52, Crum Lynne, PA 19022. Authorization No. WH6625. Effective October 20, 2004.

PA DOT Eng Dist 12-0, P. O. Box 989, Uniontown, PA 15401-0459. Authorization No. WW6626. Effective October 5, 2004.

Allied Environmental Group, 10 Eyre Ct., Baltimore, MD 21236. Authorization No. WH6627. Effective October 5, 2004.

Edward Hicks, 513 Torrey Rd., Honesdale, PA 18431. Authorization No. WH6628. Effective October 5, 2004.

Kevin Hicks, HC62, Box 748, Honesdale, PA 18431. Authorization No. WH6629. Effective October 5, 2004.

Franklin Charles, 265 Mill St., Woodbury, PA 16695. Authorization No. WH6630. Effective October 5, 2004.

Michael T. Fry, 4643 Baldwin St., Meadville, PA 16335. Authorization No. WH6631. Effective October 5, 2004.

Jeffrey J. Hanrahan, 6250 Greenway Lowell Rd., Verona, NY 13478. Authorization No. WH6632. Effective October 5, 2004.

Dutra Transportation, 1730 Megargee St., Philadelphia, PA 19152. Authorization No. WH6633. Effective October 7, 2004.

BCD Properties, Inc., P. O. Box 338, 1131 Route 97, Waterford, PA 16441-9654. Authorization No. WH6634. Effective October 7, 2004.

Landis Pallet & Box Co., Inc., P. O. Box 126, East Greenville, PA 18041. Authorization No. WH6635. Effective October 20, 2004.

Ruggiero Timothy, 2487 Sylvan Place, Wheatfield, NY 14304. Authorization No. WH6636. Effective October 7, 2004.

Bowman Sales & Equipment, Inc., P. O. Box 433, Williamsport, MD 21795-0433. Authorization No. WH6637. Effective October 7, 2004.

Earl W. Horst Builders, 1006 Spruce Ln., Tamaqua, PA 18252. Authorization No. WH6638. Effective October 7, 2004.

Motion Transport, Inc., 302 Fox Hill Run Dr., P. O. Box 38, Woodbridge, NJ 07095. Authorization No. WH6639. Effective October 7, 2004.

Patinos Transport, 10-63 Dewey Pl., Elizabeth, NJ 07202. Authorization No. WH6640. Effective October 7, 2004.

Edward Castellanos, 71-14 34th Ave., Jackson Heights, NJ 11372. Authorization No. WH6641. Effective October 7, 2004.

M & K Trucking, 96 Woodland Ave., Kearny, NJ 07032. Authorization No. WH6642. Effective October 13, 2004.

Owen & Sparrow, LLC., P. O. Box 1595, Lorton, VA 22199. Authorization No. WH6644. Effective October 7, 2004.

Juan Carlos Idrovo-Calle, 98 S. 6th Ave., Coatesville, PA 19320. Authorization No. WH6645. Effective October 8, 2004.

Extreme Leasing Corp., 889 Freling Huysen Ave., Newark, NJ 07114. Authorization No. WH6646. Effective October 13, 2004.

Thomas H. Duncan, 8953 N. Loop Rd., Slatington, PA 18080. Authorization No. W6647. Effective October 13, 2004.

Jose C. Chavarria, 147-39 75th Rd., Flushing, NY 11367. Authorization No. WH6648. Effective October 13, 2004.

Jorge A. Perez, 11307 Old Missions Rd., Houston, TX 77095. Authorization No. WH6649. Effective October 13, 2004.

JSU Transport, 46 Calliope Rd., Saureville, NJ 08872. Authorization No. WH6650. Effective October 14, 2004.

Sukhdev Singh, Apt. 2F, 132 E. Delaware Ave., Florence, NJ 08518. Authorization No. WH6652. Effective October 13, 2004.

Russell L. Dado, 12 N. Mountain Blvd., Mountain Top, PA 18707. Authorization No. WH6653. Effective October 14, 2004.

PENOCO, Inc., 485 E. College Ave., Pleasant Gap, PA 16823. Authorization No. WH6654. Effective October 14, 2004.

Claude Oberholtzer, 5410 E. Hwy. 22, Smithfield, KY 40068-9305. Authorization No. WH6655. Effective October 14, 2004.

Paul I. Kilbride, 2463 Treichier Rd., Palm, PA 18070-1016. Authorization No. WH6656. Effective October 14, 2004.

M. J. R. Transport, 452 Sixth St., Newark, NJ 07107. Authorization No. WH6658. Effective October 18, 2004.

Royal Green Corp., Huller Ln., P. O. Box 9, Temple, PA 19560. Authorization No. WH6659. Effective October 18, 2004.

Northeast Excavation, Inc., 909 Grant St., Hazleton, PA 18201. Authorization No. WH6660. Effective October 18, 2004.

Imperial Sanitation Corp., 18-61 Forty-first St., Astoria, NY 11105. Authorization No. WH6662. Effective October 19, 2004.

Jayson C. Brinkman, 513 Main St., Glendora, NJ 08009. Authorization No. WH6663. Effective October 19, 2004.

Great Valley Container Service, P. O. Box 760, Valley Forge, PA 19482. Authorization No. WH6664. Effective October 19, 2004.

Paul M. Senick, 3740 Wilson Ave., Bethlehem, PA 18020-6545. Authorization No. WH6665. Effective October 19, 2004.

Hector Watson, 2435 Green St., Chester, PA, 19013. Authorization No. WH6666. Effective October 19, 2004.

Bley Trucking, 463 Phinneyville Rd, Ringtown, PA 17967. Authorization No. WH6667. Effective October 19, 2004.

Pollino Construction, 265 Tarentum Culmerville Rd., Tarentum, PA 15084. Authorization No. WH6668. Effective October 19, 2004.

Lam Express, Inc., 375 N. Eleventh St., Newark, NJ 07107. Authorization No. WH6669. Effective October 19, 2004.

Precision LLC., 96 Greylocu Ave., Belleville, NJ 07109. Authorization No. WH6670. Effective October 19, 2004.

Raul Coutinho, 714 Ainsworth St., Linden, NJ 07036. Authorization No. WH6671. Effective October 19, 2004.

RJM Construction Services, Inc., 936 Tenth St., Gloucester City, NJ 08030. Authorization No. WH6672. Effective October 20, 2004.

Charles Nesley & Son, R. R. 2, P. O. Box 7, Pottstown, PA 19464. Authorization No. WH6673. Effective October 20, 2004.

Curtis J. Bailey, Inc., 3420 Summer Valley Rd., New Ringgold, PA 17960. Authorization No. WH6674. Effective October 20, 2004.

Roberto Gonzalez, 1302 N. Eleventh St., Reading, PA 19604. Authorization No. WH6675. Effective October 20, 2004.

Giustino Remodeling, 1570 Raubsville Rd., Easton, PA 18042-9778. Authorization No. WH6676. Effective October 20, 2004.

Triple E. Express, P. O. Box 8386, 48 Struyk Ave., Haledon, NJ 07538. Authorization No. WH6677. Effective October 21, 2004.

Upper Saucon Township, 5500 Camp Meeting Rd., Center Valley, PA 18034-0278. Authorization No. WH6678. Effective October 21, 2004.

Holzer & Jesko Quality Ext., P. O. Box 73, 606 Sixth St., Mather, PA 15346. Authorization No. WH6679. Effective October 21, 2004.

Bhur S. Banipal, 4005 Hummingbird Ln., Bethlehem, PA 18020. Authorization No. WH6680. Effective October 21, 2004.

Browns Trucking, 329 Englesville Rd., P. O. Box 521-329, Boyertown, PA 19512. Authorization No. WH6681. Effective October 22, 2004.

Mifflinburg Borough, 333 Chestnut St., Mifflinburg, PA 17844. Authorization No. WH6682. Effective October 25, 2004.

Kenneth Earl Tincher, Jr., 1050 Favinger Rd., Pottstown, PA 19465-8616. Authorization No. WH6683. Effective October 25, 2004.

JMH Transfer, 11A Second St., Frenchtown, NJ 08825. Authorization No. WH6684. Effective October 25, 2004.

Eagle Contracting, 8461 Allemaengel Rd., New Tripoli, PA 18066. Authorization No. WH6685. Effective October 25, 2004.

Dean T. Davis, 240 E. Fifth Ave., Roselle, NJ 07203. Authorization No. WH6686. Effective October 25, 2004.

Parminder Singh, 407 W. Country Club Dr., Westampton, NJ 08060. Authorization No. WH6687. Effective October 25, 2004.

C. Castillo Trucking, 132 Chestnut St., Kearny, NJ 07032. Authorization No. WH6688. Effective October 25, 2004.

Mealy Excavating & Construction, Inc., 128 Lake Lucy Rd., Tionesta, PA 16353. Authorization No. WH6689. Effective October 26, 2004.

John F. Latshaw, 344 S. Churchtown Rd., Narvon, PA 17555. Authorization No. WH6690. Effective October 27, 2004.

Sorg Professional Contracting, 1071 Saint Michael St., Saint Marys, PA 15857. Authorization No. WH6691. Effective October 27, 2004.

Pat Sands Roofing, 1326 East Ave., Roslyn, PA 19001. Authorization No. WH6692. Effective October 28, 2004.

Doctorick Grounds Maintenance, 22 Alice Ave., Monongahela, PA 15063. Authorization No. WH6693. Effective October 28, 2004.

Balance & Balance Corp, P. O. Box 29, West New York, NJ 07093. Authorization No. WH6694. Effective October 28, 2004.

Hussain Sonail, 2909 Jesseway, Piscataway, NJ 08854. Authorization No. WH6695. Effective October 28, 2004.

SALCI Construction, 481 S. Main St., Wilkes-Barre, PA 18701. Authorization No. WH6696. Effective October 29, 2004.

G & J Trucking, Inc., HC1, Box 217N, Hawley, PA 18428. Authorization No. WH6698. Effective November 8, 2004.

Amaturo Alfonso J., 43 Lillian Ave., New Fairfield, CT 06812-4418. Authorization No. WH6725. Effective November 5, 2004.

Jorge Padilla, 252 Union St., Lodi, NJ 07644. Authorization No. WH3383. Effective November 12, 2004.

Kenny Courter's Excavating, 6227 Nittany Valley Dr., Mill Hall, PA 17751. Authorization No. WH6699. Effective November 2, 2004.

Ruleman Trucking, Inc., P. O. Box 2427, Harrisonville, VA 22801-9626. Authorization No. WH6700. Effective November 2, 2004.

R. L. Davis Construction, Inc., P. O. Box 210, Laughlintown, PA 15655-0210. Authorization No. WH6701. Effective November 2, 2004.

Charles R. Fender, 6 Merganser Ct, Middletown, DE 19709. Authorization No. WH6703. Effective November 2, 2004.

Wood Waste Recycling, Inc., 111 Bridge St., Burgettstown, PA 15021. Authorization No. WH6704. Effective November 2, 2004.

Universal Hauling Corp., P. O. Box 11229, Fairfield, NJ 07004. Authorization No. WH6705. Effective November 2, 2004.

Raul Gonzalez-Pardo, 243 Lawton Ave. #2, Cliffside Park, NJ 07010. Authorization No. WH6706. Effective November 2, 2004.

Jadda Trucking Enterprises, LLC., 12 Spruce Run Creek Farm, Dingmans Ferry, PA 18328. Authorization No. WH6707. Effective November 2, 2004.

Derick Guillaume, 641 Lincoln Ave., No. 33, Orange, NJ 07050. Authorization No. WH6708. Effective November 2, 2004.

Superior Mill Services, 1315 Orchard Run Dr., Lebanon, OH 45036. Authorization No. WH6709. Effective November 3, 2004.

Mark Daniels Construction, 210 Rowe Ln., Plymouth, PA 18651. Authorization No. WH6710. Effective November 3, 2004.

Eder Trucking, 591 Shingler Dr., Apple, PA 15613. Authorization No. WH6711. Effective November 3, 2004.

J. H. Transport LLC., 6 Beacon Place, Voorhees, NJ 08043. Authorization No. WH6712. Effective November 3, 2004.

WMA Transport, Inc., 424 Fifteenth St., No. C3, Union City, NJ 07087. Authorization No. WH6713. Effective November 3, 2004.

Ranjit S. Toor, 16-B Kensington Arms, Hightstown, NJ 08520. Authorization No. WH6714. Effective November 3, 2004.

Anthony Harper, 79 Twenty-First St., Irvington, NJ 07111. Authorization No. WH6715. Effective November 3, 2004.

Golden Eagle Trucking Corp., First Floor, 70 McKinley St., Hackensack, NJ 07601. Authorization No. WH6716. Effective November 5, 2004.

Edward Shaw, 584 Milford-Mt Pleasant Rd., Milford, NJ 08848. Authorization No. WH6717. Effective November 5, 2004.

Wayne Hines, R. D. 1, Box 1A, Thompson, PA 18465. Authorization No. WH6718. Effective November 5, 2004.

David Crawford, Lot No. 1, 105 Meadow St., Mansfield, PA 16933. Authorization No. WH6719. Effective November 5, 2004.

Salvador Gonzalez-Aguilan, 936 N. Eighth St., Reading, PA 19604. Authorization No. WH6720. Effective November 5, 2004.

Swamp Angel Energy, Inc., 2414 N. Woodlawn, Suite 180, Wichita, KS 67220. Authorization No. WH6721. Effective November 8, 2004.

Dunrite Transport, 134-19 230th St., Laurelton, NY 11413. Authorization No. WH6722. Effective November 8, 2004.

Gray's Transportation, Inc., P. O. Box 158, 598 Reed St., Brisbin, PA 16620. Authorization No. WH6723. Effective November 8, 2004.

Randall S. Smith, 714 Egypt Rd., Woodland, PA 16881. Authorization No. WH6726. Effective November 8, 2004.

Ray Cashdollar, 114 38th Ave., Freedom, PA 15042. Authorization No. WH6727. Effective November 8, 2004.

A & A Environmental Services, 5200 Raynor Ave., Linthicum, MD 21090. Authorization No. WH6729. Effective November 9, 2004.

Maillet's Disposal Service, 252 E. Bertsh St., Lansford, PA 18232-2105. Authorization No. WH6732. Effective November 9, 2004.

Harborcreek Township, 5601 Buffalo Rd., Harborcreek, PA 16421. Authorization No. WH6733. Effective November 9, 2004.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

46-302-229GP: Naval Air Station Joint Reserve Base (Code 992, Environmental Division, Building 78, Willow Grove, PA 19090) on November 24, 2004, to operate a boiler with low NOx in Horsham Township, **Montgomery County**.

46-310-059GP: Highway Materials, Inc. (1750 Walton Road, Blue Bell, PA 19422) on November 17, 2004, to operate a portable crusher in Whitmarsh Township, **Montgomery 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.

09-0087D: Air Products and Chemicals, Inc. (351 Philadelphia Avenue, Morrisville, PA 19067) on November 19, 2004, to operate a chlorine distillation process in Falls Township, **Bucks County**.

23-0098: SAP America, Inc (3999 West Chester Pike, Newtown Square, PA 19073) on November 19, 2004, to operate four electric generators and three boilers in Newtown Township, **Delaware County**.

46-0154A: Eye Designs LLC (245 West 5th Avenue, Trappe, PA 19426) on November 19, 2004, to operate a spray booth in Trappe Borough, **Montgomery County**.

46-0167: Montgomery County Geriatric and Rehabilitation Center (1600 Black Rock Road, Royersford, PA 19468) on November 19, 2004, to operate two boilers / No. 2 fuel oil in Upper Providence 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.

40-399-053: Fabri Kal Corp. (150 Lions Drive, Valmont Industrial Park, Hazleton, PA 18201) on November 15, 2004, to modify plastic regrind lines and associated air cleaning device at their facility in Hazle Township, **Luzerne County**.

35-322-007: Alliance Sanitary Landfill, Inc. (398 South Keyser Avenue, Taylor, PA 18517) on September 28, 2004, to install a portable air cleaning device at their facility in Taylor Borough, **Lackawanna County**.

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

26-00546B: Atlas Pipeline Pennsylvania, LLC (311 Rouser Road, P. O. Box 611, Moon Township, PA 15108) on November 4, 2004, to operate a natural gas production facility known as the Prah Compressor Station in German Township, **Fayette County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.

AMS 04108: Citizen's Bank Park (1001 Pattison Avenue, Philadelphia, PA 19148) on November 18, 2004, to install three 8 MMBtu/hr dual fired boilers and one 1818 hp and one 2889 hp natural gas fired peak shaving generators in Philadelphia, **Philadelphia County**.

AMS 04119: N.E.L. Metal Restorations (2127 Margaret Street, Philadelphia, PA 19124) on November 18, 2004, to install a decorative chrome electroplating bath in Philadelphia, **Philadelphia County**.

AMS 4122: Amerada Hess Corp. (1630 South 51st Street, Philadelphia, PA. 19143) on November 22, 2004, to increase their loading terminal throughput in Philadelphia, **Philadelphia County**.

AMS 1168: National Publishing Co. (11311 Roosevelt Boulevard, Philadelphia, PA. 19154) on November 22, 2004, to install a heatset web offset lithographic printing press in Philadelphia, **Philadelphia County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

46-322-007: Waste Management Disposal Services of PA Inc. (1425 Sell Road, Pottstown, PA 19464) on November 30, 2004, to operate a municipal solid waste landfill in West Pottsgrove Township, **Montgomery County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

47-00001A: PPL Montour LLC (18 McMichael Road, Washingtonville, PA 17884) on November 16, 2004, to allow the use of sodium carbonate, in addition to the sodium sulfite already approved, as a reagent in two bituminous coal-fired electric utility boiler flue gas injection systems at their Montour Steam Electric Station in Derry Township, **Montour County**.

55-310-002A: National Limestone Quarry, Inc. (P. O. Box 397, Middleburg, PA 17842) on November 19, 2004, to construct various pieces of stone crushing, etc. equipment and to operate various other pieces of stone crushing, etc. equipment on a temporary basis, until March 19, 2005, in Franklin Township, **Snyder County**. The plan approval has been extended.

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

11-00510A: AMFIRE Mining Company, LLC (One Energy Place, Latrobe, PA 15942) on November 6, 2004 to allow the applicant additional time to construct a coal preparation plant at the Madison Deep Mine located in Jackson Township, **Cambria County**. This Plan Approval was extended.

Title V Operating Permits Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter G.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

10-00284: Seneca Landfill, Inc. (120 Hutchman Road, Mars, PA 16046) on November 12, 2004, to re-issue their Title V Operating Permit to operate a landfill, wastewater treatment plant, steam boiler and wastewater treatment plant in Jackson Township, **Butler County**. As a result of potential emissions of NOx and VOC, the facility is not a major source, and is therefore not subject to Reasonable Available Control Technology. The issued renewal Title V Operating Permit does not reflect any changes in air emission from the facility. The facility is subject to Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The facility is not subject to Compliance Assurance Monitoring pursuant to 40 CFR Part 64.

Operating Permits for Non-Title V Facilities Issued under the Air Pollution Control Act and 25 Pa. Code Chapter 127, Subchapter F.

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

04-00673: Lacock Cremation Service, Inc. (P. O. Box 589, 2 Chester Way, East Rochester, PA 15074) on November 15, 2004, for a state only operating permit for a crematory in East Rochester Borough, **Beaver County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

16-00130: Eden, Inc. (State Route 338, P. O. Box Y, Knox, PA 16232) on November 12, 2004, for a Natural Minor operating permit for the surface coating of wooden building materials/furniture in Borough, **Clarion County**.

42-00181: Elkhorn Field Services (8801 South Yale, Suite 420, Tulsa, OK 74137) on November 12, 2004, to Amend their Natural Minor Operating Permit to incorpo-

rate the requirements of plan approval 42-0181B which authorized the installation of an additional compressor engine. The Lewis Run natural gas processing plant is in Bradford Township, **McKean County**.

10-00148: Ervin Industries, Inc. (681 East Butler Road, Butler, PA 16001) on November 18, 2004, for a Natural Minor Operating Permit for operation of two electric arc furnaces and associated equipment used in the production of steel shot and grit. Facility is in Summit Township, **Butler County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.

N04-001: St. Christopher's Hospital for Children (Erie Avenue at Front Street, Philadelphia, PA 19134) on November 24, 2004, for to operate a hospital in the City of Philadelphia, **Philadelphia County**. The facility's air emission sources include two 400 HP boilers, a 200 HP boiler, and four emergency generators.

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.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

65-00183: Allegheny Ludlum Corp. (100 River Road, Brackenridge, PA 15014) on November 23, 2004, for a minor modification at West Leechburg facility in West Leechburg Borough, **Westmoreland County**. This minor permit modification is for the removal of a 74.1 MMBtu/hr with a new package boiler rated at 34.5 MMBtu/hr. NOx emissions will be reduced by 15.7 tons, CO emissions will be reduced by 13.2 tons per year and PM/PM10 will decrease by 1.2 tons per year. This is a Title V Facility.

OP-03-00197. Nature's Blend Wood Products, Inc. (P. O. Box 392, Ford City, PA 16226) on November 19, 2004, the operating permit was amended to incorporate the provisions of Plan Approval: PA-03-00197A which authorized installation of state of the art equipment systems for the application of stains and coatings to the company's manufactured wood products. The new equipment will cause a significant reduction in VOC emissions from the Ford City Plant in Ford City, **Armstrong County**. This is a Title V Facility.

ACTIONS ON COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Actions on applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). The final action on each application also constitutes action on the request for 401 Water Quality Certification and the NPDES permit application. Mining activity permits issued in response to the applications will also address the application permitting requirements of the following statutes: the Air

Quality Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

Coal Permits Actions

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

17831601. NPDES Permit No. PA0215317, River Hill Coal Company, Inc., (P. O. Box 141, Kylertown, PA 16847), to renew the permit for Belford Siding in Karthaus Township, **Clearfield County** and related NPDES permit. No additional discharges. Permit issued November 29, 2004.

Greensburg District Mining Office: RR 2, Box 603-C, Greensburg, PA 15601, (724) 925-5500.

03040101 and NPDES Permit PA0250597. AMFIRE Mining Co., LLC (One Energy Place, Latrobe, PA 15650). Commencement, operation and reclamation for a bituminous surface mine, located in Gilpin Township, **Armstrong County**, affecting 62.1 acres. Receiving stream: unnamed tributary to Allegheny River. Application received: July 1, 2004. Permit issued: November 24, 2004.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17813182 and NPDES Permit No. PA 0609692. Penn Coal Land, Inc. (P. O. Box 68, Boswell, PA 15531). Renewal of an existing bituminous surface mine permit in Decatur Township, **Clearfield County** affecting 125.8 acres. Receiving streams: unnamed tributary of Big Run, to Big Run, to Moshannon Creek, to West Branch Susquehanna River to Susquehanna River. Application received: September 9, 2004. Permit issued: November 16, 2004.

Noncoal Permits Actions

Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

58040858. Philip J. Wood and Mark C. McCarey, (R. R. 1, P. O. Box 60, Springville, PA 18844), commencement, operation and restoration of a bluestone quarry operation in Dimock Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received September 3, 2004. Permit issued November 23, 2004.

7774SM2A1C7 and NPDES Permit #PA0594521. Berks Products Corporation, (P. O. Box 421, Reading, PA 19603), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Ontelaunee Township, **Berks County**, receiving stream: Maiden Creek. Application received October 12, 2004. Renewal issued November 29, 2004.

ABANDONED MINE RECLAMATION

Cambria Office: 286 Industrial Park Road, Ebensburg, PA 15931-4119, (814) 472-1800.

Bond Forfeiture	
Contract Awarded	BF 440-201.1
Location	Luzerne Township and Brownsville Borough, Fayette County

Description	Abandoned Mine Land Reclamation Project, Attilio Cicconi, Mining Permit No. 33A76SM10
Contractor	D. T. Construction, Inc. Dunbar, PA
Amount	\$992,000.00
Date of Award	November 8, 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.

Blasting Permits Actions

Pottsville District Mining Office: 5 West Laurel Boulevard, Pottsville, PA 17901-2454, (570) 621-3118.

21044109. Hall Explosives, Inc., (2981 Elizabethtown Road, Hershey, PA 170330, construction blasting for McCoy Business Park in South Middleton Township, **Cumberland County** with an expiration date of December 30, 2005. Permit issued November 19, 2004.

36044120. Keystone Blasting Services, (381 Reifsnyder Road, Lititz, PA 17543), construction blasting for Penn Manufacturing in Warwick Township, **Lancaster County** with an expiration date of December 30, 2004. Permit issued November 22, 2004.

21044110. Brubacher Excavating, Inc., (P. O. Box 528, 825 Reading Road, Bowmansville, PA 17507), construction blasting in Silver Spring Township, **Cumberland County** with an expiration date of December 31, 2005. Permit issued November 24, 2004.

21044111. Cumberland Valley Drilling & Blasting, (6820 Wertzville Road, Enola, PA 17025) construction blasting for South Middleton Township Sewer Authority Project in South Middleton Township, **Cumberland County** with an expiration date of October 20, 2005. Permit issued November 24, 2004.

45044111. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Pocono Farms in Coolbaugh Township, **Monroe County** with an expiration date of November 20, 2005. Permit issued November 24, 2004.

45044112. Explosive Services, Inc., (7 Pine Street, Bethany, PA 18431), construction blasting for Shawnee Oakhill Development in Smithfield Township, **Monroe County** with an expiration date of November 21, 2005. Permit issued November 24, 2004.

54044009. PACT Construction, Inc., (P. O. Box 74, Ringoes, NJ 08551), construction blasting for Schuylkill Valley Sewer Authority in Blythe & Schuylkill Townships, **Schuylkill County** with an expiration date of December 1, 2005. Permit issued November 24, 2004.

67044056. ABEL Construction Co., Inc., (3925 Columbia Avenue, Mountville, PA 17554), construction blasting at Valley View Estates in Hellam Township, **York County** with an expiration date of February 28, 2005. Permit issued November 24, 2004.

38044022. ABEL Construction Co., Inc., (3925 Columbia Avenue, Mountville, PA 17554), construction blasting at Village at Springbrook Farms Phase 7 in South Londonderry Township, **Lebanon County** with an expiration date of July 17, 2005. Permit issued November 24, 2004.

46044039. AMROC, Inc., (7531 Chestnut Street, Zionsville, PA 18092), construction blasting at Cobblestone in Douglass Township, **Montgomery County** with an expiration date of December 17, 2005. Permit issued November 24, 2004.

60044001. Dave Gutelius Excavating, Inc., (291 North Eighth Street, Mifflinburg, PA 17844) and Douglas Explosives, Inc., (P. O. Box 77, Philipsburg, PA 16866), construction blasting for Walmart at the Silver Moon Shopping Center in Kelley Township, **Union County** with an expiration date of April 30, 2005. Permit issued November 24, 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

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

E03-423. Department of Transportation, 2550 Oakland Avenue, P. O. Box 429, Indiana, PA 15701. To construct a bridge in Brady's Bend Township, **Armstrong County** and East Brady Borough, **Clarion County**, Pittsburgh ACOE District. To remove the existing structures and 1) to construct and maintain a continuous composite multi-girder steel bridge having four spans at 78.0 meters, 96.0 meters, 78.0 meters, and 63.0 meters and an underclearance of 9.74 meters over the normal pool elevation across the Allegheny River (WWF). The bridge is located at the navigation pool above Lock and Dam No. 9 and two of the new bridge piers will be located within the normal pool. (East Brady, PA Quadrangle N: 21.0 inches; W: 15.7 inches and Latitude: 40° 59' 26"—Longitude: 79° 36' 50") in Brady's Bend Township, Armstrong County and East Brady Borough, Clarion County; 2) to construct and maintain a prestressed concrete spread box beam bridge having a clear span of 18.00 meters and an underclearance of 7.79 meters across Sugar Creek (WWF). The bridge is located on SR 0068 approximately 600 feet west of the Allegheny River (East Brady, PA Quadrangle N: 21.2 inches; W: 16.1 inches and Latitude: 40° 59' 30"—Longitude: 79° 37' 00") in Brady's Bend Township, Armstrong County. The project proposes to directly affect, through bridge construction, 150 linear feet of river stream. No vegetated wetlands will be impacted.

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

E20-538, John Lane, Cambridge Area Joint Authority, 161 Carringer Street, Cambridge Springs, PA 16403. Pleasant Hills Subdivision Sewer Extension, in the Borough of Cambridge Springs and Cambridge Township, **Crawford County**, ACOE Pittsburgh District (Cambridge Springs, PA Quadrangle N: 7.0 inches; W: 9.7 inches).

The applicant proposes to construct and maintain approximately 2,600 feet of gravity sewer line consisting of 8-inch diameter PVC pipe to convey sanitary sewage from the existing Pleasant Hills Subdivision wastewater treatment plant (WWTP) to an existing sanitary sewer at the intersection of Brink Drive and Lura Road in the Borough of Cambridge Springs, Crawford County. The project includes a 190 foot long crossing of a PEM wetland and a 580 foot long crossing of an 11.18 acre PEM/PSS/PFO wetland and a crossing of a stream with a contributory drainage of less than 100 acres. Project includes decommissioning of the existing WWTP. The project proposes to temporarily impact 0.19 acre of wetland.

E43-314, Mercer County Board of Commissioners, 503 Mercer County Courthouse, Mercer, PA 16137. T-607 Bridge Over Unnamed Tributary to Fox Run, in Jackson Township, **Mercer County**, ACOE Pittsburgh District (Jackson Center, PA Quadrangle N: 8.7 inches; W: 3.6 inches).

To remove the existing structure and to construct and maintain a plank beam bridge (County Bridge No. 2106) having a clear span of 24.5 feet and a minimum underclearance of 5 feet on a 90 skew across an unnamed tributary to Fox Run on T-607 (Fox Mine Road) approximately 2.3 miles NE of the intersection of U. S. Interstate 79 and U. S. Route 62. The project includes construction of wingwalls, riprap protection and roadway approach work and a deminimus wetland impact consisting of 0.005 acre of PSS wetland and 0.034 acre of PEM wetland.

STORAGE TANKS

SITE-SPECIFIC INSTALLATION PERMITS

The following Storage Tank Site-Specific Installation Permits, under the authority of the Storage Tank Spill Prevention Act (35 P. S. §§ 6021.304, 6021.504, 6021.1101—6021.1102) and under 25 Pa. Code Chapter 245, Subchapter C, have been issued by the Bureau of Land Recycling and Waste Management, Director, P. O. Box 8763, Harrisburg, PA 17105-8763.

<i>SSIP Permit No.</i>	<i>Applicant Name & Address</i>	<i>County</i>	<i>Municipality</i>	<i>Tank Type</i>	<i>Tank Capacity</i>
04-38-003	Jack Crombie Valspar Corporation 4406 Industrial Park Road Camp Hill, PA 17011	Lebanon	North Lebanon Township	1 AST storing Glycol Ether	5,000 gallons

[Pa.B. Doc. No. 04-2190. Filed for public inspection December 10, 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 (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.

Interim Final Technical Guidance

DEP ID: 254-2412-002. Title: Act 90 Waste Transportation Safety Program Placarded Authorizations. Description: This guidance document establishes procedures for owners of demonstrator vehicles, vehicles under rental/short-term leases, vehicles utilized for temporary storage and intermodal transportation vehicles to obtain written authorization from the Department under 27 Pa.C.S. §§ 6201—6209 (relating to Transportation Safety Act) (act). Under the act, it is unlawful for the owner of a public or private waste transportation vehicle to operate such a vehicle without obtaining written authorization from the Department, including obtaining authorization stickers for each truck, truck tractor and waste trailer. Because of certain business practices, it may be impractical, improbable or even impossible, for owners or operators of the previously identified vehicles to obtain and possess a separate authorization for each vehicle that may be used to transport waste. The procedures outlined in this guidance establish a process whereby owners of these vehicles can apply to the Department for a placarded authorization that can be permanently affixed to a movable placard, thereby enabling the owner to use the vehicle in conformance with the act. Written Comments: Interested persons may submit written comments on interim final technical guidance document No. 254-2412-002 by January 10, 2005. Comments submitted by facsimile will not be accepted. The Department will accept comments submitted by e-mail. A return name and address must be included in each e-mail transmission. Written comments should be submitted to William F. Pounds, Chief, Division of Municipal and Residual Waste, Bureau of Land Recycling and Waste Management, P. O. Box 8472, Harrisburg, PA 17105-8472, wpounds@state.pa.us. Questions regarding the interim final technical guidance document should be directed to William

Pounds at (717) 787-7564 or wpounds@state.pa.us. Interim Final Effective Date: December 11, 2004.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-2191. Filed for public inspection December 10, 2004, 9:00 a.m.]

Bond Rate Guidelines for the Calculation of Land Reclamation Bonds on Coal Mining Operations

The Department of Environmental Protection (Department) announces the bond rate guidelines for 2005 for anthracite and bituminous coal mining operations. The authority for bonding coal mining operations is found under The Clean Streams Law (35 P.S. §§ 691.1—691.1001), the Surface Mining Conservation and Reclamation Act (52 P.S. §§ 1396.1—1396.19a), the Coal Refuse Disposal Control Act (52 P.S. §§ 30.51—30.66) and the regulations promulgated thereunder at 25 Pa. Code Chapter 86, Subchapter F (relating to bonding and insurance requirements). The unit costs listed in these guidelines will be used in calculating the land reclamation bonds for surface coal mining operations including surface mines, coal refuse disposal sites, coal refuse reprocessing sites, coal processing facilities and the surface facilities of underground mining operations. The procedures for calculating land reclamation bonds are described in technical guidance 563-2504-001, "Conventional Bonding for Land Reclamation—Coal," which is available on the Department's website at www.dep.state.pa.us under "eLibrary," Technical Guidance Documents—Final.

The Department may review the adequacy of bonds on existing permits based on the bond rate guidelines at any time. The Department will conduct these reviews before issuing permit renewals. The Department may conduct similar reviews at the mid-term of a permit and before approving a permit revision.

The bond rate guidelines do not apply to bonds assuring replacement of water supplies under section 3.1(c) of the Surface Mining Conservation and Reclamation Act (52 P.S. § 1396.3a(c)) or to bonds ensuring compliance with the requirements of the Bituminous Mine Subsidence and Land Conservation Act.

General Methodology

The Department developed the bond rate guidelines for 2005 from a spreadsheet of unit costs provided by the Department's Bureau of Abandoned Mine Reclamation (BAMR). The BAMR spreadsheet lists contract bid amounts for the various unit operations needed to complete reclamation of a mine site for years 1998—2003. A 3-year (2001-2003) average was used to calculate the guidelines.

In general, the bond rate for a given unit operation is the weighted average of the three lowest total bids for each contract. In some cases, a longer-term average was used because of limited data. For example, for selective grading, a 4-year average was used since there were only 27 acres of selective grading in the contracts from 2003. Not all unit operations included in the BAMR spreadsheet are included in Table 1.

In the event that a unit operation necessary to calculate a reclamation bond is not listed in Table 1, any additional cost information available from BAMR will be used. If enough data is still not available, the rate will be

set from a standard reference such as *Means Building Construction Cost Data* or *Walker's Building Estimator's Reference Book*.

The bond rate guidelines are available electronically on the Department's website at www.dep.state.pa.us/dep/deputate/minres/BMR/BMRhome.htm. For background information and supporting documentation regarding bond-

ing rate guidelines, contact the Bureau of Mining and Reclamation, Division of Monitoring and Compliance, P. O. Box 8461, Harrisburg, PA 17105-8461, (717) 787-5103.

Effective Date:

The bond rate guidelines in this notice become effective January 1, 2005.

TABLE 1
Bond Rate Guidelines For Year 2005

<i>Unit Operation</i>	<i>Unit Measure</i>	<i>Unit Costs (\$)</i>
Mobilization/demobilization	Job	4% of direct costs or \$40,000, whichever is less
Grading (< 500-foot push)	cubic yard	0.55
Grading (≥500-foot push)	cubic yard	0.80
Selective Grading	Acre	985.00
Revegetation	Acre	1,250.00
Tree Planting	Tree	0.15
Ditch Excavation	cubic yard	4.25
Jute Matting	square yard	2.20
High Velocity Erosion Control	square yard	2.00
R3 Rock Lining	square yard	18.00
R4 Rock Lining	square yard	18.00
R5 Rock Lining	square yard	17.00
Geotextile/Filter Fabric	square yard	2.75
PVC Lining ¹	square yard	9.50
Subsurface Drain	lineal foot	13.25
Pond Removal ²	Pond	3,500.00
Erosion and Sedimentation Control (Temporary Installation)	Job	Lump sum
Stage 3 Maintenance Bond	Acre	500.00
Structure Demolition	Costs will be calculated using costs listed in the construction industry's latest annual cost publications, such as <i>Means Building Construction Cost Data</i> .	
Mine Sealing ³	shaft (10 ft. or less diameter)	1,400.00
Nonhydraulic shaft seal—inert fill	shaft (11 to 15 ft. diameter)	3,000.00
	shaft (16 to 20 ft. diameter)	4,500.00
	shaft (21 to 25 ft. diameter)	8,000.00
Mine Sealing ³	shaft (10 ft. or less diameter)	7,600.00
Hydraulic shaft seal w/bulkhead	shaft (11 to 15 ft. diameter)	9,200.00
	shaft (16 to 20 ft. diameter)	10,700.00
	shaft (21 to 25 ft. diameter)	14,200.00
Mine Sealing ³	drift/slope	3,900.00
Non-hydraulic drift/slope seal		
Mine Sealing ³	drift/slope	6,200.00
Hydraulic drift/slope seal w/bulkhead		

1. Typically used for lining of ponds or ditches crossing fill material.

2. Unit cost not from BAMR bids, includes dewatering, grading, topsoil placement and revegetation.

3. Mine sealing costs are minimum costs. Additional costs per mine seal will be assessed based on specific design criteria, such as the thickness of the seal and the volume of backfill material required, using appropriate material, equipment, and labor costs from BAMR bid abstracts or from industry-standard cost estimation publications, that is, *Means Estimating Handbook* or *Walker's Building Estimator's Reference Book*.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-2192. Filed for public inspection December 10, 2004, 9:00 a.m.]

Oil and Gas Technical Advisory Board Workgroup Meetings

The Department of Environmental Protection's (Department) Oil and Gas Technical Advisory Board Workgroup will hold three meetings at the Moshannon District Office in Phillipsburg on December 21, 2004, January 6, 2005, and January 27, 2005. The meetings will start at 10 a.m.

and are being held to discuss bonding rates for oil and gas wells.

Questions concerning the meetings should be directed to David Hogeman at (717) 772-2199 or dhogeman@state.pa.us. Information on these meetings is also available through the Public Participation Center on the Department's website at www.dep.state.pa.us (DEP Keyword: Participate).

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact David Hogeman at (717) 772-2199 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. 04-2193. Filed for public inspection December 10, 2004, 9:00 a.m.]

Proposed Revision to the State Implementation Plan for Architectural and Industrial Maintenance Coatings; ChemMasters Variance Application for Concrete Curing Compounds, Waterproofing Sealers and Waterproofing Concrete/Masonry Sealers; Public Hearings

ChemMasters Specialty Construction Products (ChemMasters) has submitted an application, dated November 10, 2004, to the Department of Environmental Protection (Department) for a variance from the volatile organic compound (VOC) content limits in 25 Pa. Code § 130.603 (relating to standards) for "concrete curing compounds," "waterproofing sealers" and "waterproofing concrete/masonry sealers." The ChemMasters variance application was submitted in accordance with 25 Pa. Code § 130.606 (relating to application for variance), which provides that a person who cannot comply with the VOC content limits in 25 Pa. Code § 130.603(a) may apply in writing to the Department for a variance. In accordance with 25 Pa. Code § 130.606, the application for variance must address the specific grounds upon which the variance is sought, the proposed date by which compliance with § 130.603(a) will be achieved and a compliance report detailing the methods by which compliance will be achieved. The Department will submit each Variance Order to the United States Environmental Protection Agency for approval as a State Implementation Plan (SIP) revision.

In accordance with 25 Pa. Code § 130.606, the Department will not grant a variance unless the applicant demonstrates in writing to the Department's satisfaction that:

- (1) It is technologically infeasible for the applicant to comply with 25 Pa. Code § 130.603(a).
- (2) The public interest in issuing the variance would outweigh the public interest in avoiding increased emissions of air contaminants that would result from issuing the variance.
- (3) The compliance program proposed by the applicant can reasonably be implemented and will achieve compliance as expeditiously as possible.

ChemMasters claims in the November 10, 2004, application for variance that it is technologically infeasible for ChemMasters to produce certain "concrete curing compounds," "waterproofing sealers" and "waterproofing concrete/masonry sealers" to comply with the VOC content limit for "clear wood coatings—varnishes" specified in 25 Pa. Code § 130.603(a) "... without creating unacceptable safety hazards for employees in the ChemMasters production facility." In the application for variance, ChemMasters describes a compliance plan that includes redesign of the production facility, including installation of

new electrical components and fire suppression equipment and reformulation of coatings to permit the company to safely produce complying coatings. In the application for variance, ChemMasters indicates that the company's efforts are directed toward a targeted compliance goal of August 15, 2005.

In accordance with 25 Pa. Code § 130.610 (relating to public hearings), the Department will hold public hearings on the ChemMasters variance application to seek public comment on the following:

- (1) Whether a variance from 25 Pa. Code § 130.603(a) is necessary.
- (2) Under what conditions a variance from 25 Pa. Code § 130.603(a) is necessary.
- (3) To what extent a variance from 25 Pa. Code § 130.603(a) is necessary.

In addition to the previous, the Department will also seek comment on a Department-proposed Variance Order for issuance to ChemMasters, as well as proposed revisions to the SIP. The Department-proposed Variance Order for issuance to ChemMasters includes a requirement that compliance with 25 Pa. Code § 130.603 will be achieved by August 15, 2005, and that incremental progress reports will be sent to the Department to assure timely compliance. A variance issued by the Department shall cease to be effective upon failure of the party to whom the variance was granted to comply with a term or condition of the variance.

Based on data provided by ChemMasters regarding sales in this Commonwealth of the materials for which the variance is requested, the Department estimates that, if the variance is granted, Statewide VOC emissions will be approximately .05 ton per day higher than if ChemMasters were to market coatings at the compliance level.

Public Hearings

The Department will hold two public hearings to receive comments on the variance application submitted by ChemMasters, as well as the proposed SIP revisions and the Department-proposed Variance Order. The public hearings will be held as follows:

January 13, 2005 10 a.m.	Southeast Regional Office 2 East Main Street Norristown, PA 19401
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January 14, 2005 1 p.m.	Southcentral Regional Office 909 Elmerton Avenue Harrisburg, PA 17110
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Persons wishing to present testimony at hearing should reserve a time by contacting Susan Ferree, P.O. Box 8468, Harrisburg, PA 17105, (717) 787-9495, sferree@state.pa.us. Persons who do not reserve a time will be able to testify as time allows. Witnesses should keep testimony to 10 minutes and should provide two written copies at the hearing. Persons with a disability who wish to attend a hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Wick Havens, (717) 787-9495. TDD users should contact the AT&T Relay Service at (800) 654-5984 to discuss how the Department can best accommodate their needs.

Written Comments

Written comments on the variance application submitted by ChemMasters, as well as the proposed SIP revisions and the Department-proposed Variance Order, should be sent by 12 p.m. on January 20, 2005, to Terry

Black, Chief, Regulation and Policy Development Section, Division of Air Resource Management, Bureau of Air Quality, P. O. Box 8468, Harrisburg, PA 17105-8468.

Availability of Documents

ChemMasters' application for a variance and the Department's proposed Variance Order are available from Terry Black at the previous address or at tblack@state.pa.us. These documents are also available on the Department's website: www.dep.state.pa.us (Subjects/Air Quality/Regs Plans/Clean Air Plans).

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-2194. Filed for public inspection December 10, 2004, 9:00 a.m.]

State Board for Certification of Sewage Enforcement Officers Meeting Cancellation

The December 17, 2004, meeting of the State Board for Certification of Sewage Enforcement Officers has been cancelled. This meeting is being cancelled as there is no new business to be discussed at this time. The Board's next scheduled meeting will be held on March 4, 2005, at 10 a.m. in the 10th Floor Conference Room, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning the March 4, 2005, meeting can be directed to Renee Nease at Mnease@state.pa.us or (717) 705-8024. The agenda and meeting materials for the March 4, 2005, meeting will be available through the Public Participation Center on the Department of Environmental Protection's (Department) website at www.dep.state.pa.us (DEP Keyword: Participate).

Persons with a disability who require accommodations to attend the March 4, 2005, meeting should contact the Department at (717) 787-6045 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-2195. Filed for public inspection December 10, 2004, 9:00 a.m.]

State Water Plan Water Resources Regional Committee Meetings Schedule for 2004

The following is a list of December 2004 meetings for four Water Resources Regional Committees (Committees) associated with the Department of Environmental Protection (Department). These schedules and an agenda for each meeting, including meeting materials, will be available through the Public Participation Center on the Department's website at www.dep.state.pa.us (DEP Keyword: Participate). Locations of future meetings in 2005 will be available on the Department's website as well as published in advance in the *Pennsylvania Bulletin*.

The four Committees listed in this notice were created under 27 Pa.C.S. Chapter 31 (relating to water resources planning) to help guide the development of a new State Water Plan (plan) for the Commonwealth. The Commit-

tees' purpose is to develop the regional component of the overall plan, and to provide recommendations to the Statewide Water Resources Committee, which is charged under 27 Pa.C.S. Chapter 31 to develop the plan.

The December 2004 meetings of the four Committees will begin at 10 a.m. as follows:

Great Lakes Water Resources Regional Committee

December 14, Erie County Conservation District
2004 1927 Wager Road, Erie PA 16509

Ohio Water Resources Regional Committee

December 13, Cranberry Township Municipal Center
2004 2525 Rochester Road, Suite 400
Cranberry Township, PA 16066

Potomac Water Resources Regional Committee

December 17, Adams County Department of
2004 Emergency Services
230 Greenamyer Lane
Gettysburg, PA 17325

Upper/Middle Susquehanna Water Resources Regional Committee

December 16, PA DEP Northeast Regional Office
2004 2 Public Square, Wilkes-Barre, PA 18711

Questions concerning any of the meetings should be directed to Lori Mohr, Water Planning Office, P. O. Box 2063, Harrisburg, PA 17105-2063, (717) 787-4628 or laumohr@state.pa.us.

Persons with a disability who require accommodations to attend any of the meetings should contact the Department at (717) 705-2425 or through the Pennsylvania AT&T Relay Services at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 04-2196. Filed for public inspection December 10, 2004, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Hahnemann University Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Hahnemann University Hospital has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 04-2197. Filed for public inspection December 10, 2004, 9:00 a.m.]

Application of Roxborough Memorial Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Roxborough Memorial Hospital has requested an exception to the requirements of 28 Pa. Code § 107.2 (relating to medical staff membership).

This request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, ra-paexcept@state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of a request and/or provide comments to the Department and require an auxiliary aid, service or other accommodation to do so should contact the Division at the previously listed address or phone numbers or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 04-2198. Filed for public inspection December 10, 2004, 9:00 a.m.]

Application of Sunbury Community Hospital For Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Sunbury Community Hospital has requested an exception to the requirements of 28 Pa. Code § 153.1 (relating to minimum standards), which requires compliance with minimum standards contained in *Guidelines for Design and Construction of Hospital and Healthcare Facilities*. The facility specifically requests exemption from the following standards contained in this publication: 7.6B12 and 7.6B13 (relating to square footage of psychiatric nursing units; and conference and treatment room).

This request is on file with the Department. Persons may receive a copy of a request for exception by request-

ing a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, dditlows@tate.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the division and address listed previously.

Comments received by the Department within 10 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who wish to obtain a copy of the request and require an auxiliary aid, service or other accommodation to do so should contact the Director, Division of Acute and Ambulatory Care at (717) 783-8980, V/TT (717) 783-6154 for speech and/or hearing impaired persons or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 04-2199. Filed for public inspection December 10, 2004, 9:00 a.m.]

Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 201.3 (relating to definitions):

Church of the Brethren Home
277 Hoffman Avenue
Windber, PA 15963

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 205.6(a) (relating to function of building):

Huntingdon Nursing and Rehabilitation Center
1229 Warm Springs Avenue
Huntingdon, PA 16652

Cumberland Crossings Retirement Community
1 Longsdorf Way
Carlisle, PA 17013

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.33(a) (relating to utility room):

Sycamore Manor Health Center
1445 Sycamore Road
Montoursville, PA 17754-9520

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 211.12(b) (relating to nursing services):

Mercy Jeannette Hospital Skilled Nursing Center
600 Jefferson Avenue
Jeannette, PA 15644

These requests are on file with the Department of Health (Department). Persons may receive a copy of a request for exception by requesting a copy from the Division of Nursing Care Facilities, Room 526, Health and Welfare Building, Harrisburg, PA 17120, (717) 787-1816, fax (717) 772-2163, paexcept@health.state.pa.us.

Persons who wish to comment on an exception request may do so by sending a letter by mail, e-mail or facsimile to the Division and address listed previously.

Comments received by the Department within 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who wish to comment in an alternative format (for example, large print, audiotape or Braille) should contact the Division of Nursing Care Facilities at the address or phone numbers listed previously or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Service at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 04-2200. Filed for public inspection December 10, 2004, 9:00 a.m.]

Stakeholder's Meeting for Newborn Screening and Follow-Up Program

The Newborn Screening and Follow-Up Program (Program), established under the Newborn Child Testing Act (35 P. S. §§ 621—625), will hold a public meeting on Tuesday, December 14, 2004. The purpose of the meeting is to discuss the Department of Health's approach to recent legislative changes to section 2101(b) of The Administrative Code of 1929 (71 P. S. § 531(b)) made by the act of December 23, 2003 (P.L. 282, No. 47) and plan for future direction of the Program. The meeting will be held from 9 a.m. to 3 p.m. at the Capitol Building, 60 East Wing, Commonwealth Avenue, 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 Karen Espenshade, Director, Division of Newborn Disease Prevention and Identification, at (717) 783-8143 or for speech and/or hearing impaired persons, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

Please R.S.V.P. by December 13, 2004, to Rose Butchko at (717) 783-8143.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 04-2201. Filed for public inspection December 10, 2004, 9:00 a.m.]

DEPARTMENT OF PUBLIC WELFARE

Medical Assistance Program Fee Schedule Revisions; National Procedure Codes for Ambulance Services

The purpose of this notice is to announce that National Procedure Codes and Modifiers for Ambulance Services (National Codes) will replace local procedure and type of service codes on the Medical Assistance (MA) Program Fee Schedule. Adoption of National Codes will make procedure codes used in the MA Program consistent with the codes used by all other third-party payors. The National Codes will be effective for dates of service on

and after November 1, 2004. The use of local codes will ended effective October 31, 2004.

The following procedure codes will be added to the MA Program Fee Schedule for dates of service on and after November 1, 2004:

<i>New Procedure Code</i>	<i>Definition</i>
A0425	Ground mileage, per statute mile
A0435	Fixed wing air mileage, per statute mile
A0436	Rotary wing air mileage, per statute mile
A0428	Ambulance service, basic life support, nonemergency transport (BLS)
A0429	Ambulance service, basic life support, emergency transport (BLS-emergency)
A0426	Ambulance service, advanced life support, nonemergency transport, level 1 (ALS 1)
A0427	Ambulance service, advanced life support, emergency transport, level 1 (ALS 1-emergency)
A0430	Ambulance service, conventional air services, transport, one way (fixed wing)
A0431	Ambulance service, conventional air services, transport, one way (rotary wing)
A0433	Advanced life support, level 2 (ALS 2)
A0432	Paramedic intercept (PI), rural area, transport furnished by a volunteer ambulance company which is prohibited by State law from billing third party payers
A0434	Specialty care transport (SCT)

The following procedure codes will be deleted from the MA Program Fee Schedule and will not be compensable for services provided after October 31, 2004.

<i>Procedure Code</i>	<i>Definition</i>
W0009	Non-VASC Certified Nonemergency transportation service, other unusual circumstances
W0010	Non-VASC Certified Nonemergency transportation service
W0011	Each loaded or unloaded mile beyond the first 20 miles of a round trip
W0012	VASC Certified Nonemergency transportation service
W0013	VASC Certified Nonemergency transportation service, other unusual circumstances
W0014	Non-VASC Certified ambulance emergency (prehospital) transportation service
W0015	VASC Certified ambulance emergency (prehospital) transportation service
W0016	Advanced Life Support (ALS) with transportation (prehospital)
W0017	Advanced Life Support (ALS) without transportation (prehospital)

<i>Procedure Code</i>	<i>Definition</i>
W0018	Specialized Services Critical Care with transport, interfacility cases of neonatal, prenatal or cardiac service
W8593	Transportation, air ambulance: program exception code

The Department of Public Welfare (Department) will issue a MA Bulletin to affected service providers which sets forth the crosswalk from local to National Codes as well as the fee for each National Code.

Fiscal Impact

There is no fiscal impact as a result of these changes.

Public Comment

Interested persons are invited to submit written comments regarding this notice to the Department at the following address: Department of Public Welfare, Office of Medical Assistance Programs, c/o Deputy Secretary's Office: Regulations Coordinator, Room 515, Health and Welfare Building, Harrisburg, PA 17120. Comments received will be considered in subsequent revisions to the fee schedule.

Persons with a disability may use the AT&T Relay Service by calling (800) 654-5984 (TDD Users) or (800) 654-5988 (Voice Users).

ESTELLE B. RICHMAN,
Secretary

Fiscal Note: 14-NOT-401; (8) recommends adoption.

[Pa.B. Doc. No. 04-2202. Filed for public inspection December 10, 2004. 9:00 a.m.]

DEPARTMENT OF REVENUE

Pennsylvania Lucky Hearts 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 Lucky Hearts.

2. *Price:* The price of a Pennsylvania Lucky Hearts instant lottery game ticket is \$5.

3. *Play Symbols:*

(a) Each Pennsylvania Lucky Hearts instant lottery game ticket will contain four play areas known as Game 1, Game 2, Game 3 and Fast \$14 game. Each game is played separately.

(b) The prize play symbols and their captions located in the play area for Game 1 are: \$5⁰⁰ (FIV DOL), \$7⁰⁰ (SVN DOL), \$10⁰⁰ (TEN DOL), \$14\$ (FORTN), \$21\$ (TWY ONE), \$42\$ (FRY TWO), \$70\$ (SEVENTY), \$140 (ONEHUNFRY) and \$50,000 (FTY THO).

(c) The play symbols and their captions located in the play area for Game 2 are: Rose Symbol (ROSE) and X Letter Symbol (XXX).

(d) The play symbols and their captions located in the "YOUR SYMBOLS" and "LUCKY SYMBOL" areas for Game 3 are: Kiss Symbol (KISS), Bear Symbol (BEAR), Candy Symbol (CANDY), Diamond Symbol (DIMND), Gift Symbol (GIFT), Cash Symbol (CASH), Balloon Symbol (BALLN), Crown Symbol (CROWN), Heart Symbol (HEART), Cupid Symbol (CUPID), Bow Symbol (BOW), Ring Symbol (RING) and Cake Symbol (CAKE).

(e) The prize play and play symbols and their captions located in the Fast \$14 game are: \$14\$ (FORTN) and NO BONUS (TRY AGAIN).

4. *Prize Symbols:* The prize symbols and their captions located in the prize area for Game 2 are: \$5⁰⁰ (FIV DOL), \$7⁰⁰ (SVN DOL), \$10⁰⁰ (TEN DOL), \$14\$ (FORTN), \$21\$ (TWY ONE), \$42\$ (FRY TWO), \$70\$ (SEVENTY), \$140 (ONEHUNFRY) and \$50,000 (FTY THO). The prize symbols and their captions located in the play area for Game 3 are: \$5⁰⁰ (FIV DOL), \$7⁰⁰ (SVN DOL), \$14\$ (FORTN), \$21\$ (TWY ONE), \$42\$ (FRY TWO), \$70\$ (SEVENTY), \$140 (ONEHUNFRY) and \$50,000 (FTY THO).

5. *Prizes:* The prizes that can be won in Game 1 and Game 2 are \$5, \$7, \$10, \$14, \$21, \$42, \$70, \$140 and \$50,000. The prizes that can be won in Game 3 are \$5, \$7, \$14, \$21, \$42, \$70, \$140 and \$50,000. The prize that can be won in the Fast \$14 game is \$14. A player can win up to 7 times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 2,520,000 tickets will be printed for the Pennsylvania Lucky Hearts instant lottery game.

7. *Determination of Prize Winners:*

(a) Determination of prize winners for Game 1 are:

(1) Holders of tickets with three matching prize play symbols of \$50,000 (FTY THO) in the play area, on a single ticket, shall be entitled to a prize of \$50,000.

(2) Holders of tickets with three matching prize play symbols of \$140 (ONEHUNFRY) in the play area, on a single ticket, shall be entitled to a prize of \$140.

(3) Holders of tickets with three matching prize play symbols of \$70\$ (SEVENTY) in the play area, on a single ticket, shall be entitled to a prize of \$70.

(4) Holders of tickets with three matching prize play symbols of \$42\$ (FRY TWO) in the play area, on a single ticket, shall be entitled to a prize of \$42.

(5) Holders of tickets with three matching prize play symbols of \$21\$ (TWY ONE) in the play area, on a single ticket, shall be entitled to a prize of \$21.

(6) Holders of tickets with three matching prize play symbols of \$14\$ (FORTN) in the play area, on a single ticket, shall be entitled to a prize of \$14.

(7) Holders of tickets with three matching prize play symbols of \$10⁰⁰ (TEN DOL) in the play area, on a single ticket, shall be entitled to a prize of \$10.

(8) Holders of tickets with three matching play symbols of \$7⁰⁰ (SVN DOL) in the play area, on a single ticket, shall be entitled to a prize of \$7.

(9) Holders of tickets with three matching play symbols of \$5⁰⁰ (FIV DOL) in the play area, on a single ticket, shall be entitled to a prize of \$5.

(b) Determination of prize winners for Game 2 are:

(1) Holders of tickets with three Rose Symbol (ROSE) play symbols in the same row, column or diagonal and a

prize symbol of \$50,000 (FTY THO) appearing in the "PRIZE" area, on a single ticket, shall be entitled to a prize of \$50,000.

(2) Holders of tickets with three Rose Symbol (ROSE) play symbols in the same row, column or diagonal and a prize symbol of \$140 (ONEHUNFRY) appearing in the "PRIZE" area, on a single ticket, shall be entitled to a prize of \$140.

(3) Holders of tickets with three Rose Symbol (ROSE) play symbols in the same row, column or diagonal and a prize symbol of \$70\$ (SEVENTY) appearing in the "PRIZE" area, on a single ticket, shall be entitled to a prize of \$70.

(4) Holders of tickets with three Rose Symbol (ROSE) play symbols in the same row, column or diagonal and a prize symbol of \$42\$ (FRY TWO) appearing in the "PRIZE" area, on a single ticket, shall be entitled to a prize of \$42.

(5) Holders of tickets with three Rose Symbol (ROSE) play symbols in the same row, column or diagonal and a prize symbol of \$21\$ (TWY ONE) appearing in the "PRIZE" area, on a single ticket, shall be entitled to a prize of \$21.

(6) Holders of tickets with three Rose Symbol (ROSE) play symbols in the same row, column or diagonal and a prize symbol of \$14\$ (FORTN) appearing in the "PRIZE" area, on a single ticket, shall be entitled to a prize of \$14.

(7) Holders of tickets with three Rose Symbol (ROSE) play symbols in the same row, column or diagonal and a prize symbol of \$10⁰⁰ (TEN DOL) appearing in the "PRIZE" area, on a single ticket, shall be entitled to a prize of \$10.

(8) Holders of tickets with three Rose Symbol (ROSE) play symbols in the same row, column or diagonal and a prize symbol of \$7⁰⁰ (SVN DOL) appearing in the "PRIZE" area, on a single ticket, shall be entitled to a prize of \$7.

(9) Holders of tickets with three Rose Symbol (ROSE) play symbols in the same row, column or diagonal and a prize symbol of \$5⁰⁰ (FIV DOL) appearing in the "PRIZE" area, on a single ticket, shall be entitled to a prize of \$5.

(c) Determination of prize winners for Game 3 are:

(1) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$50,000 (FTY THO) appears under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(2) Holders of tickets upon which any one of the "YOUR SYMBOL" play symbols matches the "LUCKY

SYMBOL" play symbol and a prize symbol of \$140 (ONEHUNFRY) appears under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$140.

(3) Holders of tickets upon which any one of the "YOUR SYMBOLS" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$70\$ (SEVENTY) appears under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$70.

(4) Holders of tickets upon which any one of the "YOUR SYMBOL" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$42\$ (FRY TWO) appears under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$42.

(5) Holders of tickets upon which any one of the "YOUR SYMBOL" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$21\$ (TWY ONE) appears under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$21.

(6) Holders of tickets upon which any one of the "YOUR SYMBOL" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$14\$ (FORTN) appears under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$14.

(7) Holders of tickets upon which any one of the "YOUR SYMBOL" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$7⁰⁰ (SVN DOL) appears under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$7.

(8) Holders of tickets upon which any one of the "YOUR SYMBOL" play symbols matches the "LUCKY SYMBOL" play symbol and a prize symbol of \$5⁰⁰ (FIV DOL) appears under the matching "YOUR SYMBOLS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(e) Determination of prize winners for the Fast \$14 game are:

(1) Holders of tickets with a \$14\$ (FORTN) play symbol in the "Fast \$14" game play area, on a single ticket, shall be entitled to a prize of \$14.

8. *Number and Description of Prizes and Approximate Odds:* The following table sets forth the approximate number of winners, amount of prizes and approximate odds of winning:

<i>Fast \$14 Game</i>	<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Win</i>	<i>Approximate Odds 1 In:</i>	<i>Approximate No. of Winners Per 2,520,000 Tickets</i>
	\$5			\$5	35.29	71,400
		\$5		\$5	35.29	71,400
			\$5	\$5	33.33	75,600
	\$7			\$7	150	16,800
		\$7		\$7	200	12,600
			\$7	\$7	200	12,600
			\$5 × 2	\$10	120	21,000
	\$10			\$10	120	21,000
		\$10		\$10	60	42,000

<i>Fast \$14 Game</i>	<i>Game 1</i>	<i>Game 2</i>	<i>Game 3</i>	<i>Win</i>	<i>Approximate Odds 1 In:</i>	<i>Approximate No. of Winners Per 2,520,000 Tickets</i>
	\$7		\$7	\$14	100	25,200
	\$7	\$7	\$7	\$14	100	25,200
		\$7	\$7	\$14	100	25,200
\$14			\$7	\$14	10.53	239,400
	\$7	\$7	\$7	\$21	150	16,800
			\$7 × 3	\$21	200	12,600
\$14	\$7			\$21	200	12,600
\$14		\$7		\$21	200	12,600
\$14			\$7	\$21	200	12,600
	\$21			\$21	300	8,400
		\$21		\$21	600	4,200
			\$21	\$21	600	4,200
\$14			\$14 × 2	\$42	4,800	525
\$14			\$7 × 4	\$42	4,800	525
\$14	\$14	\$14		\$42	4,800	525
\$14		\$14	\$14	\$42	4,800	525
\$14	\$14		\$14	\$42	4,800	525
			\$21 × 2	\$42	4,800	525
			\$7 × 6	\$42	4,800	525
	\$42			\$42	4,800	525
		\$42		\$42	4,800	525
			\$42	\$42	4,800	525
\$14			\$14 × 4	\$70	24,000	105
\$14	\$14	\$14	\$7 × 4	\$70	24,000	105
	\$70			\$70	24,000	105
		\$70		\$70	24,000	105
			\$70	\$70	30,000	84
			\$70 × 2	\$140	120,000	21
	\$140			\$140	120,000	21
		\$140		\$140	120,000	21
			\$140	\$140	120,000	21
	\$50,000			\$50,000	2,520,000	1
		\$50,000		\$50,000	2,520,000	1
			\$50,000	\$50,000	2,520,000	1

Game 1—Get three like amounts, win that prize.

Game 2—Get 3 “ROSE” symbols in a row, column or diagonal, win prize shown.

Game 3—When any of “YOUR SYMBOLS” match the “LUCKY SYMBOL,” win prize shown under the matching symbol.

Fast \$14 game—Reveal prize amount of \$14 and win that prize automatically.

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Lucky Hearts 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 Lucky Hearts, prize money from winning Pennsylvania Lucky Hearts 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 Lucky Hearts 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 Lucky Hearts or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 04-2203. Filed for public inspection December 10, 2004, 9:00 a.m.]

Pennsylvania Platinum Payout 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 Platinum Payout.

2. *Price:* The price of a Pennsylvania Platinum Payout instant lottery game ticket is \$5.

3. *Play Symbols:* Each Pennsylvania Platinum Payout instant lottery game ticket will contain one play area featuring a "WINNING NUMBERS" area and a "YOUR NUMBERS" area. The play symbols and their captions located in the "WINNING NUMBERS" area are: 1 (ONE), 2 (TWO), 3 (THREE), 4 (FOUR), 5 (FIVE), 6 (SIX), 7 (SEVEN), 8 (EIGHT), 9 (NINE), 10 (TEN), 11 (ELEVN), 12 (TWLV), 13 (THRTN), 14 (FORTN), 15 (FIFTN), 16 (SIXTN), 17 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENTY), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR) and 24 (TWYFOR). 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 (SVNTN), 18 (EGHTN), 19 (NINTN), 20 (TWENTY), 21 (TWYONE), 22 (TWYTWO), 23 (TWYTHR), 24 (TWYFOR) and a Ring Symbol (RING).

4. *Prize Symbols:* The prize symbols and their captions located in the "YOUR NUMBERS" area are: \$2.⁰⁰ (TWO DOL), \$5.⁰⁰ (FIV DOL), \$6.⁰⁰ (SIX DOL), \$10.⁰⁰ (TEN DOL), \$15\$ (FIFTEN), \$25\$ (TWY FIV), \$50\$ (FIFTY), \$100 (ONE HUN), \$250 (TWOHUNFTY), \$2,500 (TWYFIVHUN), \$50,000 (FTY THO) and \$100,000 (ONEHUNTHO).

5. *Prizes:* The prizes that can be won in this game are \$2, \$5, \$6, \$10, \$15, \$25, \$50, \$100, \$250, \$2,500, \$50,000 and \$100,000. A player can win up to ten times on a ticket.

6. *Approximate Number of Tickets Printed for the Game:* Approximately 6,000,000 tickets will be printed for the Pennsylvania Platinum Payout instant lottery game.

7. *Determination of Prize Winners:*

(a) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$100,000 (ONEHUNTHO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100,000.

(b) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50,000 (FTY THO) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50,000.

(c) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$2,500 (TWYFIVHUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2,500.

(d) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$250 (TWOHUNFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$250.

(e) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Ring Symbol (RING), and a prize symbol of \$250 (TWOHUNFTY) appears under the Ring Symbol (RING) on a single ticket, shall be entitled to a prize of \$250.

(f) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$100 (ONE HUN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$100.

(g) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Ring Symbol (RING), and a prize symbol of \$100 (ONE HUN) appears under the Ring Symbol (RING) 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 any of the "WINNING NUMBERS" play symbols and a prize symbol of \$50\$ (FIFTY) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$50.

(i) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Ring Symbol (RING), and a prize symbol of \$50\$ (FIFTY) appears under the Ring Symbol (RING) on a single ticket, shall be entitled to a prize of \$50.

(j) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$25\$ (TWY FIV) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$25.

(k) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Ring Symbol (RING), and a prize symbol of \$25\$ (TWY FIV) appears under the Ring Symbol (RING) on a single ticket, shall be entitled to a prize of \$25.

(l) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$15\$ (FIFTEN) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$15.

(m) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Ring Symbol (RING), and a prize symbol of \$15\$ (FIFTEN) appears under the Ring Symbol (RING) on a single ticket, shall be entitled to a prize of \$15.

(n) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$10.⁰⁰ (TEN DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$10.

(o) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Ring Symbol (RING), and a prize symbol of \$10.⁰⁰ (TEN DOL) appears under the Ring Symbol (RING) on a single ticket, shall be entitled to a prize of \$10.

(p) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$6.⁰⁰ (SIX DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$6.

(q) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Ring Symbol (RING), and a prize symbol of \$6⁰⁰ (SIX DOL) appears under the Ring Symbol (RING) on a single ticket, shall be entitled to a prize of \$6.

(r) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$5⁰⁰ (FIV DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$5.

(s) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols is a Ring Symbol

(RING), and a prize symbol of \$5⁰⁰ (FIV DOL) appears under the Ring Symbol (RING) on a single ticket, shall be entitled to a prize of \$5.

(t) Holders of tickets upon which any one of the "YOUR NUMBERS" play symbols matches any of the "WINNING NUMBERS" play symbols and a prize symbol of \$2⁰⁰ (TWO DOL) appears under the matching "YOUR NUMBERS" play symbol, on a single ticket, shall be entitled to a prize of \$2.

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 Winning Numbers, Win With Prize(s) of:

<i>of:</i>	<i>Win:</i>	<i>Approximate Odds 1 In:</i>	<i>Approximate No. of Winners Per 6,000,000 Tickets</i>
\$5	\$5	30	200,000
\$5 w/Ring	\$5	12.24	490,000
\$6	\$6	60	100,000
\$6 w/Ring	\$6	60	100,000
\$2 × 5	\$10	120	50,000
\$5 × 2	\$10	600	10,000
\$10	\$10	600	10,000
\$10 w/Ring	\$10	46.15	130,000
\$5 × 3	\$15	600	10,000
\$10 + \$5	\$15	300	20,000
\$15	\$15	600	10,000
\$15 /w Ring	\$15	120	50,000
\$5 × 5	\$25	75	80,000
\$25	\$25	200	30,000
\$25 w/Ring	\$25	66.67	90,000
\$25 × 2	\$50	300	20,000
\$15 × 3 + \$5	\$50	600	10,000
\$5 × 10	\$50	300	20,000
\$10 × 5	\$50	300	20,000
\$50	\$50	300	20,000
\$50 w/Ring	\$50	600	10,000
\$10 × 10	\$100	1,200	5,000
\$50 × 2	\$100	1,200	5,000
\$100	\$100	1,200	5,000
\$100 w/Ring	\$100	1,200	5,000
\$25 × 10	\$250	30,000	200
\$50 × 5	\$250	30,000	200
\$250	\$250	30,000	200
\$250 w/Ring	\$250	30,000	200
\$250 × 10	\$2,500	600,000	10
\$2,500	\$2,500	600,000	10
\$50,000	\$50,000	1,200,000	5
\$100,000	\$100,000	1,200,000	5

Ring = Automatically win prize shown

9. *Retailer Incentive Awards:* The Lottery may conduct a separate Retailer Incentive Game for retailers who sell Pennsylvania Platinum Payout 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 Platinum Payout, prize money from winning Pennsylvania Platinum Payout 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 Platinum Payout 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 Platinum Payout or through normal communications methods.

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 04-2204. Filed for public inspection December 10, 2004, 9:00 a.m.]

Rates of Tax on Aviation Gasoline and Jet Fuel for 2005; Oil Company Franchise Tax Rate for 2005; Alternative Fuels Tax Rates for 2005

Aviation Gasoline and Jet Fuels

Under 74 Pa.C.S. § 6121(b) (relating to tax on aviation fuels), the Secretary of Revenue (Secretary) announces that for calendar year 2005 the rate of tax on aviation gasoline and all other liquid fuels used or sold and delivered by distributors within this Commonwealth for use as fuel in propeller-driven piston engine aircraft or aircraft engines changes from the current rate of 4.1¢ to 4.7¢* per gallon or fractional part thereof.

Under 74 Pa.C.S. § 6131(b) (relating to tax on jet fuels), the Secretary announces that for calendar year 2005 the rate of tax on jet fuels used or sold and delivered by distributors within this Commonwealth for use as fuel in turbine-propeller jet, turbojet and jet-driven aircraft and aircraft engines changes from the current rate of 1.8¢ to 2.0¢ per gallon or fractional part thereof.

The rate of tax on aviation gasoline is adjusted annually beginning on January 1, 1985, and each January 1 thereafter. The rate of tax on jet fuels is adjusted annually beginning on January 1, 1986, and each January 1 thereafter. Under 74 Pa.C.S. §§ 6121(b) and 6131(b), the rate of each tax increases or decreases 0.1¢ per gallon for each 10% increase or decrease in the producer price index for jet fuel as determined by the United States Department of Labor, Bureau of Labor Statistics, for the most recent 12-month period available as of November 1, subject to a maximum rate of 6¢ per gallon for aviation gasoline and 2¢ per gallon for jet fuels.

On November 1, 2004, the most recently available 12-month period was September 2003 to September 2004, as reported in Bureau of Labor Statistics, United States Department of Labor, Producer Price Indexes, September 2004, USDL 04-2103, released October 15, 2004, for which the percentage change was +61.7%. Accordingly, the aviation gasoline tax rate increases 0.6¢ per gallon; however the jet fuel tax rate increases by only 0.2¢ per gallon due to the 2¢ per gallon maximum rate.

Oil Company Franchise Tax

The Secretary announces that for the calendar year 2005 the rate of the oil company franchise tax changes from the current rate of 14.2¢ per gallon to 18.0¢ per gallon on all liquid fuels and from 19.2¢ per gallon to 24.4¢ per gallon on all fuels used or sold and delivered by distributors within this Commonwealth under 75 Pa.C.S. § 9004(b) (relating to imposition of tax, exemptions and deductions).

The rate of the oil company franchise tax imposed under 75 Pa.C.S. Chapter 95 (relating to taxes for

highway maintenance and construction), 75 Pa.C.S. § 9502 (relating to imposition of tax), and collected under 75 Pa.C.S. Chapter 90 (relating to liquid fuels and fuels tax), 75 Pa.C.S. § 9004(b), is determined annually by the Department of Revenue (Department) and announced by each December 15 for the following calendar year. The tax rate is determined on a "cents per gallon equivalent basis," which is defined by 75 Pa.C.S. § 9002 (relating to definitions) as:

The average wholesale price per gallon multiplied by the decimal equivalent of any tax imposed by section 9502 (relating to imposition of tax), the product of which is rounded to the next highest tenth of a cent per gallon. The rate of tax shall be determined by the Department of Revenue on an annual basis beginning every January 1 and shall be published as a notice in the *Pennsylvania Bulletin* no later than the preceding December 15. In the event of a change in the rate of tax imposed by section 9502, the Department shall redetermine the rate of tax as of the effective date of such change and give notice as soon as possible.

"Average wholesale price" as used previously is defined as:

The average wholesale price per gallon of all taxable liquid fuels and fuels, excluding the federal excise tax and all liquid fuels taxes, as determined by the Department of Revenue for the 12-month period ending on the September 30 immediately prior to January 1 of the year for which the rate is to be set. In no case shall the average wholesale price be less than 90¢ nor more than \$1.25 per gallon.

For the 12-month period ending September 30, 2004, the Department has determined that the average wholesale price of liquid fuels and fuels was \$1.17 per gallon.

The oil company franchise tax imposed under 75 Pa.C.S. § 9502 in terms of mills applicable to each gallon is:

<i>Imposition Section</i>	<i>Liquid Fuels</i>	<i>Fuels</i>
75 Pa.C.S. § 9502(a)(1)	60.0	60.0
75 Pa.C.S. § 9502(a)(2)	55.0	55.0
75 Pa.C.S. § 9502(a)(3)	38.5	38.5
75 Pa.C.S. § 9502(a)(4)	00.0	55.0
Total Mills per Gallon:	153.5	208.5
Decimal Equivalent:	.1535	.2085
Multiply by Average Wholesale Price:	× \$1.17	× \$1.17
Product:	17.960¢	24.395¢
Oil Company Franchise Tax per Gallon (Rounded Up to Next Highest Tenth):	18.0¢	24.4¢

The act of April 17, 1997 (P. L. 6, No. 3) provides that the oil company franchise tax as computed previously is collected at the same time as the liquid fuels and fuels tax of 12¢ per gallon; therefore, effective January 1, 2005, the combined rate of tax for liquid fuels (primarily gasoline) is 30.0¢ per gallon and for fuels (primarily undyed diesel fuel) is 36.4¢ per gallon.

Alternative Fuels Tax Rates for 2005

Under 75 Pa.C.S. § 9004(d) the Secretary is required to compute the rate of tax applicable to each alternative fuel on a gallon-equivalent-basis. Under 75 Pa.C.S. § 9002, "gallon-equivalent-basis" is defined as the "amount of any alternative fuel as determined by the Department to

* The rate of 4.7¢ per gallon consists of the 1.5¢ per gallon tax imposed by the Liquid Fuels and Fuels Tax Act, 75 Pa.C.S. § 9004(c)(1), and the 3.2¢ per gallon additional tax imposed by 74 Pa.C.S. § 6121(a). As limited by 74 Pa.C.S. § 6121(b), the combined rate of these two component taxes may never exceed 6¢ per gallon or be less than 3¢ per gallon.

contain 114,500 BTUs.” The amount determined on a “gallon-equivalent-basis” for each alternative fuel is subject to the liquid fuels and oil company franchise taxes currently imposed on 1 gallon of gasoline. The rate of tax on 1 gallon of gasoline during the period of this notice is \$.12 liquid fuels tax and \$.180 oil company franchise tax for a total tax of \$.300 per gallon of gasoline.

The Secretary announces that the 2005 tax rates for alternative fuels are as follows:

<i>Alternative Fuel</i>	<i>Rate of Conversion (Btu/gal of alternative fuel)</i>	<i>Amount Equivalent to 1 Gallon of Gasoline @ 114,500 Btu per gallon.</i>	<i>Tax Rate per Gallon of Alternative Fuel</i>
Ethanol	76,400	1.499	\$.201
Methanol	56,560	2.024	\$.149
Propane/LPG	83,500	1.371	\$.219
E-85	80,460	1.423	\$.211
M-85	65,350	1.752	\$.172
Compressed Natural Gas (CNG)	29,000@ 3,000 PSI	3.948	\$.076
Liquefied Natural Gas (LNG)	66,640	1.718	\$.175
Electricity	3,412 Btu/KWH	33.558 KWH	\$.0090/KWH

GREGORY C. FAJT,
Secretary

[Pa.B. Doc. No. 04-2205. Filed for public inspection December 10, 2004, 9:00 a.m.]

INSURANCE DEPARTMENT

CRL Holdings, L. P.; Hearing

Appeal of CRL Holdings, L. P. under the Storage Tank and Spill Prevention Act Underground Storage Tank Indemnification Fund; USTIF File No. 99-196M; Doc. No. UT04-11-016

The proceedings in this matter will be governed by 2 Pa.C.S. §§ 501–508 and 701–704 (relating to the Administrative Agency Law), 1 Pa. Code Part II (relating to General Rules of Administrative Practice and Procedure) and any other relevant procedure provisions of law.

A prehearing telephone conference shall be held on January 12, 2005, at 10 a.m. A hearing shall occur on January 27, 2005, at 9 a.m. in the Administrative Hearings Office, Room 200, Capitol Associates Building, 901 North Seventh Street, Harrisburg, PA 17102.

On or before November 29, 2004, each party shall file with the Administrative Hearings Office a prehearing statement which shall contain: (1) a comprehensive statement of undisputed facts to be stipulated between the parties; (2) a statement of additional contended facts; (3) names and address of witnesses along with the specialties of experts to be called; (4) a list of documents to be used at the hearing; (5) special evidentiary or other legal issues; and (6) the estimated time for that party’s case.

Contemporaneously with service of the prehearing statement on the opposing party, each party shall supply the other with a copy of any report generated by an expert witness designated on the prehearing statement. Any report subsequently received from a party’s expert witness prior to hearing shall be supplied to the other party within 2 business days. Copies of expert reports need not be filed with the Administrative Hearings Office. Experts will be permitted to testify only on matters substantially contemplated by reports supplied to the other party in accordance with this paragraph.

Motions preliminary to those at hearing, protests, petitions to intervene, notices of appearance or notices of intervention, if any, must be filed with the Hearings Administrator, at the previously listed address on or before January 3, 2005. Answers to petitions to intervene, if any, shall be filed on or before January 7, 2005.

Persons with a disability who wish to attend the previously referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Jeffrey Wallace, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-2206. Filed for public inspection December 10, 2004, 9:00 a.m.]

Cigna Health Plan; Employer Group Base Medical and Pharmacy Rate Filing

On November 22, 2004, the Insurance Department (Department) received from Cigna Health Plan a filing for rate increases ranging from 14.8% to 28.1% for the medical plans and -7.4% to 63.8% for the pharmacy plans. The proposed effective date is April 1, 2005. This filing will impact approximately 2,000 contracts and generate additional revenue of \$1.2 million for the combined plans.

Unless formal administrative action is taken prior to February 23, 2005, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Department’s website at www.ins.state.pa.us. Scroll down the home page and click on “Consumer Information” located on the left side. Next scroll down to “General Information,” located in the middle of the page and click on “Notices.” The pdf copy of this filing is located at the link “Filing.pdf” following the name of the filing.

Copies of the filing are also available for public inspection, by appointment, during normal working hours at the Department’s regional office in Harrisburg.

Interested parties are invited to submit written comments, suggestions or objections to Cherri Sanders-Jones, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, csandersjo@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-2207. Filed for public inspection December 10, 2004, 9:00 a.m.]

List of Names of Qualified Unlicensed Reinsurers

Under section 319.1 of The Insurance Company Law of 1921 (40 P.S. § 442.1), the Insurance Commissioner (Commissioner) hereby lists reinsurers not licensed by the Insurance Department (Department) which shall be considered qualified to accept reinsurance from insurers licensed by the Department.

This listing of qualified unlicensed reinsurers shall be published in the *Pennsylvania Bulletin* when additions to or deletions from such listing are made by the Insurance Commissioner. This present listing shall replace in their entirety previously published listings of qualified unlicensed reinsurers which appeared at 6 Pa.B. 2423 (September 25, 1976); 6 Pa.B. 3140 (December 18, 1976); 7 Pa.B. 501 (February 19, 1977); 7 Pa.B. 1766 (June 25, 1977); 8 Pa.B. 276 (January 28, 1978); 8 Pa.B. 1646 (June 17, 1978); 8 Pa.B. 1646 (June 17, 1978); 8 Pa.B. 1646 (June 17, 1978); 8 Pa.B. 3461 (December 2, 1978); 9 Pa.B. 4235 (December 22, 1979); 11 Pa.B. 38 (January 3, 1981); 12 Pa.B. 37 (January 2, 1982); 12 Pa.B. 2368 (July 23, 1982); 13 Pa.B. 657 (February 5, 1983); 13 Pa.B. 2826 (September 10, 1983); 14 Pa. B. 1053 (March 24, 1984); 14 Pa.B. 3065 (August 18, 1984); 15 Pa.B. 402 (February 2, 1985); 15 Pa.B. 3214 (September 7, 1985); 16 Pa.B. 290 (January 25, 1986); 17 Pa.B. 461 (January 24, 1987); 17 Pa.B. 5368 (December 26, 1987); 18 Pa.B. 5540 (December 10, 1988); 19 Pa.B. 713 (February 18, 1989); 19 Pa.B. 3129 (July 22, 1989); 19 Pa.B. 5476 (December 23, 1989); 20 Pa.B. 6227 (December 15, 1990); 21 Pa.B. 3286 (July 20, 1991); 21 Pa.B. 5445 (November 23, 1991); 22 Pa.B. 4591 (September 5, 1992); 23 Pa.B. 60 (January 2, 1993); 23 Pa.B. 5678 (November 27, 1993); 24 Pa.B. 4151 (August 13, 1994); 24 Pa.B. 6033 (December 3, 1994); 25 Pa.B. 5799 (December 16, 1995); 46 Pa.B. 5665 (November 16, 1996); 21 Pa.B. 2593 (May 24, 1997); 46 Pa.B. 6019 (November 15, 1997); 46 Pa.B. 5733 (November 14, 1998); 28 Pa.B. 5922 (December 5, 1998); 47 Pa.B. 5965 (November 20, 1999); 47 Pa.B. 5033 (November 18, 2000); 2 Pa.B. 205 (January 13, 2001); 45 Pa.B. 6251 (November 10, 2001); 52 Pa.B. 7083 (December 29, 2001); 33 Pa.B. 92 (January 4, 2003); and 33 Pa.B. 6474 (December 27, 2003).

Qualified Reinsurers List

- | | | | | | |
|-----|-------|---|-----|-------|--|
| 1. | 10651 | AIG Global Trade & Political Risk Insurance Company, Parsippany, New Jersey | 12. | 40371 | Columbia Mutual Insurance Company, Columbia, Missouri |
| 2. | 37990 | American Empire Insurance Company, Cincinnati, Ohio | 13. | 27955 | Commercial Risk Re-Insurance Company, South Burlington, Vermont |
| 3. | 26883 | American International Specialty Lines Insurance Company, Anchorage, Alaska | 14. | 40509 | EMC Reinsurance Company, Des Moines, Iowa |
| 4. | 10316 | Appalachian Insurance Company, Johnston, Rhode Island | 15. | 39020 | Essex Insurance Company, Wilmington, Delaware |
| 5. | 22680 | Aspen Insurance UK Limited, London, England | 16. | 35378 | Evanston Insurance Company, Evanston, Illinois |
| 6. | 27189 | Associated International Insurance Company, Woodland Hills, California | 17. | 97071 | Generali USA Life Reassurance Company, Lansing, Michigan |
| 7. | 50687 | Attorneys' Title Insurance Fund, Inc., Orlando, Florida | 18. | 37532 | Great American E & S Insurance Company, Wilmington, Delaware |
| 8. | 19925 | Audubon Indemnity Company, Ridgeland, Mississippi | 19. | 41858 | Great American Fidelity Insurance Company, Wilmington, Delaware |
| 9. | 36552 | AXA Corporate Solutions Reinsurance Company, Wilmington, Delaware | 20. | 88340 | Hannover Life Reassurance Company of America, Orlando, Florida |
| 10. | 36951 | Century Surety Company, Columbus, Ohio | 21. | 10241 | Hannover Ruckversicherungs-Aktiengesellschaft, Hannover, Germany |
| 11. | 39993 | Colony Insurance Company, Richmond, Virginia | 22. | 93505 | Hartford International Life Reassurance Corporation, Hartford, Connecticut |
| | | | 23. | 78972 | Healthy Alliance Life Insurance Company, St. Louis, Missouri |
| | | | 24. | 42374 | Houston Casualty Company, Houston, Texas |
| | | | 25. | 27960 | Illinois Union Insurance Company, Chicago, Illinois |
| | | | 26. | 22829 | Interstate Fire & Casualty Company, Chicago, Illinois |
| | | | 27. | 35637 | Landmark Insurance Company, Los Angeles, California |
| | | | 28. | 19437 | Lexington Insurance Company, Wilmington, Delaware |
| | | | 29. | 41939 | Liberty Northwest Insurance Corporation, Portland, Oregon |
| | | | 30. | | Lloyd's Underwriters, London, England |
| | | | 31. | 10744 | Markel International Insurance Company Limited, London, England |
| | | | 32. | 32089 | Medmarc Mutual Insurance Company, Montpelier, Vermont |
| | | | 33. | 14591 | Milwaukee Mutual Insurance Company, Milwaukee, Wisconsin |
| | | | 34. | 33189 | Monticello Insurance Company, Wilmington, Delaware |
| | | | 35. | 20079 | National Fire & Marine Insurance Company, Omaha, Nebraska |
| | | | 36. | 41629 | New England Reinsurance Corporation, Hartford, Connecticut |
| | | | 37. | 17400 | Noetic Specialty Insurance Company, Chicago, Illinois |
| | | | 38. | 31143 | Old Republic Union Insurance Company, Chicago, Illinois |
| | | | 39. | 88099 | Optimum Re Insurance Company, Dallas, Texas |
| | | | 40. | 38636 | Partner Reinsurance Company of the U. S., New York, New York |

41. 88536 Protective Life and Annuity Insurance Company, Birmingham, Alabama
42. 29807 PXRE Reinsurance Company, Hartford, Connecticut
43. 92673 Revios Reinsurance Canada Ltd, Los Angeles, California
44. 87017 Revios Reinsurance U.S. Inc., Los Angeles, California
45. 10679 St. Paul Reinsurance Company, Limited, London, England
46. 21911 San Francisco Reinsurance Company, Novato, California
47. 90670 Scottish Re Life Corporation, Jefferson City, Missouri
48. 41297 Scottsdale Insurance Company, Columbus, Ohio
49. 23388 Shelter Mutual Insurance Company, Columbia, Missouri
50. 26557 Shelter Reinsurance Company, Columbia, Missouri
51. 10743 Sphere Drake Insurance Company Limited, Brighton, England
52. 10932 Starr Excess Liability Insurance Company, Ltd., Wilmington, Delaware
53. 39187 Suecia Insurance Company, Nanuet, New York
54. 19887 Trinity Universal Insurance Company, Dallas, Texas
55. 37982 Tudor Insurance Company, Keene, New Hampshire
56. 10292 Unionamerica Insurance Company Limited, London, England
57. 36048 Unione Italiana Reinsurance Company of America, Inc., New York, New York
58. 28053 United Coastal Insurance Company, Phoenix, Arizona
59. 13021 United Fire & Casualty Company, Cedar Rapids, Iowa
60. 10172 Westchester Surplus Lines Insurance Company, Atlanta, Georgia
61. 13196 Western World Insurance Company, Keene, New Hampshire
62. 10242 Zurich Specialties London Limited, London, England

The following company has been added since the list was published on December 27, 2003:

Shelter Reinsurance Company, Columbia, Missouri

The following company has been removed from the list since it was published on December 27, 2003:

Scottish Re (U.S.), Inc., Wilmington, Delaware

The following companies have changed their names since the list was published on December 27, 2003:

ERC Life Reinsurance Corporation, Jefferson City, Missouri changed its name to Scottish Re Life Corporation, Jefferson City, Missouri

Gerling Global Life Insurance Company, Los Angeles, California changed its name to Revios Reinsurance Canada Ltd., Los Angeles, California

Gerling Global Life Reinsurance Company, Los Angeles, California changed its name to Revios Reinsurance U.S. Inc., Los Angeles, California

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-2208. Filed for public inspection December 10, 2004, 9:00 a.m.]

Paul Dubiel, D. O.; Prehearing

Appeal of Paul Dubiel, D. O. under the Medical Care Availability and Reduction of Error (MCARE) Act (40 P. S. §§ 1303.101—1303.910); Doc. No. MM04-11-009

On or before December 15, 2004, the appellant shall file a concise statement setting forth the factual and/or legal basis for his disagreement with MCARE's October 1, 2004, determination. The statement may be in narrative form or in numbered paragraphs, but in either event shall not exceed two pages. A prehearing telephone conference initiated by this office is scheduled for January 5, 2005, at 10:30 p.m. Each party shall provide a telephone number to be used for the telephone conference to the Hearings Administrator on or before December 10, 2004. A hearing date shall be determined, if necessary, at the prehearing telephone conference.

Motions preliminary to those at hearing, protests, petitions to intervene or notices of intervention, if any, must be filed on or before December 22, 2004, with the Hearings Administrator, Administrative Hearings Office, Capitol Associates Building, Room 200, 901 North Seventh Street, Harrisburg, PA 17102. Answer to petitions to intervene, if any, shall be filed on or before December 30, 2004.

Persons with a disability who wish to attend the previously referenced administrative hearing and require an auxiliary aid, service or other accommodation to participate in the hearing should contact Jeffrey Wallace, Agency Coordinator at (717) 787-4298.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 04-2209. Filed for public inspection December 10, 2004, 9:00 a.m.]

Review Procedure Hearings; Cancellation or Refusal of Insurance

The following insured has requested a hearing as authorized by the act of June 17, 1998 (P. L. 464, No. 68), in connection with the termination of the insured's automobile policy. The hearing will be held in accordance with the requirements of the act; 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure); and 31 Pa. Code §§ 56.1—56.3 (relating to Special Rules of Administrative Practice and Procedure). The administrative hearing will be held in the Insurance Department's regional offices in Harrisburg, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearing will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Harley C. Estep; file no. 04-193-10454; Mutual Benefit Insurance Company; doc. no. P04-11-010; December 29, 2004, 1:30 p.m.

Parties may appear with or without counsel and offer relevant testimony or evidence. Each party must bring documents, photographs, drawings, claims files, witnesses, and the like, necessary to support the party's case. A party intending to offer documents or photographs into evidence shall bring enough copies for the record and for each opposing party.

In some cases, the Insurance Commissioner (Commissioner) may order that the company reimburse an insured for the higher cost of replacement insurance coverage obtained while the appeal is pending. Reimbursement is available only when the insured is successful on appeal and may not be ordered in all instances. If an insured wishes to seek reimbursement for the higher cost of replacement insurance, the insured must produce documentation at the hearing which will allow comparison of coverages and costs between the original policy and the replacement policy.

Following the hearing and receipt of the stenographic transcript, the Commissioner will issue a written order resolving the factual issues presented at the hearing and stating what remedial action, if any, is required. The Commissioner's Order will be sent to those persons participating in the hearing or their designated representatives. The Order of the Commissioner may be subject to judicial review by the Commonwealth Court.

Persons with a disability who wish to attend an administrative hearing and require an auxiliary aid, 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. 04-2210. Filed for public inspection December 10, 2004, 9:00 a.m.]

Appeal of Robert P. Steckbeck; file no. 04-182-10272; Littitz Mutual Insurance Company; doc. no. P04-11-012; December 22, 2004, 1:30 p.m.

The following hearings will be held in the Philadelphia Regional Office, Room 1701, State Office Building, 1400 Spring Garden Street, Philadelphia, PA 19130.

Appeal of Joseph P. Maher, Esquire; file no. 04-181-09626; Erie Insurance Exchange; doc. no. P04-11-017; January 13, 2005, 2:30 p.m.

Appeal of Rev Christopher Neilson and Sharon Neilson; file no. 04-215-04211; Mutual Benefit Insurance Company; doc. no. PH04-11-018; January 14, 2005, 9 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. 04-2211. Filed for public inspection December 10, 2004, 9:00 a.m.]

Review Procedure Hearings under the Unfair Insurance Practices Act

The following insureds have requested a hearing as authorized by section 8 of the Unfair Insurance Practices Act (40 P. S. § 1171.8) in connection with their companies' termination of the insureds' policies. The administrative hearings will be held in the Insurance Department's regional offices in Harrisburg and Philadelphia, PA. Failure by an appellant to appear at a scheduled hearing may result in dismissal with prejudice.

The following hearings will be held in the Administrative Hearings Office, Capitol Associates Building, Room 200, 901 N. Seventh Street, Harrisburg, PA 17102.

Appeal of Eva A. Boyer; file no. 04-188-10504; State Farm Fire & Casualty Insurance Co.; doc. no. P04-11-013; December 21, 2004, 10 a.m.

Appeal of Christine Ziomek; file no. 04-181-09838; Pennsylvania National Mutual Casualty Insurance Company; doc. no. P04-11-014; December 22, 2004, 10 a.m.

LIQUOR CONTROL BOARD

Expiration of Leases

The following Liquor Control Board leases will expire:

Philadelphia County, Wine & Spirits Shoppe #5195, 7702 City Avenue, Philadelphia, PA 19151.

Lease Expiration Date: June 30, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space in a 1-mile radius of the intersection of City Avenue and Havertown Road, Philadelphia.

Proposals due: December 29, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128
Contact: Robert Jolly, (215) 482-9671

Bucks County, Wine & Spirits Shoppe #0933, Buckingham Green, 4950 Old York Road, Holicong, PA 18928.

Lease Expiration Date: September 30, 2006

Lease retail commercial space to the Commonwealth. Proposals are invited to provide the Liquor Control Board with approximately 4,000 net useable square feet of new or existing retail commercial space in a 1-mile radius of the intersection of Route 202 and Route 413, Buckingham Township.

Proposals due: December 29, 2004, at 12 p.m.

Department: Liquor Control Board
Location: Real Estate Division, 8305 Ridge Avenue, Philadelphia, PA 19128
Contact: Robert Jolly, (215) 482-9671

JONATHAN H. NEWMAN,
Chairperson

[Pa.B. Doc. No. 04-2212. Filed for public inspection December 10, 2004, 9:00 a.m.]

MILK MARKETING BOARD

Public Hearings For Regulatory Proposals

Dealer Loans to Customers; Full Payment Before Accounts May Change Suppliers; Direct Load of Raw Milk from Milking Parlor to Milk Tankers

The Milk Marketing Board (Board) will conduct a series of public hearings on December 15, 2004, beginning at 10 a.m. in Room 202, Agriculture Building, 2301 North Cameron Street, Harrisburg, PA.

The purpose of the hearings is to receive testimony and comments regarding three proposed regulatory initiatives: (1) prohibition of dealer loans to customers and prospective customers, (2) requiring full payment to milk dealers by wholesale accounts before the accounts may change suppliers, and (3) a regulation providing for weighing and sampling procedures for raw milk that is loaded directly from the milking parlor to bulk milk tank trucks.

The hearings will begin at 10 a.m. and will be conducted in the order noted previously. The hearings will take place serially, with each hearing beginning at the conclusion of the previous hearing. There is no requirement for prior notification or entry of appearance to be able to provide testimony or comments at any of the hearings. Details concerning the conduct of each of the hearings may be obtained at the Board's website at www.mmb.state.pa.us or by contacting the Board office at (717) 787-4194. Draft proposed regulations regarding dealer loans and direct load of milk may also be obtained at the Board's website or by contacting the Board office.

Persons who require this information in an alternate format should call (717) 787-4194 or (800) 654-5984 (Pennsylvania Relay Service for TDD users).

KEITH BIERLY,
Secretary

[Pa.B. Doc. No. 04-2213. Filed for public inspection December 10, 2004, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Opinion and Order

Public Meeting held
 November 18, 2004

Commissioners Present: Wendell F. Holland, Chairperson; Robert K. Bloom, Vice Chairperson; Glen R. Thomas; Kim Pizzigrilli

Petition of the Brotherhood of Unified Taxi Drivers/Owners; S.P. 28208

Opinion and Order

By the Commission:

Before us for consideration is the Letter/Petition for Reconsideration (Petition filed on October 14, 2004 by "The Brotherhood of Unified Taxi Drivers/Owners" (Brotherhood)).

History of the Proceeding

By Order entered June 15, 2004, the Commission approved a temporary fuel surcharge for motor carriers providing call or demand service, airport transfer service and paratransit service. See Special Permission No. 28208. The fuel surcharge was granted in response to the recent, unanticipated rise in retail gasoline prices. Call or demand carriers were authorized to charge a temporary fuel surcharge of \$.30 per trip for each paying passenger. Paratransit and airport transfer carriers were authorized to charge a temporary fuel surcharge of \$.70 per trip for each paying passenger. The fuel surcharge was effective June 14, 2004, and will terminate on June 12, 2005. The Bureau of Transportation and Safety was directed to investigate the merits of the fuel surcharge on a quarterly basis, beginning September 30, 2004, or as otherwise directed by the Commission.

On July 14, 2004, the Brotherhood filed a Petition with the Commission requesting reconsideration of the amount of the fuel surcharge for Medallion taxicabs providing transportation in Philadelphia. The basis for the Brotherhood's request was the increased cost of premium fuel used in Medallion vehicles. By Order entered August 19, 2004, the Commission denied the petition, finding that the \$0.30 fuel surcharge amount was proper for Medallion taxicabs regardless of the type of fuel used in the vehicles. The Commission also clarified that the fuel surcharge could be applied to the \$20.00 flat rate charged to passengers traveling from the Philadelphia International Airport to the downtown area, and vice versa. Finally the Commission used the opportunity in its August 19, 2004 Order to permit call and demand carriers to add the fuel surcharge to the initial mile increment or flag drop of their metered rates.

On October 13, 2004, the Brotherhood filed a second Petition requesting the Commission reconsider the amount of the fuel surcharge for Medallion taxicabs. On October 14, 2004, the Brotherhood amended its second Petition. Currently, the Brotherhood requests that the fuel surcharge for Medallion taxicabs be increased to \$.50 per passenger for metered fares, and \$2.00 for all airport trips subject to the \$20.00 flat rate.

Discussion

The Public Utility Code establishes a party's right to seek relief following the issuance of our final decisions

pursuant to Subsections 703(f) and (g) of the Public Utility Code, 66 Pa.C.S. § 703(f) and (g), relating to re-hearings, rescission and amendment of orders. Such requests for relief must be consistent with Section 5.572(b) of our Regulations, 52 Pa. Code § 5.572(b), relating to petitions for relief following the issuance of a final decision. The standards for a petition for relief following a final decision were addressed in *Duick v. PG&W*, 56 Pa. PUC 553 (1982), (*Duick*).

Duick held that a petition for rehearing under Subsection 703(f) of the Public Utility Code must allege newly discovered evidence not discoverable through the exercise of due diligence prior to the close of the record. *Duick*, at 558. A petition for reconsideration or modification under Subsection 703(g), however, may properly raise any matter designed to convince us that we should exercise our discretion to amend, modify, or rescind a prior Order, in whole or in part. Furthermore, such petitions are likely to succeed only when they raise "new and novel arguments" not previously heard or considerations which appear to have been overlooked or not addressed by us. *Duick*, at 559. *AT&T v. Pa. PUC*, 568 A.2d 1362 (Pa. Cmwlth Ct. 1990), further elucidated the standards for rehearing, reconsideration, revision, or rescission.

The Brotherhood offers three reasons why we should grant reconsideration and, on the merits, an increased fuel surcharge to Medallion taxicabs. First, the Brotherhood alleges that the time frame used by the Commission in examining retail prices for gasoline should be expanded beyond the May, 2002, through May, 2004 period, since the Medallion industry's rates, established in 1990, are based, in part, on the price of gasoline in 1990. Second, the Brotherhood avers that current Philadelphia Medallion taxicab tariff encourages that industry to seek a fuel recovery when the price for unleaded gasoline exceeds \$1.20 per gallon. Third, the Brotherhood alleges that the current retail price of gasoline in the Philadelphia metropolitan area is higher than other regions of the State. These factors warrant reconsideration.

In our June 15 Order, the Surcharge was based on the May 2002 gas price of \$1.35 per gallon relative to current prices. Also, the June 15 Order, used an average of 15.04 miles per gallon, which is a national average figure provided by the Pennsylvania Taxicab and Paratransit Association

The Commission's 1990 investigation at Docket No. I-900003, which last established rates for Medallion taxicabs, based the rates charged on an average price per gallon of \$1.20 for unleaded gasoline in the Philadelphia area. Upon further review of the merits, we believe the requested relief should be based on the \$1.20 per gallon agreed upon in the general rate proceeding for Medallion cabs in 1990. There has been no general rate increase for Medallion cabs since that time. Using the 1990 cost of \$1.20 per gallon warrants a \$.20 increase in the current Surcharge of \$.30 to a total of \$.50 per trip for metered trips. The surcharge for airport trips subject to the \$20.00 flat rate should be increased by this same amount, per trip. The \$.50 is based upon an average trip distance of 6.8 miles and 11.5 average miles per gallon. It is appropriate to use 11.5 miles per gallon as this resulted from a survey by the Pennsylvania Taxicab and Paratransit Association of its members and is reflective of over 1,000 vehicles in Pennsylvania.

However, we are not persuaded that the record warrants increasing the Surcharge for airport trips above \$.50 to the \$2.00 requested, since the approximate trip length from the Airport to the Philadelphia downtown

area nears the 6.8 mile average trip length. Nor is there any justification on the record supporting a Surcharge applicable to each passenger in a metered trip.

Accordingly, for the above reasons, the Petition of the Brotherhood of Unified Taxi Drivers/Owners is granted in part and denied in part. *Therefore*,

It Is Ordered That:

1. The Petition of the Brotherhood of Taxi Drivers/Owners is granted in part and denied in part, effective November 22, 2004.

2. An increase of \$.20 per trip to the current \$.30 Temporary Fuel Cost Recovery Surcharge, for a total of \$.50, is granted for metered trips.

3. An increase of \$.20 per trip to the current \$.30 Temporary Fuel Cost Recovery Surcharge, for a total of \$.50, is granted for trips to and from the Philadelphia International Airport.

4. The Commission directs the Bureau of Transportation and Safety to continue to review and report to the Commission concerning the appropriateness of the level of the fuel surcharge on a quarterly basis.

5. A copy of this Order shall be served on the Philadelphia Parking Authority and published in the *Pennsylvania Bulletin*.

6. Medallion carriers shall revise the notice to the public of the fuel surcharge, as required by ordering paragraph 5 of our June 15, 2004 Order, to reflect the \$.50 per trip surcharge.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-2214. Filed for public inspection December 10, 2004, 9:00 a.m.]

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by January 3, 2005. Documents filed in support of the applications are available for inspection and copying at the Office of the Secretary between 8 a.m. and 4:30 p.m., Monday through Friday, and at the business address of the respective applicant.

Applications of the following for approval to *begin* operating as *common carriers* for transportation of *persons* as described under each application.

A-00121242. Yakov Kogan (136 Forge Lane, Feasterville, Bucks County, PA 19053)—persons, in limousine service, between points in the Counties of Bucks, Chester and Montgomery, and from points in said counties, to points in Pennsylvania, and return.

A-00121261. Limousine Service by Conway, Inc. (12 Donna Drive, Factoryville, Lackawanna County, PA 18419), a corporation of the Commonwealth of Pennsylvania,

nia—persons, in limousine service, between points in the Counties of Susquehanna, Wyoming and Lackawanna, and from points in said counties, to points in Pennsylvania, and return. *Attorney:* W. Boyd Hughes, 1421 E. Drinker Street, Dunmore, PA 18512.

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-00113582, Folder 2, Am-B. Concord Limousine, Inc., t/d/b/a Concord Coach Taxi (2752 Mount Carmel Avenue, Glenside, Montgomery County, PA 19038), a corporation of the Commonwealth of Pennsylvania—inter alia—persons, upon call or demand: (1) in the Bala-Cynwyd Section of Lower Merion Township, Montgomery County, between the Schuylkill River on the east and Wynnewood Avenue on the west and extending to Rock Hill Road, Bryn Mawr Avenue and Montgomery Avenue on the north and from points in that area to other points in Pennsylvania, and vice versa; all transportation to be on call by telephone to the carrier's office; and (2) in that part of the City of Philadelphia, Philadelphia County, beginning at the intersection of City Line Avenue and 52nd Street, thence continuing south along 52nd Street to Wynnefield Avenue, thence continuing south along Wynnefield Avenue to Belmont Avenue, thence continuing south along Belmont Avenue to its intersection with Montgomery Avenue, thence continuing in an easterly direction along Montgomery Avenue until the same intersects with the Schuylkill River, thence continuing in a northerly direction to City Line Avenue and the place of beginning; all transportation to be upon call by telephone to the carrier's office: *So As To Permit* persons and their baggage upon call or demand: (1) in the City of Allentown, the Townships of South Whitehall, North Whitehall, Whitehall, Salisbury, Lower Macungie, Upper Macungie and Hanover, and the Boroughs of Emmaus and Fountain Hill, all located in the County of Lehigh; and (2) the City of Bethlehem, located in the Counties of Northampton and Lehigh, the Townships of Bethlehem and Lower Saucon, and the Boroughs of Freemansburg and Hellertown, said townships and boroughs all located in the county of Northampton.

Application of the following for amendment to the certificate of public convenience approval of the right and privilege to discontinue/abandon operating as common carriers by motor vehicle and for cancellation of the certificate of public convenience as described under the application.

A-00113735, Folder 1, Am-A. Valvano's Limousine, Inc. (R. D. 1, Box 476 A, Whites Ferry Road, Falls, Wyoming County, PA 18615), a corporation of the Commonwealth of Pennsylvania—discontinuance of service—persons, in limousine service, between points in Pennsylvania.

Pennsylvania Public Utility Commission, Bureau of Transportation and Safety v. John R. Altland, Jr., t/a Big A. Trucking; Doc. No. A-00118541C

Complaint

The Pennsylvania Public Utility Commission (Commission) is a duly constituted agency of the Commonwealth of Pennsylvania empowered to regulate public utilities within the Commonwealth. The Commission has delegated its authority to initiate proceedings which are prosecutory in nature to the Bureau of Transportation

and Safety and other bureaus with enforcement responsibilities. Pursuant to that delegated authority and Section 701 of the Public Utility Code, the Bureau of Transportation and Safety Prosecutory Staff hereby represents as follows:

1. That John R. Altland, Jr., t/a Big A. Trucking, respondent, maintains his principal place of business at P. O. Box 242, York New Salem, PA 17371.

2. That respondent was issued a certificate of public convenience by this Commission on February 15, 2002, at Application Docket No. A-00118541.

3. That respondent abandoned or discontinued service without having first submitted a letter to this Commission containing a statement that the service is no longer being rendered. Respondent has not reported intrastate revenue for the years 2002, 2003 and 2004.

4. That respondent, by failing to submit a letter to this Commission containing a statement that the service is no longer being rendered, violated 52 Pa. Code § 3.381(a)(5) and, by failing to maintain adequate, efficient and safe service and facilities, violated 66 Pa.C.S. § 1501.

Wherefore, the Bureau of Transportation and Safety Prosecutory Staff hereby requests that the Commission revoke respondent's Certificate of Public Convenience at A-00118541.

Respectfully submitted,

Wendy J. Keezel, Chief of Enforcement
Motor Carrier Services & Enforcement Division
Bureau of Transportation and Safety
P. O. Box 3265
Harrisburg, PA 17105-3265

VERIFICATION

I, Wendy J. Keezel, hereby state that the facts above set forth are true and correct to the best of my knowledge, information and belief and that I expect to be able to prove the same at any hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

Date: _____
Wendy J. Keezel, Chief of Enforcement

NOTICE

A. You must file an answer within twenty days of the date of service of this Complaint. The date of service is the mailing date, as indicated at the top of the Secretarial Cover Letter for this Complaint and Notice, 52 Pa. Code § 1.56(a). An answer is a written explanation of circumstances wished to be considered in determining the outcome. The answer shall raise all factual and legal arguments that you wish to claim in your defense and must include the reference number of this Complaint. Your answer must be verified and the original and three copies sent to:

James J. McNulty, Secretary
Pennsylvania Public Utility Commission
P. O. Box 3265
Harrisburg, PA 17105-3265

B. If you fail to answer this Complaint within twenty days, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which will include the revocation of your Certificate of Public Convenience.

C. If you file an answer which admits or fails to deny the allegations of the Complaint, the Bureau of Transportation and Safety will request that the Commission issue an Order imposing a penalty, which may include the revocation of your Certificate of Public Convenience.

D. If you file an answer which contests the Complaint, the matter will be assigned to an Administrative Law Judge for hearing and decision.

E. Alternative formats of this material are available, for persons with disabilities, by contacting the Compliance Office at (717) 787-1168.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-2215. Filed for public inspection December 10, 2004, 9:00 a.m.]

Telecommunications

A-310633F7001. Verizon North Inc. and Level 3 Communications, LLC. Joint petition of Verizon North Inc. and Level 3 Communications, LLC for approval of amendment no. 2 to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and Level 3 Communications, LLC, by its counsel, filed on November 3, 2004, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment no. 2 to an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon North Inc. and Level 3 Communications, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY
Secretary

[Pa.B. Doc. No. 04-2216. Filed for public inspection December 10, 2004, 9:00 a.m.]

Telecommunications

A-311341F7001. Verizon North Inc. and Quality Telephone, Inc. Joint petition of Verizon North Inc. and Quality Telephone, Inc. for approval of a resale agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and Quality Telephone, Inc. by its counsel, filed on November 2, 2004, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of a resale agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days

after the date of publication of this notice. Copies of the Verizon North Inc. and Quality Telephone, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-2217. Filed for public inspection December 10, 2004, 9:00 a.m.]

Telecommunications

A-310633F7000. Verizon Pennsylvania Inc. and Level 3 Communications, LLC. Joint Petition of Verizon Pennsylvania Inc. and Level 3 Communications, LLC for approval of amendment no. 2 to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Level 3 Communications, LLC, by its counsel, filed on November 3, 2004, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment no. 2 to an interconnection agreement under sections 251 and 252 of the Telecommunications Act of 1996.

Interested parties may file comments concerning the petition and agreement with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265. Comments are due on or before 10 days after the date of publication of this notice. Copies of the Verizon Pennsylvania Inc. and Level 3 Communications, LLC joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-2218. Filed for public inspection December 10, 2004, 9:00 a.m.]

Tentative Order

Public Meeting held
November 18, 2004

Commissioners Present: Wendell F. Holland, Chairperson;
Robert K. Bloom, Vice Chairperson; Glen R. Thomas;
Kim Pizzingrilli

Telecomez Corporation (2004.0268); A-311091

Tentative Order

By the Commission:

Telecomez Corporation (Telecomez) has failed to pay its \$10 general assessment for 2004-2005 pursuant to section 510(c) of the Public Utility Code. 66 Pa.C.S. § 510(c). Telecomez is a telecommunications interexchange reseller certificated at A-311091. On October 27, 2004, Commission staff sent by certified mail a notice to Telecomez that its 2004-2005 annual assessment was overdue. The notice came back as unclaimed, return to sender. All other attempts by Commission staff to reach the company have

proven unsuccessful, and its last known telephone number is now the number for a private residence. The Commission has also never received Telecomez's 2003 Annual Report.

The Commission puts the industry on notice that we will not hesitate to invoke our authority under the Public Utility Code to ensure timely compliance with our regulations and orders including the ordering of such other remedy as the Commission may deem appropriate. 66 Pa.C.S. §§ 504, 505, 506, and 3301. Based on the above and because of Telecomez's failure to pay its general assessment for 2004-2005 and file its 2003 Annual Report, we believe it is appropriate to revoke Telecomez's certificate of public convenience without the necessity of a formal complaint, and we tentatively conclude that revocation of Telecomez's certificate of public convenience pursuant to 66 Pa.C.S. § 1102(a)(2) is in the public interest. Furthermore, the Commission may take other appropriate action, including the imposition of penalties under section 3301, in lieu of cancellation, if Telecomez seeks relief from this Tentative Order; *Therefore,*

It Is Ordered That:

1. Revocation of Telecomez Corporation's certificate of public convenience is hereby tentatively approved as being in the public interest.
2. The Secretary serve a copy of this Tentative Order upon the Office of Consumer Advocate, the Office of Small Business Advocate, and the Office of Trial Staff, and also cause a copy of this Tentative Order to be published in the *Pennsylvania Bulletin* with a 30-day comment period.
3. Absent the filing of adverse public comment within 30 days after publication in the *Pennsylvania Bulletin*, this Tentative Order shall become final without further action by the Commission.
4. Upon this order becoming final and without further action by the Commission, the certificate of public convenience

held by Telecomez Corporation at A-311091 shall be canceled, and Telecomez Corporation's name stricken from all active utility lists maintained by the Commission's Bureau of Fixed Utility Services and the Assessment Section of Administrative Services.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 04-2219. Filed for public inspection December 10, 2004, 9:00 a.m.]

PHILADELPHIA REGIONAL PORT AUTHORITY

Request for Prequalification Submittals

The Philadelphia Regional Port Authority (PRPA) is requesting prequalification submittals for Project #04-168.1, Design and Build a 200,000 (approximate s.f.) Warehouse for Paper Storage. Contractor qualification forms are available from the Director of Procurement, PRPA, 3460 N. Delaware Ave., 2nd Floor, Philadelphia, PA 19134, (215) 426-2600 and will be available December 14, 2004. The cost of the form is \$35 (includes 7% PA Sales Tax and also includes the RFP package). The cost is nonrefundable for contractors that are prequalified.

Qualification forms must be submitted by 5 p.m., December 21, 2004. RFP packages will be given to all firms qualified by the PRPA. PRPA is an equal opportunity employer. Contractors must comply with all applicable equal opportunity laws and regulations.

JAMES T. MCDERMOTT, Jr.,
Executive Director

[Pa.B. Doc. No. 04-2220. Filed for public inspection December 10, 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

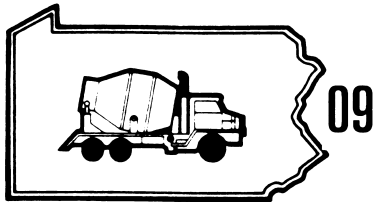
PA TREASURY BUSINESS OUTLET—PLUG INTO IT!

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

SU-2004/11 Shippensburg University SU-2004/11: Naugle Hall Reroof. Shippensburg University of the PA State System of Higher Education invites General Contractors to request bid documents for this project. Work includes all work necessary to remove existing roofing system and install a new EPDM roofing system. Prospective Bidders may obtain project plans for a non refundable fee of \$25.00, check made payable to EI Associates, by contacting EI Associates, 2001 North Front Street, Bldg. 3, Harrisburg, PA 17102-2118, Tel: 717-233-4556 or FAX 717-236-8256. Pre-Bid meeting with site visit immediately to follow will be held on December 22, 2005 at 10 a.m. in the Reed Operations Center Conference Room at Shippensburg University. Bids Due: January 13, 2005 at 4 p.m., Old Main Room 300. Public Bid Opening: January 14, 2005 at 2 p.m., Old Main Room 203A. Contracts, MBE/WBE apply. Non-Discrimination and Equal Opportunity are the policies of the Commonwealth and of the PA State System of Higher Education.

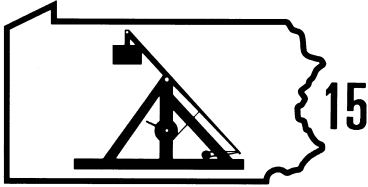
Department: State System of Higher Education
Location: Shippensburg University, Shippensburg, PA
Duration: 30 days after receipt of order
Contact: Deborah K. Martin, (717) 477-1121

SU-2004/3.2 Shippensburg University - SU-2004/3.2: Franklin Science Center New Fume Hood. Shippensburg University of the PA State System of Higher Education invites HVAC Contractors to request bid documents for this project. Work includes all HVAC, plumbing, piping and electrical work necessary to install a University furnished fume hood. Prospective Bidders may obtain project plans for a non refundable fee of \$25.00, check made payable to H.F. Lenz Company, by contacting H.F. Lenz Company, 1407 Scalp Ave, Johnstown, PA 15904, Tel: 814-269-9300 or FAX 814-269-9301. Pre-Bid meeting with site visit immediately to follow will be held on December 21, 2004 at 10 a.m. in the Reed Operations Center Conference Room at Shippensburg University. Bids Due: January 12, 2005 at 4 p.m., Old Main Room 300. Public Bid Opening: January 13, 2005 at 2 p.m., Old Main Room 203A. Contracts, MBE/WBE apply. Non-Discrimination and Equal Opportunity are the policies of the Commonwealth and of the PA State System of Higher Education.

Department: State System of Higher Education
Location: Shippensburg University, Shippensburg, PA 17257
Duration: 45 days after contract award
Contact: Deborah K. Martin, (717) 477-1121

DGS A 953-52 PROJECT TITLE: Restoration of 1st Floor Conference Room, Hearing Room and Foyer. BRIEF DESCRIPTION: Restore existing wood veneer paneling and wood doors, replace flooring, refinish existing ceilings, bronze grilles and hardware, and upgrade electrical system and lighting. ESTIMATED RANGE: \$100,000 to \$500,000. General and Electrical Construction. PLANS DEPOSIT: \$25.00 per set payable to: Commonwealth of PA. Refundable upon return of plans and specifications in reusable condition (no marks allowed) as construction documents within 15 days after the bid opening date. The bidder is responsible for the cost of delivery of the plans and specifications. Contact the office listed below to arrange the delivery of documents. A separate check must be submitted to cover the cost of delivery. Mail a separate check in the amount of \$5.00 per set or provide your express mail account number to the office listed below. Mail requests to: Department of General Services, Room 107 Headquarters Building, 18th and Herr Streets, Harrisburg, PA 17125, Tel: (717) 787-3923. Bid Date: Wednesday, January 19, 2005 at 2 p.m. A pre-bid conference has been scheduled for Tuesday, January 4, 2005, at 10 a.m. Meet in the Northwest Office Building Lobby. CONTACT: Brenda Disante, Tel: (717) 783-7124. All contractors who have secured contract documents are invited and urged to attend this pre-bid conference. All Bidders must be registered to secure plans and specifications. Register at: www.vendorregistration.state.pa.us.

Department: Liquor Control Board
Location: Northwest Office Building, Harrisburg, Dauphin County, PA
Duration: 120 Calendar Days from Date of Initial Job Conference
Contact: Contract and Bidding, (717) 787-6556



Environmental Maintenance Service

BOGM 6-101.1 Cleaning Out and Plugging One (1) Abandoned Gas Well, (Mr. Tom Vanvoorhis Property). The principal items of work include cleaning out and plugging one (1) abandoned gas well, estimated to be 6,200 feet in depth, to Department specifications, preparing and restoring the well site and mobilizing and demobilizing the plugging equipment. The estimated plugging time for this well is 120 hours while using an estimated 1,000 sacks of plugging material. This project issues on December 10, 2004 and bids will be opened on January 4, 2005 at 2 p.m. Payment in the amount of \$10.00 must be received before bid documents will be sent. A pre-bid conference is planned for this project but a date has not been set. Please use the contact information contained in this advertisement to find out more about the pre-bid.

Department: Environmental Protection
Location: Benezette Township, Elk County, PA
Duration: 60 calendar days after the official starting date.
Contact: Construction Contracts Section, (717) 787-7820

OSM 26(4733)101.1 Abandoned Mine Land Reclamation Project, Gans Northwest. The principal items of work and approximate quantities include 25 brush piles, 39,000 cubic yards of grading, 450 square yards of erosion matting, 200 square yards of rock lining, 13.5 acres of seeding and planting 1,600 trees. This project issues on December 10, 2004 and bids will be opened on January 4, 2005 at 2 p.m. Payment in the amount of \$10.00 must be received before bid documents will be sent. This project is financed by the Federal Government under the authority given it by P.L. 95-87 dated August 3, 1977, "The Surface Mining Control and Reclamation Act of 1977," and is subject to that Law, and to the Federal Grant for this project.

Department: Environmental Protection
Location: Springhill Township, Fayette County, PA
Duration: 150 calendar days after the official starting date.
Contact: Construction Contracts Section, (717) 787-7820



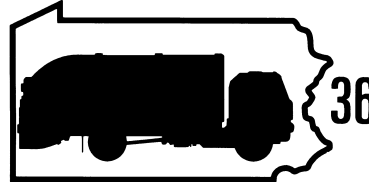
Janitorial Services

8865 Furnish all materials, equipment, and labor to perform janitorial services two (2) visits per week at the location listed below. The detailed work schedule and bid specifications must be obtained from the Facility Management Division at 717-705-5952.

Department: State Police
Location: Pennsylvania State Police, Warehouse, 101 S. 38th Street, Harrisburg, PA 17111
Duration: January 1, 2004 through June 30, 2006
Contact: Helen Fuhrman, (717) 705-5952

8864 Furnish all materials, equipment, and labor to perform janitorial services two (2) visits per week at the location listed below. The detailed work schedule and bid specifications must be obtained from the Facility Management Division at 717-705-5952.

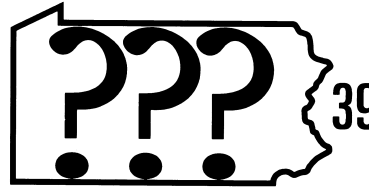
Department: State Police
Location: Pennsylvania State Police, Transportation, MAPS and MSCAP, 20th and Herr Streets, Harrisburg, PA 17120
Duration: January 1, 2004 through June 30, 2006
Contact: Helen Fuhrman, (717) 705-5952



Sanitation

CN00012075 (2) 6-cubic yard dumpsters: Bi-Weekly Trash/Refuse Removal from the PENNDOT Maintenance Building Year-Round and Bi-Weekly Trash/Refuse Removal from the PENNDOT Rest Area on a seasonal-basis. (1) 30-yard Roll Off: Estimated 2 Mos. Placement and Trash/Refuse Removal ("Dumpster Pulls") from the PENNDOT Maintenance Building during the Department's annual Litter Removal Campaign.

Department: Transportation
Location: PENNDOT Maintenance District 2-6, 101 Locust Street, Coudersport, PA 16915 and Denton Hill Rest Area, State Route 6, SEG 0530 OFFSET 2123 (Ulysses Twship)
Duration: This is a 1-year contract with (4) 1-year renewal options.
Contact: Karen C. Espenshade, (814) 274-9181, Ext 3008



Miscellaneous

24-227-5006 The Contractor will prepare and submit four regional applications to the U.S. Department of Housing and Urban Development for funding under the Continuum of Care process for homeless shelters and individuals and provide general technical assistance to the Department.

Department: Community and Economic Development
Location: Throughout the Commonwealth
Duration: Two years with an option to extend the contract for an additional period or periods of time not to exceed three years.
Contact: Irina Khachaturova, (717) 783-8452

RFP 20041001 Pickup, consolidate, label and transport PLCB merchandise from various locations in France, Germany and Italy to PLCB Distribution Centers located in Blawnox, Philadelphia and Taylor, PA. Service required includes all inland transportation, consolidation, labeling, ocean freight and marine insurance.

Department: Liquor Control Board
Location: France, Germany, Italy and Pennsylvania
Duration: Proposed contract is two years with three 1 year options.
Contact: Robert L. Isenberg, (717) 787-9855

[Pa.B. Doc. No. 04-2221. Filed for public inspection December 10, 2004, 9:00 a.m.]

DESCRIPTION OF LEGEND

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| <p>1 Advertising, Public Relations, Promotional Materials</p> <p>2 Agricultural Services, Livestock, Equipment, Supplies & Repairs: Farming Equipment Rental & Repair, Crop Harvesting & Dusting, Animal Feed, etc.</p> <p>3 Auctioneer Services</p> <p>4 Audio/Video, Telecommunications Services, Equipment Rental & Repair</p> <p>5 Barber/Cosmetology Services & Equipment</p> <p>6 Cartography Services</p> <p>7 Child Care</p> <p>8 Computer Related Services & Equipment Repair: Equipment Rental/Lease, Programming, Data Entry, Payroll Services, Consulting</p> <p>9 Construction & Construction Maintenance: Buildings, Highways, Roads, Asphalt Paving, Bridges, Culverts, Welding, Resurfacing, etc.</p> <p>10 Court Reporting & Stenography Services</p> <p>11 Demolition—Structural Only</p> <p>12 Drafting & Design Services</p> <p>13 Elevator Maintenance</p> <p>14 Engineering Services & Consultation: Geologic, Civil, Mechanical, Electrical, Solar & Surveying</p> <p>15 Environmental Maintenance Services: Well Drilling, Mine Reclamation, Core & Exploratory Drilling, Stream Rehabilitation Projects and Installation Services</p> <p>16 Extermination Services</p> <p>17 Financial & Insurance Consulting & Services</p> <p>18 Firefighting Services</p> <p>19 Food</p> <p>20 Fuel Related Services, Equipment & Maintenance to Include Weighing Station Equipment, Underground & Above Storage Tanks</p> <p>21 Hazardous Material Services: Abatement, Disposal, Removal, Transportation & Consultation</p> | <p>22 Heating, Ventilation, Air Conditioning, Electrical, Plumbing, Refrigeration Services, Equipment Rental & Repair</p> <p>23 Janitorial Services & Supply Rental: Interior</p> <p>24 Laboratory Services, Maintenance & Consulting</p> <p>25 Laundry/Dry Cleaning & Linen/Uniform Rental</p> <p>26 Legal Services & Consultation</p> <p>27 Lodging/Meeting Facilities</p> <p>28 Mailing Services</p> <p>29 Medical Services, Equipment Rental and Repairs & Consultation</p> <p>30 Moving Services</p> <p>31 Personnel, Temporary</p> <p>32 Photography Services (includes aerial)</p> <p>33 Property Maintenance & Renovation—Interior & Exterior: Painting, Restoration, Carpentry Services, Snow Removal, General Landscaping (Mowing, Tree Pruning & Planting, etc.)</p> <p>34 Railroad/Airline Related Services, Equipment & Repair</p> <p>35 Real Estate Services—Appraisals & Rentals</p> <p>36 Sanitation—Non-Hazardous Removal, Disposal & Transportation (Includes Chemical Toilets)</p> <p>37 Security Services & Equipment—Armed Guards, Investigative Services & Security Systems</p> <p>38 Vehicle, Heavy Equipment & Powered Machinery Services, Maintenance, Rental, Repair & Renovation (Includes ADA Improvements)</p> <p>39 Miscellaneous: This category is intended for listing all bids, announcements not applicable to the above categories</p> |
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DONALD T. CUNNINGHAM, Jr.
Secretary