

PENNSYLVANIA BULLETIN

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Agencies in this issue:

The Courts
Department of Agriculture
Department of Banking
Department of Conservation and Natural Resources
Department of Education
Department of Environmental Protection
Department of General Services
Department of Health
Department of State
Department of Transportation
Fish and Boat Commission
Independent Regulatory Review Commission
Insurance Department
Pennsylvania Public Utility Commission
Public School Employees' Retirement Board
State Board of Dentistry
State Board of Vehicle Manufacturers, Dealers and
Salespersons
State Real Estate Commission

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No. 366, May 2005

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READER'S GUIDE TO THE PENNSYLVANIA BULLETIN AND PENNSYLVANIA CODE

Pennsylvania Bulletin

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

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

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

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

Adoption, Amendment or Repeal of Regulations

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

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

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

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

Citation to the *Pennsylvania Bulletin*

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

Pennsylvania Code

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

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

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

How to Find Documents

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

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

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

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Printing Format

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

Fiscal Notes

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

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

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List of Pa. Code Chapters Affected

The following numerical guide is a list of the chapters of each title of the *Pennsylvania Code* affected by documents published in the *Pennsylvania Bulletin* during 2005.

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THE COURTS

Title 204—JUDICIAL SYSTEM GENERAL PROVISIONS

PART IV. ADMISSION TO PRACTICE OF LAW [204 PA. CODE CH. 71]

Amendment to Pennsylvania Bar Admission Rule 201(d); No. 369 Supreme Court Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 29th day of April, 2005, Rule 201(d) of the Pennsylvania Bar Admission Rules is amended as follows.

This rule amendment is adopted pursuant to the Constitution of Pennsylvania, Article V, Section 10, and is promulgated in accordance with Rule 103(a)(3), Pa.R.J.A. as the matter is perfunctory in nature and is required in the interests of efficient administration.

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

Annex A

TITLE 204. JUDICIAL SYSTEM GENERAL PROVISIONS

PART IV. ADMISSION TO PRACTICE OF LAW

CHAPTER 71. PENNSYLVANIA BAR ADMISSION RULES

Subchapter B. ADMISSION TO THE BAR GENERALLY

IN GENERAL

Rule 201. Bar of the Commonwealth of Pennsylvania

* * * * *

(d) *Certification of Good Standing.* Upon written request and the payment of a fee of \$25.00 the Prothonotary shall issue a certificate of good standing to any member of the bar of this Commonwealth **or limited licensed attorney** entitled thereto. The certificate shall be one appropriate for admission to the bar of the federal courts and other state courts. A certificate of good standing shall not be issued to a member of the bar of this Commonwealth **or limited licensed attorney** who currently is the subject of:

* * * * *

[Pa.B. Doc. No. 05-922. Filed for public inspection May 13, 2005, 9:00 a.m.]

Title 210—APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES [210 PA. CODE CH. 63]

Amendments to the Internal Operating Procedures of the Supreme Court; No. 371 Supreme Court Rules; Doc. No. 1

Order

Per Curiam:

And Now, this 29th day of April, 2005, it is ordered that Section IV of the Internal Operating Procedures of the Supreme Court is amended as set forth in Annex A.

Annex A

TITLE 210. APPELLATE PROCEDURE

PART II. INTERNAL OPERATING PROCEDURES

CHAPTER 63. INTERNAL OPERATING PROCEDURES OF THE SUPREME COURT

§ 63.4. Opinions.

* * * * *

B. Labeling.

1. *Majority.* An opinion will be labeled "Opinion" when a majority of the Court joins the opinion.

Proposed majority opinions that involve multiple, complex issues which the Justice believes may garner disparate votes should be divided into sections. See, e.g., *Phillips v. Cricket Lighters*, 841 A.2d 1000 (Pa. 2003). If there is a split on an opinion that has been divided into sections, the author of the lead opinion will be responsible for preparing a short introductory explanatory statement regarding the breakdown of votes.

2. *Concurrences and Dissents.* An opinion is a "concurring opinion" when it agrees with the result of the lead opinion. A Justice who agrees with the result of the lead opinion, but does not agree with the rationale supporting the lead opinion, in whole or in part, may write a separate "concurring opinion." An opinion is a "dissenting opinion" when it disagrees with the result of the lead opinion. An opinion is "concurring and dissenting opinion" only when there is more than one result and the Justice agrees with one or more of the results, but not the other(s). Alternatively, a Justice may choose to "concur in result" or "dissent" without writing a separate opinion.

C. Reargument Petitions.

* * * * *

[Pa.B. Doc. No. 05-923. Filed for public inspection May 13, 2005, 9:00 a.m.]

Title 234—RULES OF CRIMINAL PROCEDURE

[234 PA. CODE CH. 1, 7 AND 9]

Order Amending Rules 120, 122, 704, and 904, and Approving the Revision of the Comment to Rule 902; No. 318 Criminal Procedural Rules; Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining the April 28, 2005 amendments to Rules of Criminal Procedure 120, 122, 704, and 904, and approved the revision of the Comment to Rule 902. These rule changes clarify the procedures governing the entry and withdrawal of counsel's appearance in criminal cases; provide that the filing of the court's order appointing counsel enters appointed counsel's appearance; and set forth the requirements for the contents of both retained counsel's entry of appearance and the court's appointment order. The Final Report follows the Court's Order.

Order

Per Curiam:

Now, this 28th day of April, 2005, upon the recommendation of the Criminal Procedural Rules Committee, the proposal having been published before adoption at 32 Pa.B. 1039 (February 23, 2002) and 33 Pa.B. 968 (February 22, 2003), and in the *Atlantic Reporter* (Second Series Advance Sheets, Vols. 788 and 815), and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that

(1) Rules of Criminal Procedure 120, 122, 704, and 904 are amended, and

(2) the revision of the Comment to Rule of Criminal Procedure 902 is approved all in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective August 1, 2005.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 1. SCOPE OF RULES, CONSTRUCTION AND DEFINITIONS, LOCAL RULES

PART B. Counsel

Rule 120. Attorneys—Appearances and Withdrawals.

(A) ENTRY OF APPEARANCE

(1) Counsel for defendant shall [enter an appearance in writing] file an entry of appearance with the clerk of courts promptly after being retained [or appointed], and serve a copy [thereof] of the entry of appearance on the attorney for the Commonwealth.

(a) If a firm name is entered, the name of an individual lawyer shall be designated as being responsible for the conduct of the case.

(b) The entry of appearance shall include the attorney's address, phone number, and attorney ID number.

(2) When counsel is appointed pursuant to Rule 122 (Appointment of Counsel), the filing of the appointment order shall enter the appearance of appointed counsel.

[(B)] (3) Counsel shall not be permitted to represent a defendant following a preliminary hearing unless an entry of appearance is [entered] filed with the clerk of courts.

(4) An attorney who has been retained or appointed by the court shall continue such representation through direct appeal or until granted leave to withdraw by the court pursuant to paragraph (B).

(B) WITHDRAWAL OF APPEARANCE

[(C)] (1) Counsel for a defendant may not withdraw his or her appearance except by leave of court. [Such leave shall be granted only upon motion made and served on the attorney for the Commonwealth and the client, unless the interests of justice otherwise require.]

(2) A motion to withdraw shall be:

(a) filed with the clerk of courts, and a copy concurrently served on the attorney for the Commonwealth and the defendant; or

(b) made orally on the record in open court in the presence of the defendant.

(3) Upon granting leave to withdraw, the court shall determine whether new counsel is entering an appearance, new counsel is being appointed to represent the defendant, or the defendant is proceeding without counsel.

Comment

* * * * *

Paragraph (A)(2) was added in 2005 to make it clear that the filing of an order appointing counsel to represent a defendant enters the appearance of appointed counsel. Appointed counsel does not have to file a separate entry of appearance. Rule 122 (Appointment of Counsel) requires that (1) the judge include in the appointment order the name, address, and phone number of appointed counsel, and (2) the order be served on the defendant, appointed counsel, the previous attorney of record, if any, and the attorney for the Commonwealth pursuant to Rule 114 (Orders and Court Notices: Filing; Service; and Docket Entries).

Under paragraph [(C), the] (B)(2), counsel must file a motion to withdraw in all cases, and counsel's obligation to represent the defendant, whether as retained or appointed counsel, remains until leave to withdraw is granted by the court. See, e.g., *Commonwealth v. Librizzi*, 810 A.2d 692 (Pa. Super. Ct. 2002). The court [should] must make a determination of the status of a case before permitting counsel to withdraw. Although there are many factors considered by the court in determining whether there is good cause to permit the withdrawal of counsel, when granting leave, the court should determine whether new counsel will be stepping in or the defendant is proceeding without counsel, and that the change in attorneys will not delay the proceedings or prejudice the defendant, particularly concerning time limits. In addition, case law suggests

other factors the court should consider, such as whether (1) the defendant has failed to meet his or her financial obligations to pay for the attorney's services and (2) there is a written contractual agreement between counsel and the defendant terminating representation at a specified stage in the proceedings such as sentencing. See, e.g., *Commonwealth v. Roman. Appeal of Zaiser*, 549 A.2d 1320 (Pa. Super. Ct. 1988).

* * * * *

For the filing and service procedures, see Rules 575-576.

For waiver of counsel, see Rule 121.

For the procedures for appointment of counsel, see Rule 122.

See Rule 904(A) that requires an attorney who has been retained [or appointed] to represent a defendant during post-conviction collateral proceedings to file a written entry of appearance.

Official Note: Adopted June 30, 1964, effective January 1, 1965; formerly Rule 303, renumbered Rule 302 and amended June 29, 1977 and November 22, 1977, effective as to cases in which the indictment or information is filed on or after January 1, 1978; amended March 22, 1993, effective January 1, 1994; renumbered Rule 120 and amended March 1, 2000, effective April 1, 2001; Comment revised February 26, 2002, effective July 1, 2002; Comment revised June 4, 2004, effective November 1, 2004; amended April 28, 2005, effective August 1, 2005.

Committee Explanatory Reports:

* * * * *

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] 1478 (March 18, 2000).

* * * * *

Final Report explaining the April 28, 2005 amendments concerning the filing of an appointment order as entry of appearance for appointed counsel and withdrawal of counsel published with the Court's Order at 35 Pa.B. 2859 (May 14, 2005).

Rule 122. [Assignment] Appointment of Counsel.

(A) [IN SUMMARY CASES.] Counsel shall be [assigned] appointed:

(1) in all summary cases [to], for all defendants who are without financial resources or who are otherwise unable to employ counsel when there is a likelihood that imprisonment will be imposed[.];

[(B) IN COURT CASES. In]

(2) in all court cases [counsel shall be assigned], prior to the preliminary hearing to all defendants who are without financial resources or who are otherwise unable to employ counsel[.];

[(C) IN ALL CASES.]

(1) The [(3) in all cases, by the court, [of] on its own motion, [shall assign counsel to represent a defendant whenever] when the interests of justice require it.

[(2) A motion for change of counsel by a defendant to whom counsel has been assigned shall not be granted except for substantial reasons.

(3) [(B) When counsel [has been assigned] is appointed, [such assignment]

(1) the judge shall enter an order indicating the name, address, and phone number of the appointed counsel, and the order shall be served on the defendant, the appointed counsel, the previous attorney of record, if any, and the attorney for the Commonwealth pursuant to Rule 114 (Orders and Court Notices: Filing; Service; and Docket Entries); and

(2) the appointment shall be effective until final judgment, including any proceedings upon direct appeal.

(C) A motion for change of counsel by a defendant for whom counsel has been appointed shall not be granted except for substantial reasons.

Comment

* * * * *

[Assignment] Appointment of counsel can be waived, if such waiver is knowing, intelligent, and voluntary. See *Faretta v. California*, 422 U.S. 806 (1975). Concerning the appointment of standby counsel for the defendant who elects to proceed pro se, see Rule 121.

In both summary and court cases, the [assignment] appointment of counsel to represent indigent defendants remains in effect until all appeals on direct review have been completed.

Ideally, counsel should be [assigned] appointed to represent indigent defendants immediately after they are brought before the issuing authority in all summary cases in which a jail sentence is possible, and immediately after preliminary arraignment in all court cases. This rule strives to accommodate the requirements of the Supreme Court of the United States to the practical problems of implementation. Thus, in summary cases, paragraph (A)(1) requires a pretrial determination by the issuing authority as to whether a jail sentence would be likely in the event of a finding of guilt in order to determine whether trial counsel should be [assigned] appointed to represent indigent defendants. It is expected that the issuing authorities [will] in most instances will be guided by their experience with the particular offense with which defendants are charged. This is the procedure recommended by the ABA Standards Relating to Providing Defense Services § 4.1 (Approved Draft 1968) and cited in the United States Supreme Court's opinion in *Argersinger*, supra. If there is any doubt, the issuing authority can seek the advice of the attorney for the Commonwealth, if one is prosecuting the case, as to whether the Commonwealth intends to recommend a jail sentence in case of conviction.

In court cases, paragraph [(B)] (A)(2) requires counsel to be [assigned] appointed at least in time to represent the defendant at preliminary hearing. Although difficulty may be experienced in some judicial districts in meeting the *Coleman* requirement, it is believed that this is somewhat offset by the prevention of many post-conviction proceedings [which] that would otherwise be brought based on the denial of the right to counsel. However, there may be cases in which counsel has not been [assigned] appointed prior to the preliminary

hearing stage of the proceedings; e.g., counsel for the preliminary hearing has been waived, or a then-ineligible defendant subsequently becomes eligible for **[assigned] appointed** counsel. In such cases it is expected that the defendant's right to **[assigned] appointed** counsel will be effectuated at the earliest appropriate time.

* * * * *

Paragraph **[(C)(1)] (A)(3)** retains in the issuing authority or judge the power to **[assign] appoint** counsel regardless of indigency or other factors when, in the issuing authority's or the judge's opinion, the interests of justice require it.

Pursuant to paragraph **[(C)(3)] (B)(2)**, counsel retains his or her **[assignment] appointment** until final judgment, which includes all avenues of appeal through the Supreme Court of Pennsylvania. In making the decision whether to file a petition for allowance of appeal, counsel must (1) consult with his or her client, and (2) review the standards set forth in Pa.R.A.P. 1114 (Considerations Governing Allowance of Appeal) and the note following that rule. If the decision is made to file a petition, counsel must carry through with that decision. See *Commonwealth v. Liebel*, 825 A.2d 630 (Pa. 2003). Concerning counsel's obligations as appointed counsel, see *Jones v. Barnes*, 463 U. S. 745 (1983). See also *Commonwealth v. Padden*, 783 A.2d 299 (Pa. Super. Ct. 2001).

* * * * *

Official Note: Rule 318 adopted November 29, 1972, effective 10 days hence, replacing prior rule; amended September 18, 1973, effective immediately; renumbered Rule 316 and amended June 29, 1977, and October 21, 1977, effective January 1, 1978; renumbered Rule 122 and amended March 1, 2000, effective April 1, 2001; amended March 12, 2004, effective July 1, 2004; Comment revised March 26, 2004, effective July 1, 2004; Comment revised June 4, 2004, effective November 1, 2004; **amended April 28, 2005, effective August 1, 2005.**

Committee Explanatory Reports:

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. **[1477] 1478** (March 18, 2000).

* * * * *

Final Report explaining the April 28, 2005 changes concerning the contents of the appointment order published with the Court's Order at 35 Pa.B. 2859 (May 14, 2005).

CHAPTER 7. POST-TRIAL PROCEDURES IN COURT CASES

PART A. Sentencing Procedures

Rule 704. Procedure at Time of Sentencing.

* * * * *

(C) SENTENCING PROCEEDING.

* * * * *

(3) The judge shall determine on the record that the defendant has been advised of the following:

* * * * *

(b) of the rights,

(i) if the defendant is indigent, to proceed in forma pauperis and to proceed with **[assigned] appointed** counsel as provided in Rule 122; **or,**

(ii) **if represented by retained counsel, to proceed with retained counsel unless the court has granted leave for counsel to withdraw pursuant to Rule 120(B);**

* * * * *

Comment

* * * * *

SENTENCING PROCEDURES

* * * * *

Paragraph (C)(3) requires the judge to ensure the defendant is advised of his or her rights concerning post-sentence motions and appeal, and the right to proceed with counsel. See, e.g., Commonwealth v. Librizzi, 810 A. 2d 692 (Pa. Super. 2002).

The rule permits the use of a written colloquy that is read, completed, signed by the defendant, and made part of the record of the sentencing proceeding. This written colloquy must be supplemented by an on-the-record oral examination to determine that the defendant has been advised of the applicable rights enumerated in paragraph (C)(3) and that the defendant has signed the form.

* * * * *

After sentencing, following a conviction in a trial de novo in a summary case, the judge should advise the defendant of the right to appeal and the time limits within which to exercise that right, the right to proceed in forma pauperis and with **[assigned] appointed** counsel to the extent provided in Rule 122(A), and of the qualified right to bail under Rule 521(B). See paragraphs (C)(3)(a), (b), and (e). See also Rule 720(D) (no post-sentence motion after a trial de novo).

* * * * *

Official Note: Previous Rule 1405 approved July 23, 1973, effective 90 days hence; Comment amended June 30, 1975, effective immediately; Comment amended and paragraphs (c) and (d) added June 29, 1977, effective September 1, 1977; amended May 22, 1978, effective as to cases in which sentence is imposed on or after July 1, 1978; Comment amended April 24, 1981, effective July 1, 1981; Comment amended November 1, 1991, effective January 1, 1992; rescinded March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994, and replaced by present Rule 1405. Present Rule 1405 adopted March 22, 1993, effective as to cases in which the determination of guilt occurs on or after January 1, 1994; amended January 3, 1995, effective immediately; amended September 13, 1995, effective January 1, 1996. The January 1, 1996 effective date extended to April 1, 1996. Comment revised December 22, 1995, effective February 1, 1996. The April 1, 1996 effective date extended to July 1, 1996. Comment revised September 26, 1996, effective January 1, 1997; Comment revised April 18, 1997, effective immediately; Comment revised January 9, 1998, effective immediately; amended July 15, 1999, effective January 1, 2000; renumbered Rule 704 and amended March 1, 2000, effective April 1, 2001; Comment revised March 27, 2003, effective July 1, 2003; **amended April 28, 2005, effective August 1, 2005.**

Committee Explanatory Reports:

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Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] 1478 (March 18, 2000).

* * * * *

Final Report explaining the April 28, 2005 amendments to paragraph (C)(3)(b) concerning retained counsel's obligations published with the Court's Order at 35 Pa.B. 2859 (May 14, 2005).

CHAPTER 9. POST-CONVICTION COLLATERAL PROCEEDINGS

Rule 902. Content of Petition for Post-Conviction Collateral Relief; Request for Discovery.

(A) A petition for post-conviction collateral relief shall bear the caption, number, and court term of the case or cases in which relief is requested and shall contain substantially the following information:

* * * * *

(14) a verification by the defendant that:

[(1)] (a) * * *

[(2)] (b) * * *

* * * * *

Comment

[Whether privately retained or appointed, the attorney] All privately retained counsel must enter an appearance as provided in Rule 904.

* * * * *

Official Note: Previous Rule 1502 adopted January 24, 1968, effective August 1, 1968; rescinded December 11, 1981, effective June 27, 1982; rescission vacated June 4, 1982; rescinded February 1, 1989, effective July 1, 1989, and replaced by present Rules [903 and 905] 1503 and 1505. Present Rule 1502 adopted February 1, 1989, effective July 1, 1989; amended August 11, 1997, effective immediately; amended July 23, 1999, effective September 1, 1999; Comment revised January 21, 2000, effective July 1, 2000; renumbered Rule 902 and Comment revised March 1, 2000, effective April 1, 2001; amended February 26, 2002, effective July 1, 2002; **Comment revised April 28, 2005, effective August 1, 2005.**

Committee Explanatory Reports:

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Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] 1478 (March 18, 2000).

* * * * *

Final Report explaining the April 28, 2005 Comment revision published with the Court's Order at 35 Pa.B. 2859 (May 14, 2005).

Rule 904. Entry of Appearance and Appointment of Counsel; In Forma Pauperis.

(A) Counsel for defendant shall file a written entry of appearance with the clerk of courts promptly after being retained [or appointed], and serve a copy on the attorney for the Commonwealth.

(1) If a firm name is entered, the name of an individual lawyer shall be designated as being responsible for the conduct of the case.

(2) The entry of appearance shall include the attorney's address, phone number, and attorney ID number.

(B) When counsel is appointed, the filing of the appointment order shall enter the appearance of appointed counsel.

(C) Except as provided in paragraph [(G)] (H), when an unrepresented defendant satisfies the judge that the defendant is unable to afford or otherwise procure counsel, the judge shall appoint counsel to represent the defendant on the defendant's first petition for post-conviction collateral relief.

[(C)] (D) * * *

[(D)] (E) * * *

(F) When counsel is appointed,

(1) the judge shall enter an order indicating the name, address, and phone number of the appointed counsel, and the order shall be served on the defendant, the appointed counsel, the previous attorney of record, if any, and the attorney for the Commonwealth pursuant to Rule 114 (Orders and Court Notices: Filing; Service; and Docket Entries); and

[(E) An] (2) the appointment of counsel shall be effective throughout the post-conviction collateral proceedings, including any appeal from disposition of the petition for post-conviction collateral relief.

[(F)] (G) * * *

[(G)] (H) Appointment of Counsel in Death Penalty Cases.

* * * * *

(2) [The] When counsel is appointed,

(a) the judge shall enter an order indicating the name, address, and phone number of the appointed counsel, and the order shall be served on the defendant, the appointed counsel, the previous attorney of record, if any, and the attorney for the Commonwealth pursuant to Rule 114 (Orders and Court Notices: Filing; Service; and Docket Entries); and

(b) the appointment of counsel shall be effective throughout the post-conviction collateral proceedings, including any appeal from disposition of the petition for post-conviction collateral relief.

* * * * *

Comment

* * * * *

Paragraph (B) was added in 2005 to make it clear that the filing of an order appointing counsel to represent a defendant enters the appearance of appointed counsel. Appointed counsel does not have to file a separate entry of appearance.

Paragraphs (F)(1) and (H)(2)(a) require that (1) the judge include in the appointment order the name, address, and phone number of appointed counsel, and (2) the order be served on the defendant, appointed counsel, the previous attorney of record, if any, and the attorney for the Common-

wealth pursuant to Rule 114 (Orders and Court Notices: Filing; Service; and Docket Entries).

Pursuant to paragraphs [(E)] (F)(2) and [(G)] (H)(2)(b), appointed counsel retains his or her assignment until final judgment, which includes all avenues of appeal through the Supreme Court of Pennsylvania. In making the decision whether to file a petition for allowance of appeal, counsel must (1) consult with his or her client, and (2) review the standards set forth in Pa.R.A.P. 1114 (Considerations Governing Allowance of Appeal) and the note following that rule. If the decision is made to file a petition, counsel must carry through with that decision. See *Commonwealth v. Liebel*, 825 A.2d 630 (Pa. 2003). Concerning counsel's obligations as appointed counsel, see *Jones v. Barnes*, 463 U.S. 745 (1983). See also *Commonwealth v. Padden*, 783 A.2d 299 (Pa. Super. Ct. 2001).

Paragraph [(G)] (H) was added in 2000 to provide for the appointment of counsel for the first petition for post-conviction collateral relief in a death penalty case at the conclusion of direct review.

An attorney may not [be appointed to] represent a defendant in a capital case unless the attorney meets the educational and experiential requirements set forth in Rule 801 (Qualifications for Defense Counsel in Capital Cases).

Official Note: Previous Rule 1504 adopted January 24, 1968, effective August 1, 1968; rescinded December 11, 1981, effective June 27, 1982; rescission vacated June 4, 1982; rescinded February 1, 1989, effective July 1, 1989, and replaced by Rule 1507. Present Rule 1504 adopted February 1, 1989, effective July 1, 1989; amended August 11, 1997, effective immediately; amended January 21, 2000, effective July 1, 2000; renumbered Rule 904 and amended March 1, 2000, effective April 1, 2001; amended February 26, 2002, effective July 1, 2002; Comment revised March 12, 2004, effective July 1, 2004; Comment revised June 4, 2004, effective November 1, 2004; **amended April 28, 2005, effective August 1, 2005.**

Committee Explanatory Reports:

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Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] 1478 (March 18, 2000).

* * * * *

Final Report explaining the April 28, 2005 amendments concerning entry of appearance and content of appointment order published with the Court's Order at 35 Pa.B. 2859 (May 14, 2005).

FINAL REPORT¹

Amendments to Pa.Rs.Crim.P. 120, 122, 704, and 904; Revision of the Comment to Pa.R.Crim.P. 902

Entry of Appearance and Withdrawal of Appearance; Filing of Appointment Order Enters Appearance; Contents and Service of Appointment Order

On April 28, 2005, effective August 1, 2005, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended Rules of Criminal Procedure 120, 122, 704, and 904 and approved the revision of the Comment to Rule 902. These rule changes clarify the procedures governing the entry and withdrawal of coun-

sel's appearance in criminal cases; provide that the filing of the court's order appointing counsel enters appointed counsel's appearance; and set forth the requirements for the content of both retained counsel's entry of appearance and the court's appointment order.

I. BACKGROUND

This Recommendation was developed in two parts in response to questions posed to the Committee by the Common Pleas Court Joint Application Design (JAD) Staff during JAD's study of the Criminal Rules and the practice and procedures in criminal cases in the judicial districts for the development of the Common Pleas Case Management System (CPCMS).

The first issue posed by JAD concerned the entry of appearance by appointed counsel and whether the filing of an order appointing counsel pursuant to Rule 122 (Assignment of Counsel) satisfies the entry of appearance requirements of Rule 120 (Attorneys—Appearances and Withdrawals). Resolution of this issue was important to the JAD Staff because their research revealed that in a number of judicial districts appointed counsel is not required to file a formal entry of appearance; these judicial districts consider the filing of the appointment order to be tantamount to the entry of appearance notwithstanding the current provision in Rule 120(A) that "counsel for defendant shall enter an appearance in writing with the clerk of courts promptly after being retained or appointed." Because the procedures in these judicial districts conflict with the Rule 120 requirement that appointed counsel file an entry of appearance, the JAD Staff requested a clarification, and asked the Committee to consider proposing a change to the rule.

The second issue posed by the JAD Staff concerned the duration of retained counsel's obligation to represent the defendant.² They questioned whether the requirements for retained counsel were the same as the requirements for appointed counsel, and asked the Committee to consider clarifying this in the rules.

II. DISCUSSION

A. Entry of Appearance; Filing Appointment Order: Rules 120 (Attorneys—Appearances and Withdrawals), 122 (Appointment of Counsel), 902 (Content of Petition for Post-Conviction Collateral Relief; Request for Discovery), and 904 (Entry of Appearance and Appointment of Counsel; In Forma Pauperis)

During the Committee's consideration of the issue of whether the filing of an order appointing counsel enters appointed counsel's appearance, some members expressed concerns about changing the rule, questioning whether providing for the filing of the order to enter appointed counsel's appearance would create difficulties in the situation in which the appointed attorney does not want the appointment or has a conflict and cannot accept the appointment. The Committee concluded (1) this was not a problem because counsel would communicate with the judge and the judge would appoint a different attorney, which would satisfy the requirements of Rule 120; (2) the change would be beneficial in situations in which the defendant is trying to hire counsel but has not done so; and (3) appointed counsel, being counsel of record, is available to represent the defendant if a critical stage, such as a request for a handwriting exemplar or a line-up, arises.

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

² In 2004, the Court approved the revision of the Comments to Rules 122 and 904 clarifying the duration of appointed counsel's obligation. See 34 Pa.B. 1671 (March 27, 2004).

Another concern was the timeliness of the notice to counsel of the appointment. Some members posited that permitting the filing of the order also to enter the appearance would cause problems for the appointed attorney who does not know that he or she has been appointed and his or her appearance entered. Ultimately, the Committee concluded this would not be a significant problem because once the CPCMS is in place, when the attorney's name, address, and phone number is entered into the automated system for the case, which would occur when either the appointment order or an entry of appearance is filed, the appointment order would be sent to that attorney pursuant to Rule 114 (Orders and Court Notices: Filing; Service; and Docket Entries).

After considerable debate about these issues, the Committee was satisfied the members' concerns were addressed, noting (1) an entry of appearance that is filed as early as possible in a case is a benefit to the defendant, the attorneys, and the court; and (2) by having the filing of the appointment order enter appointed counsel's appearance, the prompt entry of appearance in these cases is ensured.

During the Committee's consideration of Rule 120, several members noted the difficulty they have experienced obtaining the name and address of appointed counsel, and expressed concern this would be exacerbated without a formal entry of appearance. The Committee agreed this could be a problem, and concluded the rules should require the appointment order include the name, address, and phone number of the appointed attorney. In addition, to ensure proper notice to not only appointed counsel and the attorney for the Commonwealth, but also the defendant and any previous counsel of record, the Committee agreed the rules should require service of the appointment order on these additional people.

The amendments to Rules 120, 122, 902, and 904 address these considerations, as follows.

(1) *Rule 120 (Attorneys—Appearance and Withdrawals)*

Rule 120 has been amended by adding a new paragraph (A)(2) specifically providing that the filing of the appointment order enters the appearance of appointed counsel, with an explanatory paragraph added to the Rule 120 Comment reiterating that appointed counsel does not have to file a separate entry of appearance, and cross-referencing Rule 122 (Assignment of Counsel) with regard to the contents and service of the appointment order. In addition, Rule 120 has been amended to include the requirement that the entry of appearance form include the attorney's address, phone number, and attorney ID number so this information is readily available to the clerk of courts who is responsible pursuant to Rule 113 (Criminal Case File and Docket Entries) for including this information in the list of docket entries. Similarly, Rule 904 has been amended to conform the counsel provisions in the context of a post-conviction collateral proceeding with these Rule 120 changes, and a correlative change has been made to the Rule 902 Comment.

In addition to the changes related to the entry of appointed counsel's appearance, paragraph (A) has been amended by (1) replacing "enter an appearance in writing" with "file an entry of appearance," which conforms to the filing terminology in Rule 576 (Filing and Service by Parties), to bring Rule 120 in line with the motions rules, and (2) making other housekeeping changes.

(2) *Rule 122 (Appointment of Counsel)*

Rule 122 currently only sets forth the procedures for the appointment of counsel; it does not address the

appointment order. Rule 122 has been amended to address the contents of the appointment order and the service requirements with the addition of a paragraph requiring (1) the judge to include in the appointment order the name, address, and phone number of the appointed counsel, and (2) the order be served on the defendant, appointed counsel, the previous attorney of record, if any, and the attorney for the Commonwealth. Comparable changes also have been made in Rule 904.

In addition, Rule 122 has been reorganized by deleting the paragraph headings, and (1) moving paragraphs (A), (B), and (C) with regard to when counsel should be appointed into new paragraphs (A)(1), (2), and (3); (2) adding the new language concerning the content and service of the appointment order as new paragraph (B)(1); (3) moving current paragraph (C)(3) to paragraph (B)(2); and (4) making paragraph (C)(2) paragraph (C). Because the terms "assignment" and "appointment" are used interchangeably throughout Rules 120 and 122, the Committee agreed one term should be used. Accordingly "appointment" replaces "assignment" in both Rules 120 and 122.

B. Duration of Retained Counsel's Representational Obligation: Rules 120 (Attorneys—Appearances and Withdrawals) and 704 (Procedure at Time of Sentencing)

The Committee has spent a great deal of time considering the issues related to counsel's representational obligations in developing the proposal that resulted in the 2004 revision of the Comments to Rules 122 and 904,³ which clarified that appointed counsel retains his or her assignment until final judgment, which includes all avenues of appeal through the Supreme Court of Pennsylvania. In making the decision whether to file a petition for allowance of appeal, counsel must (1) consult with his or her client, and (2) review the standards set forth in Pa.R.A.P. 1114 (Considerations Governing Allowance of Appeal) and the note following that rule. If the decision is made to file a petition, counsel must carry through with that decision. See *Commonwealth v. Liebel*, 825 A.2d 630 (Pa. 2003). Concerning counsel's obligations as appointed counsel, see *Jones v. Barnes*, 463 U.S. 745 (1983). See also *Commonwealth v. Padden*, 783 A.2d 299 (Pa. Super. Ct. 2001).

In our review of the case law concerning retained counsel's obligations, the Committee found that the same requirements that apply for appointed counsel apply—counsel is required to continue to represent the defendant through direct appeal unless the court grants counsel leave to withdraw. The case law recognizes there are other considerations that affect retained counsel's obligations, such as counsel and the defendant entering into a contractual agreement establishing the duration of the representation or the defendant is not paying counsel. On the other hand, the courts are required to consider the defendant's right to representation and the time limits for filing motions or appeals that could be jeopardized if retained counsel terminates the representation.

In considering these points, the Committee observed Rule 120 already recognizes the need to balance counsel's rights and defendant's rights, as well as to provide administratively a mechanism to ensure the defendant, counsel, and the court are aware of the nature of the defendant's representation, by requiring that the defendant's attorney file an entry of appearance and seek the court's permission to withdraw. However, the members pointed out, in their experience they have found, notwithstanding the requirements of Rule 120, retained counsel frequently does not file a motion to withdraw or obtain

³ See footnote 1.

the court's leave when he or she has entered into an agreement with the defendant to terminate representation at a specified point. Some members also pointed out the concerns retained counsel have that judges will not grant leave to withdraw thereby forcing counsel to remain in the case beyond the contractual agreement he or she has with the defendant or when the defendant is not paying the attorney. In view of these considerations, the Committee agreed Rule 120 should be amended to more clearly enumerate the procedures concerning the withdrawal of counsel.

(1) *Rule 120 (Attorneys—Appearance and Withdrawals)*

Rule 120 has been divided into two sections: paragraph (A) addressing entry of appearance and paragraph (B) addressing withdrawal of appearance. Paragraph (A)(4) clarifies that counsel, whether retained or appointed, is required to continue representation through direct appeal or until granted leave to withdraw.⁴

New paragraph (B) incorporates as paragraph (1) the first sentence of present paragraph (C). Paragraph (2) retains the requirement in the second sentence of current paragraph (C) that there be a motion to withdraw, and that the motion to withdraw must be filed with the clerk of courts and served on the attorney for the Commonwealth and the defendant, paragraph (B)(2)(a), thereby ensuring the relevant information concerning defendant's representation and changes in representation are properly recorded on the docket and that the defendant and attorney for the Commonwealth have notice.

In addition, as an alternative to the written motion procedure, a provision has been added providing that the motion may be made orally on the record in open court in the presence of the defendant, paragraph (B)(2)(b). Several members questioned whether the motion to withdraw should ever be made orally. After thoroughly debating this point, the Committee ultimately concluded oral motions should be permitted in the limited circumstances of an open-court proceeding when the defendant is present because it promotes judicial efficiency. Furthermore, in these circumstances, the oral motion will be on the record, and the clerk of courts will be able to transfer the fact of the withdrawal to the list of docket entries as provided in Rule 113.

One issue debated at length by the Committee concerned whether the rule should provide guidance to the judges for determining whether to permit an attorney to withdraw. The members reasoned some guidance would be helpful, and concluded it was important to emphasize in the rule that the judge should make the decision to permit withdrawal based on what will happen next in the case, i.e. whether new counsel is entering an appearance, new counsel is being appointed to represent the defendant, or the defendant is proceeding without counsel, rather than based on the attorney's reasons for wanting to withdraw. New paragraph (B)(3) incorporates this idea.

Included in the Comment are additional explanations about the withdrawal requirements and counsel's obligation to remain in the case until leave to withdraw is granted, citing *Commonwealth v. Librizzi*, 810 A.2d 692 (Pa. Super. Ct. 2002). In addition, the Comment emphasizes the judge must make a determination about the status of the case before permitting withdrawal. The Comment also incorporates the principles espoused in the case law with regard to the withdrawal of counsel, (1) emphasizing that the judge, when determining whether to

permit a withdrawal by counsel, must ensure that the defendant has counsel to proceed and that the change in attorneys will not delay the proceedings, and (2) highlighting other factors the judge should consider including whether there is a written contractual agreement between counsel and the defendant, and whether the defendant is able to meet his or her financial obligations to pay for the attorney's services, citing by way of example, *Commonwealth v. Roman, Appeal of Zaiser*, 549 A.2d 1320 (Pa. Super. Ct. 1988).

(2) *Rule 704 (Procedure at Time of Sentencing)*

During our discussion of Rule 120 and the issue of retained counsel's representational obligations to defendants, the Committee observed that in many cases, an attorney is retained to represent a defendant through sentencing, which raises at the time of sentencing the issue of counsel's withdrawal and future representation of the defendant, and the impact of this on defendant's ability to meet the time limits for post-sentence motions and appeals. The members expressed concern about the delays that can occur and the prejudice to the defendant, as well as the impact on the court system. In view of these considerations, we looked at Rule 704(C) (Sentencing Proceeding). Noting the importance of emphasizing the need for the defendant and the court to revisit the issue of counsel at this critical stage, i.e. post-sentence or appeal, to ensure defendant's post-trial rights are protected, and that the judge is required in paragraph (C)(3)(b) to advise the defendant of the right, if indigent, "to proceed in forma pauperis and to proceed with assigned counsel as provided in Rule 122," the Committee agreed Rule 704 should provide a similar notice concerning the defendant's rights when proceeding with retained counsel. Accordingly, paragraph (C)(3)(b) has been amended by the addition of a new paragraph (b)(ii) requiring the judge to give the defendant who is represented by retained counsel notice of the right to proceed with retained counsel "unless the court has granted leave for counsel to withdraw pursuant to Rule 120(B)." A provision has been added to the Comment emphasizing the judge must advise defendant of his or her rights concerning counsel at the post-sentence and appeal stage of the proceedings, cross-referencing *Commonwealth v. Librizzi*, supra.

[Pa.B. Doc. No. 05-924. Filed for public inspection May 13, 2005, 9:00 a.m.]

[234 PA. CODE CH. 2]

Amendments to Pa.Rs.Crim.P. 203, 205 and 206

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rules 203, 205, and 206 to provide procedures for anticipatory search warrants. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

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

The text of the proposed changes to Rules 203, 205, and 206 precedes the Report. Additions are shown in bold; deletions are in bold and brackets.

⁴ See Section (II)(A) above for discussion of the remainder of the changes in paragraph (A).

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

Anne T. Panfil, Chief Staff Counsel
Supreme Court of Pennsylvania
Criminal Procedural Rules Committee
5035 Ritter Road, Suite 100
Mechanicsburg, PA 17055
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no later than Friday, June 17, 2005.

By the Criminal Procedural Rules Committee

NICHOLAS T. NASTASI,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 2. INVESTIGATIONS

PART A. Search Warrant

Rule 203. Requirements for Issuance.

* * * * *

(F) A search warrant may be issued in anticipation of a prospective event so long as the warrant is based upon an affidavit showing probable cause that at some future time, but not presently, certain evidence of a crime will be located at a specified place.

Comment

* * * * *

The "visual" requirement in paragraph (C) must allow, at a minimum, the issuing authority to see the affiant at the time the oath is administered and the information received.

Paragraph (F) was added to the rule in 2005 to provide for anticipatory search warrants. The rule incorporates the definition of anticipatory search warrants set forth in *Commonwealth v. Glass*, 754 A.2d 655 (2000).

Official Note: Rule 2003 adopted March 28, 1973, effective for warrants issued 60 days hence; renumbered Rule 203 and amended March 1, 2000, effective April 1, 2001; amended May 10, 2002, effective September 1, 2002; **amended** , **2005, effective** , **2005.**

Committee Explanatory Reports:

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Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] **1478** (March 18, 2000).

* * * * *

Report explaining the proposed amendments regarding anticipatory search warrants published at 35 Pa.B. 2863 (May 14, 2005).

Rule 205. Contents of Search Warrant.

Each search warrant shall be signed by the issuing authority and shall:

* * * * *

(4) direct that the search be executed **either**;

(a) within a specified period of time, not to exceed 2 days from the time of issuance, **or**;

(b) when the warrant is issued for a prospective event, only after the specified event has occurred;

* * * * *

Comment

* * * * *

Paragraph (4)(b) provides for anticipatory search warrants. These types of warrants were defined in *Commonwealth v. Glass*, 754 A.2d 655 (2000), as "a warrant based upon an affidavit showing probable cause that at some future time, but not presently, certain evidence of a crime will be located at a specified place."

Paragraph (5) supplements the requirement of Rule 203(C) that special reasonable cause must be shown to justify a nighttime search. A warrant allowing a nighttime search may also be served in the daytime.

* * * * *

Official Note: Rule 2005 adopted October 17, 1973, effective 60 days hence; amended November 9, 1984, effective January 2, 1985; amended September 3, 1993, effective January 1, 1994; renumbered Rule 205 and amended March 1, 2000, effective April 1, 2001; **amend** , **2005, effective** , **2005.**

Committee Explanatory Reports:

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Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. **1477 [1478]** (March 18, 2000).

Report explaining the proposed amendments to paragraph (4) and the Comment published at 35 Pa.B. 2863 (May 14, 2005).

Rule 206. Contents of Application for Search Warrant.

Each application for a search warrant shall be supported by written affidavit(s) signed and sworn to or affirmed before an issuing authority, which affidavit(s) shall:

* * * * *

(6) set forth specifically the facts and circumstances which form the basis for the affiant's conclusion that there is probable cause to believe that the items or property identified are evidence or the fruit of a crime, or are contraband, or are **expected to be** otherwise unlawfully possessed or subject to seizure, and that these items or property are **or are expected to be** located on the particular person or at the particular place described;

* * * * *

Comment

* * * * *

The 2005 amendments to paragraph (6) recognize anticipatory search warrants. To satisfy the requirements of paragraph (6) when the warrant being requested is for a prospective event, the application for the search warrant also must include a statement explaining how the affiant knows that the items to be seized on a later occasion will be at the place specified. See *Commonwealth v. Glass*, 754 A.2d 655 (2000) and *Commonwealth v. Coleman*, 830 A.2d 554 (Pa. 2003).

When the attorney for the Commonwealth is requesting that the search warrant affidavit(s) be sealed, the affida-

vit(s) in support of the search warrant must set forth the facts and circumstances the attorney for the Commonwealth alleges establish that there is good cause to seal the affidavit(s). See also Rule 211(B)(2). Pursuant to Rule 211(B)(1), when the attorney for the Commonwealth requests that the search warrant affidavit be sealed, the application for the search warrant must be made to a judge of the court of common pleas or to an appellate court justice or judge, who would be the issuing authority for purposes of this rule. For the procedures for sealing search warrant affidavit(s), see Rule 211.

Official Note: Previous Rule 2006 adopted October 17, 1973, effective 60 days hence; rescinded November 9, 1984, effective January 2, 1985. Present Rule 2006 adopted November 9, 1984, effective January 2, 1985; amended September 3, 1993, effective January 1, 1994; renumbered Rule 206 and amended March 1, 2000, effective April 1, 2001; **amended** , **2005, effective** , **2005.**

Committee Explanatory Reports:

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Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. **1477 [1478]** (March 18, 2000).

Report explaining the proposed amendments to paragraph (6) and the Comment published at 35 Pa.B. 2863 (May 14, 2005).

REPORT

Amendments to Pa.Rs.Crim.P. 203, 205, 206 Anticipatory Search Warrants

In *Commonwealth v. Glass*, 754 A.2d 655 (2000), the Supreme Court of Pennsylvania held that anticipatory search warrants were permissible in Pennsylvania. As defined in *Glass*, an anticipatory search warrant is "a warrant based upon an affidavit showing probable cause that at some future time, but not presently, certain evidence of crime will be located at a specified place." *Glass* favored the position that anticipatory search warrants were not inconsistent with constitutional protections against unreasonable searches and seizures so long as the issuing authority is satisfied that the warrant will not be executed prematurely. The Court held, "Our analysis simply recognizes that, in making the practical determination of what amounts to probable cause, the magistrate may consider likely future events, subject to the sorts of specificity and reliability strictures attending all probable cause evaluations." 754 A.2d at 664.

In 2003, the Court rendered the decision in *Commonwealth v. Coleman*, 830 A.2d 554 (2003), to "provide further guidance on the proper contours of anticipatory search warrants." The Court held that, in order for an anticipatory search warrant to be valid, it must be based upon a finding that probable cause exists at the time of issuance that evidence will be found when the warrant is to be executed. In other words, the execution of the warrant must be explicitly conditioned upon the occurrence of a triggering event and that, at the time of issuance, there must be a fair probability that the event will actually occur.

The Committee, after reviewing *Glass* and *Coleman* and Part A (Search Warrants) of Chapter 2 (Investigations) of the rules, agreed the rules needed to be amended to accommodate anticipatory search warrants as recognized in *Glass* and its progeny. This proposal would add a new paragraph (F) to the Rule 203 (Requirements for Issuance) which would provide general authority for

anticipatory search warrants, using the definition contained in *Glass*. A reference to *Glass* would also be added to the Comment to Rule 203.

The proposed amendment to paragraph (4)(b) of Rule 205 (Contents of Search Warrant) provides that when a warrant is issued for a prospective event, it may be executed only after the specified event has occurred. Officers executing the warrant would not need further approval from or contact with the issuing authority in order to execute the warrant. The officers' decision to execute the warrant could be challenged by suppression motion. A citation to the *Glass* definition of "anticipatory search warrant" is also added to the Comment to Rule 205.

Paragraph (6) of Rule 206 (Contents of Application For Search Warrant) would be amended to require that the facts and circumstances that form the basis of the probable cause conclusion may include prospective events. The Comment would also be amended to refer to *Glass* and *Coleman*, adding further refinement to the probable cause determination regarding anticipatory search warrants.

[Pa.B. Doc. No. 05-925. Filed for public inspection May 13, 2005, 9:00 a.m.]

[234 PA. CODE CH. 4]

Proposed New Pa.R.Crim.P. 450

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania adopt new Rule 450 (Suppression of Evidence). This new rule would permit requests for the suppression of evidence to be raised in summary cases before magisterial district judges. This supplemental proposal resulted from the Committee's further review of the proposed rule changes in response to the extensive correspondence received after publication of our original explanatory Report that would have required that suppression motions in summary cases only may be handled in the court of common pleas when a summary case is appealed for a trial de novo. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

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

The text of the proposed new rule precedes the Supplemental Report.

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

Anne T. Panfil, Chief Staff Counsel
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Criminal Procedural Rules Committee
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no later than Friday, June 17, 2005.

By the Criminal Procedural Rules Committee

NICHOLAS T. NASTASI,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE CHAPTER 4. PROCEDURES IN SUMMARY CASES PART E. General Procedures in Summary Cases

Rule 450. Suppression of Evidence.

(A) A defendant at a summary trial may orally or in writing request the magisterial district judge to suppress evidence alleged to have been obtained in violation of the defendant's rights.

(B) At the conclusion of the suppression hearing, the trial shall proceed as provided in Rule 454.

Comment

This rule provides the procedures for the suppression of evidence in summary cases before the magisterial district judges. See Rule 581 for the procedures for suppression of evidence in cases before a judge of the court of common pleas.

While this rule permits requests for suppression to be made orally at any time prior to trial, nothing in this rule is intended to preclude the defendant from presenting a written request for suppression. Whenever practical, the defendant should provide advanced written notice of the request for suppression to the Commonwealth.

Official Note: New Rule 450 adopted , effective .

Committee Explanatory Reports:

Report explaining the provisions of the proposed new rule concerning suppression of evidence in summary proceedings published at 34 Pa.B. 34 (January 31, 2004); Supplemental Report explaining the modifications to proposed new Rule 450 providing procedures for suppression of evidence in summary proceedings published at 35 Pa.B. 2864 (May 14, 2005).

SUPPLEMENTAL REPORT¹ *Proposed New Pa.R.Crim.P. 450²* Suppression Motions in Summary Cases

The Criminal Procedural Rules Committee is proposing the Court adopt new Rule 450 (Suppression of Evidence). The new rule would permit magisterial district judges to hear suppression issues in summary cases. The new rule fills the existing gap in the summary case rules concerning the procedures for handling summary case suppression issues.

Background

Over the past several years, the Committee has been reviewing the summary case rules in general, and the issue of suppression motions in cases before the magisterial district judges specifically. The members and a number of correspondents pointed out that because the Criminal Rules are silent concerning summary case suppression issues, there is a lot of confusion among members of the bench and bar about the procedures to follow in order to raise a suppression issue when a summary case is before the magisterial district judge: some magisterial district judges make rulings on suppression issues

¹ The original Report proposing new Rule 450 was published at 34 Pa.B. 34 (January 31, 2004).

² The proposed new rule is being numbered Rule 450, a number reserved for motions in Chapter 4 Part E (General Procedures in Summary Cases) when the Criminal Rules were reorganized and renumbered in 2000.

that are raised before them, while other magisterial district judges do not consider a suppression issue when a defendant raises one.

In view of the Committee's ongoing review of the summary case rules, the interest of the members and the correspondents in procedures for handling a summary case suppression issue raised before a magisterial district judge, the lack of uniformity in and among the judicial districts, and the controversy that has arisen concerning magisterial district judges deciding suppression motions, the Committee agreed that the summary case rules should be amended to provide the procedures for handling summary case suppression issues.

Initially, the Committee proposed providing that a suppression issue in a summary case could be raised only when the summary case is appealed for a trial de novo in the court of common pleas. The proposal was published for comment on January 31, 2004. The response to this proposal was overwhelmingly negative. Some commentators expressed concerns that a defendant would be deprived of his or her constitutional rights; when a defendant is precluded from raising the suppression issue before the magisterial district judge, then many defendants will not raise it because they will "just want to get the case over and pay the fine," rather than going through the lengthy process of appealing for a trial de novo and paying the additional fees in order to have the issue addressed by the common pleas court. Others noted that because magisterial district judges are finders of fact and law and regularly hear admissibility issues, they should hear suppression issues. If the judicial function of a magisterial district judge is to preside over a summary offense, they should preside over the whole proceeding including suppression issues.

In view of these publication comments, the Committee reexamined the issue with an eye towards creating a procedure that would permit suppression issues to be raised in summary cases before magisterial district judges. During the Committee's discussions of the publication comments, the members agreed that, when important rights are violated, these violations should be addressed as soon as practicable. Swift and direct resolution of such issues would also serve to act as a deterrent to illegal police conduct.

On the other hand, the Committee reaffirmed that summary case proceedings are intended to provide a quick and streamlined method of adjudicating minor offenses. The members did not think the new rule should create a complex and elaborate suppression mechanism for summary case trials. The Committee therefore has modified proposed new Rule 450 to permit magisterial district judges to address suppression issues.

Discussion of Rules

Under this proposal, new Rule 450 would contain two paragraphs. Paragraph 450(A) would provide the explicit permission for raising a request for suppression of evidence at a summary trial. The term "request" is used instead of "motion" to distinguish the procedure for raising suppression in summary cases before the magisterial district judges as being a procedure separate from the motions practice under Rule 581 in cases in the court of common pleas.

The proposed rule would not require that the request be in writing, but the Comment contains language encouraging that the request be in writing.

Paragraph 450(B) would provide that, upon the conclusion of the suppression hearing, the case should proceed

to trial before the magisterial district judge as provided in the summary trial procedures of Rule 454.

[Pa.B. Doc. No. 05-926. Filed for public inspection May 13, 2005, 9:00 a.m.]

[234 PA. CODE CH. 5]
Amendments to Pa.R.Crim.P. 550

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rule 550 and revise the Comment to confirm that when jurisdiction in a court case is granted to magisterial district judges, their exercise of this jurisdiction is limited to those cases in which the defendant pleads guilty. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

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

The text of the proposed changes to Rule 550 precedes the Report. Additions are shown in bold; deletions are in bold and brackets.

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

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no later than Friday, June 17, 2005.

By the Criminal Procedural Rules Committee

NICHOLAS T. NASTASI,
Chair

Annex A

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

PART D. Proceedings in Court Cases Before Issuing Authorities

Rule 550. Pleas of Guilty Before [District Justice] Magisterial District Judge in Court Cases.

(A) In a court case in which a [district justice] magisterial district judge is specifically empowered by statute to exercise jurisdiction, a defendant may plead guilty before [an issuing authority] a magisterial district judge at any time up to the completion of the preliminary hearing or the waiver thereof.

(B) The [district justice] magisterial district judge may refuse to accept a plea of guilty, and the [district justice] magisterial district judge shall not accept such plea unless there has been a determination, after inquiry of the defendant, that the plea is voluntarily and understandingly tendered.

(C) The plea shall be in writing:

* * * * *

(2) signed by the [district justice] magisterial district judge, with a certification that the plea was accepted after a full inquiry of the defendant, and that the plea was made knowingly, voluntarily, and intelligently.

(D) A defendant who enters a plea of guilty under this rule may, within 10 days after sentence, change the plea to not guilty by so notifying the [district justice] magisterial district judge in writing. In such event, the [district justice] magisterial district judge shall vacate the plea and judgment of sentence, and the case shall proceed in accordance with Rule 547, as though the defendant had been held for court.

(E) Ten days after the acceptance of the guilty plea and the imposition of sentence, the [district justice] magisterial district judge shall certify the judgment, and shall forward the case to the clerk of courts of the judicial district for further proceedings.

Comment

In certain cases, [provisions for taking a plea of guilty in] what would ordinarily be a court case within the jurisdiction of the court of common pleas [have] has been placed within the jurisdiction of [district justices] magisterial district judges. See **Judicial Code, 42 Pa.C.S. § 1515(a)(5), (5.1), (6), (6.1), and (7)**. This rule provides the procedures to implement this expanded jurisdiction of [district justices to accept pleas of guilty under certain circumstances in certain specified misdemeanors] magisterial district judges. [See **Judicial Code, 42 Pa.C.S. § 1515(a)(5), (5.1), (6), (6.1), and (7)**.]

In those cases in which either the defendant declines to enter a plea of guilty or the magisterial district judge refuses to accept a plea of guilty, the case is to proceed in the court of common pleas.

This rule applies whenever a [district justice] magisterial district judge has jurisdiction to accept a plea of guilty in a court case.

* * * * *

Prior to accepting a plea of guilty under this rule, it is suggested that the [district justice] magisterial district judge consult with the attorney for the Commonwealth concerning the case, concerning the defendant's possible eligibility for ARD or other types of diversion, and concerning possible related offenses [which] that might be charged in the same complaint. See *Commonwealth v. Campana*, 304 A.2d 432 (Pa. 1973).

Before accepting a plea:

(a) The [district justice] magisterial district judge should be satisfied of jurisdiction to accept the plea, and should determine whether any other related offenses exist which might affect jurisdiction.

(b) The [district justice] magisterial district judge should be satisfied that the defendant is eligible under the law to plead guilty before a [district justice] magisterial district judge, and, when relevant, should check the defendant's prior record and inquire into the amount of damages.

(c) The **[district justice] magisterial district judge** should advise the defendant of the right to counsel. For purposes of appointment of counsel, these cases should be treated as court cases, and the Rule 122 (Assignment of Counsel) procedures should be followed.

(d) The **[district justice] magisterial district judge** should advise the defendant that, if the defendant wants to change the plea to not guilty, the defendant, within 10 days after imposition of sentence, must notify the **[district justice] magisterial district judge** who accepted the plea of this decision in writing.

(e) The **[district justice] magisterial district judge** should make a searching inquiry into the voluntariness of the defendant's plea. A colloquy similar to that suggested in Rule 590 should be conducted to determine the voluntariness of the plea. At a minimum, the **[district justice] magisterial district judge** should ask questions to elicit the following information:

* * * * *

(6) that the defendant is aware that the **[district justice] magisterial district judge** is not bound by the terms of any plea agreement tendered unless the **[district justice] magisterial district judge** accepts such agreement; and

* * * * *

At the time of sentencing, or at any time within the 10-day period before transmitting the case to the clerk of courts pursuant to paragraph (E), the **[district justice] magisterial district judge** may accept payment of, or may establish a payment schedule for, installment payments of restitution, fines, and costs.

If a plea is not entered pursuant to this rule, the papers must be transmitted to the clerk of courts of the judicial district in accordance with Rule 547. After the time set forth in paragraph (A) for acceptance of the plea of guilty has expired, the **[district justice] magisterial district judge** no longer has jurisdiction to accept a plea.

Regardless of whether a plea stands or is timely changed to not guilty by the defendant, the **[district justice] magisterial district judge** must transmit the transcript and all supporting documents to the appropriate court, in accordance with Rule 547.

Once the case is forwarded as provided in this rule and in Rule 547, the court of common pleas has exclusive jurisdiction over the case and any plea incident thereto. The case would thereafter proceed in the same manner as any other court case, which would include, for example, the collection of restitution, fines, and costs; the establishment of time payments; and the supervision of probation in those cases in which the **[district justice] magisterial district judge** has accepted a guilty plea and imposed sentence.

Official Note: Rule 149 adopted June 30, 1977, effective September 1, 1977; Comment revised January 28, 1983, effective July 1, 1983; amended November 9, 1984, effective January 2, 1985; amended August 22, 1997, effective January 1, 1998; renumbered Rule 550 and amended March 1, 2000, effective April 1, 2001; amended , 2005, effective , 2005.

Committee Explanatory Reports:

* * * * *

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] 1478 (March 18, 2000).

Report explaining the proposed changes to the rule clarifying the magisterial district judges' exercise of jurisdiction published at 35 Pa.B. 2866 (May 14, 2005).

REPORT

Amendments to Pa.R.Crim.P. 550

Pleas of Guilty Before Magisterial District Judge in Court Cases

Background

During the course of Committee's ongoing monitoring of new legislation and the legislation's interplay with the Criminal Rules, we reviewed Act No. 2004-177 that, inter alia, amends 42 Pa.C.S. § 1515 to provide magisterial district judges with jurisdiction over offenses under 75 Pa.C.S. § 3808 (relating to illegally operating a motor vehicle not equipped with ignition interlock) and increases the penalty level of Section 3808(a)(1) from a summary offense to a misdemeanor. This addition, unlike previous jurisdictional expansions, did not limit the magisterial district judges' jurisdiction to acceptance of guilty pleas in these cases. The broader scope of the jurisdiction is problematic from a procedural perspective because of the nature of proceedings before the magisterial district judges, which currently are not courts of record and are non-jury.

The Committee, during our discussions of this addition to the magisterial district judges' jurisdiction, noted the Legislature has consistently limited any grant of jurisdiction to a magisterial district judge in a court case to the situation in which the defendant intends to enter a plea of guilty, suggesting the Legislature's understanding of the procedural difficulties that would arise should trials in these cases be conducted at the magisterial district court level. In view of these considerations, the Committee agreed Rule 550 should continue to provide that the procedures for the magisterial district judges' exercise of their jurisdiction under 42 Pa.C.S. § 1515(a)(5), (5.1), (6), (6.1), and (7) are limited to the acceptance of guilty pleas. This limitation continues the expedited disposition of many of these cases by the magisterial district judges, while protecting the defendants' rights by providing them with the opportunity for a full trial in the court of common pleas. The Committee therefore proposes to revise the Comment to Rule 550 to clarify that, under the rules, the magisterial district judges' exercise of their statutorily granted jurisdiction over misdemeanors continues to be restricted to acceptance of guilty pleas.

Discussion of the Rule

Rule 550(A) limits exercise of jurisdiction by a magisterial district judge to the acceptance of a guilty plea. The language of the first paragraph of the Comment may create the impression of unduly limiting the application of the rule. The proposed revision would remove the qualifying language "provisions for taking a plea of guilty" from this paragraph and clarify that the rule applies to any statute that grants court case jurisdiction to magisterial district judges. The same paragraph would also be revised to include a reference to new paragraph 5.1 of Section 1515 in the list of the sections providing the magisterial

district judges with jurisdiction over certain misdemeanors that are cross-reference in the Rule 550 Comment.

A new second paragraph would be added to the Comment clarifying that in the event that a defendant declines to enter a guilty pleas or a magisterial district judge refuses to accept a guilty plea, the case would go forward in the court of common pleas.

Additionally, pursuant to Act 207 of 2004 and the Order of the Supreme Court of Pennsylvania, 269 Judicial Administrative Docket No. 1 (January 6, 2005), the term "district justice" would be replaced by "magisterial district judge" throughout the rule and Comment.

[Pa.B. Doc. No. 05-927. Filed for public inspection May 13, 2005, 9:00 a.m.]

[234 PA. CODE CH. 6]

Amendments to Pa.R.Crim.P. 646

The Criminal Procedural Rules Committee is planning to recommend that the Supreme Court of Pennsylvania amend Rule 646 to permit the discretionary use of binders by the jury to assist in the organization of trial materials. This proposal has not been submitted for review by the Supreme Court of Pennsylvania.

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

The text of the proposed rule changes precedes the Report. Additions are shown in bold; deletions are in bold and brackets.

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

Anne T. Panfil, Chief Staff Counsel
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 Criminal Procedural Rules Committee
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no later than Friday, June 17, 2005.

By the Criminal Procedural Rules Committee

NICHOLAS T. NASTASI,
Chair

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 6. TRIAL PROCEDURES IN COURT CASES

PART C(2). Conduct of Jury Trial

Rule 646. Material Permitted in Possession of the Jury.

* * * * *

(C) In the discretion of the trial judge, the jury may be provided with binders for the purpose of

collecting and organizing trial materials to be used in the performance of its duties during the trial and deliberations.

(1) The contents of the binders shall be agreed upon by the attorney for the Commonwealth and by the attorney for the defendant, or by the defendant if pro se, subject to the trial judge's approval.

(2) The contents of the binders shall be destroyed at the conclusion of trial.

Comment

* * * * *

The 1996 amendment adding "or otherwise recorded" in paragraph (B)(2) is not intended to enlarge or modify what constitutes a confession under this rule. Rather, the amendment is only intended to recognize that a confession can be recorded in a variety of ways. See *Commonwealth v. Foster*, 624 A.2d 144 (Pa. Super. Ct. 1993).

Although most references to indictments and indicting grand juries were deleted from these rules in 1993 because the indicting grand jury was abolished in all counties, see PA. CONST. art. I, § 10 and 42 Pa.C.S. § 8931(b), the reference was retained in this rule because there may be some cases still pending that were instituted prior to the abolition of the indicting grand jury.

Paragraph (C) was added in 2005 to provide that the trial judge, in his or her discretion, may permit the jury to be provided with binders to be used in collecting and organizing the various materials presented at trial. While the court is responsible for providing the binders for use by the jury, counsel should be permitted to prepare exhibits and other materials that may facilitate trial for inclusion in the juror binder.

Jurors are to be allowed access to the binders for use only during trial and deliberations, and only when in the courtroom or the jury room. A specific time should not be set aside during trial to review the binder contents; the jurors should do this during side-bars and recesses.

The contents of the binders are subject to agreement by the prosecution and defense and may include, but are not limited to, such items as: a list of witnesses, including identifying information; photographs of key witnesses; copies of appropriate exhibits if admissibility is stipulated or added as the items are admitted into evidence; a glossary of technical terms; a seating chart of the courtroom identifying all trial participants.

Binders may be utilized for multiple purposes, including providing basic information about jury service, as well as information specific to the trial.

In the trial court's discretion, the contents of the juror binders that are prepared by the court and of a general instructional nature applicable to all cases may be preserved following the conclusion of trial.

Official Note: Rule 1114 adopted January 24, 1968, effective August 1, 1968; amended June 28, 1974, effective September 1, 1974; Comment revised August 12, 1993, effective September 1, 1993; amended January 16, 1996, effective July 1, 1996; amended November 18, 1999,

effective January 1, 2000; renumbered Rule 646 March 1, 2000, effective April 1, 2001; **amended** , 2005, **effective** , 2005.

Committee Explanatory Reports:

* * * * *

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] **1478** (March 18, 2000).

Report explaining the revision to permit use of juror binders published at 35 Pa.B. 2868 (May 14, 2005).

REPORT
Amendments to Pa.R.Crim.P. 646
Juror Binders

Background

As part of the Committee's ongoing study of innovations designed to assist juror participation at trial, the Committee examined the practice of providing the jurors with notebooks or binders to assist jurors in organizing and understanding case information.

A few states currently have a direct rule or statute on juror binders.¹ A number of states have reviewed the matter, usually as part of a general study or pilot project on jury innovations. In these studies, jurors overwhelmingly approved of their use. For example, in a pilot project in Tennessee, 94% of over 400 jurors who had used notebooks found them in some degree useful, with 68% of the total describing them as "very useful" in trial.²

Most jurisdictions do not have specific rules governing the use of juror notebooks or binders but permit the practice as within a trial court's discretion. Pennsylvania has no statute, rule, or case law that precludes use of binders and anecdotal evidence suggests that the practice has been allowed to some extent in civil cases.

Juror binders will assist jurors to organize, understand, and recall large amounts of information. Binders can be designed for multiple purposes, including providing basic information about jury service as well as information specific to the trial. This will help reduce juror stress and confusion about the trial process.

Discussion of the Rule

The proposed amendment to Rule 646 creates new paragraph (C) that, within the discretion of the trial judge, permits the jurors to be provided with binders in which any trial materials may be collected and organized.

Paragraph (C)(1) provides that if either party objects or if the parties cannot agree to a particular item to be included in the notebook, the item would be omitted.

Paragraph (C)(2) provides that the contents of the binders shall be destroyed at the conclusion of trial.

The Comment provides further suggestions upon the use of the binders. The practice would generally entail providing a three-ring binder to each juror to assist jurors in organizing case information. Jurors would only be allowed access to the binders during trial and deliberation; they would not be allowed to take the binders home

¹ See, e.g., Arizona Rule of Criminal Procedure 18.6, Tennessee Rule of Criminal Procedure 24.1 and Colorado Rule of Criminal Procedure 16. The *Wyoming Trial Handbook* also describes this practice in that state.

² Cohen, Daniel R., *Jury Reform in Tennessee*, 34 U.Mem.L.Rev. 1 (fall 2003).

at night. A specific time would not be set aside during trial to review the notebook contents; it is assumed that the jurors will do this during side-bars and recesses.

The Comment notes that while the court is responsible for providing the binders, either side may contribute to the contents. The contents of binders will vary from case to case. The contents are to be determined by agreement among the parties under the supervision of the trial court.

The binders can include such items as: a list of witnesses, including identifying information; photographs of key witnesses; copies of appropriate exhibits if admissibility is stipulated or added as the items are admitted into evidence; a glossary of technical terms, and information about the various participants in the trial process, including a seating chart for the courtroom identifying all trial participants. The binders may also include information of a more general and instructional nature about jury service.

[Pa.B. Doc. No. 05-928. Filed for public inspection May 13, 2005, 9:00 a.m.]

[234 PA. CODE CH. 6]

Order Amending Rule 632; No. 319 Criminal Procedural Rules; Doc. No. 2

The Criminal Procedural Rules Committee has prepared a Final Report explaining the May 2, 2005 amendments to Rule of Criminal Procedure 632. The amendment modifies the juror information questionnaire by separating question #1 into two questions numbered 3 and 15 respectively on the questionnaire, without changing the substance of the question. Additional qualifying language has been included in both new questions. The Final Report follows the Court's Order.

Order

Per Curiam:

Now, this 2nd day of May, 2005, upon the recommendation of the Criminal Procedural Rules Committee; the proposal having been submitted without publication pursuant to Pa.R.J.A. 103(a)(3) in the interests of justice and efficient administration, and a Final Report to be published with this *Order*:

It Is Ordered pursuant to Article V, Section 10 of the Constitution of Pennsylvania that Rule of Criminal Procedure 632 is amended in the following form.

This *Order* shall be processed in accordance with Pa.R.J.A. 103(b), and shall be effective August 1, 2005.

Annex A

TITLE 234. RULES OF CRIMINAL PROCEDURE

CHAPTER 6. TRIAL PROCEDURES IN COURT CASES

PART C(1). Impaneling Jury

Rule 632. Juror Information Questionnaire.

* * * * *

(H) The form of the juror information questionnaire shall be as follows:

JUROR INFORMATION QUESTIONNAIRE
CONFIDENTIAL; NOT PUBLIC RECORD

NAME: LAST		FIRST		MIDDLE INITIAL	
CITY/TOWNSHIP			COMMUNITIES IN WHICH YOU RESIDED OVER THE PAST 10 YEARS:		
MARITAL STATUS: MARRIED <input type="checkbox"/>		SINGLE <input type="checkbox"/>	SEPARATED <input type="checkbox"/>	DIVORCED <input type="checkbox"/>	WIDOWED <input type="checkbox"/>
OCCUPATION			OCCUPATION(S) PAST 10 YEARS		
OCCUPATION OF SPOUSE/OTHER			PAST 10 YEARS OCCUPATION OF SPOUSE/OTHER		
NUMBER OF CHILDREN			RACE: <input type="checkbox"/> WHITE <input type="checkbox"/> BLACK <input type="checkbox"/> HISPANIC <input type="checkbox"/> OTHER		
LEVEL OF EDUCATION YOURS		SPOUSE/OTHER		CHILDREN	

- | | YES | NO |
|--|--------------------------|--------------------------|
| 1. [Do you have any physical or psychological disability or are you presently taking any medication?] | <input type="checkbox"/> | <input type="checkbox"/> |
| [2.] Have you ever served as a juror before? | <input type="checkbox"/> | <input type="checkbox"/> |
| If so, were you ever on a hung jury? | <input type="checkbox"/> | <input type="checkbox"/> |
| [3.] 2. Do you have any religious, moral, or ethical beliefs that would prevent you from sitting in judgment in a criminal case and rendering a fair verdict? | <input type="checkbox"/> | <input type="checkbox"/> |
| 3. Do you have any physical or psychological disability that might interfere with or prevent you from serving as a juror? | <input type="checkbox"/> | <input type="checkbox"/> |
| 4. Have you or anyone close to you ever been the victim of a crime? | <input type="checkbox"/> | <input type="checkbox"/> |
| 5. Have you or anyone close to you ever been charged with or arrested for a crime, other than a traffic violation? | <input type="checkbox"/> | <input type="checkbox"/> |
| 6. Have you or anyone close to you ever been an eyewitness to a crime, whether or not it ever came to court? | <input type="checkbox"/> | <input type="checkbox"/> |
| 7. Have you or anyone close to you ever worked in law enforcement or the justice system? This includes police, prosecutors, attorneys, detectives, security or prison guards, and court related agencies. | <input type="checkbox"/> | <input type="checkbox"/> |
| 8. Would you be more likely to believe the testimony of a police officer or any other law enforcement officer because of his or her job? | <input type="checkbox"/> | <input type="checkbox"/> |
| 9. Would you be less likely to believe the testimony of a police officer or other law enforcement officer because of his or her job? | <input type="checkbox"/> | <input type="checkbox"/> |
| 10. Would you have any problem following the court's instruction that the defendant in a criminal case is presumed to be innocent unless and until proven guilty beyond a reasonable doubt? | <input type="checkbox"/> | <input type="checkbox"/> |
| 11. Would you have any problem following the court's instruction that the defendant in a criminal case does not have to take the stand or present evidence, and it cannot be held against the defendant if he or she elects to remain silent or present no evidence? | <input type="checkbox"/> | <input type="checkbox"/> |
| 12. Would you have any problem following the court's instruction in a criminal case that just because someone is arrested, it does not mean that the person is guilty of anything? | <input type="checkbox"/> | <input type="checkbox"/> |
| 13. In general, would you have any problem following and applying the judge's instruction on the law? | <input type="checkbox"/> | <input type="checkbox"/> |
| 14. Would you have any problem during jury deliberations in a criminal case discussing the case fully but still making up your own mind? | <input type="checkbox"/> | <input type="checkbox"/> |
| 15. Are you presently taking any medication that might interfere with or prevent you from serving as a juror? | <input type="checkbox"/> | <input type="checkbox"/> |
| 16. Is there any other reason you could not be a fair juror in a criminal case? | <input type="checkbox"/> | <input type="checkbox"/> |

I hereby certify that the answers on this form are true and correct. I understand that false answers provided herein subject me to penalties under 18 Pa.C.S. § 4904 relating to unsworn falsification to authorities.

SIGNATURE _____ DATE _____

* * * * *

Official Note: Former Rule 1107 rescinded September 28, 1975. Present Rule 1107 adopted September 15, 1993, effective January 1, 1994; suspended December 17, 1993 until further Order of the Court; the September 15, 1993 Order is superseded by the September 18, 1998 Order, and present Rule 1107 adopted September 18, 1998, effective July 1, 1999; renumbered Rule 632 and amended March 1, 2000, effective April 1, 2001; **amended May 2, 2005, effective August 1, 2005.**

Committee Explanatory Reports:

* * * * *

Final Report explaining the March 1, 2000 reorganization and renumbering of the rules published with the Court's Order at 30 Pa.B. [1477] 1478 (March 18, 2000).

Final Report explaining the May 2, 2005 amendments to the mandatory juror information questionnaire form published at 35 Pa.B. 2870 (May 14, 2005).

FINAL REPORT¹

Amendments to Pa.R.Crim.P. 632 Juror Information Questionnaire Form

On May 2, 2005, effective August 1, 2005, upon the recommendation of the Criminal Procedural Rules Committee, the Court amended the juror information questionnaire form that is part of Rule of Criminal Procedure 632 (Juror Information Questionnaire). Rule 632 requires, inter alia, prospective jurors to complete the standard juror information questionnaire prior to voir dire.

The Committee developed the changes to the Rule 632 Juror Information Questionnaire form after monitoring the use of the form for several years. During this time period, we received various comments and complaints about the form of the questions on the form, in particular the form of question # 1 ("Do you have any physical or psychological disability or are you presently taking any medication?"), suggesting the question was difficult to understand and answer because it asks about three different issues: ill health, mental health, and drug usage or abuse. A potential juror might want to answer "yes" for one issue and "no" for the others, but not know how to enter an appropriate response on the questionnaire. It also was suggested that question #1 might violate federal and state disability statutes.

After thoroughly discussing these issues, the Committee reaffirmed the following points: 1) the questionnaire specifically is designed to aid in the determination whether a prospective individual is capable of serving in the capacity of a juror; 2) Rule 632 is intended to encourage that instructions be given by the court to the prospective jurors; and 3) it is the intent of Rule 632 that when a "yes" response is provided for any of the questions on the questionnaire, there would be follow-up questions to the juror during voir dire. Furthermore, we agreed that these aspects of the rule and questionnaire are intended to ensure compliance with the ADA. However, in view of the comments we have received, the members concluded that question #1 may be causing mischief, resulting in unintended consequences and confusion to the prospective jurors completing the questionnaire. Accordingly, without changing the substance of the question, question # 1 has been separated into two questions numbered 3 and 15

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

respectively on the questionnaire.² Additional qualifying language—"that might interfere with or prevent you from serving as a juror"—has been included in both new questions.

[Pa.B. Doc. No. 05-929. Filed for public inspection May 13, 2005, 9:00 a.m.]

Title 25—LOCAL COURT RULES

ARMSTRONG COUNTY

Adoption of New Local Rules of Court—2002; No. CP-03-AD-0000033—2004

Order

And Now, this 25th day of April, 2005 it is hereby Ordered as follows:

1. L.R.C.P. No. 208.2 is hereby rescinded. This rescission shall become effective thirty (30) days after the date of publication of said rescission in the *Pennsylvania Bulletin*.

By the Court

JOSEPH A. NICKLEACH,
President Judge

[Pa.B. Doc. No. 05-930. Filed for public inspection May 13, 2005, 9:00 a.m.]

SCHUYLKILL COUNTY

Amended/Adopted Criminal Rules of Procedure; AD69-2005

Order of Court

And Now, this 22nd day of April, 2005, at 4:30 p.m., Schuylkill County Criminal Rules of Procedure Rule 106, Rule 560(f) and Rule 570.1 are amended for use in the Court of Common Pleas of Schuylkill County, Pennsylvania, Twenty-First Judicial District, Commonwealth of Pennsylvania, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The Clerk of Courts of Schuylkill County is Ordered and Directed to do the following:

1) File seven (7) certified copies of this Order and Rules with the Administrative Office of Pennsylvania Courts.

2) File two (2) certified copies of this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette reflecting the text in the hard copy version.

3) File one (1) certified copy of this Order and Rules with the Pennsylvania Criminal Procedural Rules.

4) Forward one (1) copy to the Law Library of Schuylkill County for publication in the *Schuylkill Legal Record*.

5) Keep continuously available for public inspection copies of this Order and Rule.

² In addition, dotted lines from the question marks to the "yes" and "no" boxes on the form have been added to further aid the prospective jurors who answer the questions.

It is further *Ordered* that said rule as it existed prior to the amendment is hereby repealed and annulled on the effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

WILLIAM E. BALDWIN,
President Judge

**Schuylkill County Rules of
Criminal Procedure**

Rule 106 Continuances.

All motions for continuance of trial shall be in writing, upon forms approved by the Court, and served on the opposing party. A motion by the Defendant must be signed by the Defendant and his or her attorney, if any. All such motions shall be heard by the Court each Criminal Term on the date and at the time established by the published Court Calendar.

The Commonwealth must be represented at the hearing for all continuance motions. The presence in Continuance Court of the Defendant and his or her counsel is only required in response to a Commonwealth motion for continuance when the Defendant opposes the motion; however, lack of opposition from the Defendant will not automatically result in the Commonwealth's motion being granted. Their presence may also be excused in Continuance Court for an unopposed first continuance motion by the Defendant. A Defendant's first continuance motion will be deemed unopposed if filed with the Clerk of Courts and contemporaneously served on the Commonwealth before the close of business on the Monday preceding Continuance Court as set forth in the Court Calendar, and if the District Attorney has not notified the Defendant and Court Administrator of the Commonwealth's opposition within 48 hours after receipt of the Defendant's motion. For all later filed, opposed and subsequent continuance motions by the Defendant, defense counsel and the Defendant must be present at the hearing on the motion.

In no event shall a continuance motion be filed and served on the opposing party less than 24 hours prior to Continuance Court.

Rule 560 Information: Filing, Contents, Functions

(f) *Murder Cases.*—Whenever the District Attorney files a criminal information against a defendant alleging the commission of murder as defined in 18 Pa.C.S.A. § 2502, the District Attorney shall contemporaneously forward a copy of the information to the Criminal Court Administrator. Upon receipt of the information, the Court Administrator shall assign the case to a member of the Court and shall notify the Clerk of Courts and counsel for the parties as to which judge the case has been assigned. Thereafter, all pre-trial and trial matters occurring in the case shall be referred to the assigned judge for disposition. That judge shall also set the date for trial independent of the Court Calendar. Either party may at any time request that a trial date be set.

Rule 570.1 Trial Ready Cases/Pre-Trial Conference.

Promptly following the conclusions of a Criminal Term, the Court will attach those cases to be listed for trial during the next succeeding Criminal Term. The Court will generally attach cases to the Trial List based upon the age of the case. Until the day after the date for plea negotiation published in the Court Calendar for that Criminal Term, any party may request a case be added to the Trial List by submitting that request in writing to the Court Administrator and providing a copy of the request to the opposing party. Thereafter, a party may seek the

addition of a case to the Trial List only by motion filed with the Clerk of Courts and contemporaneously served on the opposing party. [Note: Cases in which the Commonwealth has charged murder as defined in 18 Pa.C.S.A. § 2502 are separately listed pursuant to Sch.R.Crim.P. 560(f)].

Pretrial conferences with a member of the Court shall be conducted at 9:30 a.m. on the pretrial conference date as published in the Court Calendar for all cases remaining on the Trial List by that date. The conference shall be attended by the assigned district attorney and defense counsel. Pro se defendants must also attend. A victim may be present, if the victim desires to attend.

It shall be the duty of each party, **prior to the pretrial conference**, to verify the availability of all necessary witnesses for trial. The Court may decline to consider scheduling problems and requests which are not brought to the Court's attention at the pretrial conference.

[Pa.B. Doc. No. 05-931. Filed for public inspection May 13, 2005, 9:00 a.m.]

**SCHUYLKILL COUNTY
Amended Civil Rules of Procedure; S-788-05**

Order of Court

And Now, this 22nd day of April, 2005, at 4:30 p.m., Schuylkill County Civil Rules of Procedure 2206, 2039 and 1301 are amended/adopted for use in the Court of Common Pleas of Schuylkill County, Pennsylvania, Twenty-First Judicial District, Commonwealth of Pennsylvania, effective thirty days after publication in the *Pennsylvania Bulletin*.

The Prothonotary of Schuylkill County is Ordered and Directed to do the following:

- 1) File ten (10) certified copies of this Order and Rule with the Administrative Office of Pennsylvania Courts.
- 2) File two (2) certified copies of this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette reflecting the text in the hard copy version.
- 3) File one (1) certified copy of this Order and Rule with the Pennsylvania Civil Procedural Rules Committee.
- 4) Forward one (1) copy to the Schuylkill County Law Library for publication in the *Schuylkill Legal Record*.
- 5) Keep continuously available for public inspection copies of this Order and Rule.

It is further *Ordered* that said rules as they existed prior to the amendment is hereby repealed and annulled on the effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

By the Court

WILLIAM E. BALDWIN,
President Judge

Rule 2206 Petitions for Approval of Wrongful Death and Survival Settlements.

(a)(1) Petitions for Approval of Wrongful Death and Survival Settlements shall be filed in the Orphans' Court Division where the estate is being administered if no suit has been previously filed or in the Prothonotary's Office under the docket number of the previously filed suit.

(2) The petition shall set forth:

(i) A heading briefly identifying the purpose of the petition;

(ii) The factual background of the claim;

(iii) Whether the decedent died intestate; if the decedent died testate, a copy of the will shall be attached to the petition;

(iv) Identification of the wrongful death beneficiaries;

(v) Whether any wrongful death beneficiaries are minors or incapacitated persons and whether a guardian has been appointed for the person or estate;

(vi) Counsel's analysis of the liability and damages issues relevant to the determination of the reasonableness of the proposed settlement;

(vii) The types and amounts of insurance coverage applicable to the claim and representation as to the efforts made to identify other collateral sources;

(viii) The proposed apportionment between wrongful death and survival recoveries including the factual basis for said apportionment;

(ix) Whether there are any unpaid liens, claims or debts;

(x) A statement of the proposed distribution of the settlement funds, which includes the percentage of requested counsel fees and an itemization of costs. The petitioner shall attach appropriate documentation in support of the itemized costs; and

(xi) Certification of joinder of the beneficiaries in the terms of the proposed settlement and petition.

(3) The petition shall contain the following exhibits:

(i) Copies of accident, medical or expert reports related to the alleged cause of death of decedent;

(ii) The counsel fee agreement between any counsel seeking recovery of counsel fees and the administrator, executor or beneficiaries on whose behalf approval of settlement is sought; and

(iii) A copy of correspondence from the Pennsylvania Department of Revenue approving the proposed allocation of settlement funds between the wrongful death and the survival actions.

(4) Any amendments or supplements to the petition required by the Court shall be filed of record.

(5) All petitions filed under this rule shall be assigned to the Orphans' Court for disposition. The Court may approve a petition without a hearing. If the Court schedules a hearing, the Court may require the personal attendance and testimony of the administrator or executor of the estate on whose behalf the settlement is sought, the representative of the financial institution responsible for the investment of settlement funds received by a minor or incapacitated person, or any other evidence which the Court deems necessary to determine whether the proposed settlement adequately protects the interests of the decedent's estate or the distribution to minors or incapacitated persons.

(6) The Court may require a hearing on the issue of counsel fees. If a hearing on counsel fees is required, the Court shall require the testimony of counsel primarily responsible for the preparation of the case.

(7) The Petitioner shall attach a proposed order in substantially the following form and setting forth:

(i) The Court's authorization for the petitioner to enter into a settlement and release;

(ii) Reference to the total amount of the settlement; and

(iii) A complete statement of the distribution of the settlement amount as set forth in the petition.

(CAPTION)

ORDER OF COURT

AND NOW, this ____ day of _____, 20____, at ____ .m., upon consideration of the Petition for Approval of Wrongful Death and Survival Settlement, noting the consent of the Pennsylvania Department of Revenue, and the certification filed by counsel, the Court finds that there are no outstanding unpaid creditors of the Estate and that the proposed settlement of the civil survival action is adequate to protect the interests of the estate and beneficiaries, IT IS THEREFORE ORDERED AND DECREED that payment of _____ Dollars (\$ _____) in settlement of the Survival Action is APPROVED.

The settlement proceeds shall be distributed as follows:

TO: _____, attorney at law, \$ _____ for counsel fees;

TO: _____, attorney at law, \$ _____ for reimbursement of costs;

The balance of the settlement is apportioned as follows:

Wrongful Death Action \$ _____

TO: (spouse)

TO: (child)

TO: (other)

Survival Action \$ _____

TO: _____, personal representative of the Estate of _____.

BY THE COURT,

Rule 2039 Petitions for Approval of Minors' Compromises.

(a)(1) Petitions for Approval of Settlement or Compromise in matters in which a minor has an interest shall be filed in the Orphans' Court Division where the minor resides if no suit has been previously filed or in the Prothonotary's Office under the docket number of the previously filed suit.

(2) The petition shall set forth:

(i) The factual background of the claim;

(ii) The identification of the parties, including the age of the minor and the addresses of the biological parents of the minor; (if the minor is not living with both natural parents, a copy of any order of court awarding custody or guardianship and a description of where and with whom the minor has resided over the preceding five years);

(iii) Counsel's analysis of the liability and damages issues relevant to the determination of the reasonableness of the proposed settlement;

(iv) Counsel's certification that the settlement is reasonable and in the best interest of the minor;

(v) The types and amounts of insurance coverage applicable to the claim and representation as to the efforts made to identify other collateral sources;

(vi) Whether there are any unpaid liens, claims or debts. Where claims or debts have been waived, petitioner shall attach as an exhibit written proof of waiver of such lien, claim or debt;

(vii) A request for authorization of parent or natural guardian to sign the proposed release;

(viii) A description of the type of account into which the settlement proceeds will be deposited;

(ix) A statement of the proposed distribution of the settlement funds which includes the proposed percentage of counsel fees and an itemization of costs. The petitioner shall attach appropriate documentation in support of the itemized costs; and

(x) Certification of joinder of the custodial parent(s) or appointed guardians in the proposed settlement.

(3) The petition shall contain the following exhibits:

(i) Copies of medical reports or records evidencing the diagnosis and prognosis of the minor's injuries;

(ii) Investigative or police accident reports which provide background information regarding the incident which caused the minor's injuries; and

(iii) The counsel fee agreement with the parents or natural guardians of the minor executed by any attorney seeking recovery of counsel fees.

(4) Any amendments or supplements to the petition required by the Court shall be filed of record.

(5) All petitions filed under this rule shall be assigned to the Orphans' Court for disposition. The Court may approve a petition without a hearing. If the Court schedules a hearing, the Court may require the personal attendance and testimony of the guardian, the treating physician, the representative of the financial institution responsible for the investment of settlement funds or any other evidence which the Court deems necessary to determine whether the proposed settlement adequately protects the minor's interests.

(6) The Court may require a hearing on the issue of counsel fees if counsel seeks the recovery of fees in excess of 25% of the gross settlement amount. If a hearing on counsel fees is required, the Court shall require the testimony of counsel primarily responsible for the preparation of the case.

(7) Except as otherwise required by the Court, the appearance of the minor shall not be required.

(8) The Petitioner shall attach a proposed order found at subsection (c) which sets forth:

(i) The Court's authorization for the petitioner to enter into a settlement and release on behalf of the minor;

(ii) Reference to the total amount of the settlement;

(iii) A complete statement of the distribution of the settlement amount as set forth in the petition;

(iv) Identification of the type of account to be utilized, which account shall comply with Pa.R.C.P. 2039, including a provision that no withdrawal shall be made from any such account until the minor attains majority or by a prior order of court;

(v) A provision that counsel shall provide the court with an Affidavit of Deposit of Minor's Funds within thirty (30) days from the date of the order. Said affidavit shall be in substantially the form as follows:

(CAPTION)

AFFIDAVIT OF DEPOSIT OF MINOR'S FUNDS

The undersigned, counsel for _____, parents and natural guardians of _____, a minor, hereby certifies that the net settlement amount of \$ _____ as set forth in this Court's order dated _____ was deposited by _____ into a restricted, federally insured account, marked "NOT TO BE WITHDRAWN UNTIL THE MINOR REACHES THE AGE OF EIGHTEEN (18), EXCEPT FOR THE PAYMENT OF LOCAL, STATE AND FEDERAL INCOME TAXES ON INTEREST EARNED BY THE SAVINGS ACCOUNT OR CERTIFICATE, IF ANY, OR UNTIL FURTHER ORDER OF THIS COURT" on _____. Account No. _____ is entitled: _____, a minor. Proof of deposit is attached hereto as Exhibit A.

Counsel for Parents and Natural Guardians
of _____, a minor

(b) The Court shall, in appropriate cases, authorize the parent or natural guardian to deposit cash to be paid for the benefit of the minor into an interest bearing, restricted account, insured by the Federal government, which conforms to the provisions of Pa.R.C.P. 2039.

(c) Form of Proposed Order. The form of proposed order shall be substantially as follows:

(CAPTION)

ORDER OF COURT

AND NOW, this ____ day of _____, 20____, at ____ .m., upon consideration of the Petition for Approval of Minor's Settlement, it is hereby ORDERED and DIRECTED that the Compromise Settlement in the sum of _____ Dollars (\$ _____) is APPROVED, and that the Settlement be distributed as follows:

1. The sum of _____ Dollars (\$ _____) shall be paid to _____ for his legal representation of the plaintiff(s).

2. The sum of _____ Dollars (\$ _____) shall be paid to _____ for costs expended.

3. The sum of _____ Dollars (\$ _____) shall be distributed to the benefit of _____, a minor, to be placed in one or more federally insured savings accounts or federally insured savings certificates in the name of the minor so that the amount deposited in any one such savings institution shall not exceed the amount to which accounts are insured, and to be marked "NOT TO BE WITHDRAWN UNTIL THE MINOR REACHES THE AGE OF EIGHTEEN (18), EXCEPT FOR THE PAYMENT OF LOCAL, STATE AND FEDERAL INCOME TAXES ON INTEREST EARNED BY THE SAVINGS ACCOUNT OR CERTIFICATE, IF ANY, OR UNTIL FURTHER ORDER OF THIS COURT".

Counsel for petitioners is ORDERED to cause the restricted account to be created and to file an affidavit of deposit of minor's funds within thirty (30) days hereof.

Jurisdiction of any further proceeding concerning the minor's estate is transferred to the Orphans' Court Division for disposition.

Pursuant to Sch.Co.O.C. Rule 12.5B(c), if no withdrawals are made from the account prior to the minor reaching his/her majority, the institution may pay over the funds when the minor attains age eighteen (18) years,

upon the joint requests of the natural parent(s) and the former minor without further Order of this Court.

BY THE COURT,

Rule 1301 Scope of Procedure.

(a) All civil cases, where the amount in controversy (exclusive of interest and costs) is less than the compulsory arbitration amount for fourth class counties as set forth in the Judicial Code [42 Pa.C.S.A. 7361(b)], including claims or mechanics liens and all appeals from a civil judgment of a Magisterial District Judge, excepting those involving title to real property and those involving equitable or other than monetary relief, shall be submitted to compulsory arbitration.

(b) In addition, cases, whether or not at issue and without regard to the amount in controversy, may be referred to a Board of Arbitrators by an agreement of reference signed by all of the parties and their counsel. The agreement of reference may contain stipulations as to facts agreed upon or defenses waived. In such cases, the agreement of reference shall take the place of the pleadings and shall be filed of record.

(c) The Court, on its own motion or on the motion of either party at pre-trial settlement conference, after depositions, after hearing or otherwise, may determine that the amount actually in controversy does not exceed the compulsory arbitration amount as set forth at 42 Pa.C.S.A. § 7361(b) and may enter an order of reference to a Board of Arbitration.

[Pa.B. Doc. No. 05-932. Filed for public inspection May 13, 2005, 9:00 a.m.]

SCHUYLKILL COUNTY Amended Civil Rules of Procedure; S-789-05

Order of Court

And Now, this 22nd day of April, 2005, at 4:30 p.m., Schuylkill County Civil Rules of Procedure 1042.1 and 212.1(g) are adopted for use in the Court of Common Pleas of Schuylkill County, Pennsylvania, Twenty-First Judicial District, Commonwealth of Pennsylvania, effective thirty days after publication in the *Pennsylvania Bulletin*.

The Prothonotary of Schuylkill County is Ordered and Directed to do the following:

- 1) File ten (10) certified copies of this Order and Rule with the Administrative Office of Pennsylvania Courts.
- 2) File two (2) certified copies of this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette reflecting the text in the hard copy version.
- 3) File one (1) certified copy of this Order and Rule with the Pennsylvania Civil Procedural Rules Committee.
- 4) Forward one (1) copy to the Schuylkill County Law Library for publication in the *Schuylkill Legal Record*.
- 5) Keep continuously available for public inspection copies of this Order and Rule.

It is further *Ordered* that said rules as they existed prior to the amendment is hereby repealed and annulled

on the effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

By the Court

WILLIAM E. BALDWIN,
President Judge

Schuylkill County Civil Rules of Procedure

1042.1 Professional Liability Actions

The Court appoints the Schuylkill County Bar Association Alternate Dispute Resolution Program as the authorized program for alternate dispute resolution for civil cases filed in Schuylkill County.

212.1(g) Pre-Trial Listing and Objections Thereto

The Court appoints the Schuylkill County Bar Association Alternate Dispute Resolution Program as the authorized program for alternate dispute resolution for civil cases filed in Schuylkill County.

[Pa.B. Doc. No. 05-933. Filed for public inspection May 13, 2005, 9:00 a.m.]

SCHUYLKILL COUNTY Amended Orphans' Court Rules

Order of Court

And Now, this 22nd day of April, 2005, at 4:30 p.m., the Court hereby amends Schuylkill County Orphans' Court Rule 12.5E. This rule is amended for use in the Court of Common Pleas of Schuylkill County, Pennsylvania, Twenty-First Judicial District, Commonwealth of Pennsylvania, effective thirty (30) days after publication in the *Pennsylvania Bulletin*.

The Clerk of the Orphans' Court of Schuylkill County is Ordered and Directed to do the following:

- 1) File ten (10) certified copies of this Order and Rule with the Administrative Office of Pennsylvania Courts.
- 2) File two (2) certified copies of this Order and Rule with the Legislative Reference Bureau for publication in the *Pennsylvania Bulletin* together with a diskette reflecting the text in the hard copy version.
- 3) File one (1) certified copy of this Order and Rule with the Pennsylvania Orphans' Court Rules Committee.
- 4) Forward one (1) copy to the Schuylkill County Law Library for publication in the *Schuylkill Legal Record*.
- 5) Keep continuously available for public inspection copies of this Order and Rule.

It is further *Ordered* that said rules as they existed prior to the amendment is hereby repealed and annulled on the effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

By the Court

WILLIAM E. BALDWIN,
President Judge

Rule 12.5e Compromise, Settlement, Discontinuance and Distribution. Minors.

(a) General rule. Except as provided in subsection (b), no settlement of an action of a minor for personal injuries will be authorized or approved without the appearance of the minor in court, medical evidence as to the extent of

the minor's injuries and whether such injuries have fully resolved, and such further information as the Court shall deem necessary.

(b) The Court may approve the petition without requiring the appearance of the minor, his guardian, or his doctor, provided the Court concludes that the information contained in the petition is sufficient to satisfy that the proposed settlement adequately compensates the minor and his guardian for the injuries sustained and expenses incurred and so long as the petition contains all information set forth in Sch.R.C.P. 2039.

(c) Form of Proposed Order. The form of proposed order shall be as follows:

COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY, PENNSYLVANIA

ORPHANS' COURT DIVISION

In Re: | No.
a Minor | Minor's Compromise

ORDER OF COURT

AND NOW, this ___ day of ___, 20___, at ___ .m., upon consideration of the Petition for Approval of Minor's Settlement, it is hereby ORDERED and DIRECTED that the Compromise Settlement in the sum of ___ Dollars (\$ ___) is APPROVED, and that the Settlement be distributed as follows:

- 1. The sum of ___ Dollars (\$ ___) shall be paid to ___ for his legal representation of the petitioners.
2. The sum of ___ Dollars (\$ ___) shall be paid to ___ for costs expended.
3. The sum of ___ Dollars (\$ ___) shall be distributed to the benefit of ___, a minor, to be placed in one or more federally insured savings accounts or federally insured savings certificates in the name of the minor so that the amount deposited in any one such savings institution shall not exceed the amount to which accounts are insured, and to be marked "NOT TO BE WITHDRAWN UNTIL THE MINOR REACHES THE AGE OF EIGHTEEN (18), EXCEPT FOR THE PAYMENT OF LOCAL, STATE AND FEDERAL INCOME TAXES ON INTEREST EARNED BY THE SAVINGS ACCOUNT OR CERTIFICATE, IF ANY, OR UNTIL FURTHER ORDER OF THIS COURT".

Counsel for petitioners is ORDERED to cause the restricted account to be created and to file an affidavit of deposit of minor's funds within thirty (30) days with the Clerk of the Orphans' Court.

Pursuant to Sch. Co. O.C. Rule 12.5B(c), if no withdrawals are made from the account prior to the minor reaching his/her majority, the institution may pay over the funds when the minor attains age eighteen (18) years, upon the joint requests of the natural parent(s) and the former minor without further Order of this Court.

BY THE COURT,

(c) The affidavit of deposit of minor's funds shall be filed within thirty (30) days of the creation of the restricted account and shall be in the following form:

COURT OF COMMON PLEAS OF SCHUYLKILL COUNTY, PENNSYLVANIA

ORPHANS' COURT DIVISION

In Re: | No.
a Minor | Minor's Compromise

AFFIDAVIT OF DEPOSIT OF MINOR'S FUNDS

The undersigned, counsel for ___, parents and natural guardians of ___, a minor, hereby certifies that the net settlement amount of \$ ___ as set forth in this Court's order dated ___ was deposited by ___ into a restricted, federally insured account, marked "NOT TO BE WITHDRAWN UNTIL THE MINOR REACHES THE AGE OF EIGHTEEN (18), EXCEPT FOR THE PAYMENT OF LOCAL, STATE AND FEDERAL INCOME TAXES ON INTEREST EARNED BY THE SAVINGS ACCOUNT OR CERTIFICATE, IF ANY, OR UNTIL FURTHER ORDER OF THIS COURT" on ___. Account No. ___ is entitled: ___, a minor. Proof of deposit is attached hereto as Exhibit A.

Counsel for Parents and Natural Guardians of ___, a minor

[Pa.B. Doc. No. 05-934. Filed for public inspection May 13, 2005, 9:00 a.m.]

SCHUYLKILL COUNTY

Amended Rules of Procedure for Common Pleas and Magisterial District Judges; AD68-2005

Order of Court

And Now, this 22nd day of April, 2005, at 4:30 p.m., Schuylkill County Rules of Criminal Procedure No. 528 and 571 and the Rules of Criminal Procedure for the Magisterial District Judges have been amended in accordance with ACT 207-2004. The rules are for use in the Court of Common Pleas of Schuylkill County, Pennsylvania, Twenty-First Judicial District Commonwealth of Pennsylvania, and are effective immediately.

The Clerk of Courts of Schuylkill County is Ordered and Directed to do the following:

- 1) File seven (7) certified copies of this Order and Rules with the Administrative Office of Pennsylvania Courts.
2) File two (2) certified copies of this Order and Rule with the Legislative Reference Bureau for publication in the Pennsylvania Bulletin together with a diskette reflecting the text in the hard copy version.
3) File one (1) certified copy of this Order and Rules with the Pennsylvania Criminal Procedural Rules.
4) Forward one (1) copy to the Law Library of Schuylkill County for publication in the Schuylkill Legal Record.
5) Keep continuously available for public inspection copies of this Order and Rule.

It is further Ordered that said rule as it existed prior to the amendment is hereby repealed and annulled on the

effective date of said rule as amended, but no right acquired thereunder shall be disturbed.

WILLIAM E. BALDWIN,
President Judge

Rule 528 Types of Bail: Percentage Cash Bail.

(a) In the event the Magisterial District Judge accepts a sum of U.S. Currency equal to ten percent (10%) of the full amount of the monetary condition, the sum of money furnished shall be receipted for, deposited, accounted for, forfeited or returned in accordance with Pa.R.Crim.P. No. 535.

(b) After the final disposition of the case, and provided there has been no forfeiture, the money constituting percentage cash bail shall be returned to the defendant, less a retention fee for administering the percentage cash bail program of ten percent (10%) of the money entered as bail, and in no event shall the retention fee be less than Ten Dollars (\$10.00). The retention fee withheld shall be for the use of the County and shall be received and accounted for by the Clerk of Courts.

(c) When a defendant or a third party surety has deposited a sum of money under the percentage cash bail program, then upon full and final disposition of the case, the deposit less the retention fee for administrative costs, shall be returned to the person who originally posted the deposit. Notice of the full and final disposition shall be sent by the Clerk of Courts to the person who originally posted money at his address of record. Any money not claimed within one hundred eighty (180) days from the time of full and final disposition of the case shall be deemed as fees and shall be forfeited to the use of the County of Schuylkill.

Rule 571 Arraignment.

(a) Every defendant who shall be held for Court by the Magisterial District Judge, at the conclusion of the preliminary hearing or at the time he waives his preliminary hearing, shall be furnished with a notice of arraignment form by the Magisterial District Judge. The form shall advise defendant of the time periods wherein he may commence discovery and file an omnibus pre-trial motion in Court. He shall further be given notice that he has the right to waive appearing for formal arraignment in the District Attorney's Office.

In the event he desires to waive formal arraignment, he and his attorney, if any, shall execute the form provided for that purpose by the Magisterial District Judge, and said form shall be returned to Court with the transcript of the case by the Magisterial District Judge. The date of arraignment will begin the running of the time for the exercise of defendant's pre-trial rights.

In the event the defendant does not waive his arraignment, the District Attorney, upon filing the information, shall give the defendant notice of arraignment by first class mail, addressed to defendant's last known address of record, arraignment to be held at the District Attorney's Office the following Monday morning at 9:30 a.m.

At the time the District Attorney mails the arraignment notices, he shall give the Public Defender a list of those defendants who are scheduled for arraignment. The Public Defender shall assign one of his attorneys to meet with the District Attorney on the day of arraignment to represent those defendants who are not represented by counsel. Such representation shall be solely for the purpose of arraignment and shall not constitute an entry of appearance.

If a defendant fails to appear for arraignment, the Court, upon motion of the District Attorney, may issue a bench warrant for the defendant.

**Criminal Procedure Magisterial
District Judge Courts**

Rule 102 Citation of Rules.

(a) These rules shall be known as Schuylkill Rules of Criminal Procedure for Magisterial District Judge Courts. They may be cited as "Sch.R.Crim.P.M.D.J. No. _____."

Rule 141 Contempt Procedure In Protection From Abuse Cases.

(a)(1) Upon information received on a violation of a protection order, the defendant may be arrested without a warrant, provided that the information is sufficient to constitute probable cause.

(2) Upon arrest, defendant shall be taken before either the Magisterial District Judge who has jurisdiction or the Magisterial District Judge on call; the arresting officer shall file a criminal complaint charging the defendant with indirect criminal contempt per 23 Pa.C.S.A. § 6113 and § 6114; defendant shall at that time be arraigned and bail shall be set; defendant shall either be released on bail or taken to Schuylkill County Prison if bail cannot be posted.

(3) The Magisterial District Judge shall immediately (next working day) provide the Court Administrator with the following information:

- (a) name of defendant
- (b) name of judge whose order was violated

(4) Court Administrator shall arrange with judge who issued original protection order for a hearing to be scheduled within ten (10) days.

Rule 506 Private Complaints.

(c) Private complaints shall be instituted in the manner set forth in Pa.R.Crim.P. No. 506. The affiant shall appear in the office of the District Attorney, who shall determine whether there is a probable cause and either approve or disapprove the complaint without unreasonable delay. If the complaint is approved, it shall be transmitted to the appropriate Magisterial District Judge who shall act as the issuing authority.

Rule 517 Fugitives—Court Cases.

(c) In any court case in which a warrant of arrest has been issued, either upon the filing of the complaint or after the defendant fails to respond to a summons, if the officer to whom the warrant was issued is unable to serve such warrant after good faith effort within thirty (30) days, the said officer shall make a return of "NOT FOUND" to the Magisterial District Judge.

Rule 518 Arrest Without A Warrant In Certain Cases.

(b) Pursuant to the authority granted by Pa.R.Crim.P. No. 518, police officers are hereby authorized, when making an arrest in Schuylkill County and when they deem it appropriate, to promptly release from custody a defendant who has been arrested without a warrant, rather than taking the defendant before the issuing authority when the following conditions have been met:

- (1) the most serious offense charged is a misdemeanor of the second degree;
- (2) the defendant is a resident of the Commonwealth;

(3) the defendant poses no threat of immediate physical harm to any other person or to himself or herself;

(4) the arresting officer has reasonable grounds to believe that the defendant will appear as required; and

(5) the defendant does not demand to be taken before an issuing authority.

When a defendant is released pursuant to this Rule, a complaint shall be filed against the defendant within five (5) days of the defendant's release. Thereafter, a summons, not a warrant of arrest, shall be issued.

Rule 543 Continuances of Preliminary Hearings.

(a) Every request for continuance of a preliminary hearing shall be submitted in writing on a form obtained from the Magisterial District Judge or Criminal Court Administrator and shall be signed by the defendant and his/her counsel if any. The form may be submitted to the Magisterial District Judge by fax directly (or via the Criminal Court Administrator if the Magisterial District Judge office does not have fax capability).

(b) Each party may be granted one continuance by the Magisterial District Judge upon cause shown. Any such initial continuance, made at the request of either party, shall not be for more than twenty-one (21) days. A continuance request submitted by the party not requesting the initial continuance, if granted by the Magisterial District Judge, shall not be for more than fourteen (14) days. The Magisterial District Judge is prohibited from granting more than one continuance to each party.

Any subsequent continuance by either party may be granted only by the President Judge, or his designee, upon completion and with just cause shown on the approved aforementioned continuance request form. This request for continuance form must be completed and signed by the defendant and his/her counsel if any. Upon refusal or approval of said request for continuance form, the Criminal Court Administrator shall file the signed form with the Clerk of Court's office and shall notify the Magisterial District Judge who in turn shall notify the parties.

(1) Pre-Preliminary Hearing Line-Up

Defendants desiring a pre-preliminary hearing line-up shall make such request known to the District Attorney and the Magisterial District Judge at least forty-eight (48) hours in advance of the scheduled preliminary hearing.

In the event the District Attorney opposes defendant's request for a line-up prior to his preliminary hearing, the District Attorney shall advise defendant of such opposition at least twenty-four (24) hours in advance of the scheduled preliminary hearing. Defendant may then request a line-up by filing an original petition with the Clerk of Courts. The Court Administrator shall then assign the matter to a criminal list Judge for disposition. Defendant shall give notice of such filing to the District Attorney and the Magisterial District Judge.

When a Magisterial District Judge has been notified of the filing of such petition, he shall continue the case for at least two (2) weeks to allow for the disposition of the petition.

(2) Scheduling of Preliminary Hearings

Unless there are compelling reasons, no preliminary hearing shall be scheduled for a court case by any Magisterial District Judge during the first two days of jury selection or the first week of criminal court trials in Schuylkill County. If a preliminary hearing is required to

be held within that week by the Pa.R.Crim.P., this local Rule of Court shall be cited by the Magisterial District Judge as a reason for re-scheduling the case for as soon thereafter as possible.

Rule 547 Transcript of Magisterial District Judge.

(c) In addition to the requirements under the Pa.R.Crim.P., the Magisterial District Judge shall also list the defendant's date of birth in brackets following his name on the transcript, and shall list the names, addresses, and telephone numbers of all witnesses who testified at the preliminary hearing or who the parties request to be listed on the transcript.

(d) The Magisterial District Judge shall prepare a transcript of the proceedings before him and return the same together with the documents required by Pa.R.Crim.P. No. 547 to the Office of the Clerk of Courts by first class mail or by hand delivery. In appeals from summary convictions, the Magisterial District Judge shall return the transcript filed with the Office of the Clerk of Courts together with the documents required by Pa.R.Crim.P. No. 460 by certified mail, return receipt requested, together with a letter of transmittal. The copy of the transmittal letter and return receipt card shall be retained by the Magisterial District Judge.

[Pa.B. Doc. No. 05-935. Filed for public inspection May 13, 2005, 9:00 a.m.]

DISCIPLINARY BOARD OF THE SUPREME COURT

Notice of Disbarment

Notice is hereby given that Francis X. Gavin having been disbarred from the practice of law in the State of New Jersey by Order dated September 28, 2004, the Supreme Court of Pennsylvania issued an Order on April 27, 2005, disbaring Francis X. Gavin from the Bar of this Commonwealth, effective May 27, 2005. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside of the Commonwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,

Secretary

*The Disciplinary Board of the
Supreme Court of Pennsylvania*

[Pa.B. Doc. No. 05-936. Filed for public inspection May 13, 2005, 9:00 a.m.]

Notice of Suspension

Notice is hereby given that Richard R. Thomas, II, having been suspended from the practice of law in the State of New Jersey for a period of one year, the Supreme Court of Pennsylvania issued an Order dated April 27, 2005 suspending Richard R. Thomas, II, from the practice of law in this Commonwealth consistent with the Order of the Supreme Court of New Jersey dated September 28, 2004. In accordance with Rule 217(f), Pa.R.D.E., since this formerly admitted attorney resides outside the Com-

monwealth of Pennsylvania, this notice is published in the *Pennsylvania Bulletin*.

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 05-937. Filed for public inspection May 13, 2005, 9:00 a.m.]

Notice of Transfer of Attorneys to Inactive Status

Notice is hereby given that the following attorneys have been transferred to inactive status by Order of the Supreme Court of Pennsylvania dated March 28, 2005, pursuant to Rule 111(b) Pa.R.C.L.E., which requires that every active lawyer shall annually complete, during the compliance period for which he or she is assigned, the continuing legal education required by the Continuing Legal Education Board. The Order became effective April 27, 2005 for Compliance Group 2 due August 31, 2004.

Notice with respect to attorneys having Pennsylvania registration addresses, which have been transferred to inactive status by said Order, was published in the appropriate county legal journal.

Ackerman, Glenn Anthony
 Clifton, VA

Acosta, Inez
 Vineland, NJ

Ardizzone, Dale Steadwell
 Charlotte, NC

Arduini, Lisa Ann
 West Orange, NJ

Augustino Jr., Donald P.
 New York, NY

Berman, William Steven
 Marlton, NJ

Bobman, Steven M.
 Fife, WA

Borger, Gary L.
 Cherry Hill, NJ

Brennan, Michael Gavan
 St. Paul, MN

Bucknam Jr., Robert William
 Haddonfield, NJ

Burr, Scott Allen
 Miami, FL

Carson II, Loftus C.
 Austin, TX

Chang, Jekuk
 Seoul Korea

Conaghan, Stephanie A.
 Washington, DC

Costello, Christopher F.
 Medford, NJ

Davenport, Seth Isaac
 Towaco, NJ

Focht III, William Allen
 Naples, FL

Gallagher, Eileen L.
 Jersey City, NJ

Guyette, Kevin Francis
 Binghamton, NY

Hartman, Andrew L.
 Baltimore, MD

Hightower, Janet R.
 Atlanta, GA

Howard, James Elliot
 Brooklyn, NY

Inglis, Eric Andrew
 Morristown, NJ

Jessup, Matthew Davis
 Newark, NJ

Kades, Eric A.
 Williamsburg, VA

Kim, Yong-Jin T.
 Seoul Korea

Koenig, Peter John
 Washington, DC

Korsen, Elliott
 Princeton, NJ

Lawson, Kenneth
 Arlington, VA

Lehrer, Norman Elliot
 Cherry Hill, NJ

Lependorf, Michelle M.
 Princeton, NJ

Mahoney, Jeffrey John
 Flemington, NJ

Matteucci, Walter
 Overland Park, KS

McElroy, Patricia A.
 New Haven, CT

Meyer, Cynthia Leigh
 Aruada, CO

Mirsky, Ira Benjamin
 Washington, DC

Monahan, Russell Thomas
 Salt Lake City, UT

Murphy, Carol Elizabeth
 Springfield, VA

Oszustowicz, Leonard R.
 Arlington, VA

Paul, Michael G.
 Metuchen, NJ

Powers, Galen Dean
 Washington, DC

Reers, Richard L.
 Williston Park, NY

Rekant, Scott Edward
Monmouth Junction, NJ

Roberts, Victoria H.
Manchester, NH

Sandone, Kathleen Marie
Voorhees, NJ

Scott, April F.
Hackensack, NJ

Smith, Charles Miller
Morris Plains, NJ

Sullivan, Joseph Paul
Lake Villa, IL

Thomas Jr., Walter
Washington, DC

Troublefield, G. Glennon
Roseland, NJ

ELAINE M. BIXLER,
Secretary
The Disciplinary Board of the
Supreme Court of Pennsylvania

[Pa.B. Doc. No. 05-938. Filed for public inspection May 13, 2005, 9:00 a.m.]

RULES AND REGULATIONS

Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF DENTISTRY

[49 PA. CODE CH. 33]

Administration of General Anesthesia, Deep Sedation, Conscious Sedation and Nitrous Oxide/Oxygen Analgesia

The State Board of Dentistry (Board) amends §§ 33.110 and 33.209 (relating to volunteer license; and preparing, maintaining and retaining patient records) and Subchapter E (relating to administration of general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia) to read as set forth in Annex A.

A. *Effective Date*

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

B. *Statutory Authority*

The Board is authorized to adopt regulations concerning anesthesia under sections 3(o) and 11.2(a) of The Dental Law (act) (63 P. S. §§ 122(o) and 130c(a)).

C. *Background and Purpose*

The final-form rulemaking is in response to the act of November 25, 2002 (P. L. 1109, No. 135) (Act 135) and *Watkins v. State Board of Dentistry*, 740 A.2d 760 (Pa. Cmwlth. 1999), which held that the term "appropriate monitoring equipment" in § 33.340 (relating to duties of dentists who are unrestricted permit holders) is unconstitutionally vague. Shortly after the decision, the Board constituted an Anesthesia Committee (Committee). The Committee was tasked with reviewing state-of-the-art equipment, procedures and protocols for safe and effective delivery of anesthesia and analgesia in dental offices. Several drafts of the proposed rulemaking were developed. On March 23, 2001, the Board approved the final draft for promulgation as proposed rulemaking. Proposed rulemaking was published at 31 Pa.B. 6691 (December 8, 2001).

Following the comment period, the Board and its Committee reviewed the comments received. The Committee met on March 14, 2002, to consider the suggestions and prepare responses. Just prior to that meeting, the Committee learned that Dr. Robert S. Muscalus, Physician General, had several concerns regarding the proposed rulemaking. Accordingly, the Committee invited Dr. Muscalus to address these concerns at the Committee's March 14, 2002, meeting. The entire Board entertained Dr. Muscalus's suggestions at the March 15, 2002, Board meeting.

A final rulemaking package approved by the Board was under internal Department of State (Department) review on November 25, 2002, when Act 135 was signed by the Governor and became effective December 25, 2002. The passage of Act 135 required that the Board's anesthesia regulations be rewritten.

Changes required by Act 135 and implementation issues were reviewed by the Department and the Commit-

tee, in particular implementation of the clinical evaluations and office inspections. The Board's current regulations, adopted in 1988, require clinical evaluations and office inspections for unrestricted and restricted I permit holders. However, clinical evaluations and office inspections have never been implemented due to the inability to find individuals or organizations willing to conduct them due to liability concerns.

The following options were explored: 1. *Commonwealth employee*—This option provides the protection of sovereign immunity for governmental employees. However, because of the complexity of the subject matter and the need for persons trained in dentistry, surgery and anesthesia, the costs of training current Department inspectors or hiring oral and maxillofacial surgeons (OMS) or unrestricted permit holders are prohibitive. It is not feasible to train current Department inspectors, none of whom have medical, dental or anesthesia backgrounds. If current inspectors were to perform the clinical evaluations and office inspections, the evaluations and inspections would have to be considerably simplified, which the Board believes would not accomplish the goal of public protection.

The Department had, in the past, made efforts to hire qualified dentists. However, none of these efforts produced a single dentist willing to accept employment at Commonwealth salaries.

2. *Independent contractor*—Nongovernmental agents may act for the government only as independent contractors and cannot be indemnified by the Commonwealth. Potential contractors were not found.

3. *Volunteer*—Volunteers would also be subject to contracts defining the scope of their activities and limits of authority, and liability coverage or a statutory exemption from certain types of liability would be necessary. The Board had been involved, both prior to and following the passage of Act 135, in discussions with the Pennsylvania Society of Oral and Maxillofacial Surgeons (PSOMS) concerning the possibility of the PSOMS conducting the clinical evaluations and office inspections for nonmember permit holders. The PSOMS, the only known organization to date with the experience and expertise to conduct the clinical evaluations and office inspections, has conducted clinical evaluations and office inspections for its members since 1975. The clinical evaluations and office inspections are performed by volunteer PSOMS members, who are provided with liability insurance coverage by the PSOMS' insurance carrier.

4. *Legislative amendment to the act to grant limited immunity to evaluators/inspectors*—The PSOMS prepared a draft amendment, which was supported by the Department. In May 2004, House Bill 2651 (P.N. 3950) was introduced. This bill would provide limited immunity for persons conducting clinical evaluations and office inspections and extends certain deadlines for Act 135 compliance. However, this bill was not enacted during the 2004 session.

As a result, the Board's second proposed rulemaking package sets up an "approved peer evaluation" system for clinical evaluations and office inspections. Although the regulations leave it open for any organization to apply to be an approved peer evaluation organization, the PSOMS was the only entity that the Board was currently aware of that had the resources and ability to conduct these highly technical and fairly lengthy evaluations and inspections.

Proposed rulemaking incorporating all changes required by Act 135 was published at 34 Pa.B. 1949 (April 10, 2004).

Publication was followed by a 30-day public comment period during which the Board received comments from five organizations and two individuals. The Board received public comments from the PSOMS; the Pennsylvania Dental Association (PDA); the Pennsylvania Society of Anesthesiologists (PSA); the Pennsylvania Association of Nurse Anesthetists (PANA); Highmark Inc. and its dental subsidiary, United Concordia Companies, Inc. (UCCI); and two individual dentists. The Board also received comments from the House Professional Licensure Committee (HPLC) and the Independent Regulatory Review Commission (IRRC) under the Regulatory Review Act (71 P. S. §§ 745.1—745.12). The Board did not receive comments from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC).

Following the comment period, the Board and its Committee reviewed all comments received. The Board met on June 4, 2004, to consider the suggestions and prepare responses. However, since all comments had not been received by that date, the Board instructed its Committee to review all comments and to determine initial responses for this final rulemaking package. The Committee met by means of a teleconference on July 26, 2004. After considering all of the public comments, this final-form rulemaking was drafted and presented to the Board at its October 22, 2004, meeting. The Board subsequently voted to adopt the final-form rulemaking at its December 3, 2004, meeting.

D. Comment and Regulatory Review of Proposed Rulemaking

Volunteer Regulations

The HPLC and IRRC commented that the Board's existing volunteer license regulations need to be amended to conform to the amendments to the anesthesia regulations and to cross-reference the requirements for continuing anesthesia education and office inspections and clinical evaluations. In response, the Board amended § 33.110 to cross-reference certain provisions in §§ 33.336a and 33.337 (relating to requirements for unrestricted permit and restricted permit I; and requirements for restricted permit II) regarding the qualifications of the volunteer licensee to administer anesthesia. However, because volunteer license holders are required to provide their services only in an approved clinic, as defined by section 3 of the Volunteer Health Services Act (35 P. S. § 449.43), the Board did not extend the office inspection/clinical evaluation requirement to those facilities. The Board notes that as of January 2005, the Board has only three active volunteer dentist licensees and that none of these licensees hold an anesthesia permit.

Compliance with Act 135

The HPLC noted that Act 135 requires that as of April 1, 2004, all initial applications for permits and initial applications for renewal of permits include an office inspection and clinical evaluation. The Board notes that section 1 of Act 135 which amends section 11.2(b)(1) of the act requires that, beginning April 1, 2004, only initial permits to administer general anesthesia, deep sedation or conscious sedation (unrestricted permit and restricted permit I) require a clinical evaluation and office inspection. The Board acknowledges that this deadline has passed. Section 11.2(b)(6) requires that, as of April 1, 2005, unrestricted and restricted I permit holders seeking renewal for the biennial period beginning April 1, 2005,

must have a clinical evaluation and office inspection. The Board intended this regulation to be effective prior to April 1, 2005, and has provided actual notice to each current holder of an unrestricted permit or a restricted permit I of Act 135 requirements regarding office inspection and clinical evaluations. The Board notes that section 11.2(b)(6) of the act allows the Board to waive the clinical evaluation and office inspection requirement for unrestricted and restricted I permit renewals beginning April 1, 2005, if the permit holder can demonstrate to the Board's satisfaction that he has satisfactorily undergone a clinical evaluation, administered by an organization acceptable to the Board, within the 6 years immediately preceding April 1, 2005. As of January 1, 2005, there were 466 unrestricted permit holders and 477 restricted I permit holders. According to the PSOMS, most of the 466 unrestricted permit holders are members of the PSOMS and many have satisfactorily undergone both a clinical evaluation and office inspection within the previous 6 years. In addition, the PSOMS is now offering inspections and clinical evaluations to nonmembers. The Board anticipated that a majority of these permit holders will have complied with the requirement prior to April 1, 2005.

The HPLC also noted that the proposed rulemaking was delivered to the Committee on March 31, 2004, 1 day before the statutorily imposed deadline. The Board acknowledges that unresolved issues and uncertainty regarding implementation of this final-form rulemaking has taken a considerable amount of time and effort on behalf of the Board and the Department. The Board would refer the HPLC to the efforts undertaken by the Board as outlined in Section C of this preamble to implement the Act 135 requirements in a timely manner. The Board feels that it has worked consistently on this final-form rulemaking from inception of the first proposed rulemaking through this final-form rulemaking. Given the technical nature of the final-form rulemaking and the varying opinions of the various organizations and other interested parties, the Board sought to assure that the final-form rulemaking safeguards the public's health and safety, while not unduly restricting access to care for the citizens of this Commonwealth.

Noting that Act 135 permits the Board to contract with dental schools, organizations and individuals to perform clinical evaluations and office inspections, the HPLC questioned why the proposed rulemaking did not mention contracting with any of those entities. IRRC agreed that it does not appear that the Board has exercised the option to contract with other entities or individuals to carry out the mandates of Act 135, and requested an explanation as to why it has not pursued the contracting option, whether there were other organizations that should be recognized as qualified peer evaluation organizations and how the Board intends to address the liability issue. The HPLC also requested an explanation as to why the Board had not explored the possibilities listed in section 11.2(b)(1) of the act with respect to who may conduct the clinical evaluations and office inspections.

The Board has made numerous attempts to identify viable options for providing the office inspections and clinical evaluations as outlined in Section C of this preamble. Additionally, under the direction of the Commissioner of Professional and Occupational Affairs, the Board is also, in addition to publishing this final-form rulemaking, working simultaneously on a Request for Proposal (RFP) for independent contractors; again attempting to hire anesthesia trained dentists at Commonwealth salaries; supporting a statutory amendment to grant immunity to inspectors and an extension of time for

Act 135 compliance; and issuing temporary permits as authorized by section 11.2(c) of the act to initial applicants until April 1, 2005.

Moreover, none of the three dental schools in this Commonwealth have indicated an interest in providing the clinical evaluations and office inspections. After more than 5 years of study, the only organization identified by the Board that is willing and able to conduct the required inspections and evaluations is the PSOMS. However, the Board continues to actively seek qualified providers and would welcome inquiries from other qualified organizations under § 33.336b(b) (relating to approved peer evaluation organizations for administering evaluations and office inspections).

With regard to the liability issue, the Board would still support the legislation that was proposed in the last legislative session that would limit inspectors' liability. However, given the fact that the PSOMS has been able to obtain the necessary liability coverage to extend their existing peer evaluation program to nonmembers, the Board believes that the liability issue previously raised should not be an impediment to other organizations who wish to become approved peer review organizations.

Notice to Licensees

The HPLC requested information as to whether the Board has provided any notice or information to licensees regarding the clinical evaluations and office inspections. Information has been provided to licensees in the Board's newsletter mailed to each licensee during the summer of 2004. In addition, a special notice was sent to all unrestricted and restricted I permitholders in August 2004 to notify them of the requirements that they obtain an office inspection and clinical evaluation prior to renewing their anesthesia permits in 2005.

Individuals as Peer Review Evaluators

IRRC questioned whether individual permitholders could apply to conduct peer evaluations. Section 11.2(b)(1) the act allows the Board to contract with dental schools, organizations or individuals to perform the clinical evaluations and office inspections. While authorized by the act to contract with individuals, the regulations have now been amended to require peer evaluator teams consisting of at least two individuals due to the highly technical and lengthy inspection and evaluation process. Therefore, the Board elected not to amend the regulations to include "individuals" as peer evaluators.

Peer Review Organizations—Restricted Permit I Holders

IRRC, the PDA and Dr. Walter Laverick, D.M.D. recommended that other dental organizations representing the specialties of pediatric dentistry, periodontology, and the like, be permitted to apply to become an organization to conduct office inspections and clinical evaluations of restricted permit I offices to ensure that dentists of the same specialties and permit types are available to conduct inspections and evaluations for permit level I holders. The PDA commented that restricting the pool of potential peer evaluators to only those who hold an unrestricted permit places an undue burden on those permitholders who make up approximately 1/2 of the affected permitholders. The Board has addressed this comment by amending the regulations to allow restricted permit I holders to conduct office inspections and clinical evaluations of restricted permit I holders and applicants, but only when part of a team that is comprised of at least one unrestricted permitholder.

Criteria for Review of Peer Review Organizations

IRRC requested an explanation as to how the criteria were developed for reviewing a peer review organization application. The Board developed some of the criteria by reviewing the criteria used by other professional board and commissions, which use similar evaluation systems, and other criteria were developed by the Board independently. IRRC also requested an explanation as to how the Board will determine an applicant's compliance with the criteria in paragraphs (3), (5) and (8) regarding technical competence to administer evaluations and inspections, standards for satisfactory completion of an office inspection and clinical evaluation and procedures to facilitate fair, unbiased and equitable office inspections and evaluations. IRRC suggested that the Board specify the documentation an applicant must produce to demonstrate compliance with these paragraphs. The Board has developed specific requirements for inspections and evaluations, which have currently been incorporated in the RFP. The Board expects to require the same types of documentation from applicants for peer review organizations under the regulations as they would of potential contractors under the RFP. These currently include a management summary, work plan, statement of experience and qualifications, statement of personnel assigned to the program, description of training provided to peer evaluators, description of facilities and equipment dedicated to the program and similar information. Sample inspection and evaluation forms, curricula vitae of peer evaluators, written protocols for performance of inspections and evaluations are all examples of documentation that may be provided. However, the Board has declined to list all of the documents that could possibly be utilized to comply with this section in the regulations. Organizations that wish to apply to become approved peer review organizations will be provided guidelines to assist them in preparing their applications when requested.

Continuing Education

The HPLC commented on the reduction of hours of continuing education for permitholders and requested the Board's rationale for this reduction. Act 135, not the Board, has reduced the number of hours of continuing education required as a condition of permit renewal by specifying a certain number of hours of continuing education in anesthesia (restricted—15 hours; restricted I—15 hours; nonpermitholders allowing anesthesia in offices—5 hours) and crediting the continuing anesthesia education toward the permitholder's 30 hours of continuing education required for licensure under section 3(j.2)(2) of the act. The Board had recommended that anesthesia permitholders be required to obtain the anesthesia continuing education hours in addition to the 30 hours of continuing education already required for a dental license.

Educational Requirements

IRRC requested the basis for reducing the required number of hours of instruction and clinical experience in § 33.336 (relating to requirements for restricted permit I) from 80 to 60, and for reducing the required number of hours of instruction and clinical experience from 40 to 14 in § 33.337. These reductions were done to comply with changes to the American Dental Association's (ADA) *Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry* (Guidelines).

BLS/ACLS/PALS

The HPLC noted that the requirement in Act 135 that assistants be certified in cardiopulmonary resuscitation

(CPR). The Committee sought clarification that Basic Life Support (BLS) includes CPR. BLS generally includes adult, child and infant CPR, as well as rescue breathing for those persons who have stopped breathing but are not in cardiac arrest, and training on foreign body airway obstruction and the use of automatic external defibrillators.

C. Richard Bennett, D.D.S., Ph.D., a teacher of dental anesthesiology for the past 37 years, commented that the training received by dental anesthesiologists far exceeds that obtained in an Advanced Cardiac Life Support (ACLS) or Pediatric Advanced Life Support (PALS) course. Dr. Bennett questioned "why the state insists on installing a false sense of security by requiring that dentists be trained in ACLS," believing that this will allow dentists to manage catastrophic emergencies such as cardiac arrests. Dr. Bennett commented that with proper patient evaluation, selection and attentive patient monitoring, catastrophic emergencies such as cardiac arrest should be preventable. The Board agrees that proper patient evaluation, selection and monitoring are of utmost importance in the administration of anesthesia in dental offices, which is one reason the final-form rulemaking is needed. The Board has required all dentists who want to obtain permits to deliver anesthesia to adult and pediatric patients to hold current certifications in ACLS and PALS as a minimum standard. Certainly many dental professionals in this Commonwealth obtain more advanced training in this area and are to be commended.

Recordkeeping Requirements

The HPLC pointed out that Act 135 requires dentists to maintain records of the physical evaluation, as well as records of the medical history and type of anesthesia utilized, but the proposed rulemaking was silent with respect to this requirement. IRRC also noted that the rulemaking is silent regarding recordkeeping requirements for peer review organizations. Current § 33.209 (relating to preparing, maintaining and retaining patient records) requires dentists to maintain a dental record for each patient that accurately, legibly and completely reflects the evaluation and treatment of the patient. It further requires a description of all treatment and services rendered and information with regard to any controlled substances or other drugs prescribed, administered or dispensed. Section 33.209(a)(7) specifically requires information with regard to the information of local anesthesia, nitrous oxide, oxygen analgesia, conscious sedation or general anesthesia. Section 33.209(b) requires that a patient's dental record be retained by a dentist for a minimum of 5 years from the date of the last dental entry. IRRC recommended that the proposed rulemaking specify how long records must be maintained and in what form, include deep sedation in § 33.209, and insert cross-references to § 33.209 in § 33.340 and §§ 33.340a and 33.340b (relating to duties of dentists who are restricted permit I holders; and duties of dentists who are restricted permit II holders). The Board has amended these sections to specifically mention the physical evaluation, medical history and type of anesthesia utilized, as well as adding the term "deep sedation."

Peer Review Organization Records

The HPLC and IRRC suggested that peer review organizations be required to maintain records of office inspections and clinical evaluations performed. The Board agrees and has updated the final-form rulemaking accordingly.

Definitions

The HPLC recommended that the addresses of organizations listed in § 33.331 (relating to definitions) be deleted as the addresses are subject to change. The Board has removed the addresses.

IRRC and PANA suggested that the Board include language in § 33.331 recognizing the successor volumes for each of the documents (American Association of Oral and Maxillofacial Surgeons (AAOMS) *Parameters and Pathways 2000 Clinical Practice Guidelines for Oral and Maxillofacial Surgery, Anesthesia in Outpatient Facilities* (Guidelines), AAOMS *Office Anesthesia Manual* (Manual), American Academy of Pediatric Dentistry (AAPD) *Guidelines for the Elective Use of Conscious Sedation, Deep Sedation and General Anesthesia in Pediatric Dental Patients* (Guidelines) and ADA Guidelines) so it is not necessary to revise the regulation each time a manual or set of guidelines is updated. The Board appreciates that this option would certainly be easier, but in the interest of providing specific notice to permitholders and mindful of the cautionary instruction of the Commonwealth Court in *Watkins*, the Board believes that the sounder choice is to specify the edition to be used in the evaluation process. Further, the Board believes that its review and approval of any successor editions will assure that changes in standards conform to the legislative intent of Act 135.

IRRC suggested the Board revise the definition of "physician" to be consistent with the definition in the Medical Practice Act of 1985 (63 P. S. §§ 422.1—422.51a). The PSA suggested the following definition of physician: "A Pennsylvania licensed medical or osteopathic physician who is currently certified by the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology, or is credentialed to administer anesthesia in a hospital or ambulatory surgical facility licensed by the Department of Health." The Board has adopted the PSA's definition of: physician. The Board was concerned that the definition of physician contained in the Medical Practice Act of 1985 was too broad.

IRRC suggested that the definition of "communications equipment" be revised for clarity purposes. The Board has revised the definition and added examples in an attempt to clarify that each operating room in which anesthesia is administered must have equipment capable of being utilized by voice, video or electronic data transmission to elicit a response in an emergency.

IRRC suggested that the Board define the term "authorized agent." The Board has defined "authorized agent" as "any organization or individual that the Board has officially authorized to act as its agent in carrying out the mandates of the Board, The Dental Law or this chapter." This definition is broad enough to encompass peer evaluation organizations, independent contractors that may be identified through the RFP process or inspectors and investigators acting through the Department's Bureau of Enforcement and Investigation.

Dentist Administering Anesthesia in State or Federal Facility

IRRC suggested that § 33.332(b) (relating to requirement of permit to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia) be amended by inserting "for dental procedures" after "nitrous oxide/oxygen analgesia" for clarity. The PSA recommends the following changes: "(b) Permit not required for administration of anesthetic modality for dental procedures in other facilities. A dentist is not required to possess a permit under this subchapter before adminis-

tering, or supervising the administration of, general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia for dental procedures in a state or federally regulated facility other than a dental office, and a permit issued under this subchapter does not permit the administration of general anesthesia, deep sedation, conscious sedation, or nitrous oxide/oxygen analgesia for non-dental procedures." The PDA recommends § 33.332(b) be amended by inserting the words "for dental procedures" prior to "... in a State or Federally regulated facility other than a dental office ..."

This final-form rulemaking establishes the requirements for licensed dentists to administer anesthesia in dental offices. Subsection (b) is meant to acknowledge the fact that the administration of anesthesia by dentists or other health care professionals in facilities such as general and special hospitals and ambulatory surgical facilities is regulated by the Department of Health and is outside of the scope of these regulations. The regulations of the Department of Health contemplate that a dentist anesthetist may provide anesthesia services for practitioners as diverse as surgeons, obstetricians, dentists, podiatrists and so forth. See 28 Pa. Code § 123.7 (relating to dental anesthetist and nurse anesthetist qualifications). Therefore, the Board has declined to adopt this suggestion.

Proof of Successful Clinical Evaluations/Office Inspections

IRRC questioned why an applicant for an initial permit was required to submit an "original letter" from a peer review organization. The Board has amended this section to require documentation from the peer review organization that indicates whether the applicant has satisfactorily completed the clinical evaluation and office inspection.

IRRC also questioned why a "written report of the results of the clinical evaluation/office inspection" is also required, if the applicant produces a letter demonstrating satisfactory completion of the clinical evaluation/office inspection. A written report of the results is required because Act 135 specifically requires a written report of the results of *all* inspections and evaluations (emphasis added). See section 11.2(b)(1) of the act. In addition, the requirement will assist the Board in assuring that the inspections and evaluations are conducted by the peer review organizations in conformance with the regulations and the guidelines.

IRRC noted that under § 33.336e(b) (relating to confidentiality of peer evaluation reports), a peer review organization is required to notify the Board "as to whether the clinical evaluation and office inspection report has been accepted or rejected by the peer evaluation organization." IRRC suggested that the language be changed to reflect that the applicant has "successfully completed the clinical evaluation/office inspection" to clearly reflect its intent. The Board agrees and has inserted this clarification. The Board has also added language that clarifies the requirement that the peer evaluation organization must submit a written report of the results of all inspections and evaluations.

Guidelines for Clinical Evaluations and Office Inspections

PANA suggested omitting the AAPD and the AAOMS Guidelines and model compliance in accordance with the ADA Guidelines, as in most other states. The organization suggested that the regulations would require dentists and anesthesia providers to be familiar with up to three sets of guidelines, and it is unclear under which circum-

stances one guideline would prevail over another. The Board believes that the regulations clearly specify that an OMS applicant for an unrestricted or restricted permit I must conform to the AAOMS standards for adult and pediatric patients. A general dentist applicant must conform to the ADA Guidelines for adult patients and the AAPD Guidelines for pediatric patients. Therefore, an OMS would only need to be familiar with one set of guidelines. A general dentist who administers anesthesia to both adult patients and pediatric patients would need to be familiar with two sets of guidelines. When those guidelines and these regulations conflict, the regulations would control. The Board has reviewed all of the guidelines and feels that this requirement is appropriate and provides clear guidance to permit holders and applicants.

IRRC requested the reason a separate attestation for unrestricted permit holders and restricted permit I holders was necessary under § 33.336a(b). The Board has required the attestation as additional assurance that the appropriate guidelines will be followed. The attestation will be part of the application form and will not impose an undue burden on applicants.

Equipment Maintenance

IRRC and the PSA suggested that the renewal applicant be required to show that equipment has been properly maintained, as well as calibrated in § 33.338(b)(4) (relating to expiration and renewal of permits) and § 33.340(a)(9). The PDA recommends that § 33.338(b)(4) be amended by the words "and maintained" after "... properly calibrated." The PDA believes that periodic preventive maintenance, as well as calibration, is an accepted standard of practice and should apply to equipment in dental offices. The Board has added a maintenance requirement to all affected sections of the regulations.

The HPLC noted that under Act 135, nonpermitholders shall certify that the equipment used is in compliance with the safety measures adopted in the act and that § 33.341(a)(5) (relating to duties of dentists who are not permit holders) as proposed merely requires the nonpermitholder to verify with the permitholder that the equipment meets the statutory standards regarding safety. This section requires that a nonpermitholder provide a written certification to the Board that the office complies with the equipment and facility requirements of the regulations have been met. The Board has amended this section to require the nonpermitholder to obtain written certification from the permitholder that all monitoring equipment and equipment used to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia is present in the nonpermitholder's office, is properly installed, maintained and calibrated and that monitoring equipment is being used during the administration of general anesthesia. The nonpermitholder shall also receive a written certification that the permitholder has satisfactorily completed a clinical evaluation and the equipment transported to the nonpermitholder's office has been inspected as required.

One commentator asked why so much emphasis is placed on calibration of a nitrous oxide machine, while no mention of calibration a general anesthesia machine or a vaporizer is made. The regulations include a requirement that all monitoring equipment and all equipment used to administer general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia be installed, calibrated and maintained according to the equipment manufacturer's guidelines, contain a fail-safe system and be in proper working order. However, this comment

brought to light a revision needed in § 33.338 (relating to expiration and renewal of permits), which required an attestation on the biennial renewal notice regarding the installation, calibration and maintenance of nitrous oxide/oxygen analgesia equipment, but failed to mention equipment used to administer general anesthesia, deep sedation or conscious sedation. This section has been revised to require an attestation to that effect covering all of these equipment types, as applicable to the level of permit.

Medical History and Physical Evaluation

IRRC suggested that § 33.340(a)(1) be amended to specify that the permit holder must take the medical history and conduct the physical evaluation, subsection (a)(12) should be deleted and the same clarification made in §§ 33.340a(a)(1) and 33.340b(a)(1). The PSA also commented regarding section 1 of Act 135, which amends section 11.2 of the act and requires permit holders to conduct the physical evaluation. The PSA points out that State hospitals and ambulatory surgical facilities require that physicians perform the physical evaluation and take the medical history, and recommends that § 33.340(a)(12) be amended by adding "or a physician" and deleting "CRNA." The Board agrees with IRRC that Act 135 requires the permit holder who administers the anesthesia to take the medical history and conduct the physical evaluation. Therefore, the regulations have been amended to meet that requirement. The scope of these regulations does not extend to hospitals or ambulatory surgical facilities, therefore, the Board has declined to adopt the PSA's suggestion.

Auxiliary Personnel

IRRC requested clarification of the term "auxiliary personnel" in § 33.340a(3). Auxiliary personnel are defined in § 33.1 (relating to definitions) as "persons who perform dental supportive procedures authorized by the act and this chapter under the general or direct supervision of a dentist." The Board has amended the final-form rulemaking to make it clear that auxiliary personnel assist the permit holder in the administration of anesthesia, and that they must be trained to carry out the tasks delegated to them, provided that those tasks do not involve the actual administration of the anesthesia.

Person Dedicated Solely to Anesthesia Administration/Monitoring

IRRC requested clarification as to why § 33.340(a)(8) requires that general anesthesia or deep sedation administered to a pediatric patient be administered by a person dedicated solely to the administration and monitoring of anesthesia. Michael G. Warfel, Vice President, Government Affairs, Highmark, expressed a general concern that the individual designated as the "anesthetizer/sedator/monitor" is the same person as the "dentist/operator" and that this concern is heightened in pediatric dental cases. He recommends that two distinct providers perform these services for all patients, not just pediatric patients. Michael Warfel suggested that true anesthesia, under which the patient is actually paralyzed and cannot breathe on his own, requires a separate anesthetist from the provider. The PSA recommends that the standard levels of practice within the medical community should be maintained in dental practice as well, and recommends that any patient under general anesthesia or deep sedation, no matter what their age, should have the anesthetic administered by someone dedicated solely to their monitoring and anesthetic administration. Conversely, the PDA recommends deleting § 33.340(a)(8) entirely, ques-

tioning why this is a requirement only for unrestricted permit holders who have completed postgraduate programs that conform with Part II of the ADA Guidelines, when these practitioners have the most extensive training in the administration of anesthesia. The PDA believes that this requirement is impractical and will hinder dental patients' access to care. The Board believes that the regulations adequately protect the health and safety of an adult patient without requiring a separate person dedicated to administering and monitoring anesthesia. Pediatric patients, however, can present more difficulties with anesthesia, and therefore the regulations require a separate provider whenever general anesthesia or deep sedation is administered to a pediatric patient.

Inspection of Nonpermit Holder Office and Equipment Transported There

IRRC commented that § 33.340(a)(10) requires that nonpermit holders' offices and equipment transported to the nonpermit holder's office be inspected by an approved peer review organization. IRRC requested clarification as to when the transported equipment was to be inspected since, it would not necessarily be in the nonpermit holder's office at the time of the office inspection. With regard to § 33.341(a)(2), IRRC, the PDA and Dr. Laverick suggested that the inspection of the nonpermit holder's office is not necessary. They believe that the inspection of the permit holder's equipment is sufficient, and note that Act 135 does not require inspections of nonpermit holders' offices. IRRC and the PDA opined that the permit holder should be responsible for ensuring that all appropriate equipment and facility requirements are met. IRRC and the PDA suggest that the provision in § 33.341(a)(5) requiring the nonpermit holder to verify with the permit holder that the equipment is installed properly and calibrated should be deleted as only permit holders should be responsible for verifying that the standards are met. IRRC and the PDA were also concerned that this subsection did not specify what type of verification is required. The HPLC suggested that the verification be in writing.

The PDA recommends an initial process when itinerant anesthesia providers are evaluated and their equipment is inspected and certified before they visit multiple nonpermit holders' offices and that the nonpermit holder's office is not inspected. The PDA suggests that to subsequently coordinate an inspection and evaluation simultaneously with each nonpermit holders' request for an itinerant's services would needlessly delay dental treatment and compromise patients' oral health and that this will be particularly detrimental to children and special needs patients who often require immediate care. The PDA also contends that requiring redundant inspections of the same mobile equipment in different non-permit holder's offices would also be too costly for the non-permit holder and it would be more cost-effective to have the unrestricted permit holder submit verification for each non-permit holder's office that equipment standards are met, and that auxiliary office personnel have been trained appropriately by the permit holder. This process will not disrupt the patient's ability to access dental care in a timely manner. Nonitinerant permit holders are not required to be reinspected each time they experience turnover of staff that assist in the administration of anesthesia. In a similar fashion, the permit holder is charged with training the new staff. The PDA also recommends deletion of § 33.341(a)(5), which requires the nonpermit holder to verify with the permit holder that all monitoring equipment is properly installed and calibrated, because

only permitholders should have to verify that the standards for equipment are met.

The Board has amended these sections to require itinerant permitholders to satisfactorily complete a clinical evaluation, and to require the equipment transported to nonpermitholders' offices be inspected. As part of the clinical evaluation, the permitholder would be required to certify that each office location has the equipment required by the regulations and that the staff has been properly trained to handle anesthesia-related emergencies. This eliminates the need for redundant inspections of every office in which an itinerant permitholder provides services. In addition, the regulations have been amended to require the nonpermitholder to receive a written certification from the permitholder that the equipment used to administer general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia and all monitoring equipment is present, properly installed, maintained and calibrated and in proper working order. In addition, the nonpermitholder shall receive a written certification from the permitholder that the permitholder has satisfactorily completed a clinical evaluation and the equipment transported to the nonpermitholder's office has satisfactorily passed an inspection.

Certified Registered Nurse Anesthetists (CRNAs)

IRRC points out that § 33.340a(a)(4)(i) requires CRNAs to perform under the "direct on-premises supervision of the permitholder, who shall assume full responsibility for the performance of the duties." The same language appears in § 33.340a(3)(ii). IRRC questioned the need for these provisions since the State Board of Nursing regulations specify supervision requirements applicable to CRNAs in § 21.17(3) and (4) (relating to anesthesia). IRRC suggested that the Board amend these sections to cross-reference the supervision requirements for CRNAs. PANA sees the regulations as providing a disincentive to utilize CRNAs to administer anesthesia by requiring dentists to obtain the same permit level while working with a CRNA that he must obtain if administering anesthesia personally but not requiring this when a dentist utilizes an anesthesiologist or another permitted dentist. PANA recommends removing the requirement that CRNAs be under the direct supervision of the dentist in §§ 33.340(a)(4)(i) and (ii) and 33.340a(a)(4)(i) and (ii).

The Board has the authority to specify the requirements for CRNAs practicing under a dentist's anesthesia permit. Permits are issued to dentists to administer anesthesia on an out-patient basis in dental offices. CRNAs practicing in a dental office setting are practicing under the dentist's permit, that is, they are delegated the duties of administering anesthesia by the dentist who holds the permit. Since 1988, the Board's regulations have required CRNAs to perform their anesthesia administration duties under the direct on-premises supervision of the permitholder, who assumes full responsibility for the performance, and do not perform duties beyond the scope of the permitholder's authority. Therefore, the Board has declined to adopt PANA's suggestion.

Renewal Fees

IRRC questioned why renewal fees for permits under this subchapter are twice as much as the initial issuance fees. In general, the fees for initial issuance of licenses and permits reflect the actual cost of processing the applications. However, the bulk of the Board's revenues comes from renewal fees for licenses and permits. These fees are set at a level that supports the overall operations

of the Board, including administrative costs, legal expenses and enforcement and investigation. The Board has proposed rulemaking increasing renewal fees across all categories of licenses and permits, published at 34 Pa.B. 5596 (October 9, 2004), in which they proposed an increase in the renewal fee for restricted permit II to \$50. That increase is also incorporated in this final-form rulemaking.

General Impact of the Final-Form Rulemaking

Dr. Bennett commented that the proposed rulemaking, with the emphasis on sophisticated monitors, are unduly restrictive, confusing and will not contribute to patient safety. Dr. Laverick suggested that the proposed rulemaking would limit access to dental care to groups with the greatest need, that is, "dental phobic" individuals with special physical and mental needs and fearful pediatric patients. He opined that the proposed rulemaking would allow these patients unfettered access to care in offices of OMSs, as they should, but impose excessive or redundant requirements for these same patients treated in the offices of general dentists. He argues that as these patients will or can only have dental treatment if they are deeply sedated or anesthetized and if the only venue for this service is an OMS, the dental treatment most often provided will be extraction.

In response, the Board notes that the final-form rulemaking has been driven primarily by the *Watkins* case, in which Commonwealth Court found the requirement for "appropriate monitoring equipment" to be unconstitutionally vague, and the requirements of Act 135. The Board has endeavored to focus its regulatory efforts on defining the term "appropriate monitoring equipment" and on a combined clinical evaluation and office inspection of unrestricted and restricted permit I holders based upon standards which it believes will provide the best public protection while not unduly restricting access to care.

E. Description of Amendments

The amendments to Subchapters B and C (relating to licensure of dentists and dental hygienists; and minimum standards of conduct) and Subchapter E make substantive and editorial changes to §§ 33.110, 33.209 and 33.331—33.342.

§ 33.110. Volunteer license.

In response to comments received from the HPLC and IRRC, this section has been amended to reference updated permit requirements mandated by Act 135 and to apply those requirements to dentists who hold volunteer licenses.

§ 33.209. Preparing, maintaining and retaining patient records.

Requirements for maintaining patient records related to the administration of anesthesia has been updated to include Act 135 requirements.

§ 33.331. Definitions.

In response to comments received, the definitions have been amended to delete addresses for the AAOMS and the AAPD, which are subject to change. In addition, a definition for the term "authorized agent" has been added. The definition of "communications equipment" has been amended in the interest of clarity and examples were added. The definition of "peer evaluation organization" was amended to cross reference § 33.336b. The definitions for "clinical evaluation" and "office inspection" were amended to clarify that OMSs will be inspected and evaluated in accordance with the AAOMS Manual and

Guidelines and that general dentists will be inspected and evaluated in accordance with the ADA Guidelines (for adult patients) and the AAPD Guidelines (for pediatric patients). Finally, the definition of physician was amended as recommended by the PSA.

§ 33.332. *Requirement of permit to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.*

This section clarifies that a permit is required to administer deep sedation in a dental office.

§ 33.333. *Types of permits.*

This section clarifies that an unrestricted permit is required to administer deep sedation and would create a new type of permit, a temporary permit, which is limited to 1 year, as required by Act 135.

§ 33.334. *Application for permit.*

This section makes permit application requirements applicable to permission to administer deep sedation and to the temporary permit.

§ 33.335. *Requirements for unrestricted permit.*

As proposed, this section removes one of the three possible requirements that must be met for securing an unrestricted permit, specifically that of having administered general anesthesia on a regular basis in the course of dental practice for 5 years prior to January 1, 1986. The 1985 "grandfathering" clause of section 11.2(b) of the act tracked in the regulation is no longer necessary.

This section also increases the time required in a postgraduate program for advanced training in anesthesiology from 1 to 2 years to conform to the ADA's Guidelines.

§ 33.336. *Requirements for restricted permit I.*

This section removes one of the two possible requirements for securing a restricted permit I, specifically that of having administered conscious sedation on a regular basis in the course of dental practice for 5 years prior to January 1, 1986. As described previously, that requirement is no longer necessary.

This section also reduces the number of hours of undergraduate or postgraduate didactic instruction and clinical experience in a program conforming to Part I or III of the ADA Guidelines.

§ 33.336a. *Requirements for unrestricted permit and restricted permit I.*

Subsection (a) requires all initial unrestricted and restricted I permit applicants to have satisfactorily completed an office inspection and clinical evaluation conducted by an approved peer evaluation organization. Beginning April 1, 2005, all renewal applicants shall complete an office inspection and clinical evaluation for permit renewal. If an applicant can demonstrate satisfactory completion of an office inspection and clinical evaluation within the 6 years preceding April 1, 2005, the office inspection and clinical evaluation may be waived.

This subsection requires all renewal applicants to satisfactorily complete an office inspection and clinical evaluation every 6 years. Subsection (a)(4) has been amended based on comments received to require that applications for initial or renewal permits must contain "documentation" from the peer review organization that conducted the office inspection and clinical evaluation evidencing the applicant's satisfactory completion of the office inspection and clinical evaluation.

Subsection (b) requires an OMS applicant to attest that the administration of anesthesia to adult and pediatric patients will be conducted in conformance with standards outlined in the AAOMS Guidelines and Manual. It requires a general dentist applicant to attest that the administration of anesthesia to adult patients would be conducted in accordance with the ADA Guidelines and that the administration of anesthesia to pediatric patients would be conducted in conformance with the AAPD Guidelines.

Under subsection (c), applicants are required to have successfully completed and maintained current certification in ACLS prior to the administration of anesthesia to an adult patient, and certification in PALS prior to the administration of anesthesia to a pediatric patient.

Subsection (d) provides that as of April 1, 2005, applicants for unrestricted permits are required to complete 15 hours of Board approved courses related to general anesthesia and deep sedation, and restricted permit I applicants would have to complete 15 hours of Board approved courses related to conscious sedation. These continuing anesthesia education hours are credited toward the permitholder's regular continuing education requirement.

§ 33.336b. *Approved peer evaluation organizations for administering clinical evaluations and office inspections.*

This section specifies peer evaluation organizations approved by the Board for conducting clinical evaluations and office inspections. The Board initially has approved the AAOMS and the PSOMS. Other organizations may apply to the Board for approval to serve as an organization that conducts clinical evaluations and office inspections. Based on comments received, this section has been amended to include restricted permit I holders as potential peer evaluators. However, the Board has determined that a restricted permit I holder may only conduct office inspections and clinical evaluations of restricted permit I holders and applicants when part of a team including at least one unrestricted permitholder.

Subsection (b) outlines factors the Board will consider in approving an organization. This subsection has been amended to require that approved peer evaluation organizations agree to maintain records of office inspections and clinical evaluations for at least 5 years. It has also been amended to require peer evaluation organizations to utilize teams of two inspectors for conducting office inspections and clinical evaluations.

§ 33.336c. *Standards for office inspections and clinical evaluations.*

This section has been amended to clarify that office inspections and clinical evaluations will be conducted in accordance with the AAOMS Manual and Guidelines for OMSs and the ADA Guidelines and AAPD Guidelines for general dentists.

§ 33.336d. *Qualifications of peer evaluators conducting office inspections and clinical evaluations.*

This section requires peer evaluators to be licensed dentists and be independent from, and have no conflict of interest with, the dentist or dental practice being reviewed. This section has been amended to include restricted permit I holders as peer evaluators, but only when part of a team consisting of at least one unrestricted permitholder.

§ 33.336e. *Confidentiality of peer review reports.*

This section provides that office inspection and clinical evaluation reports and related information remain confi-

dential except when included in the permit application to the Board. Subsection (b) has been amended to clarify that the peer evaluation organization must submit a written report of the results of all inspections and evaluations and notify the Board within 30 days to document whether the applicant has successfully completed the office inspection and clinical evaluation. Subsection (c) has been added to include a requirement that the peer evaluation organization immediately notify the Bureau if a clinical evaluation or office inspection reveals that the noncompliance of a dentist or dental office presents an immediate and clear danger to the public health and safety.

§ 33.337. Requirements for restricted permit II.

This section removes one of the two possible requirements that must be met for securing a restricted permit II, specifically that of having administered nitrous oxide/oxygen analgesia on a regular basis in the course of dental practice for 5 or more years prior to January 1, 1986, for the reasons set forth previously. Also, the number of required hours of undergraduate or postgraduate didactic instruction and clinical experience in a conforming program is reduced from 40 to 14 to comply with changes to the ADA's *Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry*.

Subsections (b) and (c) have been amended based on comments received to require initial permit applicants to certify and renewal permit applicants to provide an attestation that the equipment used to administer nitrous oxide/oxygen analgesia is properly calibrated and maintained, contains a fail-safe system and is in working order.

§ 33.337a. Requirements for temporary permit.

This section requires an applicant for a temporary permit of any type to include with the application proof that the applicant possesses the qualifications for the permit requested. Temporary permits expire in 1 year and are not renewable.

§ 33.338. Expiration and renewal of permits.

Renewal requirements have been amended to include proof of current certification in ACLS or PALS or both for unrestricted and restricted I permits; an attestation that any equipment used to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia has been installed, calibrated and maintained according to the equipment manufacturer's guidelines and contains a failsafe system; proof of compliance with anesthesia continuing education requirements; and proof of compliance with office inspection and clinical evaluation requirements.

§ 33.339. Fees for issuance of permits.

Permit fees have been amended as follows: initial unrestricted permits and restricted permit I fees is \$100 and the initial restricted permit II fee remains \$15. The renewal unrestricted permit and restricted permit I fee is \$200. The Board proposed to increase the renewal restricted permit II fee from \$15 to \$50 in proposed rulemaking published at 34 Pa.B. 5596. In response to comments received, the Board has incorporated that increase in this final rulemaking package.

§ 33.340. Duties of dentists who are unrestricted permitholders.

This section establishes the standards for the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia by unrestricted

permitholders. It lists the equipment and supplies that are required in the office and requires that auxiliary personnel who assist the permitholder must be currently certified in BLS. The section has been amended based on comments received by the Board to clarify auxiliary personnel may assist the permitholder so long as they are trained to perform the duties that the permitholder delegates to them, but are not permitted to actually administer the anesthesia. This section has also been amended to clarify that monitoring equipment and the equipment used to administer general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia is installed, maintained, calibrated and in proper working condition.

The requirements for itinerant permitholders, that is, permitholders who travel to the offices of non-permitholders for the purpose of administering general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia, have been amended to require itinerant permitholders to complete a clinical evaluation and the equipment they transport to nonpermitholders' offices must be inspected. As part of the clinical evaluation and inspection, the permitholder is expected to certify that each office in which general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia is administered meets the equipment requirements of this subchapter and that the staff is properly trained to handle anesthesia-related emergencies.

Finally, this section was amended to clarify that the permitholder shall conduct the patient medical history and patient physical evaluation as required by Act 135 and to provide a cross-reference to § 33.209.

§ 33.340a. Duties of dentists who are restricted permit I holders.

This section establishes the standards for the administration of conscious sedation or nitrous oxide/oxygen analgesia for restricted permit I holders. It has been amended in substantially the same manner as § 33.340.

§ 33.340b. Duties of dentists who are restricted permit II holders.

The requirements for restricted permit II holders have been amended to require that monitoring equipment and equipment used to administer nitrous oxide/oxygen analgesia be installed, maintained and calibrated according to the equipment manufacturers' guidelines, contain a fail-safe system and be in proper working condition. In addition, a cross-reference to § 33.209 has been added.

§ 33.341. Duties of dentists who are not permitholders.

This section establishes the duties of dentists who are not permitholders, but who allow permitholders to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia in their offices. In response to comments to the proposed rulemaking, this section has been amended to require the non-permitholder to certify that the dental office meets the equipment and facility requirements prescribed in this subchapter. In addition, rather than verify with the permitholder that the equipment used by a permitholder is properly installed, maintained and calibrated, the regulations now require that a nonpermitholder receive a certification from the permitholder to that effect prior to allowing the administration of anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia in the office. In addition, the nonpermitholder shall obtain a certification from the permitholder that the permitholder has successfully completed a clinical evaluation and that the equipment transported to the non-permitholder's of-

office has been inspected as required. A cross-reference to the definition of "physician" in § 33.331 has been added.

§ 33.342. Inspection of dental offices.

This section allows inspections of dental offices by Board authorized agents as defined in § 33.331 to determine if the equipment and facilities requirements have been met. This section anticipates that the Board may, through its authorized agents, conduct inspections when a death or injury related to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia has occurred; when a complaint has been filed alleging that a dentist or dental office is not in compliance with this subchapter; or when a reasonable belief exists that conditions exist in the office that pose a danger to the health or safety of the public. It also allows for a reinspection to take place within 30 days of an inspection finding deficiencies.

F. Fiscal Impact and Paperwork Requirements

Some of the provisions of this final-form rulemaking will have a fiscal impact upon permitholders. Fees for an office inspection and clinical evaluation will be set by the approved peer evaluation organizations. Although the fee amounts are not known at this time, the Board upon information provided to it estimates that the combined fee for the office inspection and clinical evaluation will be in the \$700 to \$900 range. The one-time initial permit fee for these permitholders is increased from \$15 to \$100. The permit renewal fees for both unrestricted and restricted permit I holders will be \$200. The initial permit fee for restricted permit II holders remains the same (\$15), while the renewal fee for these permitholders is being increased to \$50. In addition, requirements for current certification in ACLS and some additional required monitoring equipment may entail increased costs to permitholders. Act 135 permits the Board to "grandfather" the successful clinical evaluation and office inspection of an applicant within the last 6 years, and thereafter a clinical evaluation and office inspection is required once every 6 years. This will lessen the initial fiscal impact upon permit applicants. If the cost of a clinical evaluation and office inspection is an average of \$800, the cost per year is \$133, which the Board believes is a reasonable amount. At this stage, it is not possible to estimate the fiscal impact with precision.

G. Sunset Date

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

H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 30, 2004, the Board submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 1949, to IRRC and the Chairpersons of the HPLC and the SCP/PLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on March 30, 2005, the final-form rulemaking was approved by the HPLC. On April 13, 2005, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory Review Act, IRRC met on April 14, 2005, and approved the final-form rulemaking.

I. Contact Person

Additional information can be obtained by contacting Cynthia K. Montgomery, State Board of Dentistry, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7200.

J. Findings

The Board finds that:

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

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

(3) This final-form rulemaking does not enlarge the purpose of proposed rulemaking published at 34 Pa.B. 1949.

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

K. Order

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

(a) The regulations of the Board, 49 Pa. Code Chapter 33, are amended by amending §§ 33.110, 33.209, 33.331—33.336, 33.337, 33.338—33.340, 33.341 and 33.342 and by adding §§ 33.336a—33.336e, 33.337a, 33.340a and 33.340b to read as set forth in Annex A.

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

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

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

VEASEY B. CULLEN, Jr., D.M.D.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 2073 (April 30, 2005).)

Fiscal Note: Fiscal Note 16A-4614 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 33. STATE BOARD OF DENTISTRY

Subchapter B. LICENSURE OF DENTISTS AND DENTAL HYGIENISTS

§ 33.110. Volunteer license.

(a) *Purpose and definitions.*

(1) The following subsections implement the Volunteer Health Services Act (35 P. S. §§ 449.41—449.50) and provide for the issuance of a volunteer license to a qualified individual who retires from active practice and seeks to provide professional services as a volunteer. A

volunteer license authorizes the holder to practice only in an organized community-based clinic without remuneration.

(2) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise:

Approved clinic—

(i) An organized community-based clinic offering primary health care services to individuals and families who cannot pay for their care, to Medical Assistance clients or to residents of medically underserved areas or health professionals shortage areas.

(ii) The term includes a State health center, nonprofit community-based clinic and Federally qualified health center, as designated by Federal rulemaking or as approved by the Department of Health or the Department of Public Welfare.

Unrestricted license—A license which is not restricted or limited by order of the Board under its disciplinary power.

(b) *License*. A volunteer license may be issued to a licensee or certificateholder of the Board who documents to the satisfaction of the Board that the licensee will practice without personal remuneration in approved clinics and meets one of the following conditions:

(1) Holds a currently renewed, active, unrestricted license, registration or certificate in this Commonwealth and retires from active practice at the time the licensee applies for a volunteer license.

(2) Retires from the active practice of dentistry, or as a dental hygienist or as an expanded function dental assistant in this Commonwealth in possession of an unrestricted license, registration or certificate which was allowed to lapse by not renewing it. A retired licensee, registrant or certificateholder shall meet any requirements of the act or the regulations pertaining to continued education or continued competency to be eligible for renewal.

(c) *Applications*. An applicant for a volunteer license shall complete an application obtained from the Board. In addition to providing information requested by the Board, the applicant shall provide:

(1) An executed verification on forms provided by the Board certifying that the applicant intends to practice exclusively:

(i) Without personal remuneration for professional services.

(ii) In an approved clinic.

(2) A letter signed by the director or chief operating officer of an approved clinic that the applicant has been authorized to provide volunteer services in the named clinic by the governing body or responsible officer of the clinic.

(d) *Validity of license*. A volunteer license shall be valid for the biennial period for which it is issued, subject to biennial renewal. During each biennial renewal period, the volunteer license holder shall notify the Board of any change in clinic or volunteer status within 30 days of the date of the change, or at the time of renewal, whichever occurs first.

(e) *Biennial renewal*. A volunteer license shall be renewed biennially on forms provided by the Board.

(1) As a condition of biennial renewal, the applicant shall satisfy the same continuing education requirements as the holder of an active, unrestricted license.

(2) The applicant shall be exempt from payment of the biennial renewal fee in § 33.3 (relating to fees).

(f) *Return to active practice*. A volunteer license holder who desires to return to active practice shall notify the Board and apply for biennial registration on forms provided by the Board.

(g) *Disciplinary provisions*. A volunteer license holder shall be subject to the disciplinary provisions of the act and this chapter. Failure of the licensee to comply with the Volunteer Health Services Act or this section may also constitute grounds for disciplinary action.

(h) *Permits to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia*.

(1) A dentist who applies for a volunteer license under subsection (b) who holds a current permit to administer anesthetic modalities may also apply for reissuance of an unrestricted or restricted permit of the type issued to the dentist as an active licensee under § 33.333 (relating to types of permits).

(2) A retired dentist who applies under subsection (b)(1) and (2) for a volunteer license who, within 2 years of the date of application, held an unrestricted permit or a restricted permit I, may apply for reissuance of the permit, but shall be required to comply with § 33.336a (relating to requirements for unrestricted permit and restricted permit I) by completing:

(i) An attestation in accordance with § 33.336a(b).

(ii) ACLS/PALS certification in accordance with § 33.336a(c).

(iii) Continuing anesthesia education in accordance with § 33.336a(d).

(3) A retired dentist who applies under subsection (b)(1) and (2) for a volunteer license who, within 5 years of the date of application, held a restricted permit II may apply for reissuance of the permit, but shall be required to comply with § 33.337(b) (relating to requirements for restricted permit II) by providing:

(i) A statement containing the make, model and serial number of nitrous oxide/oxygen analgesia equipment.

(ii) A certification that the equipment is properly calibrated, maintained, contains a fail-safe system and is in working order.

(iii) An attestation that the applicant has written procedures for handling emergencies.

(4) A dentist who applies for a volunteer license who does not qualify for a permit under paragraphs (1)—(3) and who wishes to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia under § 33.332(a) (relating to requirement of permit to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia) shall satisfy the educational requirements of § 33.335(a)(1), § 33.336 or § 33.337(a) (relating to requirements for unrestricted permit; requirements for restricted permit I; and requirements for restricted permit II), as applicable.

(5) Volunteer license holders will not be subject to any fee for the issuance, reissuance or renewal of a permit under this subsection.

(i) *Supervision.* Volunteer dental hygienists shall meet the supervision requirements of § 33.205(c)(1) (relating to practice as a dental hygienist). Volunteer expanded function dental assistants shall meet the supervision requirements of section 2 of the act (63 P. S. § 121).

Subchapter C. MINIMUM STANDARDS OF CONDUCT AND PRACTICE

33.209. Preparing, maintaining and retaining patient records.

(a) A dentist shall maintain a dental record for each patient which accurately, legibly and completely reflects the evaluation and treatment of the patient. A patient dental record shall be prepared and maintained regardless of whether treatment is actually rendered or whether a fee is charged. The record shall include, at a minimum, the following:

(1) The name and address of the patient and, if the patient is a minor, the name of the patient's parents or legal guardian.

(2) The date of each patient visit.

(3) A description of the patient's complaint, symptoms and diagnosis.

(4) A description of the treatment or service rendered at each visit and the identity of the person rendering it.

(5) Information as required in § 33.208 (relating to prescribing, administering and dispensing medications) and this section with regard to controlled substances or other medications prescribed, administered or dispensed.

(6) The date and type of radiographs taken and orthodontic models made, as well as the radiographs and models themselves. Notwithstanding this requirement, the dentist may release orthodontic models to the patient. This transaction shall be memorialized on a form which is signed by the patient. The signed form shall become part of the patient's record.

(7) Information with regard to the administration of local anesthesia, nitrous oxide/oxygen analgesia, conscious sedation, deep sedation or general anesthesia. This shall include results of the preanesthesia physical evaluation, medical history and anesthesia procedures utilized.

(8) The date of each entry into the record and the identity of the person providing the service if not the dentist of record—for example, dental hygienist, expanded function dental assistant, dental assistant, and the like.

(b) A patient dental record shall be retained by a dentist for a minimum of 5 years from the date of the last dental entry.

(c) Within 30 days of receipt of a written request from a patient or a patient's parents or legal guardian if the patient is a minor, an exact copy of the patient's written dental record, along with copies of radiographs and orthodontic models, if requested, shall be furnished to the patient or to the patient's new dentist. This service shall be provided either gratuitously or for a fee reflecting the cost of reproduction.

(d) The obligation to transfer records under subsection (c) exists irrespective of a patient's unpaid balance for dental services or for the cost of reproducing the record.

(e) Dentists shall provide for the disposition of patient records in the event of the dentist's withdrawal from practice, incapacity or death in a manner that will ensure their availability under subsection (c).

(f) The components of a patient dental record that are prepared by a dentist or an agent and retained by a health care facility regulated by the Department of Health or the Department of Public Welfare shall be considered a part of the patient dental record required to be maintained by a dentist, but shall otherwise be exempt from subsections (a)—(e). The components of a patient dental record shall contain information required by applicable Department of Health and Department of Public Welfare regulations—see, for example, 28 Pa. Code § 141.26 (relating to patient dental records)—and health care facility bylaws.

(g) This section does not restrict or limit the applicability of recordkeeping requirements in §§ 33.207 and 33.208 (relating to prescribing, administering and dispensing controlled substances; and prescribing, administering and dispensing medications).

(h) A dentist's failure to comply with this section will be considered unprofessional conduct and will subject the noncomplying dentist to disciplinary action as authorized in section 4.1(a)(8) of the act (63 P. S. § 123.1(a)(8)).

Subchapter E. ADMINISTRATION OF GENERAL ANESTHESIA, DEEP SEDATION, CONSCIOUS SEDATION AND NITROUS OXIDE/OXYGEN ANALGESIA

§ 33.331. Definitions.

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

AAOMS—American Association of Oral and Maxillofacial Surgeons.

AAOMS Guidelines—*AAOMS Parameters and Pathways 2000 Clinical Practice Guidelines for Oral and Maxillofacial Surgery, Anesthesia in Outpatient Facilities* (AAOMS Par Path 2000), 4/15/99.

AAOMS Manual—*AAOMS Office Anesthesia Manual*, 6th Edition, 2000.

AAPD—American Academy of Pediatric Dentistry.

AAPD Guidelines—*AAPD Guidelines for the Elective Use of Conscious Sedation, Deep Sedation and General Anesthesia in Pediatric Dental Patients* (May, 1998).

ACLS—Advanced Cardiac Life Support.

ADA—American Dental Association.

ADA Guidelines—*ADA Guidelines for the Use of Conscious Sedation, Deep Sedation and General Anesthesia for Dentists* (October, 2000).

Adult patient—A patient 18 years of age or older.

Authorized agent—An organization or individual that the Board has officially authorized to act as the Board's agent in carrying out the mandates of the Board, the act or this chapter.

BLS—Basic Life Support

Board—The State Board of Dentistry.

CRNA—A registered nurse certified as a Registered Nurse Anesthetist by the Council on Certification or Recertification of Nurse Anesthetists of the American Association of Nurse Anesthetists authorized to administer anesthesia under § 21.17 (relating to the administration of anesthesia by a registered nurse.)

Clinical evaluation—A determination of the dentist's current technical competency to safely administer general anesthesia, deep sedation or conscious sedation and to

effectively respond to anesthesia related emergencies, in accordance with the AAOMS Manual for OMSs or the ADA Guidelines (for adult patients) and the AAPD Guidelines (for pediatric patients) for general dentists.

Communications equipment—Equipment capable of being used to elicit a response in an emergency by voice, video or electronic data transmission, such as a telephone, video link, intercom, two-way radio or other similar device.

Conscious sedation—A minimally depressed level of consciousness that is produced by a pharmacologic method, a nonpharmacologic method, or a combination of both, in which the patient retains the ability to maintain an airway independently and continuously and to respond appropriately to physical stimulation or verbal command.

Deep sedation—A controlled, pharmacologically induced state of depressed consciousness from which the patient is not easily aroused and which may be accompanied by a partial loss of protective reflexes, including the ability to maintain a patent airway independently or respond purposefully to physical stimulation or verbal command, or both.

General anesthesia—A controlled state of unconsciousness that is produced by a pharmacologic method, a nonpharmacologic method, or a combination of both, and that is accompanied by a complete or partial loss of protective reflexes that include the patient's inability to maintain an airway independently and to respond purposefully to physical stimulation or verbal command.

General dentist—A dentist who is not an oral and maxillofacial surgeon.

Nitrous oxide/oxygen analgesia—The diminution or elimination of pain in the conscious patient through the use of nitrous oxide/oxygen.

OMS—Oral and Maxillofacial Surgeon who is a current member of the PSOMS or AAOMS.

Office inspection—A determination as to whether the offices where the dentist administers anesthesia is properly equipped as prescribed in § 33.340(a)(2), § 33.340a(a)(2) or § 33.340b(a)(2) (relating to duties of dentists who are unrestricted permit holders; duties of dentists who are restricted permit I holders; and duties of dentists who are restricted permit II holders), as appropriate to the type of permit, and in accordance with the AAOMS Manual for OMSs, or the ADA Guidelines (for adult patients) and the AAPD Guidelines (for pediatric patients) for general dentists.

PALS—Pediatric Advanced Life Support.

PSOMS—Pennsylvania Society of Oral and Maxillofacial Surgeons.

Patient physical evaluation—An assessment of the patient's physical and mental condition relevant to the surgery to be performed and anesthesia or anesthetic to be utilized.

Pediatric patient—A patient under 18 years of age.

Peer evaluation organization—An entity approved by the Board for administering a program whereby licensed dentists conduct office inspections and clinical evaluations for dentists seeking initial or renewal unrestricted or restricted I permits in accordance with § 33.336b (relating to approved peer evaluation organizations for administering clinical evaluations and office inspections).

Peer evaluator—A licensed dentist with a current unrestricted permit or restricted permit I who conducts an

office inspection or clinical evaluation under the auspices of an approved peer evaluation organization.

Physician—A Pennsylvania licensed medical or osteopathic physician who is currently certified by the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology, or is credentialed to administer anesthesia in a hospital or ambulatory surgical facility licensed by the Department of Health.

§ 33.332. Requirement of permit to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.

(a) *Permit required for administration of anesthetic modality in dental office.* A dentist shall possess a current permit issued by the Board under this subchapter before administering, or supervising the administration of, general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia in a dental office.

(b) *Permit not required for administration of anesthetic modality in other facilities.* A dentist is not required to possess a permit under this subchapter before administering, or supervising the administration of, general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia in a State- or Federally-regulated facility other than a dental office.

(c) *Failure to comply.* A dentist's failure to comply with subsection (a) will be considered unprofessional conduct and will subject the dentist to disciplinary action under section 4.1 of the act (63 P. S. § 123.1).

§ 33.333. Types of permits.

The Board will issue the following permits to licensees qualified under this subchapter:

(1) *Unrestricted permit.* A permit which authorizes the holder to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.

(2) *Restricted permit I.* A permit which authorizes the holder to administer conscious sedation or nitrous oxide/oxygen analgesia.

(3) *Restricted permit II.* A permit which authorizes the holder to administer nitrous oxide/oxygen analgesia.

(4) *Temporary permit.* A permit limited to 1 year which authorizes the applicant for an unrestricted, restricted I or restricted II permit to administer the appropriate type of anesthesia relevant to the applicant's qualifications.

§ 33.334. Application for permit.

(a) A dentist who desires to obtain a permit to administer general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia, or a temporary permit, shall submit an application on a form provided by the Board, pay the permit fee prescribed in § 33.339 (relating to fees for issuance of permits) and meet the requirements for the permit applied for as prescribed in this subchapter.

(b) Application forms may be obtained from the State Board of Dentistry, Post Office Box 2649, Harrisburg, Pennsylvania 17105-2649.

§ 33.335. Requirements for unrestricted permit.

(a) To secure an unrestricted permit, a dentist shall have done one of the following:

(1) Successfully completed at least 2 years in a post-graduate program for advanced training in anesthesiology and related academic subjects that conforms to Part II of

the American Dental Association's *Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry*.

(2) Possess current certification as a Diplomate of the American Board of Oral and Maxillofacial Surgeons, a Fellow of the American Association of Oral and Maxillofacial Surgery or a Fellow of the American Dental Society of Anesthesiology, or be eligible for examination by the American Board of Oral and Maxillofacial Surgery.

§ 33.336. Requirements for restricted permit I.

To secure a restricted permit I, a dentist shall have successfully completed a course on conscious sedation comprising at least 60 hours of undergraduate or postgraduate didactic instruction and clinical experience in a program that conforms to Part I (for an undergraduate program) or Part III (for a postgraduate program) of the ADA's *Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry*.

§ 33.336a. Requirements for unrestricted permit and restricted permit I.

(a) *Office inspections and clinical evaluations.*

(1) *Initial permits.* Initial unrestricted and restricted I permit applicants shall satisfactorily complete an office inspection and clinical evaluation conducted by an approved peer evaluation organization under § 33.336b (relating to approved peer evaluation organizations for administering clinical evaluations and office inspections).

(2) *First renewal permit beginning April 1, 2005.* Beginning April 1, 2005, renewal unrestricted and restricted I permit applicants shall satisfactorily complete an office inspection and clinical evaluation as a condition for permit renewal. Completion of an office inspection and clinical evaluation may be waived if the applicant can demonstrate satisfactory completion of an office inspection and clinical evaluation, administered by an organization approved by the Board, within 6 years preceding April 1, 2005.

(3) *Subsequent renewal permit.* Following the applicant's initial permit renewal after April 1, 2005, unrestricted and restricted permit I renewal applicants shall satisfactorily complete an office inspection and clinical evaluation once every 6 years.

(4) *Report of office inspection and clinical evaluation.* An application for an initial or renewal permit shall contain documentation from the peer review organization that conducted the office inspection and clinical evaluation that evidences the applicant's satisfactory completion of an office inspection and clinical evaluation and a written report of the results of the office inspection and clinical evaluation.

(b) *Standards for anesthesia administration.*

(1) An OMS applicant for an unrestricted or restricted I permit shall attest that the administration of anesthesia to adult and pediatric patients will be conducted in conformance with the standards outlined in the AAOMS Guidelines and the AAOMS Manual.

(2) A general dentist applicant for an unrestricted or restricted I permit shall attest that the administration of anesthesia to adult patients will be conducted in conformance with the standards outlined in the ADA Guidelines and that the administration of anesthesia to pediatric patients will be conducted in conformance with the standards outlined in the AAPD Guidelines.

(c) *ACLS/PALS certification.*

(1) *Adult patients.* An applicant for an unrestricted or restricted I permit shall have successfully completed and maintained current certification in ACLS prior to the administration of anesthesia to an adult patient.

(2) *Pediatric patients.* An applicant for an unrestricted or restricted I permit shall have successfully completed and maintained current certification in PALS prior to the administration of anesthesia to a pediatric patient.

(d) *Continuing anesthesia education.*

(1) Beginning April 1, 2005, and for all subsequent renewal periods, the following hours of continuing education are required as a condition of permit renewal:

(i) *Unrestricted permit.* An applicant for an unrestricted permit shall have completed 15 hours of Board approved courses related to general anesthesia and deep sedation.

(ii) *Restricted permit I.* An applicant for a restricted permit I shall have completed 15 hours of Board approved courses related to conscious sedation.

(2) Continuing anesthesia education will be credited toward the permitholder's continuing education requirement under § 33.401(a)(1) (relating to credit-hour requirements).

§ 33.336b. Approved peer evaluation organizations for administering clinical evaluations and office inspections.

(a) The following organizations are deemed qualified to conduct clinical evaluations and office inspections and do not require prior approval from the Board:

(1) The American Association of Oral and Maxillofacial Surgeons (AAOMS).

(2) The Pennsylvania Society of Oral and Maxillofacial Surgeons (PSOMS).

(b) An organization of oral and maxillofacial surgeons or of unrestricted permit and restricted permit I holders that does not qualify as an organization to conduct clinical evaluations and office inspections under subsection (a) may apply to the Board for approval to serve as an organization to conduct clinical evaluations and office inspections. In determining whether to grant approval, the Board will consider the following factors:

(1) Whether the organization agrees to utilize peer evaluators meeting the following criteria:

(i) A minimum 5 years experience administering general anesthesia and deep sedation (for unrestricted permitholders) or conscious sedation (for restricted permit I holders) within the last 7 years.

(ii) A current unrestricted permit or restricted permit I.

(iii) Completion of a minimum 7-hour course in conducting office inspections and clinical evaluations.

(2) Whether the organization has sufficient peer evaluators that meet the criteria listed in § 33.336d (relating to qualifications of peer evaluation conducting office inspecting and clinical evaluations) to conduct office inspections and clinical evaluations.

(3) Whether the organization has the technical competence to administer office inspections and clinical evaluations to applicants for initial and renewal permits.

(4) Whether the organization's fee for office inspections and clinical evaluations is based upon reasonable costs.

(5) Whether the organization has standards for satisfactory completion of an office inspection and clinical evaluation.

(6) Whether the organization has an internal appeal procedure to contest the office inspection or clinical evaluation.

(7) Whether the organization has a peer review oversight committee whose members meet the following criteria:

(i) A minimum 5 years experience administering general anesthesia and deep sedation.

(ii) A current unrestricted permit.

(8) Whether the organization has procedures to facilitate fair, unbiased and equitable office inspections and clinical evaluations.

(9) Whether the organization agrees to make records of all office inspections and clinical evaluations available to the Board upon request and agrees to maintain these records for at least 5 years.

(10) Whether the organization agrees to conduct a subsequent office inspection or clinical evaluation within a reasonable time if the results of the initial office inspection or clinical evaluation are unsatisfactory.

(11) Whether the organization agrees to conduct office inspections and clinical evaluations in conformance with the standards outlined in the AAOMS Manual and AAOMS Guidelines (for OMSs) and the ADA Guidelines or AAPD Guidelines (for general dentists), and in accordance with §§ 33.340 and 33.340a (relating to duties of dentists who are unrestricted permitholders; and duties of dentists who are restricted permit I holders).

(12) Whether the organization agrees to utilize peer evaluator teams consisting of at least two permitholders as follows:

(i) For office inspections and clinical evaluations of unrestricted permitholders and applicants, a team of at least two unrestricted permitholders.

(ii) For office inspections and clinical evaluations of restricted permit I holders and applicants, a team consisting of at least two unrestricted permitholders, or a team consisting of at least one unrestricted permitholder and one restricted permit I holder.

(c) An approved peer evaluation organization may not require a permit applicant to become a member of the organization as a precondition for the organization to conduct a clinical evaluation and office inspection for the applicant.

§ 33.336c. Standards for office inspections and clinical evaluations.

Office inspections and clinical evaluations shall be conducted in accordance with the AAOMS Manual and AAOMS Guidelines for OMSs and the ADA Guidelines and AAPD Guidelines for general dentists.

§ 33.336d. Qualifications of peer evaluators conducting office inspections and clinical evaluations.

(a) A peer evaluator conducting office inspections and clinical evaluations of unrestricted permitholders and applicants shall be a licensed dentist holding a current unrestricted permit.

(b) A peer evaluator conducting office inspections and clinical evaluations of restricted permit I holders and applicants shall be a licensed dentist holding either a current unrestricted permit or a current restricted permit I, provided that a peer evaluator holding a current restricted permit I may only conduct office inspections

and clinical evaluations when part of a team consisting of at least one unrestricted permitholder.

(c) A peer evaluator shall be independent from, and have no conflict of interest with, the dentist or dental practice being reviewed.

(d) The administering approved peer evaluation organization shall ensure that its peer evaluators are qualified under this section.

§ 33.336e. Confidentiality of peer evaluation reports.

(a) Office inspection and clinical evaluation reports and related information shall remain confidential except as provided in § 33.336a(a)(4) (relating to requirements for unrestricted permit and restricted permit I) and the act of June 21, 1957 (P. L. 390, No. 212) (65 P. S. §§ 66.1—66.4), known as the Right-to-Know Law.

(b) An administering approved peer evaluation organization shall submit to the Board a written report of the results of the office inspection and clinical evaluation within 30 days from the date the office inspection and clinical evaluation was that documents whether the applicant has successfully completed the office inspection and clinical evaluation.

(c) If a clinical evaluation or office inspection reveals that the noncompliance of a dentist or dental office presents an immediate and clear danger to the public health and safety, the administering approved peer evaluation organization shall immediately notify the commissioner of the Bureau.

§ 33.337. Requirements for restricted permit II.

(a) To secure a restricted permit II, a dentist shall have successfully completed a course in nitrous oxide/oxygen analgesia comprising at least 14 hours of undergraduate or postgraduate didactic instruction and clinical experience in a program that conforms to Part I (for an undergraduate program) or Part III (for a postgraduate program) of the ADA's *Guidelines for Teaching the Comprehensive Control of Pain and Anxiety in Dentistry*.

(b) Initial restricted II permit applicants shall provide the following:

(1) The make, model and serial number of any nitrous oxide/oxygen analgesia equipment utilized by the applicant.

(2) Certification that the equipment is properly calibrated and maintained, contains a fail-safe system and is in working order.

(3) An attestation that the applicant has written office procedures for administering nitrous oxide/oxygen analgesia and handling emergencies related to the administration of nitrous oxide/oxygen analgesia.

(c) *Subsequent renewal permits.* Following the applicant's initial permit renewal after April 1, 2004, for each subsequent renewal period, an applicant shall provide an attestation to the Board, in accordance with § 33.338(b)(4) (relating to expiration and renewal of permits), that the nitrous oxide/oxygen analgesia equipment that the applicant uses is properly calibrated and maintained and contains a fail-safe system.

§ 33.337a. Requirements for temporary permit.

(a) To secure a temporary unrestricted permit, restricted permit I or restricted permit II, an applicant shall include with the application proof that the applicant possesses the qualifications required for the type of permit requested.

(b) Temporary permits expire 1 year following the effective date and may not be renewed.

§ 33.338. Expiration and renewal of permits.

(a) A permit issued by the Board under this subchapter will expire at the same time as the permitholder's dental license but may be renewed biennially at the same time the dental license is renewed.

(b) A dentist who desires to renew a permit shall submit the following:

- (1) A renewal application on a form provided by the Board.
- (2) The permit renewal fee prescribed in § 33.339 (relating to fees for issuance of permits).
- (3) Proof of current certification in ACLS (adult patients) or PALS (pediatric patients), or both (for unrestricted permits and restricted I permits).
- (4) An attestation, on the renewal application, that any equipment used to administer general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia has been installed, properly calibrated and maintained according to the equipment manufacturer's guidelines and contains a fail-safe system (for all permits).
- (5) Proof of compliance with the continuing anesthesia education requirement under § 33.336a(d) (relating to requirements for unrestricted permit and restricted I permit).
- (6) Proof of compliance with the office inspection and clinical evaluation requirements under § 33.336a(a).

§ 33.339. Fees for issuance of permits.

The following fees are charged for the issuance of permits under this subchapter:

- (1) *Unrestricted permit.*
 - (i) Initial \$100
 - (ii) Renewal \$200
 - (iii) Temporary \$100
- (2) *Restricted permit I.*
 - (i) Initial \$100
 - (ii) Renewal \$200
 - (iii) Temporary \$100
- (3) *Restricted permit II.*
 - (i) Initial \$15
 - (ii) Renewal \$50
 - (iii) Temporary \$15

§ 33.340. Duties of dentists who are unrestricted permitholders.

(a) A dentist who possesses an unrestricted permit issued under this subchapter shall ensure that:

- (1) Prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia, the permitholder takes or updates a patient medical history and gives the patient a physical evaluation sufficient to determine the patient's suitability to receive general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.
- (2) The dental office in which the permitholder administers general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia on an outpatient basis contains the following:

- (i) An operating room.
 - (ii) An operating table or chair.
 - (iii) A lighting system.
 - (iv) Suction equipment commensurate with the patient's age, size and condition.
 - (v) Oxygen and supplemental gas delivery systems, including primary and back-up sources and a fail-safe control mechanism.
 - (vi) A sterilization area.
 - (vii) A recovery area.
 - (viii) A gas storage area and scavenger system.
 - (ix) Emergency airway equipment and medications, including intravenous emergency equipment.
 - (x) Communications equipment.
 - (xi) Patient transport equipment.
 - (xii) Monitoring equipment, procedures and documentation to conform to the age, size and condition of the patient and the AAOMS Manual and AAOMS Guidelines for adult and pediatric patients (OMS); the ADA Guidelines for adult patients (general dentists); and the AAPD Guidelines for pediatric patients (general dentists).
 - (xiii) Capnograph for intubated patients and pulse oximeter.
 - (xiv) ECG.
 - (xv) Blood pressure monitoring device.
 - (xvi) Defibrillator.
 - (xvii) Results of patient medical history and patient physical evaluation, and identification of anesthesia procedures to be utilized, prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.
 - (xviii) Signed, written, informed patient consent, prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia, which includes a description of the procedure, its risks and possible alternative treatments. Consent for a minor patient shall be obtained from the minor's parent or guardian.
 - (xix) Stethoscope.
- (3) Auxiliary personnel who assist the permitholder in the administration of general anesthesia, deep sedation or conscious sedation:
- (i) Are trained to perform the duties that the permitholder delegates to them, if the duties do not require the professional judgment and skill of the permitholder and do not involve the actual administration of general anesthesia, deep sedation or conscious sedation.
 - (ii) Perform their duties under the direct on-premises supervision of the permitholder, who shall assume full responsibility for the performance of the duties.
 - (iii) Do not render assistance in areas that are beyond the scope of the permitholder's authority.
 - (iv) Are currently certified in BLS.
- (4) CRNAs who are delegated the duties of administering general anesthesia, deep sedation or conscious sedation:

(i) Perform their duties under the direct on-premises supervision of the permitholder, who shall assume full responsibility for the performance of the duties.

(ii) Do not perform duties that are beyond the scope of the permitholder's authority.

(iii) Are currently certified in ACLS.

(5) The dentist possesses a current certification in ACLS for adult patients and PALS for pediatric patients.

(6) The Board receives a complete report of a death or incident requiring medical care and resulting in physical or mental injury that directly resulted from the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia by the permitholder or by a CRNA working under the supervision of the permitholder. The permitholder shall submit the report within 30 days of the death or incident.

(7) The Board receives prior notice of the first time that a dental office of the permitholder will be used for the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.

(8) General anesthesia or deep sedation administered to pediatric patients by or under the delegation of a general dentist is administered by a person dedicated solely to the administration and monitoring of anesthesia, and the dental procedures are performed by a dental licensee who is not involved in the administration of the general anesthesia.

(9) Monitoring equipment and equipment used to administer general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia is installed, maintained and calibrated according to the equipment manufacturer's guidelines; is in proper working condition prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia; and monitoring equipment is being used during the administration of general anesthesia.

(10) If the permitholder travels to the offices of non-permitholders for the purpose of administering general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia, the permitholder shall satisfactorily complete a clinical evaluation and the equipment transported to the nonpermitholder dentist's office for the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia by a permitholder shall satisfactorily complete an inspection conducted by an approved peer evaluation organization under § 33.336b(a) (relating to approved peer evaluation organizations for administering clinical evaluations and office inspections) in accordance with the requirements of the AAOMS Manual and AAOMS Guidelines (OMS). As part of that clinical evaluation and inspection, the permitholder shall certify that each office location in which general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia is administered by the permitholder has the equipment required by paragraph (2) and that the staff is properly trained to handle anesthesia-related emergencies.

(11) General anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia is administered to adult and pediatric patients in accordance with the AAOMS Guidelines and AAOMS Manual (OMSs) or to adult patients in accordance with the ADA Guidelines (general dentists) or to pediatric patients in accordance with the AAPD Guidelines (general dentists). Conflicts between the AAOMS Guidelines, the AAOMS Manual, the

ADA Guidelines, or the AAPD Guidelines and this subchapter shall be resolved in favor of this subchapter.

(12) Patient records are prepared, maintained and retained in accordance with § 33.209 (relating to preparing, maintaining and retaining patient records).

(b) A dentist's failure to comply with this section will be considered unprofessional conduct and will subject the dentist to disciplinary action under section 4.1 of the act (63 P. S. § 123.1).

§ 33.340a. Duties of dentists who are restricted permit I holders.

(a) A dentist who possesses a restricted permit I issued under this subchapter shall ensure that:

(1) Prior to the administration of conscious sedation or nitrous oxide/oxygen analgesia, the permitholder takes or updates a patient medical history and gives the patient a physical evaluation sufficient to determine the patient's suitability to receive conscious sedation or nitrous oxide/oxygen analgesia.

(2) The dental office in which the permitholder administers conscious sedation or nitrous oxide/oxygen analgesia on an outpatient basis contains the following:

(i) An operating room.

(ii) An operating table or chair.

(iii) A lighting system.

(iv) Suction equipment commensurate with the patient's age, size and condition.

(v) Oxygen and supplemental gas delivery systems, including primary and back-up sources and a fail-safe control mechanism.

(vi) A sterilization area.

(vii) A recovery area.

(viii) A gas storage area and scavenger system.

(ix) Emergency airway equipment and medications, including intravenous emergency equipment.

(x) Communications equipment.

(xi) Patient transport equipment.

(xii) Monitoring equipment, procedures and documentation to conform to the age, size and condition of the patient and the AAOMS Manual and AAOMS Guidelines for adult and pediatric patients (OMS); the ADA Guidelines for adult patients (general dentists); and the AAPD Guidelines for pediatric patients (general dentists.)

(xiii) Pulse oximeter.

(xiv) ECG.

(xv) Blood pressure monitoring device.

(xvi) Defibrillator.

(xvii) Results of patient medical history and patient physical evaluation, and identification of anesthesia procedures to be utilized, prior to the administration of conscious sedation or nitrous oxide/oxygen analgesia.

(xviii) Signed, written, informed patient consent, prior to the administration of conscious sedation or nitrous oxide/oxygen analgesia, which includes a description of the procedure, its risks and possible alternative treatments. Consent for a minor patient shall be obtained from the minor's parent or guardian.

(xix) Stethoscope.

(3) Auxiliary personnel who assist the permitholder in the administration of conscious sedation:

(i) Are trained to perform the duties that the permitholder delegates to them, if the duties do not require the professional judgment and skill of the permitholder and do not involve the actual administration of conscious sedation.

(ii) Perform their duties under the direct on-premises supervision of the permitholder, who shall assume full responsibility for the performance of the duties.

(iii) Do not render assistance in areas that are beyond the scope of the permitholder's authority.

(iv) Are currently certified in BLS.

(4) CRNA who are delegated the duties of administering conscious sedation:

(i) Perform their duties under the direct on-premises supervision of the permitholder, who shall assume full responsibility for the performance of the duties.

(ii) Do not perform duties that are beyond the scope of the permitholder's authority.

(iii) Are currently certified in ACLS.

(5) The dentist possesses a current certification in ACLS for adult patients and PALS for pediatric patients.

(6) The Board receives a complete report of a death or incident requiring medical care and resulting in physical or mental injury that directly resulted from the administration of conscious sedation or nitrous oxide/oxygen analgesia by the permitholder or by a CRNA working under the supervision of the permitholder. The permitholder shall submit the report within 30 days of the death or incident.

(7) The Board receives prior notice of the first time that a dental office of the permitholder will be used for the administration of conscious sedation or nitrous oxide/oxygen analgesia.

(8) Monitoring equipment and equipment used to administer conscious sedation and nitrous oxide/oxygen analgesia is installed, maintained and calibrated according to the equipment manufacturer's guidelines, contains a fail-safe system and is in proper working condition prior to the administration of conscious sedation or nitrous oxide/oxygen analgesia.

(9) If the permitholder travels to the offices of non-permitholders for the purpose of administering conscious sedation or nitrous oxide/oxygen analgesia, the permitholder shall satisfactorily complete a clinical evaluation and the equipment transported to a non-permitholder dentist's office for the administration of conscious sedation or nitrous/oxide oxygen analgesia by a permitholder must satisfactorily complete an inspection conducted by an approved peer evaluation organization under § 33.336b(a) (relating to approved peer evaluation organizations for administering clinical evaluations and office inspections) in accordance with the requirements of the AAOMS Manual and AAOMS Guidelines, the ADA Guidelines or the AAPD Guidelines, as applicable. As part of that clinical evaluation and inspection, the permitholder shall certify that each office location in which conscious sedation or nitrous oxide/oxygen analgesia is administered has the equipment required by paragraph (2) and that the staff is properly trained to handle anesthesia-related emergencies.

(10) Conscious sedation and nitrous oxide/oxygen analgesia is administered to adult and pediatric patients in

accordance with the AAOMS Guidelines and AAOMS Manual (OMSs) or to adult patients in accordance with the ADA Guidelines (general dentists) or to pediatric patients in accordance with the AAPD Guidelines (general dentists). Conflicts between the AAOMS Guidelines, the AAOMS Manual, the ADA Guidelines, or the AAPD Guidelines and this subchapter shall be resolved in favor of this subchapter.

(11) Patient records are prepared, maintained and retained in accordance with § 33.209 (relating to preparing, maintaining and retaining patient records).

(b) A dentist's failure to comply with this section will be considered unprofessional conduct and will subject the dentist to disciplinary action under section 4.1 of the act (63 P. S. § 123.1).

§ 33.340b. Duties of dentists who are restricted permit II holders.

(a) A dentist who possesses a restricted permit II issued under this subchapter shall ensure that:

(1) Prior to the administration of nitrous oxide/oxygen analgesia, the permitholder takes or updates a patient medical history and gives the patient a physical evaluation sufficient to determine the patient's suitability to receive nitrous oxide/oxygen analgesia.

(2) The dental office in which the permitholder administers nitrous oxide/oxygen analgesia on an outpatient basis contains the following:

(i) An operating room.

(ii) An operating table or chair.

(iii) A lighting system.

(iv) Dental office suction equipment.

(v) Oxygen and supplemental gas delivery systems, including primary and back-up sources and a fail-safe control mechanism.

(vi) A sterilization area.

(vii) A gas storage area and scavenger system.

(viii) Communications equipment.

(ix) Monitoring equipment, procedures and documentation to conform to the age, size and condition of the patient and the AAOMS Manual and AAOMS Guidelines for adult and pediatric patients (OMS), the ADA Guidelines for adult patients (general dentists) and the AAPD Guidelines for pediatric patients (general dentists).

(x) Results of patient medical history, patient physical evaluation and identification of the nitrous oxide/oxygen analgesia procedure to be utilized, prior to the administration of nitrous oxide/oxygen analgesia.

(xi) Signed, written, informed patient consent, prior to the administration of nitrous oxide/oxygen analgesia, which includes a description of the procedure, its risks and possible alternative treatments. Consent for a minor patient shall be obtained from the minor's parent or guardian.

(xii) Stethoscope.

(3) Nitrous oxide/oxygen analgesia is administered to adult and pediatric patients in accordance with the AAOMS Guidelines and AAOMS Manual (OMS) or to adult patients in accordance with the ADA Guidelines (general dentists) or to pediatric patients in accordance with the AAPD Guidelines (general dentists). Conflicts between the AAOMS Guidelines, the AAOMS Manual, the

ADA Guidelines or the AAPD Guidelines and this subchapter shall be resolved in favor of this subchapter.

(4) Monitoring equipment and equipment used to administer nitrous oxide/oxygen analgesia is installed, maintained and calibrated according to the equipment manufacturer's guidelines, contains a fail-safe system and is in proper working condition prior to the administration of nitrous oxide/oxygen analgesia.

(5) Patient records are prepared, maintained and retained in accordance with § 33.209 (relating to preparing, maintaining and retaining patient records).

(b) A dentist's failure to comply with this section will be considered unprofessional conduct and will subject the dentist to disciplinary action under section 4.1 of the act (63 P. S. § 123.1).

§ 33.341. Duties of dentists who are not permitholders.

(a) A dentist who does not possess a permit issued under this subchapter may not allow general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia to be administered on an outpatient basis in his dental office unless the following conditions are met:

(1) The Board receives prior notice of the first time that the dental office will be used for the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.

(2) The dental office meets the appropriate equipment and facility requirements prescribed in § 33.340(a)(2), § 33.340a(a)(2) or § 33.340b(a)(2) (relating to duties of dentists who are unrestricted permitholders; duties of dentists who are restricted permit I holders; and duties of dentists who are restricted permit II holders) and the Board receives a written certification from the dentist to that effect.

(3) The general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia, are administered by one of the following:

(i) The holder of a permit under this subchapter or CRNA delegatee.

(ii) A physician as defined in § 33.331 (relating to definitions).

(4) Either the dentist who performs the dental procedure or the CRNA, physician or permitholder who administers the general anesthesia, deep sedation or conscious sedation possesses a current certification in ACLS.

(5) The nonpermitholder dentist receives a written certification from the permitholder that all monitoring equipment and equipment used to administer general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia is present in the nonpermitholder's office, is properly installed, maintained and calibrated according to the equipment manufacturer's guidelines, contains a fail-safe system and is in proper working condition prior to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia, and that monitoring equipment is being used during the administration of general anesthesia.

(6) The nonpermitholder receives a written certification from the permitholder that the permitholder has satisfactorily completed a clinical evaluation and the equipment transported to the nonpermitholder dentist's office for the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia by a permitholder has satisfactorily completed an inspection

conducted by an approved peer evaluation organization under § 33.336b(a) (relating to approved peer evaluation organizations for administering clinical evaluations and office inspection), in accordance with the requirements of the AAOMS Manual and AAOMS Guidelines (OMS), ADA Guidelines or AAPD Guidelines, as applicable.

(b) A dentist shall submit to the Board a complete written report on a death or an incident requiring medical care and resulting in physical or mental injury that directly resulted from the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia in his dental office. The report shall be submitted within 30 days of the death or incident.

(c) A dentist's failure to comply with this section will be considered unprofessional conduct and will subject the dentist to disciplinary action under section 4.1 of the act (63 P. S. § 123.1).

(d) Beginning April 1, 2005, and for all subsequent renewal periods, non-permitholder licensees who maintain offices in which general anesthesia, deep sedation or conscious sedation is administered, shall have completed 5 hours of Board approved courses related to anesthesia. These 5 hours shall be credited toward the nonpermitholder licensee's continuing education requirement under § 33.401(a)(1) (relating to credit hour requirements).

§ 33.342. Inspection of dental offices.

(a) *Inspections.* The Board, through its authorized agents, may conduct inspections of a dental office with or without prior notice, for the purpose of determining whether the office is in compliance with the equipment and facility requirements prescribed in § 33.340(a)(2), § 33.340a(a)(2) or § 33.340b(a)(2), (relating to duties of dentists who are unrestricted permitholders; duties of dentists who are restricted permit I holders; and duties of dentists who are restricted permit II holders) or as follows:

(1) Upon a death or injury related to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia in the office.

(2) Upon a complaint that the office or the dentist who operates the office is not in compliance with this subchapter.

(3) Upon a reasonable belief that conditions exist in the office that pose a danger to the health or safety of the public.

(b) *Notice of inspection.* Prior to the start of an inspection of a dental office, the Board's authorized agents will advise the dentist whose office is being inspected that the inspection is being made under this section and is limited in scope by this section.

(c) *Access during inspection.* A dentist shall give the Board's authorized agents access to:

(1) Areas of the dental office where general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia are administered.

(2) Equipment, supplies, records and documents relating to the administration of general anesthesia, deep sedation, conscious sedation or nitrous oxide/oxygen analgesia.

(3) Interviews with auxiliary personnel.

(d) *Guideline for inspection.* An inspection will be conducted under provisions pertaining to office facilities

and equipment in § 33.340(a)(2), § 33.340a(a)(2), § 33.340b(a)(2) or § 33.341(2) (relating to duties of dentists who are not permitholders).

(e) *Inspection showing noncompliance.*

If an inspection reveals that a dental office is not in compliance with the equipment and facility requirements prescribed in § 33.340(a)(2), § 33.340a(a)(2), § 33.340b(a)(2) or § 33.341(2), the Board will give the dentist whose office was inspected written notice of the deficiencies and of the deadline for correcting the deficiencies. A reinspection shall take place within 30 days, and, if noncompliance is still shown, formal administrative charges may be initiated.

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Biennial Renewal Fees—Dentist, Restricted Anesthesia Permit II

The State Board of Dentistry (Board) amends §§ 33.3 and 33.339 (relating to fees; and fees for issuance of permits) to read as set forth in Annex A. The final-form rulemaking increases the biennial licenses renewal fee for dentists from \$100 to \$250 and increase the biennial renewal fee for a restricted anesthesia permit II from \$25 to \$50.

Effective Date

The final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*. The new fees will apply to the biennial renewal period beginning April 1, 2005, and thereafter.

Statutory Authority

Section 4(b) of The Dental Law (act) (63 P. S. § 123(b)) provides that if existing revenues are not sufficient to meet expenditures over a 2-year period, the Board shall increase fees by regulation to meet or exceed projected expenditures. Section 11.2(6) of the act (63 P. S. § 130c(a)(6)) specifically authorizes the Board to assess biennial renewal fees for anesthesia permits.

Background and Need for the Final-Form Rulemaking

The Board's current biennial license renewal fee for dentists was established by regulation on July 1, 1995. See 25 Pa.B. 2598 (July 1, 1995). The Board's current fee schedule for renewal of anesthesia permits was established by regulation on July 9, 1988. See 18 Pa.B. 3045 (July 9, 1988). Under section 4(b) of the act, the Board must support its operations with the revenue it derives from fees, fines and civil penalties. Historically, the Board raises virtually all of its operating revenue through biennial renewal fees.

At Board meetings in November 2003 and July 2004, the Department of State's Offices of Revenue and Budget (Offices) presented a summary of the Board's revenue and expenses for Fiscal Years (FY) 2001-2002 and 2003-2004, and projected revenue and expenses through FY 2007-2008. The Offices projected a deficit of \$838,225.49 in FY 2004-2005, a deficit of \$1,900,225.49 in FY 2005-2006, a deficit of \$1,743,225.49 in FY 2006-2007 and a deficit of \$2,876,225.49 in FY 2007-2008. The Offices recommended that the Board raise fees to meet or exceed projected expenditures, in compliance with section 4(b) of the act.

The Board's review of its actual and projected expenses over the past 5 years revealed significant shortfalls in the areas of hearing expenses, Board administration and legislative and regulatory analysis. For example, despite annual budget increases, the hearing expenses were \$6,225 over budget in FY 1999-2000, \$3,188 over budget in FY 2000-2001, \$19,954 over budget in FY 2001-2002, \$11,283 over budget in FY 2002-2003. The amount budgeted for hearing expenses has risen from \$3,000 in FY 1999-2000 to \$26,000 in FY 2003-2004. Nevertheless, the hearing expenses are expected to be \$43,310 over budget in 2003-2004. Similarly, the budgeted amounts for law enforcement have risen from \$233,000 in FY 1999-2000 to \$345,000 in FY 2003-2004. The Board has also experienced significant increases in actual expenses over estimated expenses in other areas of the legal office and the Professional Health Monitoring Program (PHMP), the Bureau-wide program for impaired professionals. Overall increased expenditures in these program areas have resulted from greater enforcement activity and increases in the number of disciplinary actions and in the numbers of licensees participating in the PHMP. At the same time, the Board's licensee population has declined by about 400 licensees over the past 5 years, decreasing the Board's biennial revenue. The Offices anticipate that the proposed new biennial renewal fees will enable the Board to recapture the current deficit and to maintain a stable fee structure for renewals upon which its licensees can rely for the next four renewal periods.

In considering the appropriateness of the fee, the Board also compared the proposed renewal fee to similar fees in surrounding states. The Board found that the increase to \$250 would result in a renewal fee which is comparable to the renewal fees charged in the surrounding states.

The Board is also removing the anesthesia permit biennial renewal fee from § 33.3 and moving it to § 33.339. The Board finds that § 33.339 is the more appropriate place for these fees because it is within Subchapter E (relating to administration of general anesthesia, deep sedation, conscious sedation and nitrous oxide/oxygen analgesia), which relates solely to anesthesia permits and standards for the administration of anesthesia in dental offices. In a proposed rulemaking published at 34 Pa.B. 1949 (April 10, 2004), the Board filed notice that it intends to amend § 33.339 to reflect new fees for anesthesia permits. Finally, the Board is adding a cross reference in § 33.3 to § 33.339.

Comment and Review of Proposed Rulemaking

Publication of proposed rulemaking at 34 Pa.B. 5596 (October 9, 2004) was followed by a 30-day public comment period during which the Board received comments from the Pennsylvania Dental Association (PDA) and one individual dentist, Thomas F. Cwalina, D.M.D. On December 8, 2004, the Board received comments from the Independent Regulatory Review Commission (IRRC) under the Regulatory Review Act (71 P. S. §§ 745.1—745.12). The Board did not receive comments from the House Professional Licensure Committee (HPLC) or the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC). The Board reviewed all of the comments and subsequently voted to adopt the final-form rulemaking at its January 14, 2005, meeting.

IRRC and the PDA noted that the increase in the biennial renewal fee for dentists from \$100 to \$250 was significant. The PDA opined that raising fees at the same level in future licensure cycles could have a negative impact on patients' access to dental care should dentists elect to practice in other states. The Board has reviewed

the license renewal fees for dentists in the surrounding states and finds that \$250 will not place dentists in this Commonwealth at a competitive disadvantage. For example, in New Jersey, dentists pay a biennial renewal fee of \$280. In Ohio, the biennial renewal fee is \$245 and in Maryland it is \$449. In New York, dentists pay a triennial renewal fee of \$345. In Delaware, the renewal fee is assessed annually at \$125. Moreover, the Board notes that the methodology it followed in establishing the fee is that employed by every licensing board in the Department of State of averaging costs over several biennial renewal cycles. It believes that this approach provides stable fees and allows the Board to operate in compliance with section 4(b) of the act.

The PDA also suggested that the Board consider other methods to meet its budgetary needs, such as raising the disciplinary charges or raising fees for those dentists who are licensed in this Commonwealth, but practice in a different state. The Board is limited by section 10.1 of the act (63 P. S. § 129.1) to the imposition of a civil penalty up to \$1,000 on any current licensee who violates any provision of the act or any individual who practices as a dentist, dental hygienist or expanded function dental assistant without a license or certificate. Therefore, the first option suggested by the PDA is not available absent legislative action. The Board issues licenses and certificates which authorize the holders to practice their professions in this Commonwealth without regard to whether they reside or are licensed and practice in other states. The second option suggested by the PDA raises legal considerations that the Board believes makes that option untenable.

The PDA and IRRC questioned the Board's decision not to increase the biennial renewal fees for dental hygienists and expanded function dental assistants. IRRC commented that these other license groups impact program and disciplinary costs and therefore the Board should consider at least moderate increases for these groups. The PDA also requested that the Board consider increasing licensure fees for hygienists because their infractions and subsequent disciplinary hearings incur costs that should not be absorbed by dentists alone. While the Board agrees that dental hygienists and expanded function dental assistants contribute to program costs, the Board finds that the costs associated with disciplinary matters within these groups are relatively low. There are currently 362 open disciplinary matters before the Board. Of these, 333 involve dentists, 26 involve dental hygienists, 1 involves an expanded function dental assistant and 2 involve the unlicensed practice of dentistry. Therefore, over 90% of the disciplinary matters handled by the Board involve dentists. The Board believes that these costs are more equitably borne by dentists, rather than their employees.

IRRC also commented regarding the increase to the renewal fees for anesthesia permits. IRRC noted that the biennial renewal fees are twice the initial permit fee and asked for an explanation. The initial permit fee has been set by the Board at a level that covers the cost of processing the initial permit application. However, the bulk of the Board's revenue is raised through biennial renewal fees. These fees are set at a level that is sufficient to fund the Board's operations, including Board administration, enforcement and investigation, legal office costs including hearing expenses and legislative and regulatory activity. These costs are therefore borne by licensees and permitholders, rather than initial applicants.

Dr. Cwalina also commented regarding the proposed increase in the biennial renewal fee for restricted permit

II holders. He suggested that the increased fees be used to pay for a program of State inspections of nitrous oxide/oxygen analgesia equipment. Dr. Cwalina's comment is related to the Board's proposed rulemaking regarding anesthesia, which was published at 34 Pa.B. 1949. That proposed rulemaking requires dentists who hold restricted II permits to install, maintain and calibrate their nitrous oxide/oxygen analgesia equipment according to the manufacturer's guidelines. Dr. Cwalina suggested that the costs associated with calibration of nitrous oxide machines would be prohibitive because the unit must be returned to the manufacturer for calibration. The increase in the renewal fee for restricted II permits is required to support the operations of the Board as previously discussed, including the costs of implementing the anesthesia regulations. The Board has no plans at this time to implement an inspection program for nitrous oxide/oxygen analgesia equipment.

Description of Final-Form Rulemaking

Based upon the expense and revenue estimates provided to the Board, the Board is amending § 33.3 to increase the fee for biennial renewal of licenses for dentists from \$100 to \$250. The Board is also removing the renewal fees for anesthesia permits from § 33.3 and moving them to § 33.339 and is increasing the biennial renewal fee for a restricted anesthesia permit II from \$25 to \$50. The biennial renewal fees for an unrestricted anesthesia permit and a restricted anesthesia permit I were previously amended in the Board's proposed rulemaking published at 34 Pa. B. 1949.

Fiscal Impact

The proposed rulemaking will increase the biennial renewal fee for dentists and will increase the biennial renewal fee a restricted anesthesia permit II. The proposed rulemaking should have no other fiscal impact on the private sector, the general public or political subdivisions.

Paperwork Requirements

The proposed rulemaking will require the Board to alter some of its forms to reflect the new biennial renewal fees; however, it should not create additional paperwork for the private sector.

Sunset Date

The act requires that the Board monitor its revenue and costs on a FY and biennial basis. Therefore, no sunset date has been assigned.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on September 29, 2004, the Board submitted a copy of the notice of proposed rulemaking, published at 34 Pa.B. 5596, to IRRC and the Chairpersons of the SCP/PLC and the HPLC for review and comment.

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

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on March 30, 2005, the final-form rulemaking was approved by the HPLC. On April 13, 2005, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5.1(e) of the Regulatory

Review Act, IRRC met on April 14, 2005, and approved the final-form rulemaking.

Additional Information

Individuals who need information about the final-form rulemaking should contact Lisa Burns, Administrator, State Board of Dentistry, P. O. Box 2649, Harrisburg, PA 17105-2649.

Findings

The Board finds that:

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

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

(3) This final-form rulemaking is necessary and appropriate for administration of the act.

Order

The Board orders that:

(a) The regulations of the Board, 49 Pa. Code, Chapter 33, are amended by amending §§ 33.3 and 33.339 to read as set forth in Annex A.

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

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

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

VEASEY B. CULLEN, Jr., D.M.D.,
Chairperson

(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 35 Pa.B. 2073 (April 30, 2005).)

Fiscal Note: Fiscal Note 16A-4615 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 33. STATE BOARD OF DENTISTRY

Subchapter A. GENERAL PROVISIONS

§ 33.3. Fees.

(a) Following is the schedule of fees charged by the Board:

Application fee—dentists, dental hygienists and expanded function dental assistants	\$20
Criteria approval application fee—dentists, dental hygienists and expanded function dental assistants	\$35
Fictitious name registration fee	\$35
Verification of license, permit or registration fee—dentists, dental hygienists and expanded function dental assistants	\$15
Certification of scores, permit or registration fee—dentists, dental hygienists and expanded function dental assistants	\$25
Biennial renewal fee—dentists (for the renewal period beginning April 1, 2005, and thereafter)	\$250
Biennial renewal fee—dental hygienists	\$40
Biennial renewal fee—expanded function dental assistants	\$25
Temporary permit—expanded dental assistants	\$15
Application fee—dental radiology authorization	\$20
Notification application—postgraduate training or faculty member	\$25
(b) For fees related to anesthesia permits, refer to § 33.339 (relating to fees for issuance of permits).	

Subchapter E. ADMINISTRATION OF GENERAL ANESTHESIA, DEEP SEDATION, CONSCIOUS SEDATION AND NITROUS OXIDE/OXYGEN ANALGESIA

§ 33.339. Fees for issuance of permits.

The following fees are charged for the issuance of permits under this subchapter:

(1) <i>Unrestricted permit.</i>	
(i) Initial	\$100
(ii) Renewal	\$200
(iii) Temporary	\$100
(2) <i>Restricted permit I.</i>	
(i) Initial	\$100
(ii) Renewal	\$200
(iii) Temporary	\$100
(3) <i>Restricted permit II.</i>	
(i) Initial	\$15
(ii) Renewal	\$50
(iii) Temporary	\$15

[Pa.B. Doc. No. 05-940. Filed for public inspection May 13, 2005, 9:00 a.m.]

NOTICES

DEPARTMENT OF AGRICULTURE

Interstate/International Quarantine Order; Avian Influenza

Whereas, avian influenza is an infectious disease of poultry;

Whereas, avian influenza is designated a "dangerous transmissible disease" of animals under the provisions of the Domestic Animal Law (3 Pa.C.S.A. §§ 2301—2389), at 3 Pa.C.S.A. § 2321(d);

Whereas, the Pennsylvania Department of Agriculture (PDA) has broad authority under the Domestic Animal Law to regulate the keeping and handling of domestic animals in order to exclude, contain or eliminate dangerous transmissible diseases;

Whereas, avian influenza has caused significant loss in the past to the Pennsylvania poultry industry;

Whereas, avian influenza is of particular concern to the entire Pennsylvania poultry industry and may severely limit the market for Pennsylvania product;

Whereas, avian influenza sub-types H5 and H7 are of particular concern due to their potential for developing into a virulent (highly pathogenic) form of disease;

Whereas, avian influenza exists, or is suspected to exist, outside this Commonwealth;

Whereas, the Domestic Animal Law allows (at 3 Pa.C.S.A. § 2329(c)) for the establishment of an Interstate/International Quarantine under the circumstances described above;

Whereas, pursuant to that authority, PDA issued an Interstate/International Quarantine Order addressing avian influenza, effective March 9, 2005; and

Whereas, PDA has since determined it appropriate to issue another Interstate/International Quarantine Order to supplant the referenced March 9, 2005 Order in order to: (1) establish a more specific description of "poultry;" (2) further clarify the testing requirements applicable to small poultry flocks; and (3) incorporate the unaffected provisions of the March 9, 2005 Order into a single Order.

Now, therefore, the Pennsylvania Department of Agriculture, pursuant to the authority granted it under the Domestic Animal Law and § 1702 of the Administrative Code of 1929 (71 P. S. § 442), orders the establishment of an interstate/international quarantine with respect to the shipment of live poultry into the Commonwealth. The quarantine restrictions are as follows:

1. Poultry will be defined as all domesticated fowl, including chickens, turkeys, ostriches, emus, rheas, cassowaries, waterfowl, and game birds, except doves and pigeons, or as otherwise defined, under subpart A of the current version of the National Poultry Improvement Plan (NPIP) and Auxiliary Provisions, and shall be 3 weeks of age or older.

2. Poultry shall only be allowed into the Commonwealth under any of the following circumstances:

a. The poultry originate from a flock that participates in the current version of the National Poultry Improvement Plan and Auxiliary Provisions "U. S. Avian Influenza Clean" program and the shipment is accompanied by a USDA form 9-3 or other NPIP form; or

b. The poultry originate from a flock that participates in a state, foreign nation, or foreign provincial-sponsored avian influenza monitoring program and the shipment is accompanied by a document from the state, nation, or province of origin indicating participation; or

c. The poultry originate from a flock in which a minimum of thirty (30) birds, three (3) weeks of age or older, were tested negative for avian influenza (serology, virus isolation, or real-time reverse-transcriptase polymerase chain reaction (RRT-PCR)) within thirty (30) days of shipment and the shipment is accompanied by the test report. If there are less than 30 birds in the flock, test all birds (RRT-PCR, virus isolation, or serology); or

d. Each bird destined for import from a flock not known to be test-positive for AI is tested (RRT-PCR or virus isolation only); or

e. The poultry originate from a flock that participates in an equivalent testing/surveillance program, as approved by the Pennsylvania State Veterinarian.

3. Poultry from flocks that are serologically positive shall not be imported unless the flock is determined to be free of virus by virtue of a negative virus detection test (virus isolation or RRT-PCR) of oropharyngeal, tracheal and/or cloacal specimens from a minimum of 150 birds. If there are less than 150 birds in the flock, test all birds.

4. Poultry three (3) weeks of age and older, imported into the Commonwealth, shall meet all other import requirements required under Title 7, PA Code.

5. This Order shall not be construed as limiting PDA's authority to establish additional quarantine or testing requirements on imported poultry and/or poultry products.

6. This Order is effective May 1, 2005, and supplants the referenced Interstate/International Quarantine Order of March 9, 2005.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 05-941. Filed for public inspection May 13, 2005, 9:00 a.m.]

Temporary Order Designating Dangerous Transmissible Diseases

The Department of Agriculture (Department) hereby issues a temporary order designating the neurologic form of Equine Herpes Virus 1 (EHV-1) a "dangerous transmissible disease." This designation is made under authority of 3 Pa.C.S. §§ 2301—2389 (relating to the Domestic Animal Law).

Under 3 Pa.C.S. § 2327(a) (relating to disease surveillance and detection), the Department has authority to

monitor the domestic animal population of this Commonwealth to determine the prevalence, incidence and location of transmissible diseases of animals. Under 3 Pa.C.S. § 2321(d) (relating to dangerous transmissible diseases), the Department has authority to declare a disease that has not been specifically identified in that statute as a "dangerous transmissible disease" to be a dangerous transmissible disease through issuance of a temporary order making that designation.

EHV-1, also known as Equine Rhinopneumonitis or Equine Abortion Virus, is a highly contagious virus that is ubiquitous in horse populations worldwide. The age, seasonal and geographic distributions vary and are likely determined by immune status and concentration of horses. Infection with EHV-1 most commonly causes respiratory illness, characterized by fever, rhinopharyngitis and tracheobronchitis. Infection may also cause abortions in pregnant mares, following clinical or subclinical infection and can be fatal to newborn foals. A further, infrequent clinical condition that can occur as a result of EHV-1 infection is the development of neurologic disease. Depending upon the location and extent of the lesions, signs of neurologic disease may vary from mild incoordination and posterior paresis to severe posterior paralysis with recumbency, loss of bladder and tail function, and loss of sensation to the skin in the perineal and inguinal areas, and even the hindlimbs. In exceptional cases, the paralysis may be progressive and culminate in quadriplegia and death.

Transmission of EHV-1 occurs by direct or indirect contact with infective nasal discharges, aborted fetuses, placentas or placental fluids. Transmission can occur by means of coughing or sneezing over a distance of up to 35

feet, as well as by direct contact with infected horses, feed and equipment.

There is currently no known method to reliably prevent the neurologic form of EHV-1 infection. Sound management practices, including isolation, are important to reduce the risk of infection with EHV-1. Maintaining appropriate vaccination protocols may also be prudent in an attempt to reduce the incidence of the respiratory form of EHV-1 infection, which may reduce the incidence of the neurologic form.

Order

The Department hereby designates EHV-1 a "dangerous transmissible disease" under 3 Pa.C.S. § 2321(d). This order supplants any previous temporary order making such a designation.

This order shall take effect May 1, 2005, and shall remain in effect until no later than January 1, 2006. The Department may: (1) reissue this temporary order to extend the designation beyond January 1, 2006; (2) allow this temporary order to expire on January 1, 2006; (3) supplant this temporary order with a formal regulation; or (4) modify this temporary order.

Questions regarding this temporary order should be directed to Paul Knepley, DVM, Director, Bureau of Animal Health and Diagnostic Services, 2301 North Cameron Street, Harrisburg, PA 17110-9408, (717) 772-2852.

DENNIS C WOLFF,
Secretary

[Pa.B. Doc. No. 05-942. Filed for public inspection May 13, 2005, 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 9, 2002 (P. L. 1572, No. 207), known as the Credit Union Code, has taken the following action on applications received for the week ending May 3, 2005.

BANKING INSTITUTIONS

New Charter Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-2-05	First Resource Bank Exton Chester County	101 Marchwood Road Exton Chester County	Commenced Operations

Branch Applications

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
4-18-05	1st Summit Bank Johnstown Cambria County	WalMart U. S. Route 30 Greensburg Westmoreland County	Opened
5-3-05	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	West Ridge Pike Limerick Montgomery County	Filed

<i>Date</i>	<i>Name of Bank</i>	<i>Location</i>	<i>Action</i>
5-3-05	Citizens Bank of Pennsylvania Philadelphia Philadelphia County	Welsh Road North Wales Montgomery County	Filed

SAVINGS INSTITUTIONS

No activity.

CREDIT UNIONS

No activity.

A. WILLIAM SCHENCK, III,
Secretary

[Pa.B. Doc. No. 05-943. Filed for public inspection May 13, 2005, 9:00 a.m.]

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES

Conservation and Natural Resources Advisory Council Meeting

The Conservation and Natural Resources Advisory Council to the Department of Conservation and Natural Resources (Department) will hold a meeting on Wednesday, May 25, 2005, at 10 a.m. in Room 105, Lobby Level, Rachel Carson State Office Building, 400 Market Street, Harrisburg, PA.

Questions concerning this meeting or agenda items should be directed to Kurt Leitholf at (717) 705-0031.

Persons in need of accommodations as provided for in the Americans With Disabilities Act of 1990 should contact Joan Dupes at (717) 705-0031 or through the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

MICHAEL F. DIBERARDINIS,
Secretary

[Pa.B. Doc. No. 05-944. Filed for public inspection May 13, 2005, 9:00 a.m.]

DEPARTMENT OF EDUCATION

Individuals with Disabilities Education Act-Part B; Application for Federal Grant

To receive a grant under the Individuals with Disabilities Education Act, the Department of Education (Department) is submitting an assurance to the United States Department of Education (USDE), but is not proposing to change its policies and procedures, under the Individuals with Disabilities Education Act-Part B (IDEA-B). The assurance is that by June 30, 2006, policies and procedures will be adopted to ensure compliance with the Individuals with Disabilities Education Improvement Act

of 2004 (Pub.L. No. 108-446) (IDEA 2004). Moreover, the Department assures that throughout the period of the grant (July 1, 2005 to June 31, 2006), the Commonwealth will operate consistent with all requirements of IDEA-2004 and applicable regulations.

The grant on file with the USDE describes the Commonwealth's policies and procedures in effect to ensure the Department meets the Federal requirements to ensure that a free appropriate public education is made available to all children with a disability from 3 to 21 years of age. The policies and procedures on file with the USDE are available on the Department's website: www.pde.state.pa.us/special_edu/cwp/view.asp?A=177&Q=106501. The Department is not proposing any change to these policies at this time.

The IDEA-B funds, received under 34 CFR 300.110 (relating to condition of assistance), will be used to render services and programs to children with disabilities who are eligible for services under IDEA-B as well as training and technical assistance given to professional staff who render services to children with disabilities.

Copies of the proposed assurance are available by calling (717) 783-2311 or the TDD at (717) 787-7367. Alternative formats of the documents (for example, Braille, large print or cassette tape) are available upon request. Moreover, public comment is welcomed in alternative formats such as Braille, taped comments and telephone comments for the disabled. Individuals who are disabled and wish to submit comments by telephone should call Nancy Zeigler, (717) 783-6134.

Written comments will be received until June 28, 2005. The written comments should be directed to Patty Todd, Department of Education, Bureau of Special Education, 7th Floor, 333 Market Street, Harrisburg, PA 17126-0333.

Following receipt of all comments, the Department will consider all public comments and make any necessary modifications before final submission of the assurance to the Secretary of the USDE.

FRANCES V. BARNES, Ph.D.,
Secretary

[Pa.B. Doc. No. 05-945. Filed for public inspection May 13, 2005, 9:00 a.m.]

DEPARTMENT OF ENVIRONMENTAL PROTECTION

Applications, Actions and Special Notices

APPLICATIONS

THE CLEAN STREAMS LAW AND THE FEDERAL CLEAN WATER ACT APPLICATIONS FOR NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMITS AND WATER QUALITY MANAGEMENT (WQM) PERMITS

This notice provides information about persons who have applied for a new, amended or renewed NPDES or WQM permit, a permit waiver for certain stormwater discharges or submitted a Notice of Intent (NOI) for coverage under a general permit. The applications concern, but are not limited to, discharges related to industrial, animal or sewage waste, discharges to groundwater, discharges associated with municipal separate storm sewer systems (MS4), stormwater associated with construction activities or concentrated animal feeding operations (CAFOs). This notice is provided in accordance with 25 Pa. Code Chapters 91 and 92 and 40 CFR Part 122, implementing The Clean Streams Law (35 P. S. §§ 691.1—691.1001) and the Federal Clean Water Act.

<i>Location</i>	<i>Permit Authority</i>	<i>Application Type or Category</i>
Section I	NPDES	Renewals
Section II	NPDES	New or amendment
Section III	WQM	Industrial, sewage or animal waste; discharge into groundwater
Section IV	NPDES	MS4 individual permit
Section V	NPDES	MS4 permit waiver
Section VI	NPDES	Individual permit stormwater construction
Section VII	NPDES	NOI for coverage under NPDES general permits

For NPDES renewal applications in Section I, the Department of Environmental Protection (Department) has made a tentative determination to reissue these permits for 5 years subject to effluent limitations and monitoring and reporting requirements in their current permits, with appropriate and necessary updated requirements to reflect new and changed regulations and other requirements.

For applications for new NPDES permits and renewal applications with major changes in Section II, as well as applications for MS4 individual permits and individual stormwater construction permits in Sections IV and VI, the Department, based upon preliminary reviews, has made a tentative determination of proposed effluent limitations and other terms and conditions for the permit applications. These determinations are published as proposed actions for comments prior to taking final actions.

Unless indicated otherwise, the EPA Region III Administrator has waived the right to review or object to proposed NPDES permit actions under the waiver provision in 40 CFR 123.24(d).

Persons wishing to comment on an NPDES application are invited to submit a statement to the regional office noted before an application within 30 days from the date of this public notice. Persons wishing to comment on a WQM permit application are invited to submit a statement to the regional office noted before the application within 15 days from the date of this public notice. Comments received within the respective comment periods will be considered in the final determinations regarding the applications. Comments should include the name, address and telephone number of the writer and a concise statement to inform the Department of the exact basis of a comment and the relevant facts upon which it is based.

The Department will also accept requests for a public hearing on applications. A public hearing may be held if the responsible office considers the public response significant. If a hearing is scheduled, a notice of the hearing will be published in the *Pennsylvania Bulletin* and a newspaper of general circulation within the relevant geographical area. The Department will postpone its final determination until after a public hearing is held.

Persons with a disability who require an auxiliary aid, service, including TDD users, or other accommodations to seek additional information should contact the Department through the Pennsylvania AT&T Relay Service at (800) 654-5984.

I. NPDES Renewal Applications

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

<i>NPDES No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0083330 (Sewage)	Wayne Township Board of Supervisors 3055 Ferguson Valley Road McVeytown, PA 17051	Mifflin County Wayne Township	UNT Juniata River 12A	Y

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

<i>NPDES No. (Type)</i>	<i>Facility Name and Address</i>	<i>County and Municipality</i>	<i>Stream Name (Watershed#)</i>	<i>EPA Waived Y/N ?</i>
PA0104272	North East Access Area Fish and Boat Commission 450 Robinson Lane Bellefonte, PA 16823-9620	North East Township Erie County	Lake Erie 15-LE	Y
PA0103632 Amendment No. 1	Piney Creek Limited Partnership 428 Power Lane Clarion, PA 16214	Pine Township Clarion County	Piney Creek 17-B	Y

II. Applications for New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Applications

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

Application No. PA 0247626, Industrial Waste, SIC Code 5541, **Bedford County Oil Company, Inc.**, P. O. Box 180, Everett, PA 15537. This facility is located in Hopewell Township, **Bedford County**.

Description of activity: The application is for issuance of an NPDES permit for a new discharge of treated industrial waste.

The receiving stream, Yellow Creek, is in Watershed 11-D and classified for HQ-CWF, water supply, recreation and fish consumption. The nearest downstream public water supply intake is Saxton Municipal Water Authority located on the Raystown Branch Juniata River, approximately 8 miles downstream. The discharge is not expected to affect the water supply.

The proposed effluent limits for Outfall 001 based on a design flow of 0.01584 mgd are:

<i>Parameter</i>	<i>Concentration (mg/l)</i>	
	<i>Average Monthly</i>	<i>Instantaneous Maximum</i>
Benzene	0.001	0.0025
Total BTEX	0.1	0.25
Toluene	Monitor and Report	Monitor and Report
Ethylbenzene	Monitor and Report	Monitor and Report
Xylenes, Total	Monitor and Report	Monitor and Report
MTBE	Monitor and Report	Monitor and Report
pH	From 6.0 to 9.0 inclusive	
Oil and Grease	15	30
Iron (Dissolved)		7.0
Total Suspended Solids	30	75

Individuals can make an appointment to review the Department of Environmental Protection's files on this case by calling the file review coordinator, (717) 705-4732.

The EPA waiver is in effect.

Southwest Regional Office: Regional Manager, Water Management, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, (412) 442-4000.

PA0097811-A1, Sewage, **Dry Tavern Sewer Authority**, P. O. Box 159, Rices Landing, PA 15357. This application is for amendment of an NPDES permit to discharge treated sewage from Dry Tavern Sewer Authority Sewage Treatment Plant 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: The following effluent limitations will apply if/when the treatment plant is expanded from 0.051 mgd to a flow of 0.12 mgd.

<i>Parameter</i>	<i>Concentration (mg/l)</i>			
	<i>Average Monthly</i>	<i>Average Weekly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
CBOD ₅	25	37.5		50
Suspended Solids	30	45		60
Ammonia Nitrogen				
(5-1 to 10-31)	2.0	3.0		4.0
(11-1 to 4-30)	3.5	5.3		7.0

Parameter	Concentration (mg/l)			
	Average Monthly	Average Weekly	Maximum Daily	Instantaneous Maximum
Fecal Coliform (5-1 to 9-30) (10-1 to 4-30)	200/100 ml as a geometric mean 2,000/100 ml as a geometric mean			
Total Residual Chlorine	0.02			0.06
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.

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

PA0002143, Industrial Waste. **Weyerhaeuser—Johnsonburg Mill**, 100 Center Street, Johnsonburg, PA 15845. This existing facility is located in Johnsonburg Borough, **Elk County**.

Description of Proposed Activity: discharge of treated industrial waste and stormwater.

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 the Pennsylvania-American Water Company and the Clarion River located at Clarion, approximately 68 miles below point of discharge.

The receiving stream, Clarion River (002), Riley Run (001) and East Branch Clarion River (003 and 004), are in watershed 17-A and classified for CWF (Clarion River), WWF (Riley Run) and HQ-CWF (East Branch Clarion River), aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 002 based on a design flow of 13.91 mgd.

The thermal loading limitations are based on a variance granted by the Department after the applicant completed a 316(a) Thermal Variance Study.

Parameter	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
(MO) Flow (mgd)	XX	XX			
(*) TSS	6,000	15,000	52	129	130
(*) BOD5	3,694	7,388	32	64	80
(CH-16)2,3,7,8- TCDD (Dioxin) **			0.22pg/l		0.55pg/l
(BAT) Adsorbable organic halides (AOX)	779	1,189			
(BPJ) Color (Interim)			514 pt-co	1,028 pt-co	1,285 pt-co
(WQ-93) Color (Final) ****			354 pt-co	708 pt-co	885 pt-co
(MO) Chemical Oxygen Demand			XX		
Sulfide	117	234	1	2	2.5
(WQ-93) pH			6 to 9		

Parameter	Loadings (mBtu/day)*****		Temperature (°F)		
	Daily***** Average	Maximum Daily	Daily***** Average	Maximum Daily	Instantaneous Maximum
Thermal Loading/Temperature					
January	7,890		XX	daily	I-S
February	8,010		XX	daily	I-S
March	7,450		XX	daily	I-S
April 1-15	7,360		XX	daily	I-S
April 16-30	6,760		XX	daily	I-S
May 1-15	6,170		XX	daily	I-S
May 16-31	6,080		XX	daily	I-S
June 1-15	5,990		XX	daily	I-S
June 16-30	5,670		XX	daily	I-S
July	5,590		XX	daily	I-S
August 1-15	5,500		XX	daily	I-S
August 16-31	5,290		XX	daily	I-S
September 1-15	5,350		XX	daily	I-S
September 16-30	5,410		XX	daily	I-S
October 1-15	6,580		XX	daily	I-S

Parameter	Loadings (mBtu/day)*****		(°F)		Instantaneous Maximum
	Daily***** Average	Maximum Daily	Daily***** Average	Maximum Daily	
October 16-31	6,810		XX	daily	I-S
November 1-15	7,040		XX	daily	I-S
November 16-30	7,360		XX	daily	I-S
December	7,870		XX	daily	I-S

XX—Monitor and Report on monthly DMRs

**See Special Condition 8 in Part C of the Permit

***See Special Condition 6 in Part C of the Permit

****See Special Condition 11 in Part C of the Permit

*****To demonstrate compliance, the thermal loading shall be calculated as: Waste Discharge (mgd) × (Temperature discharge—Temperature of intake (°F)) × 8.34

*****For the purposes of reporting and monitoring results, report the highest daily average thermal loading and the corresponding temperature for the period of the discharge monitoring report (DMR) and report the number of exceedances on the DMR.

PA0036650, Sewage. City of Titusville, Spring Street, Titusville, PA 16354. This proposed facility is located in the City of Titusville, **Crawford County**.

Description of Proposed Activity: Renewal of 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, considered during the evaluation is the Emlenton Water Company, on the Allegheny River, approximately 60 miles below point of discharge.

The receiving stream, Oil Creek (Outfalls 001, 002, 004 and 006) and Church Run (Outfall 003), are in watershed 16-E and classified for CWF, aquatic life, water supply and recreation.

The proposed effluent limits for Outfall 001 are based on a design flow of 4.0 mgd.

Parameters	Loadings			Concentrations	
	Average Monthly (lb/day)	Average Weekly (lb/day)	Average Monthly (mg/l)	Average Weekly (mg/l)	Instantaneous Maximum (mg/l)
Flow	XX	XX			
CBOD ₅	834	1,334	25	40	50
Total Suspended Solids	1,000	1,500	30	45	60
NH ₃ -N					
(5-1 to 10-31)	200		6		12
(11-1 to 4-30)	600		18		36
Copper, Total	0.4		0.012		0.024
Fecal Coliform*					
(5-1 to 9-30)			200/100ml		1,000/100ml
(10-1 to 4-30)			2,000/100ml		10,000/100ml
Total Residual Chlorine			0.4		1.1
pH			6.0 to 9.0 standard units at all times		

*Limits expressed as a geometric mean.

XX—Monitor and Report

Outfalls 002—004 and 006 are Combined Sewer Overflows points.

Special Conditions: TRC Minimization, Chronic Whole Effluent Toxicity Testing and Combined Sewer Overflows.

The EPA waiver is not in effect.

The proposed effluent limits for Outfall 202 based on a design flow of 3.15 mgd.

Parameter	Loadings		Concentrations		Instantaneous Maximum
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (ug/l)	Maximum Daily (ug/l)	
(MO) Flow (MGD)	XX	XX			
(BAT)	5.2	8.7			
Chloroform*					
2,3,7,8-TCDD (Dioxin)				10 pg/l	
2,3,7,8-TCDF (Furan)				31.9 pg/l	
Trichlorosyringol				2.5	
3,4,5-Trichlorocatechol				5	
3,4,6-Trichlorocatechol				5	
3,4,5-Trichloroguaiacol				2.5	

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (ug/l)</i>	<i>Maximum Daily (ug/l)</i>	<i>Instantaneous Maximum</i>
3,4,6-Trichloroguaiacol				2.5	
4,5,6-Trichloroguaiacol				2.5	
2,4,5-Trichlorophenol				2.5	
2,4,6-Trichlorophenol				2.5	
Tetrachlorocatechol				5	
Tetrachloroguaiacol				5	
2,3,4,6-Tetrachlorophenol				2.5	
Pentachlorophenol				5	

*—See Special Condition 4 in Part C of the permit.

The proposed effluent limits for Outfall 001 based on a design flow of n/a mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
(MO) Flow (mgd)	XX				
(BPJ) BOD ₅	287	XX	XX	XX	63
(MO) Total Suspended Solids				XX	
2,3,7,8-TCDD (Dioxin)				XX	
2,3,7,8-TCDF (Furan)				XX	
pH			Minimum XX		XX

The proposed effluent limits for Outfall 102 based on a design flow of n/a mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
(MO) Flow (mgd)	XX				
BOD ₅			XX		
COD			XX		
Oil and Grease			XX		
Total Suspended Solids			XX		
Color			XX		
pH			Minimum XX		XX

The proposed effluent limits for Outfall 003 based on a design flow of n/a mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
(MO) Flow (mgd)	XX				
BOD ₅			XX		
COD			XX		
Oil and Grease			XX		
Total Suspended Solids			XX		
Color			XX		
pH			Minimum XX		XX

The proposed effluent limits for Outfall 004 based on a design flow of n/a mgd.

<i>Parameter</i>	<i>Loadings</i>		<i>Concentrations</i>		
	<i>Average Monthly (lb/day)</i>	<i>Maximum Daily (lb/day)</i>	<i>Average Monthly (mg/l)</i>	<i>Maximum Daily (mg/l)</i>	<i>Instantaneous Maximum (mg/l)</i>
(MO) Flow (mgd)	XX				
BOD ₅			XX		
COD			XX		
Oil and Grease			XX		
Total Suspended Solids			XX		

Parameter	Loadings		Concentrations		
	Average Monthly (lb/day)	Maximum Daily (lb/day)	Average Monthly (mg/l)	Maximum Daily (mg/l)	Instantaneous Maximum (mg/l)
Color			XX		
pH			Minimum XX		XX

XX = Monitor and Report on monthly DMRs.

1. Solid Waste.
2. Chemical Additives.
3. Stormwater.
4. Chloroform.
5. Best Management Practices.
6. Analytical Methods.
7. 2° Temperature Rise.
8. Limitations below analytical detection method.
9. Dill Hill Closure.
10. 316(a) Thermal Variance Verification.
11. Schedule to Achieve Color Limitations.

The EPA waiver is not 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. 0600404, Sewerage, **Maidencreek Township Authority**, 1 Quarry Road, P. O. Box 289, Blandon, PA 19510. This proposed facility is located in Ontelaunee Township, **Berks County**.

Description of Proposed Action/Activity: Construction/Installation of a groundwater pump to control the groundwater during maintenance and high groundwater events.

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

WQM Permit No. 1705404 Sewage 4952, **Decatur Township**, 575 Fairview Road, Osceola Mills, PA 16666. This proposed facility is located in Decatur Township, **Clearfield County**.

Description of Proposed Action/Activity: The applicant proposes to construct and operate a pretreatment facility, pump station and sewers serving the Moshannon Valley Correctional Facility.

WQM Permit No. 4105401 Sewage 4952, **Hughesville-Wolf Authority**, 547 Woolen Mill Road, Hughesville, PA 17737. This proposed facility is located in Wolf Township, **Lycoming County**.

Description of Proposed Action/Activity: The applicant proposes to construct and operate an additional 225,000 gallon aerobic digester at the existing treatment plant site. The project also includes the installation of an additional blower, waste activated sludge pump and flow meter.

WQM Permit No. 4905401 Sewage 4952, **Milton Regional Sewer Authority**, P. O. Box 433, Milton, PA 17847. This proposed facility is located in Milton Borough, **Northumberland County**.

Description of Proposed Action/Activity: The applicant proposes to upgrade the existing industrial park pump station. The existing pump station has been in service for approximately 30 years and was design for a rated capacity of 300 gpm. This application proposes increasing its capacity to 470 gpm and generally modernizing the facilities.

WQM Permit No. 1405402, Sewerage SIC 4952, **Natalie Mills**, 568 Laurel Run Road, Port Matilda, PA 16870. This proposed facility will be located in Worth Township, **Centre County**.

Description of Proposed Action/Activity: Applicant has applied for a permit to authorize the construction and operation of a small flow treatment facility to serve a residence.

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

WQM Permit No. 1171401-A3, Sewerage, **Nanty Glo Sanitary Sewer Authority**, 879 Wood Street, Nanty Glo, PA 15943. This proposed facility is located in Nanty Glo Borough, **Cambria County**.

Description of Proposed Action/Activity: Application for improvements to the wastewater treatment plant and interceptor.

The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund, has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

WQM Permit No. 2005401, Sewerage, **Dry Tavern Sewer Authority**, P. O. Box 159, Rices Landing, PA 15357. This proposed facility is located in Jefferson Township, **Greene County**.

Description of Proposed Action/Activity: Application for the construction and operation of sewage plant expansion and line replacement.

The Pennsylvania Infrastructure Investment Authority which administers Pennsylvania's State Revolving Fund, has been identified as a possible funding source. The Department of Environmental Protection's review of the sewage facilities plan revision has not identified any significant environmental impacts resulting from this proposal.

WQM Permit No. 3004402, Sewerage, **Center Township**, P. O. Box 435, 100 Municipal Drive, Rogersville, PA 15359. This proposed facility is located in Center Township, **Greene County**.

Description of Proposed Action/Activity: Application to construct a sewage system to serve the Village of Rogersville.

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.

NPDES

Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use
PAI010905014	Glazier Group, Inc. William R. Glazier Subdivision 5901 Atkinson Road New Hope, PA 18938	Bucks	Springfield Township	Silver Creek Tributary (EV)
PAI010905003	Steffen Hausner 16 Stoney Hill Road New Hope, PA 18938	Bucks	New Hope Borough	Aquetong Creek (HQ-CWF)
PAI011505024	The Heritage Building Group, Inc. Crane Tract 2500 York Road Jamison, PA 18929	Chester	West Caln Township	UNT West Branch Brandywine Creek (HQ-CWF-MF)
PAI011505025	Heritage Building Group Bartels/Hickman Tract 2500 York Road Jamison, PA 18928	Chester	Upper Oxford Township	East Branch Big Elk 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.

NPDES

Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use
PAI024805012	Richard Shirey Patriot Builders & Excavators 1611 Delabole Rd. Pen Argyl, PA 18072	Northampton	Forks Township	Bushkill Creek HQ-CWF

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

NPDES

Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use
PAI024505011	Jeffrey A. Snyder Stroud Commons, Suite 8 7400 Route 611 Stroudsburg, PA 18360	Monroe	Pocono Township	Scot Run HQ-CWF

Luzerne County Conservation District: Smith Pond Road, Route 485, Lehman, PA 18627-0250, (570) 674-7991.

NPDES

Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use
PAI024005002	Susquehanna River Shores, LLC Frank Delaney 918 Exeter Avenue Exeter, PA 18643	Luzerne	West Pittston Borough	Susquehanna River WWF

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

NPDES

Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use
PAI032805004	KJS Properties, LLC	Franklin	Antrim Township	Muddy Run/HQ-CWF
PAI032805004	Spring Valley Estates, LLC	Franklin	Guilford Township	Falling Spring Branch/HQ-CWF

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

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

NPDES

Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use
PAI041405004	Dr. John Corneal 1526 Martin St. State College, PA 16801	Centre	College and Harris Townships	Spring Creek HQ-CWF

Clearfield County District 650 Leonard St., Clearfield, PA 16830, (814) 765-2626.

NPDES

Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use
PAI0414704001	River Hill Power Co. LLC	Clearfield	Karthus Township	W. Br. Susquehanna River-WWF Dutch Hollow Creek-HQ-CWF Mosquito Creek-HQ-CWF

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

Allegheny County Conservation District: Lexington Technology Park, Building 1, Suite 102, 400 North Lexington Street, Pittsburgh, PA 15208-2566, (412) 241-7645.

NPDES

Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use
PAI050205005	Echo Real Estate Services Co. 701 Alpha Drive Pittsburgh, PA 15238	Allegheny	O'Hara Township	Squaw Run (HQ-WWF)

Westmoreland County Conservation District: Center for Conservation Education, 211 Donohoe Road, Greensburg, PA 15601, (724) 837-5271.

NPDES

Permit No.	Applicant Name and Address	County	Municipality	Receiving Water/Use
PAI056505003	Department of Transportation P. O. Box 459 825 North Gallatin Avenue Extension Uniontown, PA 15401	Westmoreland	Salem Township	UNT to Beaver Run (HQ)

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

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

Permit No.0905506, Public Water Supply
 Applicant **Northampton, Bucks County Municipal Authority**
 Township Northampton
 County **Bucks**
 Responsible Official Samuel Huffer
 Type of Facility PWS
 Consulting Engineer INTEX Environmental Group, Inc.
 Application Received Date April 11, 2005
 Description of Action Addition of a Manganese Removal System for existing Well No. 16.

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 0105501, Public Water Supply.
 Applicant **Gettysburg Municipal Authority**
 Municipality Cumberland Township
 County **Adams**
 Responsible Official Kathleen R Gammell P. E. Public Works Director 601 E. Middle Street Gettysburg, PA 17325-3307
 Type of Facility Public Water Supply
 Consulting Engineer Richard M Bodner, P. E. Martin and Martin, Inc. 37 S. Main St. Chambersburg, PA 17201

Application Received Date 3/11/2005
 Description of Action Booster pump station to be located on Herr's Ridge Road to serve future expansion to the West of Gettysburg.

Permit No. 0605505, Public Water Supply.
 Applicant **Lyons Borough Municipal Authority**
 Municipality Maxatawny Township
 County **Berks**
 Responsible Official Donald J. Clouser, Chairperson P. O. Box 131 Lyon Station, PA 19530
 Type of Facility Public Water Supply
 Consulting Engineer David Bright, P. E. Spotts, Stevens & McCoy, Inc. 1047 North Park Road Reading, PA 19610-0307

Application Received Date 4/8/2005
 Description of Action Replace piping from spring to the existing pump house and remove corrosion control treatment from system.

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

Permit No. 1105502, Public Water Supply.
 Applicant **Patton Water Department**
 P. O. Box 175 Patton, PA 16668
 Township or Borough Patton Borough
 Responsible Official Kenneth Trinkley, Plant Manager Patton Water Department P. O. Box 175, Patton, PA 16668
 Type of Facility Water treatment plant
 Consulting Engineer CET Engineering Services 321 Washington Street Huntingdon, PA 16652

Application Received Date April 22, 2005
 Description of Action Permitting of existing chemical feed system for corrosion control.

Permit No. 4871-A8, Public Water Supply.
 Applicant **Municipal Authority of the Borough of Derry**
 620 Chestnut Street Derry, PA 15627
 Township or Borough Derry Borough
 Responsible Official Richard Thomas, Manager Municipal Authority of the Borough of Derry 620 Chestnut Street Derry, PA 15627
 Type of Facility Water treatment plant

Consulting Engineer	Gibson-Thomas Engineering Co. Inc. 1004 Ligonier Street Latrobe, PA 15650
Application Received Date	April 29, 2005
Description of Action	Renovation of the existing WTP—existing chemical feed building will be demolished and a new structure built, mixed media filters will be rebuilt with an air scour backwash arrangement, a 30k gallon backwash waste tank will be installed, a new control system with SCADA and emergency power generation will be installed, filter building roof will be replaced.

WATER ALLOCATIONS

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

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

WA4-1005, Water Allocations, Municipal Authority of the Borough of Conway, 1208 Third Avenue, Conway, PA 15027, Beaver County. The applicant is requesting a subsidiary allocation to purchase 450,000 gpd, peak day, of water from the Beaver Falls Municipal Authority, Beaver County.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 1

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

Sections 302—305 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* an acknowledgment noting receipt of Notices of Intent to Remediate. An acknowledgment of the receipt of a Notice of Intent to Remediate is used to identify a site where a person proposes to, or has been required to, respond to a release of a regulated substance at a site. Persons intending to use the Background Standard, Statewide Health Standard, the Site-Specific Standard or who intend to remediate a site as a special industrial area must file a Notice of Intent to Remediate with the Department. A Notice of Intent to Remediate filed with the Department provides a brief description of the location of the site, a list of known or suspected contaminants at the site, the proposed remediation measures for the site and a description of the intended future use of the site. A person who demonstrates attainment of one, a combination of the cleanup standards or who receives approval of a special industrial area remediation identified under the act will be relieved of further liability for the remediation of the site for any

contamination identified in reports submitted to and approved by the Department. Furthermore, the person shall not be subject to citizen suits or other contribution actions brought by responsible persons not participating in the remediation.

Under sections 304(n)(1)(ii) and 305(c)(2) of the act, there is a 30-day public and municipal comment period for sites proposed for remediation using a Site-Specific Standard, in whole or in part, and for sites remediated as a special industrial area. This period begins when a summary of the Notice of Intent to Remediate is published in a newspaper of general circulation in the area of the site. For the sites identified, proposed for remediation to a Site-Specific Standard or as a special industrial area, the municipality within which the site is located may request to be involved in the development of the remediation and reuse plans for the site if the request is made within 30 days of the date specified. During this comment period, the municipality may request that the person identified as the remediator of the site develop and implement a public involvement plan. Requests to be involved and comments should be directed to the remediator of the site.

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

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

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

Cianciulli & Pino Tracts, Limerick Township, Montgomery County. Donald A. Coleman, P. G., Penn Environmental & Remediation, Inc., 2755 Bergey Rd., Hatfield, PA 19440 on behalf of Roger Bucchianeri, Brandolini Co., 1301 Lancaster Ave., Berwyn, PA 19312 has submitted a Notice of Intent to Remediate. Groundwater at the site was impacted with MTBE. Groundwater beneath the Site has been impacted from a known off site and upgradient release. The intended future use of the property is for continued commercial use.

WCR Realty/American Appliance, Upper Darby Township, Delaware County. Tom Smith, Applied Geosciences, Inc., 401 East Fourth St., Bldg. 12B, Bridgeport, PA 19405 on behalf of Wm. Rowland, WCR Real Estate Mgmt., 601 N. Blackhorse Pike, P. O. Box 350, Runnemede, NJ 080708 has submitted a Notice of Intent to Remediate. Groundwater at the site was impacted with leaded gasoline. Future use of the site has not been determined at this time.

Pottstown Metal Welding, Pottstown Borough, Montgomery County. Mark Zurich, GemChem, Inc., 53 N. Cedar St., Lititz, PA 17543 on behalf of Herb McDonald, The Fulcrum Group, 110 Pugh Rd., Wayne, PA 19087 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site were impacted with leaded and unleaded gasoline. The site is zoned for commercial/industrial use and it is believed that future site activities will remain commercial/industrial.

7401 State Rd Site, City of Philadelphia, Philadelphia County. Michael Christie, Penn Environmental & Remediation, Inc. on behalf of Daniel, Franklin and

Bernard Featherman, 9695 San Vittore St., Lake Worth, FL 33467 has submitted a Notice of Intent to Remediate. Soil and groundwater at the site were impacted with chlorinated solvents, PAH, PCBs and inorganics. The Site appears to be associated with the historical industrial use of the property. The proposed future development of the Site calls for the construction of individual self-storage units for rent/least to the public. A summary of the Notice of Intent to Remediate was reported to have been published in the *Philadelphia Daily News* on April 14, 2005.

Northeast Regional Field Office: Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

River Shores, West Pittston Borough, **Luzerne County**. Gary Brown, P. E., RT Environmental Services, 215 West Church Road, King of Prussia, PA 19406-3207 has submitted a Notice of Intent to Remediate (on behalf of Frank Delaney, Susquehanna River Shores LLC, 918 Exeter Avenue, Exeter, PA 18643) concerning the remediation of soils found or suspected to have been impacted by inorganics (arsenic and lead) and PCBs. The applicant proposes to remediate the site to meet the site-specific standard. The intended future use of the property will be residential housing. A summary of the Notice of Intent to Remediate is expected to be published in a local newspaper serving the general area sometime in the near future.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Lewistown Armory, Derry Township, **Mifflin County**. Converse Consultants, 2738 West College Avenue, State College, PA 16801, on behalf of Department of Military and Veterans Affairs, Environmental Division, Fort Indiantown Gap, Annville, PA 17003-5002, submitted a Notice of Intent to Remediate groundwater and site soils contaminated with leaded and unleaded gasoline. The applicant seeks to remediate the site to a Statewide Health Standard. The site may be used for residential or nonresidential purposes.

Lebo Residence, North Annville Township, **Lebanon County**. Environmental Management Associates, Inc., 209 Winding Way, Morrisville, PA 19067, on behalf of James and Regina Lebo, 10 Towpath Road, Annville, PA 17003, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with No. 2 fuel oil. The applicant seeks to remediate the site to a Statewide Health Standard and the intended future use of the property will be residential.

Creekside Apartments, Lancaster City, **Lancaster County**. GCI Environmental Services, 1250 East King Street, Lancaster PA 17602, on behalf of Jon Owens, P. O. Box 266, Bausman PA 17504, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with No. 2 heating oil. The applicant seeks to remediate the site to a Statewide Health Standard.

Chambersburg Armory, Hamilton Township, **Franklin County**. Converse Consultants, 2738 West College Avenue, State College, PA 16801, on behalf of Department of Military and Veterans Affairs, Environmental Division, Building 11-19, Fort Indiantown Gap, Annville, PA 17003-5002, submitted a Notice of Intent to Remediate site soils and groundwater contaminated with unleaded gasoline. The applicant seeks to remediate the site to a Statewide Health Standard, and the intended future use of the property may be used for residential or nonresidential purposes.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Application Received Under the Solid Waste Management Act (35 P. S. §§ 6018.101— 6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and Regulations to Operate Solid Waste Processing or Disposal Area or Site.

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

Permit Application No. 101076. Lower Merion Township, 75 E Lancaster Avenue, Ardmore, PA, 19003-2323, Lower Merion Township, **Montgomery County**. The application was received for a 10-year permit renewal for the Lower Merion Township Transfer Station. The facility is located at 1300 Woodbine Avenue, Narberth, PA 19072. The application was received by the Southeast Regional Office on April 22, 2005.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Draft permits modification issued under the Solid Waste Management (35 P. S. §§ 6018.101— 6018.1003) and Regulations to Operate a Hazardous Waste Treatment, Storage or Disposal Facility.

Northcentral Region: Regional Solid Waste Manager, 208 West Third Street, Williamsport, PA 17701.

Permit Application No. PAD003043353. Merck & Co Inc., P. O. Box 600, Danville, PA 17821, located in Riverside Borough, **Northumberland County**. Draft Class II HW permit modification to the RCRA Part B Permit issued by the Williamsport Regional office on April 27, 2005.

Comments concerning the application should be directed to James E. Miller, Environmental Program Manager, Williamsport Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Persons interested in obtaining more information about the draft permit application should contact the Williamsport Regional Office, (570) 327-3653. TDD users may contact the Department of Environmental Protection 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 draft permit.

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.

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

38-03003C: Bayer Healthcare LLC (400 West Stoeber Ave, Myerstown, PA 17067) for installation of one 20.9 mmBtu/hr boiler in Myerstown Borough, **Lebanon County**. The unit will primarily combust natural gas but will have the option to burn No. 2 fuel oil. The plan approval will include monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701, David Aldenderfer, Program Manager, (570) 327-3637.

47-00001B: PPL Montour, LLC (P. O. Box 128, Washingtonville, PA 17884-0128) for installation of flue gas desulfurization systems on bituminous coal-fired electric utility boiler Units No. 1 and No. 2 at their Montour Steam Electric Station in Derry Township, **Montour County**.

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

42-004B: American Refining Group (77 North Kendall Avenue, Bradford, PA 16701) for construction of a flare to replace an existing vapor recovery unit at their Foster Brook facility on Bolivar drive in Bradford City, **McKean County**. This is a Title V facility, Permit No. 420004.

24-158B: Rosebud Mining Co. (SR 219, Helen Mills, PA 15857) for postconstruction of an additional screen and conveyor for a coal processing facility at their Little Toby Mine, Horton Township, **Elk County**.

43-270B: CCL Container (One Llodio Drive, Hermitage, PA 16148-9015) for replacement of an existing 15,000 cfm incinerator with a new 45,000 cfm regenerative thermal oxidizer and installation of an additional aluminum container line rated at 180 cans per minute in Hermitage City, **Mercer County**. This is a Title V facility.

24-083G: Carbone of America Ind. Corp. (215 Stackpole Street, St. Marys, PA 15857) for construction of Carbon Baking Kiln No. 35 with a thermal oxidizer and connecting to existing Scrubber B in St. Marys City, **Elk County**. This is a Title V facility.

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.

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

40-320-017A: Bemis Co., Inc. (20 Jaycee Drive, West Hazleton, PA 18201) for replacement of two existing air pollution control equipment (catalytic incinerators) with a newer more efficient catalytic incinerator to control VOC emissions from two flexographic presses Nos. 9 and 10. Bemis Company, Inc. is a major facility subject to Title V permitting requirements in West Hazleton Borough, **Luzerne County**. Installation of the new unit will not change the VOC emissions from the facility. The annual VOC emissions from these presses will be less than 20.1 tons per year. The Department of Environmental Protection will place a condition to limit the VOC emission from these sources to less than 20.1 tons per year calculated on a monthly basis (12 month rolling sum) including cleanup solvent and HAPs. The catalytic incinerator will demonstrate 98% destruction efficiency for VOCs. The Plan Approval will contain conditions requiring the source to show compliance with the emission rates. 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. For further details, contact Mark J. Wejkszner at the previous listed address.

54-399-037: Greater Pottsville Area Sewer Authority (401 North Centre Street, Pottsville, PA 17901) for installation of two air cleaning devices (a burn off flare and a scrubber) at their site in Pottsville, **Schuylkill County**. This facility is a non-Title V facility. The company shall comply with 25 Pa. Code § 123.31 for malodorous emissions. The company will operate the facility and maintain the system in accordance with the good engineering practices to assure proper operation of the system.

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

06-03069C: Highway Materials, Inc. (1750 Walton Road, Blue Bell, PA 19422) for construction of additional parts to a nonmetallic mineral crushing plant controlled by wet suppression and a diesel engine/generator controlled by combustion controls in Alsace Township, **Berks County**. The facility is a non-Title V (State-only) facility. Some of the equipment will be subject to 40 CFR Part 60, Subpart OOO, Standards of Performance for New Stationary Sources. The approval will include emission limits for the engine/generator. The approval will include monitoring, testing, work practices, recordkeeping, and reporting requirements designed to keep the source operating within all applicable air quality requirements.

06-05069G: East Penn Mfg. Co., Inc. (Deka Road, P. O. Box 147, Lyon Station, PA 19536) for construction of two lead oxide mills each controlled by a cyclone, fabric collector and HEPA filter in Richmond Township, **Berks County**. The sources are subject to 40 CFR Part 60, Subpart KK, Standards of Performance for New Stationary Sources. The plan approval will include restrictions, monitoring, work practices, testing, recordkeeping and reporting requirements designed to keep the sources operating within all applicable air quality requirements. The facility is currently covered by the Operating Permit No. 06-1069 and the Title V Operating Permit Application No. 06-05069. The plan approval will be incorporated into the application.

36-05014F: Alumax Mill Products, Inc. (P. O. Box 3167, Lancaster, PA 17604) for replacement of an existing baghouse at the secondary aluminum production plant in Manheim Township, **Lancaster County**. The facility is subject to 40 CFR Part 63, Subpart RRR—National Emission Standards for Secondary Aluminum Production. The baghouse replacement will not measurably impact emissions from the facility.

36-05019F: Anvil International, Inc. (1411 Lancaster Avenue, Columbia, PA 17512) for construction of a coldbox coremaking machine at the foundry located in Columbia Borough, **Lancaster County**. The addition of the new coremaking machine has the potential to increase the facility's VOC emissions by about 3.0 tpy. The plan approval and operating permit will include restrictions, monitoring, work practice standards, reporting and recordkeeping 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.

17-00055A: River Hill Power Company, LLC (94 Spruce Street, Indiana, PA 15701-8424) for the construction of a 290 megawatt waste coal fired electric generating facility, including a 2,871 mmBtu/hr waste coal fired circulating fluidized bed (CFB) boiler, a steam turbine generator, a No. 2 fuel oil fired auxiliary boiler, a mechanical draft wet cooling tower, a diesel fired generator, a diesel fired fire pump, a 50,000 gallon No. 2 fuel oil aboveground storage tank, a coal processing operation, a bed ash silo, two fly ash silos and a limestone handling operation in Karthaus Township, **Clearfield County**. The air contaminant emissions from the 2,871 mmBtu/hr waste coal fired CFB boiler will be controlled by a limestone injection system, a flash dryer absorber or spray dryer absorber system, a cyclone, a fabric filter baghouse and a selective noncatalytic reduction (SNCR) system. This proposed facility is a major facility and subject to the Prevention of Significant Deterioration (PSD) provisions of 25 Pa. Code §§ 127.81—127.83 and 40 CFR 52.21, Best Available Control Technology (BACT),

the New Source Review (NSR) provisions of 25 Pa. Code §§ 127.201—127.217, Lowest Achievable Emission Rate (LAER), the Interstate Pollution Transport Reduction provisions of 25 Pa. Code Chapter 145, the Acid Rain provisions of 40 CFR Parts 72—78, the MACT provisions of 25 Pa. Code § 127.35 and the Best Available Technology (BAT) requirements of 25 Pa. Code §§ 127.1 and 127.12.

The facility's VOC and NO_x emissions are subject to NSR. The Department has determined that the proposed level of VOC and NO_x emission control will satisfy the LAER requirement of these regulations and also, under 25 Pa. Code § 127.205(5), that the benefits of the proposed facility will significantly outweigh the environmental and social costs associated with the facility. The facility's NO_x, CO, SO_x, sulfuric acid mist, particulate matter and PM₁₀ emissions are subject to the PSD requirements. The Department has determined that the proposed level of NO_x, CO, SO_x, sulfuric acid mist, particulate matter and PM₁₀ emission control satisfies the BACT requirement.

The facility is also subject to the applicable parts of the Standards of Performance for New Stationary Sources for Subpart Da: New Electric Utility Steam Generating Units, 40 CFR 60.40a—49a; Subpart Dc: Small Industrial-Commercial-Institutional Steam Generating Units, 40 CFR 60.40c—60.48c; Subpart Y: Coal Preparation Plants, 40 CFR 60.250—60.254; Subpart OOO: Standards of Performance for Nonmetallic Mineral Processing Plants, 40 CFR 60.670—60.676. In addition, the facility will be subject to the National Emission Standards for Hazardous Air Pollutants for Subpart DDDDD: Industrial, Commercial, and Institutional Boilers and Process Heaters, 40 CFR 63.7480—63.7575 and Subpart ZZZZ: Stationary Reciprocating Internal Combustion Engines, 40 CFR 63.6580—63.6675.

This project will emit up to 889.60 tons of NO_x, 2,526.57 tons of SO_x, 2,520 tons of CO, 233.11 tons of particulate matter, 197.46 tons of PM₁₀, 63.36 tons of VOCs, 125.70 tons of sulfuric acid mist, 80.00 tons of ammonia, 42.2 tons of hydrochloric acid, 18.09 tons of hydrofluoric acid, 3.6 pounds of mercury, 34.0 pounds of lead, 2.9 pounds of beryllium and 60.3 tons to total combined HAPs in any 12 consecutive month period.

In accordance with the PSD provisions of 40 CFR 52.21 and 25 Pa. Code § 127.83, River Hill has provided an air quality modeling analysis that demonstrates that the proposed power facility will not cause or significantly contribute to air pollution in violation of the PSD increment standards or the National Ambient Air Quality Standards. In addition, the PSD regulations require an analysis of the impact of the facility's projected CO, NO_x, particulate matter and SO_x emissions on visibility and soils and vegetation, and the air quality impact due to growth associated with the power facility. River Hill has demonstrated that there will be no adverse impact on local visibility and soils and vegetation in the site area and no appreciable air quality impact due to growth associated with the power facility. Also in accordance with the PSD regulations, River Hill has demonstrated that the power facility's projected emissions will not adversely impact air quality related values (AQRVs), including visibility, within Federal Class I areas.

The air quality modeling analysis estimates that the operation of the River Hill power facility will result in Class II area increment consumption as follows: for SO₂, 264 µg/m³ of the allowable 512 µg/m³ 3-hour SO₂ increment standard, 53µg/m³ of the allowable 91 µg/m³ 24-

hour SO₂ increment standard, and 9.5 µg/m³ of the allowable 20 µg/m³ annual SO₂ increment standard; for particulate matter with an aerodynamic diameter less than or equal to PM₁₀, 19 µg/m³ of the allowable 30 µg/m³ 24-hour PM₁₀ increment standard, and 10 µg/m³ of the allowable 17 µg/m³ annual PM₁₀ increment standard. The maximum NO₂ Class II area impact expected to result from the operation of the River Hill power facility will not exceed the Class II significant impact level (SIL). The maximum NO₂ Class II impact is 0.9 µg/m³ of the allowable 1 µg/m³ annual NO₂ SIL.

The air quality modeling analysis estimates that the operation of the River Hill power facility will result in maximum Class I area impacts that will not exceed the Class I SIL for NO₂, PM₁₀ and SO₂. The maximum NO₂ Class I impact is 0.000810 µg/m³ of the applicable 0.1 µg/m³ annual NO₂ SIL. The maximum PM₁₀ Class I impact is 0.118 µg/m³ of the applicable 0.3 µg/m³ 24-hour PM₁₀ SIL and 0.00246 µg/m³ of the applicable 0.2 µg/m³ annual PM₁₀ SIL. The maximum SO₂ Class I impact is 0.949 µg/m³ of the applicable 1 µg/m³ 3-hour SO₂ SIL, 0.192 µg/m³ of the applicable 0.2 µg/m³ 24-hour SO₂ SIL and 0.00466 µg/m³ of the applicable 0.1 µg/m³ annual SO₂ SIL.

As an alternative to Environmental Protection Agency (EPA) Guideline Models, AERMOD (version 02222) was used in the air quality analysis for the proposed River Hill Power facility. Specific approval for the use of AERMOD in this analysis was granted by the EPA Region III Administrator and was consistent with the recommendations under 40 CFR 51, Appendix W § 3.2. The Department is expressly requesting written comments on AERMOD, the EPA-approved substitute model used for the River Hill Power project. Under 25 Pa. Code §§ 127.44 and 127.83 and 40 CFR 52.21(l), (2) and (q), notice is hereby given that the Department is soliciting written comments on the use of the nonguideline model, AERMOD, approved by the EPA.

The Department's review of the information contained in the application indicates that the 290 megawatt waste coal fired electric generating facility will comply with all State and Federal requirements as specified above pertaining to air contamination sources and the emission of air contaminants. Based on this finding, the Department intends to approve the application and issue plan approval for the proposed construction. The Department proposes to place in the plan approval the following conditions to ensure compliance with all applicable regulatory requirements:

1. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, all No. 2 fuel oil or diesel fuel burned in any source located at this facility shall be virgin fuel to which no reclaimed or reprocessed oil or other waste materials have been added. Additionally, the sulfur content of the No. 2 fuel oil or diesel fuel shall not, at any time, exceed 0.2% (by weight).

2. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the facility shall not receive more than a combined total of 2,010,000 tons of waste coal and run of mine bituminous coal as well as 512,000 tons of limestone in any 12 consecutive month period.

3. The permittee shall perform tests (in accordance with the provisions of 25 Pa. Code Chapter 139) or provide a fuel certification report of the percent sulfur by weight of each delivery of No. 2 or lighter fuel oil; or, the

permittee shall keep records of fuel certification reports obtained yearly from the fuel oil supplier stating that the sulfur percentage for each shipment of fuel delivered to the facility during the year shall not exceed 0.2% sulfur by weight for No. 2 or lighter fuel oil.

4. Within 60 days after initial startup, and every calendar month thereafter, the permittee shall perform opacity testing on the exhausts of all control devices (fabric collectors, bin vent filters) associated with the coal handling operation, the bed ash silo, the fly ash silos and the limestone handling operation to determine the percent opacity of visible emissions and to verify compliance with the opacity limitation for each respective source. Visible emission tests shall be performed by a certified observer to demonstrate compliance while each respective source is operating.

5. The permittee shall keep records of the results of the monthly opacity tests performed on the exhausts of all control devices (fabric collectors, bin vent filters) associated with the coal handling operation, the bed ash silo, the fly ash silos and the limestone handling operation to verify compliance with the opacity limitation for each respective source.

6. The permittee shall keep records of the fuel test reports or the fuel certification reports used to verify compliance with the percent sulfur limitation for No. 2 or lighter fuel oil.

7. The permittee shall maintain comprehensive and accurate records of the combined total tons of waste coal and run of mine bituminous coal as well as the tons of limestone delivered to this facility each month and shall verify compliance with the combined total tons of waste coal and run of mine bituminous coal as well as the tons of limestone throughput limitations in any 12 consecutive month period.

8. The permittee shall submit reports to the Department on a semiannual basis that include the records of the combined total tons of waste coal and run of mine bituminous coal as well as the tons of limestone delivered to this facility each month and shall verify compliance with the combined total tons of waste coal and run of mine bituminous coal as well as the tons of limestone throughput limitations in any 12 consecutive month period.

9. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, an operable water truck equipped with a pressurized water spray mechanism shall be kept onsite and filled with water at all times (except when refilling the truck) that the facility is in operation. The permittee shall implement any effective winterization measures necessary to render this water truck capable of use under all weather conditions.

10. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, an operable road vacuum sweeper shall be kept onsite anytime the facility is in operation. The facility shall not be operated if the water truck or road vacuum sweeper is inoperable. All trucks loaded with coal, limestone, bed ash or fly ash entering or exiting the facility via public roadways shall have their truck beds completely tarped or have their loads sufficiently wetted prior to exiting the facility so as to prevent the emission of fugitive particulate matter. Additionally, a highly visible notice shall be posted at the facility stating: "All loads on trucks shall be tarped or have their loads sufficiently wetted before exiting facility property so as to

prevent fugitive particulate matter from becoming airborne." All plant roads shall be paved. The facility shall establish, and enforce, vehicle speed limits of no higher than 10 miles per hour on all plant roads. These speed limits shall be posted in highly visible locations within the facility.

11. Under the PSD provisions in 40 CFR 52.21 as well as 25 Pa. Code §§ 127.13 and 127.83, the permittee shall install a fence and gates, to enclose the entire plant property. The fence shall be at a minimum three-wire, barbed or smooth, the top wire at a height of no less than 4 feet, and constructed such that an adult person cannot easily step through. The fence shall have signs space at intervals no greater than 100 yards, with the message "No Trespassing." Lockable gates shall be installed and locked open at any place along the plant property line where access through the fence is needed. Video cameras shall be installed, viewing gates at all plant property entrances. These gates shall be viewable on monitors installed in the plant main control room.

12. Under the PSD provisions in 40 CFR 52.21 as well as 25 Pa. Code §§ 127.13 and 127.83, the permittee shall not operate haul trucks including front end loaders, etc. on the plant's haul roads between the hours of 6 p.m. and 6 a.m. Additionally, a highly visible notice shall be posted at the facility stating: "No haul trucks including front end loaders, etc. shall be operated on the plant's haul roads between the hours of 6:00 PM and 6:00 AM."

13. Under 25 Pa. Code § 121.7, no person may permit air pollution as that term is defined in the Air Pollution Control Act (35 P. S. §§ 4001—4015).

14. Under the PSD provisions in 40 CFR 52.21 as well as 25 Pa. Code §§ 127.13 and 127.83, this plan approval shall be null and void if construction (as defined in 40 CFR 52.21(b)(8)) has not commenced within 18 months of the issuance of the plan approval or if there is more than an 18-month lapse in construction. The permittee shall submit to the Department a detailed construction schedule for the entire facility within 180 days of issuance of the plan approval.

15. Under the New Source Review provisions in 25 Pa. Code §§ 127.201—127.217, the permittee shall purchase and apply 1,023.03 tons per year of NO_x emission reduction credits (ERCs) and 72.83 tons per year of VOC ERCs prior to the start of operation of any source at the facility to offset the total of the net increase in potential to emit. The permittee shall certify to the Northcentral Regional Office of the Department the amount of ERCs purchased, the company from which the ERCs were purchased, and the effective date of transfer of the ERCs. The purchase and application of the NO_x and VOC ERCs shall be tracked in the Department's ERC registry system. Failure to purchase and apply 1,023.03 tons per year of NO_x ERCs and 72.83 tons per year of VOC ERCs prior to the start of operation of any source at the facility shall make this plan approval null and void.

16. Under 25 Pa. Code § 127.12b, the Department will evaluate the actual emission rates and may revise (decrease or increase) the allowable emission rates based upon demonstrated performance (CEM data, stack test results and/or subsequently promulgated applicable requirements during the first 5 years of operation. Any revision of the allowable emission rates shall be accomplished by minor modification provided that the revised allowable emission rates do not exceed levels at which the LAER, BACT and BAT were evaluated, do not exceed the level at which facility impacts were modeled, and that is not a result of a physical change at the facility.

17. This facility is subject to the Title IV Acid Rain Program of the 1990 Clean Air Act Amendments, and shall comply with all applicable provisions of that Title, including the following:

- 40 CFR Part 72 Permits Regulations
- 40 CFR Part 73 SO_x Allowance System
- 40 CFR Part 75 Continuous Emissions Monitoring (CEM)
- 40 CFR Part 77 Excess Emissions

18. This facility is subject to the NO_x Budget Trading Program and shall comply with all applicable requirements of 25 Pa. Code §§ 145.1—145.100.

19. The facility is subject to the Title V operating permit requirements of 25 Pa. Code Chapter 127, Subchapters F and G, the permittee shall submit a complete and timely Title V operating permit application to the Department no later than 120 days after the "shakedown" period for sources subject to the plan approval. The permittee shall include the information specified in 25 Pa. Code § 127.503 in the Title V operating permit application. The Title V operating permit application shall include a complete compliance assurance monitoring (CAM) plan in accordance with 40 CFR 64.4 for each applicable control device as specified in this plan approval. Additionally, the permittee shall comply with all applicable requirements as specified in 40 CFR 64.1—64.10 regarding CAM requirements for each applicable control device as specified in this plan approval. The Title V operating permit application is timely if a complete application is submitted to the Department within the time frame specified above and applicable fees have been paid in accordance with 25 Pa. Code § 127.704. The application is complete if it contains sufficient information to begin processing the application, has the applicable sections completed and has been signed by a responsible official as defined in 25 Pa. Code § 121.1. A Title V operating permit application can be obtained by contacting the Department.

20. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of SO₂ from the exhaust of the fabric collector associated with the CFB boiler shall not exceed 0.311 pound per million Btu of heat input in a 3-hour blocked period (three hour blocked periods are nonoverlapping 3-hour blocks of time beginning at midnight each day), 0.274 pounds per million Btu of heat input on a 24-hour rolling average basis, 0.2 pound per million Btu of heat input per hour on a 30-day rolling average basis, 574.2 pounds per hour and 2,515 tons in any 12 consecutive month period.

21. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of H₂SO₄ from the exhaust of the fabric collector associated with the CFB boiler shall not exceed 0.01 pound per million Btu of heat input (demonstration of compliance with the emission limitation is based on the average of three 1-hour stack tests), 28.71 pounds per hour and 125.7 tons in any 12 consecutive month period.

22. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of CO from the exhaust of the fabric collector associated with the CFB boiler shall not exceed 0.2 pound per million Btu of heat input based on a load of equal to

or greater than 70% of the maximum rate of heat input, 0.25 pound per million Btu of heat input based on loads less than 70% of the maximum rate of heat input, 574.2 pounds per hour and 2,515 tons in any 12 consecutive month period.

23. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of total particulate matter with an aerodynamic diameter less than or equal to 10 microns, also known as PM₁₀, from the exhaust of the fabric collector associated with the CFB boiler shall not exceed 0.012 pound per million Btu of heat input (demonstration of compliance with the emission limitation is based on the average of three 1-hour stack tests), 34.45 pounds per hour and 150.9 tons in any 12 consecutive month period. The total PM₁₀ emission limitation shall include filterable and condensable particulate matter. In addition, the permittee shall not emit any total particulate matter from the exhaust of the fabric collector associated with the CFB boiler with an aerodynamic diameter greater than 10 microns.

24. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the opacity from the exhaust of the fabric collector associated with the CFB boiler shall not exceed 10% opacity at any time.

25. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83 and the LAER of the New Source Review Regulation provisions in 25 Pa. Code §§ 127.201—127.217 as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of NO_x from the exhaust of the fabric collector associated with the CFB boiler shall not exceed 0.10 pound per million Btu of heat input on a 24-hour rolling average basis, 0.07 pound per million Btu of heat input on a 30-day rolling average basis, 200.97 pounds per hour and 880.2 tons in any 12 consecutive month period.

26. Under the LAER New Source Review Regulation provisions in 25 Pa. Code §§ 127.201—127.217 as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of VOCs from the exhaust of the fabric collector associated with the CFB boiler shall not exceed 0.005 pound per million Btu of heat input (demonstration of compliance with the emission limitation is based on the average of three 1-hour stack tests), 14.36 pounds per hour and 62.9 tons in any 12 consecutive month period.

27. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of ammonia from the exhaust of the fabric collector associated with the CFB boiler shall not exceed 10 parts per million by volume dry basis corrected to 3% oxygen, 0.006 pound per million Btu of heat input, 17.23 pounds per hour and 80 tons in any 12 consecutive month period.

28. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12 as well as 25 Pa. Code § 127.35(d), the emission of mercury from the exhaust of the fabric collector associated with the CFB boiler shall not exceed 1.4×10^{-6} pound per megawatt-hour of electricity produced on a 12 month rolling average basis. This emission limit may be revised in accordance with 40 CFR 60 Subpart Da.

29. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12 as well as 25 Pa. Code § 127.35(d), the emission of lead from the exhaust of the fabric collector associated with the CFB boiler shall not exceed 1.4

pounds per trillion Btu of heat input, 0.00388 pound per hour and 34.0 pounds in any 12 consecutive month period.

30. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12 as well as 25 Pa. Code § 127.35(d), the emission of beryllium from the exhaust of the fabric collector associated with the CFB boiler shall not exceed 0.11 pound per trillion Btu of heat input and 2.9 pounds in any 12 consecutive month period.

31. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12 as well as 25 Pa. Code § 127.35(d), the emission of HCl from the exhaust of the fabric collector associated with the CFB boiler shall not exceed 0.0034 pound per million Btu of heat input, 9.64 pounds per hour and 42.2 tons in any 12 consecutive month period.

32. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12 as well as 25 Pa. Code § 127.35(d), the emission of hydrogen fluoride (HF) from the exhaust of the fabric collector associated with the CFB boiler shall not exceed 0.0014 pound per million Btu of heat input, 4.13 pounds per hour and 18.09 tons in any 12 consecutive month period.

33. The Department may establish particulate matter with an aerodynamic diameter less than or equal to 2.5 microns, also known as PM_{2.5}, antimony, arsenic, cadmium, chromium, cobalt, manganese, nickel and selenium emission limitations for the CFB boiler after the determination of the emission rates verified by the stack tests.

34. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, only waste coal and run of mine bituminous coal shall be fired in the CFB boiler and shall not exceed a combined total maximum sulfur content of 4% by weight at any time. Additionally, the permittee shall not burn residual, municipal, hazardous, hospital, infectious, chemotherapeutic wastes or any other material not specifically identified in this plan approval.

35. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the CFB boiler shall not burn more than a combined total of 2,000,000 tons of waste coal and run of mine bituminous coal in any 12 consecutive month period.

36. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83 and the New Source Review Regulation provisions in 25 Pa. Code §§ 127.201—127.217 as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the permittee shall install, certify, maintain and operate a continuous emission monitoring system (CEMS) for NO_x, CO, SO₂ and mercury emissions, as well as oxygen (or CO₂) and opacity on the exhaust of the fabric collector associated with the CFB boiler in accordance with all applicable requirements specified in 25 Pa. Code Chapter 139 and the Department's Continuous Source Monitoring Manual. All of the CEMS specified above shall be installed prior to startup of the respective the CFB boiler and the fabric collector. No CEMS may however be operated unless Phase I approval has first been obtained from the Department.

37. The NO_x, CO, SO₂, mercury, oxygen (or CO₂) emission monitoring systems shall be capable of monitoring the NO_x, CO, SO₂, mercury, oxygen (or CO₂) concentrations expressed in ppmv, emission rates expressed in pounds per hour and pounds per million Btu, and total emissions in any 12 consecutive month period, expressed in tons per year, for the CFB boiler. The opacity emission

monitoring system shall be capable of monitoring the opacity, expressed in percent opacity.

38. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. § 127.83 and the New Source Review Regulation provisions in 25 Pa. Code §§ 127.201—127.217 as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the permittee shall submit a Phase I application to the Department for NO_x, CO, SO₂, mercury, oxygen (or CO₂) and opacity continuous emission monitoring system which shall be constructed at least 6 months prior to the anticipated startup date of the CFB boiler and the fabric collector.

39. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83 and the New Source Review Regulation provisions in 25 Pa. Code §§ 127.201—127.217 as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the CFB boiler shall not be operated for any reason unless the associated NO_x, CO, SO₂, mercury, oxygen (or CO₂) and opacity continuous emission monitoring system has received Phase I approval from the Department and has subsequently been installed and made operational in accordance with the conditions of this plan approval. Furthermore, the continuous emission monitoring system shall be operated any time the CFB boiler and the fabric collector are operating in accordance with all applicable requirements specified in 25 Pa. Code Chapter 139, as well as with the Department's Continuous Source Monitoring Manual unless superseded by conditions contained in this plan approval.

40. The required relative accuracy testing shall have been completed on the associated continuous emission monitoring system and the monitoring system shall be fully certified in accordance with the Department's Continuous Source Monitoring Manual within 180 days of startup of the respective the CFB boiler.

41. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the fabric collector shall be equipped with instrumentation to continuously monitor the differential pressure drop across the fabric collector and the exhaust flue gas flow rate from the fabric collector. The flash dryer absorber (or spray dryer absorber system) and the fabric collector shall be equipped with instrumentation to continuously monitor and record the outlet temperature of flash dryer absorber (or spray dryer absorber system) and the fabric collector.

42. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the flash dryer absorber (or spray dryer absorber system) shall be equipped with an audible alarm that will sound if the outlet temperature of the flash dryer absorber (or spray dryer absorber system) exceeds the maximum outlet temperature.

43. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the permittee shall install and maintain instrumentation to monitor and record the ammonia injection rate of the SNCR associated with the CFB boiler on a continuous basis.

44. The permittee shall obtain a daily composite sample of all combined waste coal and run of mine bituminous coal to be burned in the CFB boiler. Each composite sample shall be tested on a daily basis. The test analysis report shall include, but shall not be limited to, sulfur content (%S), percent by weight, ash content (%A), heat of combustion (Btu/lb), and percent moisture content. The permittee shall test the heat content of each fuel (waste coal, bituminous coal) burned in the CFB

boiler on a monthly basis. The permittee shall submit a testing and monitoring plan for each sample handling (including daily composite samples and monthly fuel samples) and analysis techniques to be recorded during the year. The plan shall be submitted to the Department for approval at least 120 days prior to the anticipated startup date of the CFB boiler.

45. Within 120 days of achieving maximum production, but no later than 180 days after initial startup, the permittee shall perform testing on the exhaust of the CFB boiler to verify the SO_x, NO_x, VOC, CO, particulate matter with an aerodynamic diameter less than or equal to 10 microns, also known as PM₁₀, sulfuric acid mist, ammonia, HF, HCl, mercury, beryllium and lead emission rates. In addition, particulate matter with an aerodynamic diameter less than or equal to 2.5 microns, also known as PM_{2.5}, antimony, arsenic, cadmium, chromium, cobalt, manganese, nickel and selenium stack tests shall be performed to determine the emission rates. The NO_x and CO stack testing shall be conducted simultaneously. All testing shall be performed while the CFB boiler is operating at its maximum rate of production, using test methods and procedures approved by the Department. These tests shall be repeated on a yearly basis. The permittee may request a change in the frequency of the testing once enough data has been established to verify compliance.

46. The permittee shall keep records associated with the continuous emission monitoring system for NO_x, CO, SO₂, mercury emissions, oxygen (or CO₂) and opacity on the exhaust from C031D associated with the CFB boiler in accordance with all applicable requirements specified in 25 Pa. Code Chapter 139 and the Department's Continuous Source Monitoring Manual.

47. The permittee shall keep comprehensive and accurate records of: the combined total tons of waste coal and run of mine bituminous coal that are burned in the CFB boiler in each month and shall verify compliance with the fuel usage limitation in any 12 consecutive month period; the amount of tons of bituminous coal and the total percentage of the bituminous coal blended with the waste coal burned in the CFB boiler on a monthly basis; the heat content of each fuel (waste coal, bituminous coal) burned in the CFB boiler on a monthly basis; the daily percent sulfur content by weight of each composite sample of combined waste coal and run of mine bituminous coal burned in the CFB boiler in order to verify compliance with the maximum 4% by weight sulfur content limitation; the gross produced output in units of megawatt per hour on a continuous basis; the ammonia injection rate of the SNCR on a continuous basis; the differential pressure drop across the fabric collector and the exhaust flue gas flow rate from the fabric collector on a continuous basis; and the outlet temperature of the flash dryer absorber (or spray dryer absorber system) and the fabric collector on a continuous basis. All of the records shall be retained for a minimum of 5 years and shall be made available to the Department upon request.

48. The permittee shall keep comprehensive and accurate records of: the supporting calculations for SO₂ emissions from the fabric collector associated with the CFB boiler to verify compliance with the SO₂ emissions limitations in any 3-hour blocked period, 24-hour rolling average period, and tons in any 12 consecutive month period; the supporting calculations for H₂SO₄ emissions from the fabric collector associated with the CFB boiler to verify compliance with the H₂SO₄ emissions limitations of pound per million Btu of heat input, pounds per hour and

tons in any 12 consecutive month period; the supporting calculations for CO emissions from the fabric collector associated with the CFB boiler to verify compliance with the CO emissions limitations when operating at equal to or greater than 70% load of the maximum rate of heat input, less than 70% load of the maximum rate of heat input, as well as keep records of calculations on a monthly basis to verify compliance with the CO emission limitation in any 12 consecutive month period; the supporting calculations for total PM10 emissions from the fabric collector associated with the CFB boiler to verify compliance with the total PM10 emissions limitations of pound per million Btu of heat input, pounds per hour and tons in any 12 consecutive month period; the supporting calculations for NOx emissions from the fabric collector associated with the CFB boiler to verify compliance with the NOx emissions limitations in any 24-hour rolling average period, 30-day rolling average period, and tons in any 12 consecutive month period; the supporting calculations for VOC emissions from the fabric collector associated with the CFB boiler to verify compliance with the VOC emissions limitations in any 3-hour blocked period and tons in any 12 consecutive month period; the supporting calculations for ammonia emissions from the fabric collector associated with the CFB boiler to verify compliance with the ammonia emissions limitations of parts per million, pound per million Btu of heat input, pounds per hour and tons in any 12 consecutive month period; the supporting calculations for mercury emissions from the fabric collector associated with the CFB boiler to verify compliance with the mercury emissions limitations in pounds per megawatt-hour of electricity produced on a 12 month rolling average basis; the supporting calculations for lead emissions from the fabric collector associated with the CFB boiler to verify compliance with the lead emissions limitations of pounds per trillion Btu of heat input and pounds in any 12 consecutive month period; the supporting calculations for beryllium emissions from the fabric collector associated with the CFB boiler to verify compliance with the beryllium emissions limitations of pounds per trillion Btu of heat input and pounds in any 12 consecutive month period; the supporting calculations for HCl emissions from the fabric collector associated with the CFB boiler to verify compliance with the HCl emissions limitations of pounds per million Btu of heat input, pounds per hour and tons in any 12 consecutive month period; and the supporting calculations for HF emissions from the fabric collector associated with the CFB boiler to verify compliance with the HF emissions limitations of pounds per million Btu of heat input, pounds per hour and tons in any 12 consecutive month period.

49. The permittee shall submit all reports to the Department associated with the continuous emission monitoring system for NOx, CO, SO₂, mercury emissions, oxygen (or CO₂) and opacity on the exhaust of the fabric collector associated with the CFB boiler in accordance with all applicable requirements specified in 25 Pa. Code Chapter 139 and the Department's Continuous Source Monitoring Manual.

50. The permittee shall submit reports to the Department on a semi-annual basis that include the records used to verify compliance with the total combined waste coal and run of mine bituminous coal fuel usage limitation in any 12 consecutive month period and the supporting calculations used to verify compliance with the SO₂, H₂SO₄, CO, total PM10, NOx, VOC, ammonia, mercury, lead, beryllium, HCl and HF emissions limitations in any 12 consecutive month period.

51. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the permittee shall develop and submit to the Department for approval a quality control program for the continuous differential pressure drop monitors for the fabric collector, the continuous exhaust flue gas flow rate monitors for the fabric collector, the continuous outlet temperature monitors for flash dryer absorber (or spray dryer absorber system) and the fabric collector, and the continuous ammonia injection rate monitors for the SNCR, and any other continuous monitor used for the CFB boiler and associated control devices. The quality control program shall include, at a minimum, a written protocol that describes how each monitor will be installed, calibrated, and maintained in accordance with good engineering/operating practices and the manufacturer's recommendations at all times the CFB boiler is operating. In addition, the quality control program shall include the calibration and maintenance records to be kept to assure compliance with the quality control program. The permittee shall keep the quality control program on file for the life of the CFB boiler and associated calibration and maintenance records for a minimum of 5 years. The quality control program including associated calibration and maintenance records shall be made available to the Department upon request.

52. The CFB boiler is subject to the New Source Performance Standards, 40 CFR Part 60, Subpart Da and shall comply with all applicable requirements as specified in 40 CFR Sections 60.40a—60.49a.

53. A sufficient quantity of spare fabric collector bags for the fabric collector shall be kept on hand at all times in order to immediately replace any worn or damaged bags.

54. The permittee shall install a flash dryer absorber or a spray dryer absorber system to control air contaminant emissions from the CFB boiler.

55. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the SNCR shall be installed directly upstream of the cyclone associated with the CFB boiler.

56. The fabric collector shall be a fabric collector with an outlet airflow of 794,000 ACFM at 145° F, an effective air to cloth ratio at actual conditions of not more than 4:1 and using reverse air jets cleaning system.

57. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the CFB boiler shall not operate without the simultaneous operation of the limestone injection system, selective noncatalytic reduction system, flash dryer absorber or spray dryer absorber system, cyclone and the fabric collector (the fabric collector) which are required to comply with any emission limitations or requirements specified herein.

58. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83 and the New Source Review Regulation provisions in 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the CFB boiler shall be a circulating fluidized bed boiler with a maximum heat input of 2,871 million Btu per hour whose air contaminant emissions shall be controlled by using limestone injection system, a selective noncatalytic reduction system, a flash dryer absorber or spray dryer absorber system, a cyclone and a fabric collector.

59. The permittee shall submit to the Department for approval the specific make and model of the CFB boiler, the SNCR, flash dryer absorber (or spray dryer absorber system), the cyclone and the fabric collector, which in-

cludes design details, monitoring plans, and design parameters (such as, but not limited to, the pressure drop ranges, the maximum exhaust gas flow rate for the fabric collector, the range for the ammonia injection rate of the SNCR, and the maximum outlet temperatures of flash dryer absorber (or spray dryer absorber system) and the fabric collector) within 30 days of issuing the purchase order for the specified source and control devices by submitting the appropriate pages of the plan approval application.

60. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of total particulate matter from the exhaust of the auxiliary boiler shall not exceed 0.03 pound per million Btu of heat input, 1.95 pounds per hour and 2.73 tons in any 12 consecutive month period.

61. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the opacity of the exhaust of the auxiliary boiler shall not exceed 10% at any time.

62. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of SO₂ from the exhaust of the auxiliary boiler shall not exceed 0.203 pound per million Btu of heat input, 13.2 pounds per hour and 11.08 tons in any 12 consecutive month period.

63. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of CO from the exhaust of the auxiliary boiler shall not exceed 63 ppm corrected to 3% oxygen and 0.077 pound per million Btu of heat input, 5.01 pounds per hour and 4.2 tons in any 12 consecutive month period.

64. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83 and the LAER of the New Source Review Regulation provisions in 25 Pa. Code §§ 127.201—127.217 as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of NO_x from the exhaust of the auxiliary boiler shall not exceed 0.09 pound per million Btu of heat input, 5.85 pounds per hour and 4.9 tons in any 12 consecutive month period.

65. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83 and the LAER of the New Source Review Regulation provisions in 25 Pa. Code §§ 127.201—127.217 as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of VOCs from the exhaust of the auxiliary boiler shall not exceed 0.005 pound per million Btu of heat input, 0.325 pounds per hour and 0.3 ton in any 12 consecutive month period.

66. Under the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the permittee shall not emit any hydrogen chloride (HCl) emissions from the exhaust of the auxiliary boiler.

67. Under the BAT provisions in 25 Pa. Code §§ 27.1 and 127.12, the emission of total combined hazardous air pollutants (HAPs) from the exhaust of the auxiliary boiler shall not exceed 0.023 pound per hour and 0.02 ton in any 12 consecutive month period.

68. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, only virgin No. 2 fuel oil shall be fired in the auxiliary boiler.

69. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25

Pa. Code §§ 127.1 and 127.12, the auxiliary boiler shall not operate more than 1,680 hours in any 12 consecutive month period.

70. Within 60 days after achieving the maximum firing rate at which the auxiliary boiler will be operated but not later than 180 days after commencement of operation of the auxiliary boiler, the permittee shall perform opacity tests on the exhaust of the auxiliary boiler to verify that the opacity limitation of the auxiliary boiler. All testing shall be performed while the auxiliary boiler is operating at its maximum rate of production, using test methods and procedures approved by the Department. The results of the opacity test shall be reported to the Department within 60 days of completion of testing.

71. Within 120 days of achieving maximum production, but no later than 180 days after initial startup, the permittee shall perform testing on the exhaust of the auxiliary boiler to determine the nitrogen oxide, carbon monoxide, total particulate matter, and total combined HAP emission rates. The NO_x and CO stack testing shall be conducted simultaneously. All testing shall be performed while the auxiliary boiler is operating at its maximum rate of production, using test methods and procedures approved by the Department.

72. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the auxiliary boiler shall be equipped with instrumentation to monitor and record fuel oil usage.

73. The permittee shall maintain comprehensive and accurate records of: the number of hours that the auxiliary boiler operates each month and shall verify compliance with the operation hours restriction in any 12 consecutive month period; and the amount and type of fuel used in the auxiliary boiler each month.

74. The permittee shall keep comprehensive and accurate records of: the supporting calculations for the total particulate matter emissions from the auxiliary boiler to verify compliance with the total particulate matter emissions limitations of pound per million Btu of heat input, pounds per hour and tons in any 12 consecutive month period; the supporting calculations for SO₂ emissions from the auxiliary boiler to verify compliance with the SO₂ emissions limitations of pound per million Btu of heat input, pounds per hour and tons in any 12 consecutive month period; the supporting calculations for CO emissions from the auxiliary boiler to verify compliance with the CO emissions limitations of parts per million corrected to 3% oxygen, pound per million Btu of heat input, pounds per hour and tons in any 12 consecutive month period; the supporting calculations for NO_x emissions from the auxiliary boiler to verify compliance with the NO_x emissions limitations of pounds per million Btu of heat input, pounds per hour and tons in any 12 consecutive month period; the supporting calculations for VOC emissions from the auxiliary boiler to verify compliance with the VOC emissions limitations of pounds per million Btu of heat input, pounds per hour and tons in any 12 consecutive month period; and the total combined HAPs emissions from the auxiliary boiler to verify compliance with the total combined HAPs emissions limitations of pounds per hour and tons in any 12 consecutive month period.

75. The permittee shall maintain comprehensive and accurate records of the amount of virgin No. 2 fuel oil combusted in the auxiliary boiler during each day.

76. The permittee shall submit reports to the Department on a semiannual basis that include: the supporting

calculations used to verify compliance with the SO₂, CO, total particulate matter, NO_x, VOC and total combined HAPs emissions limitations in any 12 consecutive month period; the permittee shall submit reports to the Department on a semiannual basis that include the records of the number of hours that the auxiliary boiler operates each month and the calculations used to verify compliance with the operation hours restriction in any 12 consecutive month period; and the permittee shall submit reports to the Department on a semiannual basis that include the records of the amount and type of fuel used in the auxiliary boiler each month.

77. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83 and the LAER of the New Source Review Regulation provisions in 25 Pa. Code §§ 127.201—127.217 as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the permittee shall utilize low-NO_x burners (LNB) and flue gas recirculation (FGR) technology to control NO_x emissions from the auxiliary boiler. The auxiliary boiler shall not be operated without the inclusion of LNB and FGR. The auxiliary boiler shall be rated at 65 million Btu per hour of heat input.

78. The auxiliary boiler is subject to the New Source Performance Standards, 40 CFR Part 60, Subpart Dc and shall comply with all applicable requirements as specified in 40 CFR 60.40c—60.48c.

79. The auxiliary boiler is subject to the National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 63, Subpart DDDDD and shall comply with all applicable requirements as specified in 40 CFR 63.7480—63.7575.

80. The permittee shall submit to the Department for approval the specific make and model of the auxiliary boiler, including design parameters of the LNB and FGR system within 30 days of issuing the purchase order for the specified source by submitting the appropriate pages of the plan approval application.

81. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the visible emissions from the emergency generator shall not equal or exceed 10% opacity for a period or periods aggregating more than 3 minutes in any one hour or equal or exceed 30% opacity at any time.

82. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83 and the LAER of the New Source Review Regulation provisions in 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of NO_x from the exhaust of the emergency generator shall not exceed 6.9 grams per horsepower-hour and 3.82 tons in any 12 consecutive month period.

83. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of CO from the exhaust of the emergency generator shall not exceed 1.34 grams per horsepower-hour and 0.743 ton in any 12 consecutive month period.

84. Under the LAER of the New Source Review Regulation provisions in 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of total hydrocarbons (THCs) from the exhaust of the emergency generator shall not 0.25 gram per horsepower-hour and 0.14 ton in any 12 consecutive month period.

85. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT

provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of SO₂ from the exhaust of the emergency generator shall not exceed 0.736 gram per horsepower-hour and 0.408 ton in any 12 consecutive month period.

86. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of total particulate matter from the exhaust of the emergency generator shall not exceed 0.215 gram per horsepower-hour and 0.119 ton in any 12 consecutive month period.

87. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emergency generator shall fire only No. 2 fuel oil and the generator shall not be operated more than 500 hours in any 12 consecutive month period.

88. Within 180 days of the commencement of operation of the emergency generator, stack testing shall be performed on the engine to determine its NO_x, total hydrocarbons, total particulate matter and CO emission rates using reference method test procedures, which are acceptable to the Department. In addition to the stack testing required by this condition, within 12 months after the initial stack testing, and annually thereafter, the permittee shall perform NO_x and CO emissions tests upon the emergency generator using a portable analyzer approved by the Department. The Department may alter the frequency of annual portable analyzer tests based on the results and sufficient justification.

89. The permittee shall keep comprehensive and accurate records of: the number of hours that the emergency generator operates each month and hours of operation to verify compliance with the operation hours restriction in any 12 consecutive month period; and the amount and type of fuel used in the emergency generator each month.

90. The permittee shall keep comprehensive and accurate records of: the supporting calculations for NO_x emissions from the emergency generator to verify compliance with the NO_x emissions limitations of grams per horsepower-hour and tons in any 12 consecutive month period; the supporting calculations for CO emissions from the emergency generator to verify compliance with the CO emissions limitations of grams per horsepower-hour and tons in any 12 consecutive month period; the supporting calculations for THC emissions from the emergency generator to verify compliance with the THC emissions limitations of grams per horsepower-hour and tons in any 12 consecutive month period; the supporting calculations for SO₂ emissions from the emergency generator to verify compliance with the SO₂ emissions limitations of grams per horsepower-hour and tons in any 12 consecutive month period; and the supporting calculations for total particulate matter emissions from the emergency generator to verify compliance with the total particulate matter emissions limitations of grams per horsepower-hour and tons in any 12 consecutive month period.

91. The permittee shall submit reports to the Department on a semiannual basis that include: the records of the number of hours that the emergency generator operates each month and verify compliance with the operation hours restriction in any 12 consecutive month period; and the supporting calculations used to verify compliance with the NO_x, CO, THC, SO₂ and the total particulate matter emissions limitations in any 12 consecutive month period.

92. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83 and the New Source Review Regu-

lation provisions in 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emergency generator shall be a 1,005.8 hp Caterpillar 3412C TA diesel-fired engine.

93. The emergency generator is subject to the National Emission Standards for Hazardous Air Pollutants, 40 CFR Part 63, Subpart ZZZZ and shall comply with all applicable requirements as specified in 40 CFR 63.6580—63.6675.

94. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the visible emissions from the fire pump shall not equal or exceed 10% opacity for a period or periods aggregating more than 3 minutes in any one hour or equal or exceed 30% opacity at any time.

95. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83 and the LAER of the New Source Review Regulation provisions in 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of NO_x from the exhaust of the fire pump shall not exceed 5.4 grams per horsepower-hour and 0.68 ton in any 12 consecutive month period.

96. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of CO from the exhaust of the fire pump shall not exceed 0.765 gram per horsepower-hour and 0.095 ton in any 12 consecutive month period.

97. Under the LAER of the New Source Review Regulation provisions in 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of THC_s from the exhaust of the fire pump shall not exceed 0.16 gram per horsepower-hour and 0.02 ton in any 12 consecutive month period.

98. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of SO₂ from the exhaust of the fire pump shall not exceed 0.681 gram per horsepower-hour and 0.0845 ton in any 12 consecutive month period.

99. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of total particulate matter from the exhaust of the fire pump shall not exceed 0.10069 gram per horsepower-hour and 0.0125 ton in any 12 consecutive month period.

100. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the fire pump shall fire only No. 2 fuel oil and the fire pump shall not be operated more than 500 hours in any 12 consecutive month period.

101. The permittee shall keep comprehensive and accurate records of: the number of hours that the fire pump operates each month and hours of operation to verify compliance with the operation hours restriction in any 12 consecutive month period; and the amount and type of fuel used in the fire pump each month.

102. The permittee shall keep comprehensive and accurate records of: the supporting calculations for NO_x emissions from the fire pump to verify compliance with the NO_x emissions limitations of grams per horsepower-hour and tons in any 12 consecutive month period; the supporting calculations for CO emissions from the fire pump to verify compliance with the CO emissions limitations of grams per horsepower-hour and tons in any 12

consecutive month period; the supporting calculations for THC emissions from the fire pump to verify compliance with the THC emissions limitations of grams per horsepower-hour and tons in any 12 consecutive month period; the supporting calculations for SO₂ emissions from the fire pump to verify compliance with the SO₂ emissions limitations of grams per horsepower-hour and tons in any 12 consecutive month period; and the supporting calculations for total particulate matter emissions from the fire pump to verify compliance with the total particulate matter emissions limitations of grams per horsepower-hour and tons in any 12 consecutive month period.

103. The permittee shall submit reports to the Department on a semiannual basis that include: the records of the number of hours that the fire pump operates each month and verify compliance with the operation hours restriction in any 12 consecutive month period; and the supporting calculations used to verify compliance with the NO_x, CO, THC, SO₂, and the total particulate matter emissions limitations in any 12 consecutive month period.

104. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83 and the New Source Review Regulation provisions in 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the fire pump shall be a 225.3 hp Caterpillar 3126B diesel-fired engine.

105. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the total particulate matter in the exhaust of: the bin vent fabric collector associated with the primary crushing building shall not exceed a concentration of 0.01 grain per dry standard cubic foot, 2.57 pounds per hour at any time, and 11.263 tons per year; the bin vent fabric collector associated with the screening and secondary crusher building shall not exceed a concentration of 0.01 grain per dry standard cubic foot, 2.57 pounds per hour at any time, and 11.263 tons per year; and the bin vent fabric collector associated with the boiler building shall not exceed a concentration of 0.01 grain per dry standard cubic foot, 0.043 pound per hour at any time, and 0.188 ton per year. Additionally, the opacity of the exhaust of each bin vent fabric collector associated with the coal processing operation shall not exceed 10% at any time.

106. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, each bin vent fabric collector associated with the coal processing operation shall be equipped with instrumentation to continuously monitor the differential pressure across each bin vent fabric collector.

107. The permittee shall keep records of the differential pressure of each bin vent fabric collector associated with the coal processing operation at least on a daily basis. A sufficient quantity of spare fabric bags for each bin vent fabric collector associated with the coal processing operation shall be kept on hand at all times in order to immediately replace any worn or damaged bags.

108. If any piece of equipment of the coal processing operation is causing the emission of fugitive particulate matter in excess of the limitations specified in all applicable requirements of 25 Pa. Code § 123.1 and Subpart Y of the Federal Standards of Performance for New Stationary Sources, 40 CFR 60.250—60.254 as determined by the Department, or in excess of the level which the Department considers to be the "minimum attainable through

the use of the BAT," the permittee shall, upon notification by the Department, immediately take control measures as are necessary to reduce the air contaminant emissions to within the level deemed acceptable by the Department.

109. The coal processing operation consists of the following equipment: equipment located in a partially enclosed building four 425 ton capacity coal hoppers rated at 300 ton per hour each and four belt feeders rated at 300 ton per hour each; equipment located inside the primary crushing building; two 700 ton per hour scalping coal screens and two 700 ton per hour Bradford Breakers; equipment located inside the screening and secondary crusher building 350 ton per hour coal scalping screen, 100 ton surge bin, and three-secondary hammermill crushers; equipment located inside the boiler building—36" by 150' silo tripper conveyor and four 900 ton capacity coal storage silos; equipment not located inside a building—36" by 700' fully enclosed yard conveyor A, 36" by 500' fully enclosed yard conveyor B, and 36" by 700' fully enclosed yard conveyor C.

110. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the air contaminant emissions from the two-700 ton per hour scalping coal screens and the two 700 ton Bradford Breakers associated with the coal processing operation located in the primary crushing building shall be controlled by a bin vent fabric collector, the air contaminant emissions from the 350 ton per hour coal scalping screen, 100 ton surge bin and the three-secondary hammermill crushers associated with the coal processing operation located in the screening and secondary crusher building shall be controlled by a bin vent fabric collector, and the air contaminant emissions from the four 900 ton capacity coal storage silos associated with the coal processing operation located in the boiler building shall be controlled by a bin vent fabric collector.

111. The bin vent fabric collectors associated with the primary crushing building and associated with the screening and secondary crusher building shall each have a maximum air flow of 30,000 ACFM, an effective air to cloth ratio at actual conditions of not more than 7:1 and using reverse air jets cleaning system. The bin vent fabric collector associated with the boiler building shall have a maximum air flow of 500 ACFM, an effective air to cloth ratio at actual conditions of not more than 7:1 and using reverse air jets cleaning system.

112. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the coal processing operation shall not operate if any bin vent fabric collectors are inoperable. In addition, all conveyors associated with the coal processing operation, which are not entirely located inside a building, shall be fully enclosed except for where the material enters and exits the conveyor.

113. The coal processing operation is subject to the Standards of Performance for New Stationary Sources, 40 CFR Part 60, Subpart Y and shall comply with all applicable requirements as specified in 40 CFR Sections 60.250—60.254.

114. The permittee shall submit to the Department for approval the specific make and model and the corresponding design details of the two 700 ton per hour scalping coal screens, the two 700 ton per hour Bradford Breakers, the 350 ton per hour coal scalping screen and the three secondary hammermill crushers associated with the coal processing operation, as well as the specific make and

model of the bin vent fabric collectors within 30 days of issuing the purchase order for the specified equipment by submitting the appropriate pages of the plan approval application.

115. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the total particulate matter in the exhaust of the bin vent fabric collector associated with the bed ash silo shall not exceed a concentration of 0.01 grain per dry standard cubic foot, 0.034 pound per hour, and 0.15 ton per year. Additionally, the bin vent fabric collector associated with the bed ash silo shall be equipped with instrumentation to continuously monitor the differential pressure across the bin vent fabric collector.

116. The permittee shall keep records of the differential pressure of the bin vent fabric collector associated with the bed ash silo at least once each day. The permittee shall keep records of the amount of bed ash loaded into trucks on a monthly basis and shall verify the amount of bed ash loaded into trucks in any 12 consecutive month period. The permittee shall submit reports to the Department on a semi-annual basis that include the records of the amount of bed ash loaded into trucks on a monthly basis and shall verify the limitation of the amount of bed ash loaded into trucks in any 12 consecutive month period. Additionally, a sufficient quantity of spare fabric bags for the bin vent fabric collector associated with the bed ash silo shall be kept on hand at all times in order to immediately replace any worn or damaged bags.

117. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the bed ash shall be sufficiently conditioned with water in a pug mill prior to the loading of bed ash into trucks in order to prevent fugitive emissions from occurring. The bed ash silo shall be a 5,850 ton capacity silo whose air contaminant emissions shall be controlled by a bin vent fabric collector. The bed ash silo shall not operate if the bin vent fabric collector is inoperable. The bin vent fabric collector shall have an air flow of 400 ACFM, an effective air to cloth ratio at actual conditions of not more than 7:1 and using reverse air jets cleaning system.

118. The permittee shall submit to the Department for approval the specific make and model of the bin vent fabric collector associated with the bed ash silo within 30 days of issuing the purchase order for the specified equipment by submitting the appropriate pages of the plan approval application.

119. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, no more than 661,085 tons of bed ash shall be loaded into trucks from the bed ash silo in any 12 consecutive month period.

120. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the total particulate matter from the exhaust of each bin vent fabric collector associated with each fly ash storage silo shall not exceed a concentration of 0.01 grain per dry standard cubic foot. In addition, the total particulate matter from the exhaust of each bin vent fabric collector associated with each fly ash storage silo shall not exceed 0.0345 pound per hour at any time and 0.15 ton per year.

121. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25

Pa. Code §§ 127.1 and 127.12, each bin vent fabric collector associated with each fly ash storage silo shall be equipped with instrumentation to continuously monitor the differential pressure across each bin vent fabric collector.

122. The permittee shall keep records of the differential pressure of the each bin vent fabric collector associated with each fly ash storage silo at least on a daily basis. The permittee shall keep records of the amount fly ash loaded into trucks on a monthly basis and shall verify the amount of fly ash loaded into trucks in any 12 consecutive month period. The permittee shall submit reports to the Department on a semiannual basis that include the records of the amount of fly ash loaded into trucks on a monthly basis and shall verify the limitation of the amount of fly ash loaded into trucks in any 12 consecutive month period. Additionally, a sufficient quantity of spare fabric bags for each bin vent fabric collector shall be kept on hand at all times in order to immediately replace any worn or damaged bags.

123. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the fly ash from fly ash silo No. 1 and fly ash silo No.2 contained in the fly ash storage silos shall be sufficiently conditioned with water in a pug mill prior to the loading of fly ash into trucks in order to prevent fugitive emissions from occurring.

124. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83 and the New Source Review Regulation provisions in 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the fly ash storage silos shall be a 2,925 ton capacity fly ash storage silo No.1 and a 2,925 ton capacity fly ash storage silo No.2. The air contaminant emissions from fly ash storage silo No.1 and fly ash storage silo No. 2 of the fly ash storage silos shall each be controlled by a bin vent fabric collector. The fly ash storage silo No. 1 shall not operate if its bin vent fabric collector is inoperable. Additionally, the fly ash storage silo No. 2 associated with the fly ash storage silos shall not operate if its bin vent fabric collector is inoperable. The bin vent fabric collectors shall each have an air flow of 400 ACFM, an effective air to cloth ratio at actual conditions of not more than 7:1 using reverse air jets cleaning system.

125. The permittee shall submit to the Department for approval the specific make and model of each bin vent fabric collector associated with each fly ash storage silo within 30 days of issuing the purchase order for the specified equipment by submitting the appropriate pages of the plan approval application.

126. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, no more than combined total of 991,627 tons per year of fly ash shall be loaded into trucks from the fly ash storage silos.

127. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the total particulate matter from the exhaust of bin vent fabric collector associated with the limestone storage silo shall not exceed a concentration of 0.01 grain per dry standard cubic foot, 0.017 pound per hour at any time, and 0.075 ton per year. Additionally, the total particulate matter from the exhaust of the bin vent fabric collector associated with limestone processing within the boiler building

shall not exceed a concentration of 0.01 grain per dry standard cubic foot, 0.013 pound per hour at any time, and 0.056 ton per year.

128. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, Each bin vent fabric collector associated with the limestone conveying and processing operation shall be equipped with instrumentation to continuously monitor the differential pressure across each bin vent fabric collector.

129. The permittee shall keep records of the differential pressure of each bin vent fabric collector associated with the limestone conveying and processing operation at least once each day. Additionally, a sufficient quantity of spare fabric bags for each bin vent fabric collector associated with Source P107 shall be kept on hand at all times to immediately replace any worn or damaged bags.

130. If any piece of equipment of the limestone conveying and processing operation is causing the emission of fugitive particulate matter in excess of the limitations specified in all applicable requirements of 25 Pa. Code § 123.1 and Subpart OOO of the Standards of Performance for New Stationary Sources, 40 CFR 60.670—60.676, as determined by the Department, or in excess of the level which the Department considers to be the "minimum attainable through the use of the BAT," the permittee shall, upon notification by the Department, immediately take such control measures as are necessary to reduce the air contaminant emissions to within the level deemed acceptable by the Department.

131. The limestone conveying and processing operation is a limestone conveying and processing operation consisting of the following equipment: equipment not located inside a building 100 ton limestone hopper, 36" by 800' fully enclosed conveyor, 1,150 ton limestone storage silo, 36" by 50' fully enclosed conveyor, 36" by 700' fully enclosed conveyor; equipment located inside the boiler building 36" by 150' conveyor, two 525 ton limestone storage hoppers, two 36" by 50' conveyors, and two milling machines. Any of this equipment can be replaced provided that the replacement equipment is of equal or smaller size as defined in Subpart OOO of the Standards of Performance for New Stationary Sources, 40 CFR 60.670—60.676, and provided that the replacement equipment is of equivalent design and function (for example, a limestone hopper may be replaced with a same size limestone hopper, and the like). The permittee shall notify the Department prior to the replacement.

132. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the air contaminant emissions from the 1,150 ton limestone storage silo of the limestone conveying and processing operation shall be controlled by a bin vent fabric collector. The air contaminant emissions from the 36" by 150' conveyor, two 525 ton limestone storage hoppers, two 36" by 50' conveyors and two milling machines of the limestone conveying and processing operation located in the boiler building shall be controlled by a bin vent fabric collector. The bin vent fabric collector associated with the limestone storage silo shall have an air flow of 200 ACFM, a maximum air to cloth ratio of 7:1 using reverse air jets cleaning system. The bin vent fabric collector associated with limestone processing within the boiler building shall have an air flow of 150 ACFM, a maximum air to cloth ratio of 7:1 using reverse air jets cleaning system.

133. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, all conveyors of the limestone conveying and processing operation which are not entirely located inside a building shall be fully enclosed except for where the material enters and exits the conveyor, the 1,150 ton limestone storage silo of the limestone conveying and processing operation shall not operate if its bin vent fabric collector is inoperable, and the 36" by 150' conveyor, two 525 ton limestone storage hoppers, two 36" by 50' conveyors and two milling machines of the limestone conveying and processing operation shall not operate if its bin vent fabric collector is inoperable.

134. The permittee shall submit to the Department for approval the specific make and model and the corresponding design details of the two milling machines associated with the limestone conveying and processing operation, as well as the specific make and model of the bin vent fabric collectors and the corresponding design details within 30 days of issuing the purchase order for the specified source and control devices by submitting the appropriate pages of the plan approval application.

135. The limestone conveying and processing operation is subject to the Standards of Performance for New Stationary Sources, 40 CFR Part 60, Subpart OOO and shall comply with all applicable requirements as specified in 40 CFR 60.670—60.676.

136. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the total particulate matter emitted from the cooling tower shall not exceed 1.75 pounds per hour and 7.67 tons in any 12 consecutive month period.

137. The permittee shall continuously monitor the circulating water flow rate in units of gpm, the circulating water's total solids content in units of parts per million and the number of cycles of concentration of the cooling tower. The permittee shall continuously record the circulating water flow rate in units of gallons per minute, the circulating water's total solids content in units of parts per million and the number of cycles of concentration of the cooling tower. The permittee shall keep records of the supporting calculations to verify compliance with the particulate matter emission limitations in pounds per hour and tons in any 12 consecutive month period. Additionally, the permittee shall submit reports to the Department on a semi-annual basis that include the supporting calculations used to verify compliance with total particulate matter emission limitation in any 12 consecutive month period.

138. Under the BACT of the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, each cell of the cooling tower shall be equipped with a drift eliminator. The drift eliminator located on each cell of the cooling tower shall be capable of achieving a maximum drift rate of 0.0005%.

139. Under the PSD provisions in 40 CFR 52.21 and of 25 Pa. Code § 127.83, as well as the BAT provisions in 25 Pa. Code § 127.1 and 127.12, the circulating water flow rate of the cooling tower shall not exceed 140,000 gpm at any time, the total solids concentration of the circulating water in the cooling tower shall not exceed 5,000 ppm at any time, and the number of cycles of concentration shall not exceed five cycles at any time. The cooling tower shall

be a rectangular mechanical-draft 10 cell tower. Additionally, no chromium based water treatment chemicals shall be used in the cooling tower.

140. Under the LAER New Source Review Regulation provisions in 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the emission of VOCs from the No. 2 fuel oil storage tank shall not exceed 1 pound per year.

141. Under the New Source Review Regulation provisions in 25 Pa. Code §§ 127.201—127.217 as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the permittee shall monitor the activated carbon indicator associated with the storage tank on a daily basis.

142. The permittee shall keep comprehensive and accurate records of: the readings of the activated carbon indicator associated with the storage tank on a weekly basis; and the dates that activated carbon is added to the activated carbon filters associated with the storage tank.

143. Under the LAER New Source Review Regulation provisions in 25 Pa. Code §§ 127.201—127.217, as well as the BAT provisions in 25 Pa. Code §§ 127.1 and 127.12, the storage tank shall be equipped with activated carbon filters and a PV conservation vent at all times No. 2 fuel oil is stored in storage tank. The VOC emissions from the No. 2 fuel oil storage tank shall be controlled by the activated carbon filters through the PV conservation vent. Additionally, the permittee shall keep on hand a sufficient quantity of activated carbon canisters for the activated carbon filters associated with the storage tank in order to be able to immediately replace activated carbon upon breakthrough. Breakthrough is defined as any detectable VOC concentration emitted to the atmosphere from the carbon bed. The storage tank shall be a 50,000 gallon capacity No. 2 fuel oil tank, located above ground at the facility and the permittee shall only store No. 2 fuel oil in the No. 2 fuel oil storage tank.

144. All records required by this plan approval shall be kept for a minimum of 5 years and shall be made available to the Department upon request. In addition, the permittee shall report any equipment malfunctions or excess emissions to the Department.

Copies of the application and the modeling analysis used in the evaluation of the application are available for public review between 8 a.m. and 4 p.m. at the Department's Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701. Appointments for scheduling a review may be made by calling Kathy Arndt at (570) 327-3693.

Interested persons may submit written comments, suggestions or objections concerning the proposed plan approval and alternative air dispersion modeling to the regional office within 30 days of publication of this notice. Written comments submitted to the Department during the 30-day public comment period should include the name, address and telephone number of the commentator, identification of proposed Plan Approval 17-00055A and a concise statement regarding the relevancy of the information or objections to the issuance of the plan approval or the use of the alternative model.

A public hearing may be held, if the Department, in its discretion, decides that a hearing is warranted based on the information received. Persons submitting comments or requesting a hearing will be notified of the decision to hold a hearing by publication in the newspaper, the *Pennsylvania Bulletin* or by telephone, when the Department determines that notification by telephone is sufficient. Written comments or requests for a public hearing

should be directed to Muhammad Q. Zaman, Chief, Facilities Permitting Section, Department of Environmental Protection, Air Quality Program, Northcentral Regional Office, 208 West Third Street, Suite 101, Williamsport, PA 17701, (570) 327-0512.

Persons with a disability who wish to comment and require an auxiliary aid, service or other accommodations to do so should contact the Department or the Pennsylvania AT&T Relay Service at (800) 654-5984 (TDD) to discuss how the Department may accommodate their needs.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745, William Charlton, New Source Review Chief, (412) 442-4174.

PA-30-00099B: Allegheny Energy Supply Company, LLC (800 Cabin Hill, Greensburg, PA 15601) for the construction and operation of a facility to manufacture synthetic fuel (synfuel) at their existing Hatfield's Ferry Power Station in Monongahela Township, **Greene County**.

Under 25 Pa. Code § 127.44(a), the Department of Environmental Protection (Department) intends to issue a Plan Approval to the Allegheny Energy Supply Company, LLC to allow the construction and operation of a facility to manufacture synthetic fuel (synfuel) at the existing Hatfield's Ferry Power Station located in Monongahela Township, Greene County.

Based on the applicant's estimate, potential emissions from this new source are summarized in Table 1.

Table 1. Synfuel Plant Potential Emissions.

<i>Pollutant</i>	<i>Pounds Per Hour</i>	<i>Tons Per Year</i>
PM	2.54	4.32
PM ₁₀	0.68	1.57
VOC	1.38	4.95
HAP	1.38	4.95

Based on these potential emissions, the facility is not subject to PSD or New Source Review requirements for this change.

Copies of the application, Department's analysis and other documents used in evaluation of the application are available for public inspection during normal business hours at the Department of Environmental Protection, 400 Waterfront Drive, Pittsburgh, PA 15222.

For the Department to assure compliance with all applicable standards, it proposes to place the following conditions on the Plan Approval:

1. This Plan Approval is for the construction and operation of a facility to manufacture synthetic fuel by Allegheny Energy Supply Company, LLC at the Hatfield's Ferry Power Station located in Monongahela Township, Greene County [25 Pa. Code § 127.12b].

2. The Owner/Operator shall not permit the emission to the outdoor atmosphere of any malodorous air contaminants from any source, in such a manner that the malodors are detectable outside the property [25 Pa. Code § 123.31].

3. There shall be no fugitive emissions from the facility contrary to 25 Pa. Code §§ 123.1 and 123.2.

4. Coal throughput at the synthetic fuel facility shall not exceed 3,600,000 tons in any consecutive 12-month period [25 Pa. Code § 127.12b].

5. Liquid additive usage shall not exceed 5.5 pounds per ton of coal or 2,262,857 gallons in any consecutive 12-month period [25 Pa. Code § 127.12b].

6. Liquid additive VOC and HAP content shall be limited to 500 ppmw, as delivered [25 Pa. Code § 127.12b].

7. Each shipment of liquid additive shall be accompanied by the manufacturer's verification, or shall be tested by Allegheny Energy Supply Company, LLC, for compliance with Condition No. 8. VOC and HAP content of the liquid additive shall be verified prior to unloading [25 Pa. Code § 127.12b].

8. All conveyor belts at the facility shall be covered and the synthetic fuel manufacturing process shall be located within an enclosed facility [25 Pa. Code § 127.12b].

9. All transfer points shall be fully enclosed or equipped with water sprays capable of operation under all weather conditions [25 Pa. Code § 127.12b].

10. The Owner/Operator shall maintain records of daily, monthly, and 12-month rolling total for coal usage, liquid additive usage and synthetic fuel production. The records shall also include daily records of liquid additive type and liquid additive application rate [25 Pa. Code § 127.12b].

11. The Owner/Operator shall perform a daily inspection of the facility for the presence of fugitive and malodorous emissions. Records of the inspections shall be maintained in a log and include any corrective actions taken [25 Pa. Code § 127.12b].

12. All logs and required records shall be maintained on site for a minimum of 5 years and shall be made available to the Department upon request [25 Pa. Code § 127.12b].

13. By constructing this synthetic fuel manufacturing facility, and considering the 2003 Bottom Ash Screening Operation, the Allegheny Energy Supply Company, LLC, Hatfield's Ferry Power Station has consumed 5.0 tons for VOC of the 40-ton major modification increment, 5.5 tons for PM of the 25-ton major modification increment and 2.2 tons for PM₁₀ of the 15-ton major modification increment [25 Pa. Code Subchapter E and 25 Pa. Code § 127.83].

14. This Plan Approval authorizes the temporary operation of the sources covered by this Plan Approval provided the following conditions are met [25 Pa. Code § 127.12b]:

(a) The Owner/Operator shall submit written Notice of the Completion of Construction and the Operator's intent to commence operation at least 5 days prior to the completion of construction. The Notice shall state the date when construction will be completed and the date when the Operator expects to commence operation.

(b) Operation of the sources covered by this Plan Approval is authorized only to facilitate the start-up and shakedown of sources and air cleaning devices, to permit operations pending the issuance of an Operating Permit, or to permit the evaluation of the source for compliance with all applicable regulations and requirements.

(c) Upon receipt of the Notice of the Completion of Construction from the Owner/Operator the Department shall authorize a 180-day Period of Temporary Operation of the sources from the date of commencement of operation. The Notice submitted by the Owner/Operator, prior to the expiration of this Plan Approval, shall modify the Plan Approval expiration date. The new Plan Approval expiration date shall be 180 days from the date of commencement of operation.

(d) Upon determination by the Owner/Operator that the sources covered by this Plan Approval are in compliance with all conditions of the Plan Approval the Owner/Operator shall contact the Department's reviewing engineer and schedule the Initial Operating Permit Inspection.

(e) Upon completion of Initial Operating Permit Inspection and determination by the Department that the sources covered by this Plan Approval are in compliance with all conditions of the Plan Approval the Owner/Operator shall submit an administrative permit amendment application, per 25 Pa. Code § 127.450, to the Department at least 60 days prior to the expiration date of the Plan Approval to incorporate the requirements of the plan approval into the Title V Operating Permit.

(f) The Owner/Operator may request an extension of the 180-day Period of Temporary Operation if compliance with all applicable regulations and Plan Approval requirements has not been established. The extension request shall be submitted in writing at least 15 days prior to the end of the Period of Temporary Operation and shall provide a description of the compliance status of the source. The extension request shall include a detailed schedule for establishing compliance and the reasons compliance has not been established. This Period of Temporary Operation may be extended for additional limited periods, each not to exceed 120 days, by submitting an extension request as previously described.

(g) If, at any time, the Department has cause to believe that air contaminant emissions from the sources listed in this plan approval may be in excess of the limitations specified in, or established under this plan approval or the permittee's operating permit, the permittee may be required to conduct test methods and procedures deemed necessary by the Department to determine the actual emissions rate. The testing shall be conducted in accordance with 25 Pa. Code Chapter 139, when applicable, and in accordance with any restrictions or limitations established by the Department at such time as it notifies the company that testing is required.

Persons wishing to provide the Department with additional information that they believe should be considered prior to the issuance of the Plan Approval may submit the information to the Department the following address. A 30-day comment period, from the date of this publication, will exist for the submission of comments. Written comments must contain the following:

- Name, address, and telephone number of the person submitting the comments.
- Identification of the proposed Plan Approval (specify the Plan Approval number).
- Concise statements regarding the relevancy of the information or objections to issuance of the Plan Approval.

Written comments should be directed to Regional Air Quality Program Manager, Department of Environmental Protection, Southwest Region—Field Operation, 400 Waterfront Drive, Pittsburgh, PA 15222-4745.

For additional information, contact Mark Gorog, Air Quality Program, (412) 442-4333 at the previously listed address.

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

42-061B: Dresser Manufacturing Division—Dresser Industries (41 Fisher Avenue, Bradford, PA

16701) for modification of the VOC and HAP emission limits from the Binks Spray Booth and Plastisol Dip operations at their Fisher Avenue Plant, Bradford, **McKean County**.

In accordance with 25 Pa. Code §§ 127.44(b) and 127.424(b), the Department of Environmental Protection intends to issue a plan approval for modification of a plan approval to modify the VOC and HAP emission limits from the Binks Spray Booth and Plastisol Dip operations at their Fisher Avenue Plant, Bradford, **McKean County**. This plan approval will, in accordance with 25 Pa. Code § 127.450, be incorporated into a State Only operating permit through an administrative amendment at a later date. Issuance of the plan approval is recommended with the appropriate conditions in the plan approval.

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.

Southeast Region: Air Quality Program, 2 East Main Street, Norristown, PA 19401, Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

23-00045: Sunoco Partner Marketing and Terminal LP (4041 Market St, Aston, PA 19014) for renewal of their Title V Operating Permit in Upper Chichester Township, **Delaware County**. The initial permit was issued on May 18, 2000. The facility is primarily used for bulk storage and transfer of petroleum products. As a result of potential emissions of VOC, the facility is a major stationary source as defined in Title I, Part D of the Clean Air Act Amendments, and is therefore subject to the Title V permitting requirements adopted in 25 Pa. Code Chapter 127, Subchapter G. The Title V Operating Permit will contain Compliance Assurance Monitoring conditions under 40 CFR Part 64. The renewal contains all applicable requirements including monitoring, recordkeeping and reporting.

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

35-00024: Keystone Recovery, Inc. (Marshwood Road, Throop, PA 18512) for a renewal Title V Operating Permit in Throop Borough, **Lackawanna County**. The facility sources include a landfill gas treatment system, seven combustion engines and a compressor station. These sources have the potential to emit major quantities of regulated pollutants above Title V emission thresholds. The proposed Title V Operating Permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are included.

35-00014: Keystone Sanitary Landfill, Inc. (P. O. Box 249, Dunmore, PA 18512-0249) for a renewal Title V Operating Permit in Dunmore Borough, **Lackawanna County**. The facility sources include quarry operations, landfill (closed), landfill phase 1 (gas collection system); gasoline, hydraulic oil, motor oil and diesel storage tanks and a leachate pretreatment plant. These sources have the potential to emit major quantities of regulated pollutants above Title V emission thresholds. The proposed Title V Operating Permit contains all applicable requirements including Federal and State regulations. In addition, monitoring, recordkeeping and reporting conditions regarding compliance with all applicable requirements are included.

48-00011: PPL Martins Creek SES, LLC (6605 Foul Rift Road, Bangor, PA 18013-4857) for issuance of a renewal Title IV Phase II Acid Rain Permit for their power transmission facility in Lower Mt. Bethel Township, **Northampton County**. The renewal Title IV Phase II Acid Rain Permit shall be incorporated as part of the renewal Title V operating permit for their facility. The facility's main sources include two bituminous coal/No. 2 fuel oil fired boilers, two No. 2 fuel oil/natural gas/No. 6 fuel oil fired boilers, one natural gas fired auxiliary boiler, one No. 2 fuel oil fired auxiliary boiler, for No. 2 fuel oil fired combustion turbines and two diesel generators. The renewal Title IV Phase II Acid Rain Permit includes all applicable requirements including Federal and State regulations.

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

31-05001: Department of Corrections—Huntingdon State Correctional Institution (1100 Pike Street, Huntingdon, PA 16654-1112) for operation of the state correctional facility in Smithfield Township, **Huntingdon County**. The facility is a major source that primarily emits SO_x, NO_x and CO through the operation of the facility's four bituminous coal fired boilers. The Title V operating permit will contain appropriate monitoring, record keeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements. To limit HAP emissions, the facility has accepted an annual coal through put limitation of 14,000 tons. This is a renewal of their Title V operating permit.

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.

09-00077: Exelon Generation Co.—Pennsbury Power Production Plant (1414 Bordertown Road, Morrisville, PA 19303) for operation of two combustion turbines that convert landfill gas into electric power when the demand is high in Falls Township, **Bucks County**. This is a non-Title V Facility, State-only, Synthetic Minor Operating Permit. The permit will include monitoring, recordkeeping, reporting and work practice standards designed to keep the facility operating within all applicable air quality requirements.

23-00098: SAP America, Inc. (3999 West Chester Pike, Newtown Square, PA 19073) for operation of three boilers, four emergency generators and a water heater at the office building in Newtown Township, **Delaware County**. The permit is for a non-Title V (State-only) facility. The facility has elected to cap NO_x to less than 25 tons per year each; therefore the facility is a Synthetic Minor. The permit will include monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

46-00159: US Chrome Corp. of PA (750 West Washington Street, Norristown, PA 19401) for operation of their Chrome Electroplating facility in Norristown Borough, **Montgomery County**. The permit is for a non-Title V (State-only) facility. The major sources of air emissions are five plating baths and one fume scrubber. 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.

28-03045: Dominion Transmission, Inc. (625 Liberty Avenue, Pittsburgh, PA 15222) for a State-only Operating Permit at their Chambersburg Compressor Station site in Hamilton Township, **Franklin County**. The facility's major sources of emissions include two natural gas fired turbine-gas compressors controlled by dry low NO_x combustor, rated at 7,955 hp each, which primarily emit NO_x. The facility emissions of NO_x shall be limited at less than 100 tons per year. Plan Approval No. 28-03045 will be incorporated into the operating permit. The operating permit will contain restrictions, work practice standards, monitoring, recordkeeping and reporting requirements designed to keep the facility operating within all applicable air quality requirements.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481, Eric Gustafson Facilities Permitting Chief, (814) 332-6940.

61-00208: Specialty Fabrications and Powder Coating, LLC. (455 Allegheny Boulevard, Franklin, PA 16323-0790) for operation of their sheet metal fabrication facility at Sugarcreek Borough, **Venango County**. The significant sources are miscellaneous natural gas usage, a paint line, drying/curing powder coating, a powder coat line and a burn off oven.

43-00322: Thompson Fabrication (60 Council Avenue, Wheatland, PA 16161-0432) for fabrication of steel roll off dumpsters in the Borough of Wheatland, **Mercer County**.

COAL AND NONCOAL MINING ACTIVITY APPLICATIONS

Applications under the Surface Mining Conservation and Reclamation Act (52 P. S. §§ 1396.1—1396.19a); the Noncoal Surface Mining Conservation and Reclamation Act (52 P. S. §§ 3301—3326); The Clean Streams Law (35 P. S. §§ 691.1—691.1001); the Coal Refuse Disposal Control Act (52 P. S. §§ 30.51—30.66); and The Bituminous Mine Subsidence and Land Conservation Act (52 P. S. §§ 1406.1—1406.21). Mining activity permits issued in response to applications will also address the applicable permitting requirements of the following statutes: the Air Pollution Control Act (35 P. S. §§ 4001—4015); the Dam Safety and Encroachments Act (32 P. S. §§ 693.1—693.27); and the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003).

The following permit applications to conduct mining activities have been received by the Department of Environmental Protection (Department). A copy of an application is available for inspection at the district mining office indicated before an application. Where a 401 Water Quality Certification is needed for any aspect of a particular proposed mining activity, the submittal of the permit application will serve as the request for certification.

Written comments, objections or requests for informal conferences on applications may be submitted by any person or any officer or head of any Federal, State or local government agency or authority to the Department at the district mining office indicated before an application within 30 days of this publication, or within 30 days after the last publication of the applicant's newspaper

advertisement, as provided by 25 Pa. Code §§ 77.121—77.123 and 86.31—86.34.

Where any of the mining activities listed will have discharges of wastewater to streams, the Department will incorporate NPDES permits into the mining activity permits issued in response to these applications. NPDES permits will contain, at a minimum, technology-based effluent limitations as identified in this notice for the respective coal and noncoal applications. In addition, more restrictive effluent limitations, restrictions on discharge volume or restrictions on the extent of mining which may occur will be incorporated into a mining activity permit, when necessary, for compliance with water quality standards (in accordance with 25 Pa. Code Chapters 93 and 95). Persons or agencies who have requested review of NPDES permit requirements for a particular mining activity within the previously mentioned public comment period will be provided with a 30-day period to review and submit comments on the requirements.

Written comments or objections should contain the name, address and telephone number of the person submitting comments or objections; the application number; and a statement of sufficient detail to inform the Department on the basis of comment or objection and relevant facts upon which it is based. Requests for an informal conference must contain the name, address and telephone number of requestor; the application number; a brief summary of the issues to be raised by the requestor at the conference; and a statement whether the requestor wishes to have the conference conducted in the locality of the proposed mining activities.

Coal Applications Received

Effluent Limits

The following coal mining applications that include an NPDES permit application will be subject to, at a minimum, the following technology-based effluent limitations for discharges of wastewater to streams:

<i>Parameter</i>	<i>30-day Average</i>	<i>Daily Maximum</i>	<i>Instantaneous Maximum</i>
iron (total)	3.0 mg/l	6.0 mg/l	7.0 mg/l
manganese (total)	2.0 mg/l	4.0 mg/l	5.0 mg/l
suspended solids	35 mg/l	70 mg/l	90 mg/l
pH 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.

California District Mining Office: 25 Technology Drive, Coal Center, PA 15423, (724) 769-1100.

30841319 and NPDES Permit No. PA0043559, Consolidation Coal Company, (1 Bridge Street, Monongah, WV 26554), to revise the permit for the Blacksville Mine No. 1 in Wayne and Greene Townships, **Greene County** to inject coal bed methane well water into the mine pool. No additional discharges. Application received March 23, 2005.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

56950104 and NPDES No. PA0213110. Marquise Mining Corporation, 3889 Menoher Boulevard, Johnstown, PA 15905, permit renewal for reclamation only of a bituminous surface-auger mine in Shade Township, **Somerset County**, affecting 113.3 acres. Receiving streams: UNT to Stonycreek; Stonycreek; Conemaugh River classified for the following uses: CWF and WWF. The first downstream potable water supply intake from the point of discharge is Hooversville Borough Municipal Authority. Application received April 20, 2005.

56950106 and NPDES No. PA0213161. PBS Coals, Inc., P. O. Box 260, Friedens, PA 15541, transfer/revision of an existing bituminous surface refuse reprocessing

mine from Zubek, Inc., 173 House Coal Road, Berlin, PA 15530-8822 located in Stonycreek Township, **Somerset County**, affecting 122.0 acres, increasing to 138.0 acres. Receiving streams: UNTs to Schrock Run; Schrock Run classified for the following use: CWF. There are no potable water supply intakes within 10 miles downstream. Application received April 25, 2005.

32050105 and NPDES No. PA0249785. AMFIRE Mining, LLC, One Energy Place, Latrobe, PA 15650, commencement, operation and restoration of a bituminous surface mine in Cherryhill Township, **Indiana County**, affecting 56.5 acres. Receiving streams: UNT to Two Lick Creek, Allen Run, and UNT to Yellow Creek classified for the following use: CWF. The first downstream potable water supply intake from the point of discharge is Pennsylvania-American Water Company. Application received April 22, 2005.

Greensburg District Mining Office: R. R. 2, Box 603C, Greensburg, PA 15601, (724) 925-5500.

63020102 and NPDES Permit No. PA0250309. Mulligan Mining, Inc. (5945 Pudding Stone Lane, Bethel Park, PA 15102). Application for boundary revision application to add 30.5 acres to an existing bituminous surface mine, located in Smith Township, **Washington County**, affecting 147.5 acres. Receiving streams: UNTs to Little Raccoon Run and Raccoon Creek, classified for the following use: WWF. There is no potable water supply intake within 10 miles downstream from the point of discharge. Revision application received: April 28, 2005.

Knox District Mining Office: P. O. Box 669, Knox, PA 16232, (814) 797-1191.

33813020 and NPDES Permit No. PA 0603465. John R. Yenzi, Jr. (P. O. Box 287, Anita, PA 15711).

Renewal of an existing bituminous surface strip in Winslow Township, **Jefferson County** affecting 270.0 acres. Receiving streams: Front Run and Trout Run, classified for the following: CWF. There are no potable surface water supply intakes within 10 miles downstream. Application received April 25, 2005.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

17040108 and NPDES Permit No. PA0243825. Sky Haven Coal, Inc. (5510 State Park Road, Penfield, PA 15849), transfer of an existing SMP Application from Larry D. Baumgardner Coal Co., Inc., located in Boggs Township, **Clearfield County** affecting 62.1 acres. Receiving stream UNTs to Laurel Run. Application received: March 31, 2005.

Noncoal Applications Returned

Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

06940301C2. Eastern Industries, Inc., (4401 Camp Meeting Road, Suite 200, Center Valley, PA 18034), incidental boundary correction for a quarry operation in Maxatawny Township, **Berks County** affecting 47.2 acres, receiving stream: none. Application received March 21, 2005. Application returned April 26, 2005.

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

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

E58-263. Jones Beach Mobile Home Park, P. O. Box 321, Clifford, PA 18413, in Clifford Township, **Susquehanna County**, United States Army Corps of Engineers, Baltimore District.

To remove a partially vegetated gravel bar, approximately 250 feet in length, varying in width from a few feet to 50 feet, and varying in depth from 1 foot to 5 feet, along the right bank of East Branch Tunkhannock Creek (CWF). The project is located approximately 700 feet south of the intersection of SR 374 and SR 106, in the Village of Royal. (Clifford, PA Quadrangle N: 7.2 inches; W: 16.0 inches).

E64-254. Barry A. Thompson and Theodore J. Harris, R. R. 9, Box 9257, Moscow, PA 18444, in Lake Township, **Wayne County**, United States Army Corps of Engineers, Philadelphia District.

To excavate within approximately 1.0 acre of wetlands for the purpose of peat extraction. The project is located on the north side of Maplewood Road (SR 3019), on the west side of Jones Creek (HQ-CWF). (Lake Ariel, PA Quadrangle N: 10.4 inches; W: 7.2 inches).

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

E05-330. Gary Rogers, 996 Pleasant Hollow Road, Alum Bank, PA 15221, Lincoln Township, **Bedford County**, ACOE Baltimore District.

To maintain an existing private bridge on West Branch Georges Creek (WWF), a perennial stream, having a single span of approximately 6.5 feet, a width of 22 feet, and an underclearance of approximately 4.5 feet, and to impact 0.02 acre of PEM wetlands located at a site (Ogletown, PA Quadrangle Latitude: 40° 13' 15"; Longitude: 78° 37' 56") approximately 1.7 miles west of the village of Lovely, on the south side of SR 4030 in Lincoln Township, Bedford County for the purpose of constructing an access to a single family home. The acreage of wetland impact is considered de minimis, and wetland replacement is not required.

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

E04-310. Divergent Concepts, LLC, Peter Kladias, 3572 Brodhead Road, Monaca, PA 15061. Channel work and wetland impact in Center Township, **Beaver County**, Pittsburgh ACOE District. (Beaver, PA Quadrangle N: 5.6 inches; W: 5.8 inches and Latitude: 40° 39' 21"—Longitude: 80° 17' 29"). The applicant proposes to place and maintain fill in 0.06 acre of PEM wetlands and to relocate and maintain 609 linear feet of a UNT to Moon Run (WWF) for the purpose of constructing the Biskup Lane Development. The project is located on the north side of Biskup Road, just east from the intersection of Biskup Road and Center Grange Road and will impact 0.06 acre of wetlands and 609 feet of stream channel.

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

E24-239, Borough of Ridgway, 108 Main Street, Ridgway, PA 15853. Gallagher Run (CWF) Utility Line Relocation Project, in Borough of Ridgway, **Elk County**, ACOE Pittsburgh District (Ridgway PA, PA Quadrangle N: 41° 25' 22"; W: 78° 43' 37").

To abandon the existing 8 inch diameter VCP (sewer line) and 4" diameter DIP water line and to construct and maintain approximately 150 of new/relocated 15 and 16" PVC and DIP sewer lines and 8" diameter DIP water lines with appurtenances across Gallagher Run (CWF) at a point along SR 0219.

E24-240, Fox Township, P. O. Box 184, Kersey, PA 15846. Foxhead Industrial Park Phase II Expansion Project, in Fox Township, **Elk County**, ACOE Pittsburgh District (Kersey, PA Quadrangle N: 19.9 inches; W: 11.68 inches).

To construct and maintain a passive treatment system for acid mine drainage while permanently impacting 0.27 acre of PEM wetlands and temporarily impacting 0.035 acre of PEM wetlands as part of the Phase II construction of the Foxhead Industrial Park and required utilities.

The permittee will provide 0.58 acre of replacement wetlands.

Cambria District: Environmental Program Manager, 286 Industrial Pk Rd, Ebensburg, PA 15931-4119.

E10-09-001. Mountain Watershed Association, P. O. Box 408, Melcroft, PA 15642. Acid Mine Drainage Treatment Project, in Saltlick Township, **Fayette County**, Pittsburgh ACOE District.

The applicant proposes to construct an acid mine drainage (AMD) treatment system that will treat 63% of the total iron load and 31% of the aluminum load entering the Indian Creek Watershed from abandoned mines. The project will impact: (1) 1.86 acres of AMD-impacted scrub/shrub wetland; (2) 3.83 acres of emergent wetland (partially AMD-impacted), for a total of 5.69 acres of wetland impacts; (3) 2.0 acres of PEM replacement wetland will be constructed onsite; (4) additionally, the AMD passive treatment system will include 2.02 acres of AMD treatment wetland; (5) additionally, 66.0 acres of riverine habitat will be enhanced; and (6) 15.8 acres of downstream wetlands will have improved hydrology due to improved stream water quality. The project will directly impact 5.69 acres of wetland. Two acres of replacement wetland and 2.02 acres of treatment wetland will be utilized to compensate for wetland impacts, as well as 66.0 acres of improved riverine habitat and 15.8 acres of improved wetland water quality. (Donegal Quadrangle N: 8.55 inches, W: 3.4 inches).

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

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>
PA0014575 IW	Jersey Shore Area Joint Water Authority 220 South Main Street P. O. Box 5046 Jersey Shore, PA 17740	Lycoming County Anthony Township	Larrys Creek 10A	Y
PA0209147 SP	Centre Hall Potter Sewer Authority P. O. Box 497 Centre Hall, PA 16828-0497	Centre County Potter Township	UNT of Sinking Creek 6A	Y
PA0014567 IW	Jersey Shore Area Joint Water Authority P. O. Box 5046 220 South Main Street Jersey Shore, PA 17740-5046	Clinton County Pine Creek Township	Pine Creek 9A	Y
PA0009725 (Industrial Wastewater)	Jersey Shore Steel Company P. O. Box 5005 Jersey Shore, PA 17740	Pine Creek Township, Clinton County	West Branch Susquehanna River 10A	Y
PA0114596 (Industrial Wastewater)	Avery Dennison Performance Polymers 171 Draketown Rd Mill Hall, PA 17751	Bald Eagle Township, Clinton County	Bald Eagle Creek 9C	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 #)</i>	<i>EPA Waived Y/N</i>
PA0026336 Sewage	Township of Hopewell 1700 Clark Boulevard Aliquippa, PA 15001	Beaver County Hopewell Township	UNT of Boggs Run	Y
PA0030406 Sewage	State Correctional Institution at Laurel Highlands P. O. Box 631 5706 Glades Pike Somerset PA 15501-0631	Somerset County Somerset Township	UNT East Branch Coxes Creek	Y
PA0204048 Sewage	Conemaugh Township Municipal Water and Sewer Authority	Indiana County Conemaugh Township	Conemaugh River	Y
PA0217115 Sewage	Indiana County Municipal Services Authority 827 Water Street Indiana, PA 15701	Blacklick Township Indiana County	Reeds Run	Y
PA0217123 Sewage	Indiana County Municipal Services Authority 827 Water Street Indiana, PA 15701	Indiana County South Mahoning Township	North Branch Plum Creek	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>
PA0101664	Orchard Park Plan of Lots 2077 Bredinsburg Road Franklin, PA 16323-8115	Cranberry Township Venango County	UNT to Lower Two Mile Run 16-E	Y

II. New or Expanded Facility Permits, Renewal of Major Permits and EPA Nonwaived Permit Actions

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

PA0228877, SIC 4952, **Santo Lazafame**, 15 Stony Brook Road, Orangeville, PA 17859. This proposed action is for amendment of the 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: Exceptional Value fishery 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 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>
CBOD ₅	10	20
Suspended Solids	10	20
Free Chlorine Residual	Monitor	
Fecal Coliform (5-1 to 9-30)	200/100 ml as a geometric average	
(10-1 to 4-30)	200/100 ml as a geometric average	
pH	6.0—9.0 SU at all times.	

The EPA waiver is in effect.

PAS 10F079-1R, Construction Stormwater Discharge, **Department of Transportation**, P. O. Box 342, Clearfield, PA 16830. This permit covers discharges located in Huston, Patton, Taylor, Worth Townships, **Centre County** and Snyder Township, **Blair County**.

Description of Proposed Activity: Issuance of a permit to cover discharges from stormwater detention basins associated with the I-99 construction project, some of which are used for treatment of water affected by contact with pyritic materials.

The receiving streams are as follows:

<i>Stream Name</i>	<i>State Water Plan Watershed</i>	<i>Classification</i>
Bald Eagle Creek	9C	TSF
Buffalo Run	9C	HQ-CWF
Waddle Creek	9C	HQ-CWF
South Bald Eagle Creek	11A	TSF

The nearest existing downstream public water supply intake is the PA-American Water Company at Milton, PA, located 132 river miles below the points of discharge on the West Branch Susquehanna River.

With this final permit action, the Department is also approving a Social or Economic Justification (SEJ), under 25 Pa. § 93.4c(b)(1)(iii), for interim discharges, at technology based treatment levels, from Outfalls 003—008 to Buffalo Run and Outfall 009 to Waddle Creek. The SEJ approval is valid only for an interim period ending 12/31/07, at which time the discharge of pollutants from these Outfalls must either meet nondegrading effluent quality, or be abated by the removal of polluting pyritic materials from the discharge source areas.

The proposed interim effluent limits, effective until December 31, 2007, for all Outfalls 001—009, which will discharge to Bald Eagle Creek, Buffalo Run, and Waddle Creek are as follows:

<i>Parameter</i>	<i>Concentration (mg/L)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		Monitor and Report	
copper		Monitor and Report	
lead		Monitor and Report	
aluminum		Monitor and Report	
dissolved		Monitor and Report	
total	1.0	1.5	2.0
iron		Monitor and Report	
dissolved		Monitor and Report	
total	3.0	6.0	7.0
manganese		Monitor and Report	
dissolved		Monitor and Report	
total	2.0	4.0	5.0

<i>Parameter</i>	<i>Average Monthly</i>	<i>Concentration (mg/L)</i>	
		<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
nickel		Monitor and Report	
zinc		Monitor and Report	
dissolved		Monitor and Report	
total	0.5	0.75	1.0
cadmium		Monitor and Report	
chromium		Monitor and Report	
alkalinity		greater than acidity	
sulfates		Monitor and Report	
total suspended solids	35	70	90
pH		6.0 to 9.0 (standard units)	

The proposed effluent limits, effective from January 1, 2008, for Outfalls 001 and 002, which will discharge to Bald Eagle Creek, are as follows:

<i>Parameter</i>	<i>Average Monthly</i>	<i>Concentration (mg/L)</i>	
		<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		Monitor and Report	
copper		Monitor and Report	
lead		Monitor and Report	
aluminum, dissolved		Monitor and Report	
aluminum, total	1.0	1.5	2.0
iron, dissolved		Monitor and Report	
iron, total	3.0	6.0	7.0
manganese, dissolved		Monitor and Report	
manganese, total	2.0	4.0	5.0
nickel		Monitor and Report	
zinc, dissolved		Monitor and Report	
zinc, total	0.5	0.75	1.0
cadmium		Monitor and Report	
chromium		Monitor and Report	
alkalinity		greater than acidity	
sulfates		Monitor and Report	
total suspended solids	35	70	90
pH		6.0 to 9.0 (standard units)	

The proposed effluent limits, effective from January 1, 2008, for Outfalls 003—008, which will discharge to Buffalo Run, are as follows:

<i>Parameter</i>	<i>Average Monthly</i>	<i>Concentration (mg/L)</i>	
		<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		nondetect	
copper		nondetect	
lead		nondetect	
aluminum, dissolved	0.032	0.048	0.064
aluminum, total	0.061	0.092	0.122
iron, dissolved	0.024	0.036	0.048
iron, total	0.078	0.117	0.156
manganese, dissolved	0.002	0.003	0.004
manganese, total	0.006	0.009	0.012
nickel		nondetect	
zinc, dissolved	0.006	0.009	0.012
zinc, total	0.006	0.009	0.012
cadmium		nondetect	
chromium		nondetect	
alkalinity		greater than acidity	
sulfates	14	21	28
total suspended solids	8	12	16
pH		6.5 to 9.0 (standard units)	

The proposed effluent limits, effective from January 1, 2008, for Outfall 009, which will discharge to Waddle Creek, are as follows:

Parameter	Concentration (mg/L)		
	Average Monthly	Maximum Daily	Instantaneous Maximum
arsenic		nondetect	
copper		nondetect	
lead		nondetect	
aluminum, dissolved	0.032	0.048	0.064
aluminum, total	0.061	0.092	0.122
iron, dissolved	0.024	0.036	0.048
iron, total	0.078	0.117	0.156
manganese, dissolved	0.002	0.003	0.004
manganese, total	0.006	0.009	0.012
nickel		nondetect	
zinc, dissolved	0.006	0.009	0.012
zinc, total	0.006	0.009	0.012
cadmium		nondetect	
chromium		nondetect	
alkalinity		greater than acidity	
sulfates	21	31.5	42
total suspended solids	28	42	56
pH		6.5 to 9.0 (standard units)	

In addition to the effluent limits, the permit contains the following major special conditions:

1. Sampling Requirements.
2. Requirements for Retention of Records.
3. Recording Requirements.
4. Testing Requirements.
5. Quality Assurance/Quality Control Requirements.
6. Submission of Discharge Monitoring Reports.
7. Requirements for Management of Precipitated Solids.

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

NPDES Permit No. PA0006343, Industrial Waste Amendment No. 3, **AK Steel Corporation—Butler Operations**, P. O. Box 832, Butler, PA 16003-0832. This proposed facility is located in Butler Township and City of Butler, **Butler County**.

Description of Proposed Action/Activity: This facility is authorized to discharge to Connoquenessing Creek, Sawmill Run, Rocklick Run and Sullivan Run 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. 2205402, Sewerage, **Lower Swatara Township Municipal Authority**, 1499 Spring Garden Road, Middletown, PA 17057. This proposed facility is located in Lower Swatara Township, **Dauphin County**.

Description of Proposed Action/Activity: Construction/Operation of a new suction lift pump station including wet well and structures that have pumps, aeration equipment, and appurtenances along with associated new 4-inch diameter force main and 8-inch diameter to serve the Middletown Middle School.

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

WQM Permit No. 4104404, Sewerage, **Lycoming County Water and Sewer Authority**, 216 Old Cement Road, Montoursville, PA 17754. This proposed facility is located in Muncy Township, **Lycoming County**.

Description of Proposed Action/Activity: Issuance of a permit for construction of approximately 3,735 feet of gravity sewer, a duplex grinder pump station, and 3,550 feet of forcemain. The average design flow of the system is 6,650 gallons per day with a peak flow of 26,600 gallons per day. This system will connect the proposed Turkey Run Development to the existing Lycoming County Water and Sewer Authority system.

WQM Permit No. 1904401-T1, Sewerage 4952, **Santo Lazafame**, 15 Stony Brook Road, Orangeville, PA 17859. This proposed facility is located in Orange Township, **Columbia County**.

Description of Proposed Action/Activity: Transfer of construction permit for a small flow sewage treatment system to serve the Lazafame residence.

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

WQM Permit No. 2505402, Sewerage, **Millcreek Township Sewer Authority**, 3608 West 26th Street, Erie, PA 16506. This proposed facility is located in Millcreek Township, **Erie County**.

Description of Proposed Action/Activity: This project is for the construction of a pump station and sewer extension to provide service to the Community Country Day School south of Walnut Creek and existing Homes on Old Zuck Road.

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>
PAI011505013	Ruby Tuesday, Inc. Ruby Tuesday Restaurant 350 Sentry Parkway Building 620, Suite 110 Blue Bell, PA 19422	Chester	East Whiteland Township	Little Valley Creek (EV)
PAS10-G509	Charles Wilkinson Hide-A-Way-Farms 342 Sugartown Road Devon, PA 19333	Chester	East and West Brandywine Townships	UNT Culbertson's Run (HQ-TSF-MF)

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>
PAG202005001	Schuylkill Conservation District 1206 Ag Center Drive Pottsville, PA 17901	Schuylkill	East Union Township	Catawissa Creek 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>
PAI041404018	Gary P. Ream Sports Management Group Inc. 134 Sports Camp Drive Woodward, PA 16882	Centre	Haines Township	UNT to Pine Creek HQ-CWF

PAS 10F079-1R, Construction Stormwater Discharge, **Department of Transportation**, P. O. Box 342, Clearfield, PA 16830. This permit covers discharges located in Huston, Patton, Taylor, Worth Townships, **Centre County** and Snyder Township, **Blair County**.

Description of Proposed Activity: Issuance of a permit to cover discharges from stormwater detention basins associated with the I-99 construction project, some of which are used for treatment of water affected by contact with pyritic materials.

The receiving streams are as follows:

<i>Stream Name</i>	<i>State Water Plan Watershed</i>	<i>Classification</i>
Bald Eagle Creek	9C	TSF
Buffalo Run	9C	HQ-CWF
Waddle Creek	9C	HQ-CWF
South Bald Eagle Creek	11A	TSF

The nearest existing downstream public water supply intake is the Pennsylvania-American Water Company at Milton, PA, located 132 river miles below the points of discharge on the West Branch Susquehanna River.

With this final permit action, the Department is also approving a Social or Economic Justification (SEJ), under 25 Pa. Code § 93.4c(b)(1)(iii), for interim discharges, at technology based treatment levels, from Outfalls 003—008 to Buffalo Run and Outfall 009 to Waddle Creek. The SEJ approval is valid only for an interim period ending 12/31/07, at which time the discharge of pollutants from these Outfalls must either meet nondegrading effluent quality, or be abated by the removal of polluting pyritic materials from the discharge source areas.

The proposed interim effluent limits, effective until December 31, 2007, for all Outfalls 001—009, which will discharge to Bald Eagle Creek, Buffalo Run, and Waddle Creek are as follows:

<i>Parameter</i>	<i>Concentration (mg/L)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		Monitor and Report	
copper		Monitor and Report	
lead		Monitor and Report	

<i>Parameter</i>	<i>Concentration (mg/L)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
aluminum, dissolved		Monitor and Report	
aluminum, total	1.0	1.5	2.0
iron, dissolved		Monitor and Report	
iron, total	3.0	6.0	7.0
manganese, dissolved		Monitor and Report	
manganese, total	2.0	4.0	5.0
nickel		Monitor and Report	
zinc, dissolved		Monitor and Report	
zinc, total	0.5	0.75	1.0
cadmium		Monitor and Report	
chromium		Monitor and Report	
alkalinity		greater than acidity	
sulfates		Monitor and Report	
total suspended solids	35	70	90
pH		6.0 to 9.0 (standard units)	

The proposed effluent limits, effective from January 1, 2008, for Outfalls 001 and 002, which will discharge to Bald Eagle Creek, are as follows:

<i>Parameter</i>	<i>Concentration (mg/L)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		Monitor and Report	
copper		Monitor and Report	
lead		Monitor and Report	
aluminum, dissolved		Monitor and Report	
aluminum, total	1.0	1.5	2.0
iron, dissolved		Monitor and Report	
iron, total	3.0	6.0	7.0
manganese, dissolved		Monitor and Report	
manganese, total	2.0	4.0	5.0
nickel		Monitor and Report	
zinc, dissolved		Monitor and Report	
zinc, total	0.5	0.75	1.0
cadmium		Monitor and Report	
chromium		Monitor and Report	
alkalinity		greater than acidity	
sulfates		Monitor and Report	
total suspended solids	35	70	90
pH		6.0 to 9.0 (standard units)	

The proposed effluent limits, effective from January 1, 2008, for Outfalls 003—008, which will discharge to Buffalo Run, are as follows:

<i>Parameter</i>	<i>Concentration (mg/L)</i>		
	<i>Average Monthly</i>	<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		nondetect	
copper		nondetect	
lead		nondetect	
aluminum, dissolved	0.032	0.048	0.064
aluminum, total	0.061	0.092	0.122
iron, dissolved	0.024	0.036	0.048
iron, total	0.078	0.117	0.156
manganese, dissolved	0.002	0.003	0.004
manganese, total	0.006	0.009	0.012
nickel		nondetect	
zinc, dissolved	0.006	0.009	0.012
zinc, total	0.006	0.009	0.012
cadmium		nondetect	
chromium		nondetect	
alkalinity		greater than acidity	
sulfates	14	21	28

<i>Parameter</i>	<i>Average Monthly</i>	<i>Concentration (mg/L)</i>	
		<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
total suspended solids	8	12	16
pH		6.5 to 9.0 (standard units)	

The proposed effluent limits, effective from January 1, 2008, for Outfall 009, which will discharge to Waddle Creek, are as follows:

<i>Parameter</i>	<i>Average Monthly</i>	<i>Concentration (mg/L)</i>	
		<i>Maximum Daily</i>	<i>Instantaneous Maximum</i>
arsenic		nondetect	
copper		nondetect	
lead		nondetect	
aluminum, dissolved	0.032	0.048	0.064
aluminum, total	0.061	0.092	0.122
iron, dissolved	0.024	0.036	0.048
iron, total	0.078	0.117	0.156
manganese, dissolved	0.002	0.003	0.004
manganese, total	0.006	0.009	0.012
nickel		nondetect	
zinc, dissolved	0.006	0.009	0.012
zinc, total	0.006	0.009	0.012
cadmium		nondetect	
chromium		nondetect	
alkalinity		greater than acidity	
sulfates	21	31.5	42
total suspended solids	28	42	56
pH		6.5 to 9.0 (standard units)	

In addition to the effluent limits, the permit contains the following major special conditions:

1. Sampling Requirements.
2. Requirements for Retention of Records.
3. Recording Requirements.
4. Testing Requirements.
5. Quality Assurance/Quality Control Requirements.
6. Submission of Discharge Monitoring Reports.
7. Requirements for Management of Precipitated Solids.

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>
Northampton Township Bucks County	PAG2000904136	Gabriel Building Group Juliette's Gardens Subdivision 2200 Michener Street Philadelphia, PA 19115	Ironworks Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Makefield Township Bucks County	PAG2000904168	K. Hovnanian Venture I, LLC Fieldstone at Lower Makefield 385 Oxford Valley Road Suite 411 Yardley, PA 19067	Brock Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Newtown Township Bucks County	PAG2000904183	Teltronics Technology Corporation 15 Terry Drive Newtown, PA 18940	Neshaminy Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Southampton Township Bucks County	PAG2000904173	Richard Callahan 521 Street Road Southampton, PA 18966	Southampton Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Falls Township Bucks County	PAG2000904195	SOM Associates, LP Reilly Sweeping, Inc. Dev. 68 West Philadelphia Avenue Morrisville, PA 19067	Rock Run Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Lower Southampton Township Bucks County	PAG2000904148	Buck Properties, LP Buck Hotel 2200 Michener Street Philadelphia, PA 19115	UNT Mill Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Newtown Township Bucks County	PAG2000904111	Newtown Athletic Club Newtown Athletic Club Dev. 209 Penns Trail Newtown, PA 18940	Core Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Southampton Township Bucks County	PAG2000904161	Greenway Development, LP Desmond Property 350 South Main Street Suite 209 Doylestown, PA 18901	UNT Mill Creek (CWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Makefield Township Bucks County	PAG2000904108	Thomas Reese The Reese Tract Development 457 Lurgan Road New Hope, PA 18938	Pidcock Creek (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Upper Southampton Township Bucks County	PAG2000904176	Alex Rabey Jamor Rd. & Knowles Sbdv. 1965 Broadway, Apt. 20-B New York, NY 10023-5978	Pennypack Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Wrightstown Township Bucks County	PAG2000903160	Patrick Deacon Ceday Lane Sbdv. 659 Roberts Drive Glenside, PA 19038	UNT Mill Creek (WWF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900

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<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>
Warwick Township Bucks County	PAG2000904091	Commonwydds Partners Commonwydds II 2370 York Road P. O. Box 281 Jamison, PA 18929-1022	UNT Neshaminy Creek (TSF, MF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Chadds Ford Township Delaware County	PAG2002304071	Chadds Ford Township 10 Station Way Road Chadds Ford, PA 19307	Harvey Run (WWF)	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5900
Stroud Township Monroe County	PAG2004505002	Stroudsburg Little League c/o Dennis Rogers R. R. 5, Box 5117A Stroudsburg, PA 18360 and Stroud Township c/o Edward Cramer 1211 N. 5th St. Stroudsburg, PA 18360	Brodhead Creek TSF-MF	Monroe Co. Cons. Dist. (570) 629-3060
Hanover Township Luzerne County	PAG2004005006	St. Mary's Cemetery Association 134 S. Washington Street Wilkes-Barre, PA 18703	Warrior Creek CWF	Luzerne Co. Cons. Dist. (570) 674-7991
West Hanover Township, Dauphin County	PAG2002205010	Andrew S. Williams Lexington Partners 3035 N Progress Ave. Harrisburg, PA 17110	Beaver Creek WWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17017 (717) 921-8100
City of Harrisburg, Dauphin County	PAG2002205012	Struever Rouse Homes 1040 Hull St. Suite 200 Baltimore, MD 21230	Susquehanna River WWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17017 (717) 921-8100
Lower Swatara Township, Dauphin County	PAG2002205008	Middletown Area School District 55 W. Water St. Middletown, PA 17057 and Dale and Dorothy Messick 101 Greenfield Dr. Middletown, PA 17057	Swatara Creek Susquehanna River WWF	Dauphin County Conservation District 1451 Peters Mountain Rd. Dauphin, PA 17017 (717) 921-8100
West Earl Township Lancaster County	PAG2003605036	Cleveland Brothers Equip Co. P. O. Box 2535 Harrisburg PA 17105	Cocalico Creek WWF	Lancaster County Conservation District 1383 Arcadia Rd. Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Upper Leacock Township Lancaster County	PAG2003605037	Lexington Land Developers Corp. 336 W. King St. Lancaster PA 17603	UNT Mill Creek CWF	Lancaster County Conservation District 1383 Arcadia Rd. Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Manor Township Lancaster County	PAG2003605047	Risco Partners 11 W. State St. Quarryville PA 17566	Little Conestoga Creek WWF	Lancaster County Conservation District 1383 Arcadia Rd. Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5

<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>
Lancaster City Lancaster County	PAG2003605048	CYGNET Partners Charter Homes Bldg. Lancaster PA	Conestoga River WWF	Lancaster County Conservation District 1383 Arcadia Rd. Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Mount Joy Township Lancaster County	PAG2003605052	Lynn H Royer 2025 Oregon Pike Lancaster PA 17601	UNT Little Chickies Creek UNT Conoy Creek TSF	Lancaster County Conservation District 1383 Arcadia Rd. Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
East Earl Township Lancaster County	PAG2003605055	Larry E Martin 697 Wallace Rd New Holland PA 17557	UNT Mill Creek CWF	Lancaster County Conservation District 1383 Arcadia Rd. Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
West Cocalico Township Lancaster County	PAR100447-R	Nelson M Wenger 100 E Queen St Stevens PA 17578	UNT Indian Run TSF	Lancaster County Conservation District 1383 Arcadia Rd. Room 6 Lancaster, PA 17601 (717) 299-5361, Ext. 5
Douglass Township Berks County	PAG2000605034	Donald Boalton P. O. Box 256 Boyertown, PA 19512	Ironstone Creek TSF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Exeter Township Berks County	PAG2000605017	Jon Tresslar Heritage Building Group 2500 York Road Jamison, PA 18929	Trout Run WWF	Berks County Conservation District 1238 County Welfare Road P. O. Box 520 Leesport, PA 19533-0520 (610) 372-4657, Ext. 201
Northumberland County Riverside Borough	PAG2004905004	River Hill Phase II SR 4004 Snydertown Road Riverside, PA 17868	UNT Susquehanna River-CWF	Northumberland County Conservation District R. R. 3, Box 238C Sunbury, PA 17801 (570) 286-7114, Ext. 4
Armstrong County Plum Creek Township	PAG2000305003	Department of Transportation 2550 Oakland Avenue Indiana, PA 15701	Cherry Run (CWF)	Armstrong County CD (724) 548-3425
Beaver County Ohioville Borough	PAG2000405004	Michael Roman G.C.U. Real Estate Co. 5400 Tuscarawas Road Beaver, PA 15009	Brady's Run (TSF)	Beaver County CD (724) 378-1701
Beaver County Center Township	PAG2000405009	Center Area School Dist. c/o Dr. Daniel Matsook 160 Baker Rd. Ext. Monaca, PA 15061	UNT to Elkhorn Run (TSF)	Beaver County CD (724) 378-1701
Cambria County Loretto Borough	PAG2001105007	Saint Francis University P. O. Box 600 Loretto, PA 15940	UNT to Clearfield Crk. (CWF)	Cambria County CD (814) 472-2120

<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 Unity Township	PAG2006504016	Runyintan Mehta 59 Bay Hill Drive Latrobe, PA 15650	UNT to Nine Mile Run (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Murrysville Borough	PAG2006504055	Frank Stackiewicz 539 Deborah Jane Dr. Pittsburgh, PA 15239	Haymakers Run (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Hempfield Township	PAG2006505003	John and Jessie Ferrante R. R. 6, Route 30 West Greensburg, PA 15601	Tributary to Brush Creek (TSF)	Westmoreland County CD (724) 837-5271
Westmoreland County South Huntingdon Township	PAG2006505005	Levin Furniture 301 Fitz Henry Road Smithton, PA 15479	UNT to Yough River (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County Hempfield Township	PAG2006505007	Westmoreland County Industrial Development Corporation Ste. 601, Courthouse Sq. 2 North Main Street Greensburg, PA 15601	UNT to Wilson Run (WWF)	Westmoreland County CD (724) 837-5271
Westmoreland County City of Greensburg	PAG2006505008	Seton Hill University Seton Hill Drive Greensburg, PA 15601	UNT to Zeller's Run (WWF)	Westmoreland County CD (724) 837-5271
Venango County Sandy Creek and Victory Townships	PAG2-0061-05-003	Department of Transportation 255 Elm Street Oil City, PA 16301	Sandy Creek	Venango County Conservation District (814) 676-2832
Venango County Cranberry Township	PAG2-0061-05-004	Craib Campbell Hoss's Steak & Sea House 170 Patchawy Road Duncansville, PA 16335	Low Two Mile Run	Venango County Conservation District (814) 676-2832
Clarion County Porter Township	PAG2081605001	EOG Resources, Inc. 400 Southpointe Blvd, Suite 300 Canonsburg, PA 15317	Long Run, Leisure Run, and Leatherwood Creek CWF	Northwest Region Oil and Gas Mgmt. 230 Chestnut Street Meadville, PA 16335-3481 (814) 332-6860

General Permit Type—PAG-3

<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>
Downingtown Borough Chester County	PAR130007	Alcoa Flexible Packaging LLC 520 Lincoln Ave. Downingtown, PA 19335	Brandywine Creek 3H Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
City of Philadelphia Philadelphia County	PAR230088	Sun Chemical Corp 3301 W. Hunting Park Ave. Philadelphia, PA 19132	Schuylkill River 3F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Upper Salford Township Montgomery County	PAR600013	Oren Woodward & Sons 2010 Ridge Rd. Woxall, PA 18979	UNT to Unami Creek 3E Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
City of Philadelphia Philadelphia County	PAR600083	Volio Robert d/b/a Nice Guys Auto Parts 3511 S 61st St Philadelphia, PA 19153	Schuylkill River 3F Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970

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Facility Location:

<i>Municipality & County</i>	<i>Permit No.</i>	<i>Applicant Name & Address</i>	<i>Receiving Water/Use</i>	<i>Contact Office & Phone No.</i>
Towamencin Township Montgomery County	PAR110053	Nice Ball Bearing Inc. 2060 Detwiler Rd. Kulpsville, PA 19443	UNT to Skippack Creek 3E Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Marlborough Township Montgomery County	PAR600061	Green Lane Auto Sales & Parts Inc. 3000 Gerryville Pike Pennsburg, PA 18073	UNT to Stony Run Creek 3E Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Falls Township Bucks County	PAR140019	Liberty Coating Co. LLC 21 S. Steel Rd. Morrisville, PA 19067	Biles Creek 2E Watershed	Southeast Regional Office 2 East Main Street Norristown, PA 19401 (484) 250-5970
Lancaster County Lancaster Township	PAR603589	Recycle America Alliance, LLC 702 S. Prince Street Lancaster, PA 17603	Conestoga Creek WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707
Lancaster County Lititz Borough	PAR233524	Pfizer, Inc. 400 West Lincoln Avenue Lititz, PA 17543	UNT to Lititz Run WWF	DEP—SCRO 909 Elmerton Avenue Harrisburg, PA 17110 (717) 705-4707

General Permit Type—PAG-5

<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>
Peters Township Washington County	PAG056136	Crossroads Convenience, LLC 101 Kappa Drive RIDC Park Pittsburgh, PA 15238	UNT of Brush Run	Southwest Regional Office Water Management Program Manager 400 Waterfront Drive Pittsburgh, PA 15222-4745 (412) 442-4000

General Permit Type—PAG-13

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

<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>
PAG133682	Union Township Road 1 Box 1940 Jonestown, PA 17038	Lebanon	Union Township	Swatara Creek WWF Little Swatara Creek WWF Reeds Creek WWF	Y
PAG133600	Elizabeth Township 423 South View Drive Lititz, PA 17543	Lancaster	Elizabeth Township	Hmmer Creek TSF Middle Creek TSF Furnace Run TSF Chickies Creek TSF Santo Domingo 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 (35 P. S. §§ 721.1—721.17).

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

Permit No. 4505501, Public Water Supply.

Applicant	The Village of Camelback R. R. 1, Box 298 Tannersville, PA 18372
Borough or Township	Jackson Township
County	Monroe
Type of Facility	PWS
Consulting Engineer	James C. Hendricks, Jr., P. E. Herbert, Rowland & Grubic, Inc. 102 Route 611, Suite 3 Bartonsville, PA 18321
Permit to Construct Issued	April 20, 2005

Southcentral Region: Water Supply Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Permit No. 2105502 MA, Minor Amendment, Public Water Supply.

Applicant	Pennsylvania American Water
Municipality	Hampden Township

County	Cumberland
Type of Facility	This permit is for 2,200 feet of 24-inch ductile iron water main along Wertzville Road.
Consulting Engineer	Randolph S Bailey, P. E. Navarro & Wright Consulting Engineers, Inc. 151 Reno Avenue New Cumberland, PA 17070
Permit to Construct Issued:	5/2/2005

Operations Permit issued to: **Berks Leisure Living**, 3060355, Bern Township, **Berks County** on 4/18/2005 for the operation of facilities approved under Construction Permit No. 0602503.

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

Permit No. Minor Amendment—Construction, Public Water Supply.

Applicant	McClure Municipal Authority
Township or Borough	McClure Borough
County	Snyder
Responsible Official	Quentin Wagner, Chairperson McClure Municipal Authority P. O. Box 138 McClure, PA 17841-0138
Type of Facility	Public Water Supply—Construction
Consulting Engineer	David Coleman, P. E. Uni-Tec Consulting Engineers, Inc. 2007 Cato Avenue State College, PA 16801
Permit Issued Date	5/3/05
Description of Action	Installation of approximately 60 lineal feet of 4-inch diameter class 350 ductile iron waterline from Well No. 1 to an aboveground discharge point at the existing raw water reservoir.

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

Permit No. 0304501, Minor Amendment, Public Water Supply.

Applicant	Buffalo Township Municipal Authority 700 South Pike Road Sarver, PA 16055-9201
Borough or Township	Buffalo Township; Freeport Borough
County	Butler and Armstrong
Type of Facility	Water storage tanks
Consulting Engineer	Gibson-Thomas Engineering Co., Inc. 1004 Ligonier Street P. O. Box 853 Latrobe PA 15650

Permit to Construct April 25, 2005
 Issued
Northwest Region: Water Supply Management Program Manager, 230 Chestnut Street, Meadville, PA 16335-3481.

Permit No. 2505501, Public Water Supply
 Applicant **Palmer Shores Water Association**
 Borough or Township Fairview Township
 County **Erie**
 Type of Facility PWS
 Permit to Construct 04/21/2005
 Issued

Permit No. 2470501-MA4, Public Water Supply
 Applicant **St. Marys Area Water Authority**
 Borough or Township St. Marys Borough
 County **Elk**
 Type of Facility PWS
 Permit to Construct 4/27/2005
 Issued

SEWAGE FACILITIES ACT PLAN APPROVAL

Plan Approvals Granted under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)

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

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
City of Sharon	155 West Connelly Boulevard Sharon, PA 16146	Mercer

Plan Description: The approved plan provides for: (a) the elimination of sanitary sewer overflows at the Connelly Blvd. Siphon by increasing the capacity of the siphon; and (b) the elimination of hydraulic and organic overload at the Sharon STP by expanding the capacity of the STP to 8.66 mgd (ADF) and 23.24 mgd (PDF). The Sharon STP discharges to the Shenango River. 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.

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

Plan Location: on the west side of the intersection of Keller Road and Old Harrisburg Rd. in Straban Township, Adams County.

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Straban Township c/o Jean A. Hawbaker Secretary/Treasurer	1745 Granite Station Rd. Gettysburg, PA 17325	Adams

Plan Description: The approved plan provides for the construction of a private sewage treatment plant to serve a proposed development of 45 single-family homes. The project will utilize private wells and have an estimated wastewater flow of 18,000 gpd tributary to Rock Creek.

Plan Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Rapho Township	971 Colebrook Road Manheim, PA 17545	Lancaster

Plan Description: The approved planning module is for the subdivision of two residential lots, each to have individual single family Sewage treatment plants to discharge to a tributary of Rife Run. The subdivision is located on the north side of Oak Tree Road, 760 feet west of SR 72 in Rapho Township, Lancaster County. The APS number is 546310 and the DEP Code Number is A3-36948-413-3s. The Department's review of the sewage facilities new land development 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 land owner.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 2

The following plans and reports were submitted under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of Chapter 3 of the Land Recycling and Environmental Remediation Standards Act (act) require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of submission of plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the act's remediation standards. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis for selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling analytical results which demonstrate that remediation has attained the cleanup standard selected. Submission of plans and reports, other than the final report, shall also be published in the *Pennsylvania Bulletin*. These include the remedial investigation report, risk assessment report and cleanup plan for a site-specific standard remediation. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media; benefits of refuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements.

For further information concerning plans or reports, contact the Environmental Cleanup Program manager in the Department regional office after which the notice of receipt of plans or reports appears. If information concerning plans or reports is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Former Sellersville Landfill, Sellersville Borough, **Bucks County**. Mark Eschbacher, PG, RT Env. Svc. Inc., 215 W. Church Rd., King of Prussia, PA 19406 on behalf of Park ten Assoc, Bud Motes, 418 W. Main St., Lansdale, PA 19446 has submitted a Remedial Investigation Report and Cleanup Plan concerning remediation of site soil contaminated with TCE and groundwater contaminated with volatile organics. The report is intended to document remediation of the site to meet the Site-Specific Standard.

Northeast Regional Field Office, Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

Penn Forest Pipeline—Carbon Valve Station, Towamensing Township, **Carbon County**. Jennifer L. Huha, P. G., Groundwater and Environmental Services, Inc., 410 Eagleview Blvd., Suite 110, Exton, PA 19341 has submitted a Final Report Addendum on behalf of their client (Exxon Mobil Refining and Supply Company, 1545 Route 22 East, Room CCM-19, Annadale, NJ 08801) concerning the remediation of soils contaminated with benzene. The report proposes to demonstrate attainment of a Statewide Health Standard.

LAND RECYCLING AND ENVIRONMENTAL REMEDIATION

UNDER ACT 2, 1995

PREAMBLE 3

The Department has taken action on the following plans and reports under the Land Recycling and Environmental Remediation Standards Act (35 P. S. §§ 6026.101—6026.908).

Provisions of 25 Pa. Code § 250.8, administration of the Land Recycling and Environmental Remediation Standards Act (act), require the Department of Environmental Protection (Department) to publish in the *Pennsylvania Bulletin* a notice of final actions on plans and reports. A final report is submitted to document cleanup of a release of a regulated substance at a site to one of the remediation standards of the act. A final report provides a description of the site investigation to characterize the nature and extent of contaminants in environmental media, the basis of selecting the environmental media of concern, documentation supporting the selection of residential or nonresidential exposure factors, a description of the remediation performed and summaries of sampling methodology and analytical results which demonstrate that the remediation has attained the cleanup standard selected. Plans and reports required by provisions of the act for compliance with selection of remediation to a site-specific standard, in addition to a final report, include a remedial investigation report, risk assessment report and cleanup plan. A remedial investigation report includes conclusions from the site investigation, concentration of regulated substances in environmental media, benefits of reuse of the property and, in some circumstances, a fate and transport analysis. If required, a risk assessment report describes potential adverse effects caused by the presence of regulated substances. If required, a cleanup plan evaluates the abilities of potential remedies to achieve remedy requirements. A work plan for conducting a baseline remedial investigation is required by provisions of the act for compliance with selection of a special industrial area remediation. The baseline remedial investigation, based on the work plan,

is compiled into the baseline environmental report to establish a reference point to show existing contamination, describe proposed remediation to be done and include a description of existing or potential public benefits of the use or reuse of the property. The Department may approve or disapprove plans and reports submitted. This notice provides the Department's decision and, if relevant, the basis for disapproval.

For further information concerning the plans and reports, contact the Environmental Cleanup Program manager in the Department regional office before which the notice of the plan or report appears. If information concerning a final report is required in an alternative form, contact the Community Relations Coordinator at the appropriate regional office. TDD users may telephone the Department through the AT&T Relay Service at (800) 654-5984.

The Department has received the following plans and reports:

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

Penn Crossing, Coatesville Borough, **Chester County**. Robert Marion, GCI Env. Svc., 1250 E. King St., Lancaster, PA 17602 on behalf of Tammy Cansler, Cansler Investment Group, 26 N. 2nd St., Coatesville, PA 19320 has submitted a Final Report concerning the remediation of site soil contaminated with lead. The Final report demonstrated attainment of the Site-Specific Standard and was approved by the Department on March 16, 2005.

Ryder Truck Rental, City of Philadelphia, **Philadelphia County**. John Musco, Langan Eng. & Env. Svc., 500 Hyde Park, Doylestown, PA 18901-6619 on behalf of Carrie Anne Vinch, Ryder Transportation Svc., 9751 Blue Grass Rd., Philadelphia, PA has submitted a Final Report concerning the remediation of site soil contaminated with lead and other organic. The report was submitted within 90-days of the release-demonstrated attainment of the Statewide Health Standard and was approved by the Department on April 26, 2005.

440 Monastery Ave. Site, City of Philadelphia, **Philadelphia County**. Richard S. Werner, P. G., Env. Consulting Inc., 500 E. Washington St., Suite 375, Norristown, PA 19401 on behalf of Phillip Aiello, Phillip Aiello Builders & General Contractor, Inc., 440 Monastery Ave., Philadelphia, PA 19128 has submitted a Final Report concerning the remediation of site soil contaminated with unleaded gasoline. The report was submitted within 90-days of the release-demonstrated attainment of the Statewide Health Standard and was approved by the Department on April 26, 2005.

Gentle Touch Car Wash, City of Philadelphia, **Philadelphia County**. Charlene Drake, React Env. Svc., Inc., 6901 Kingsessing Ave., Philadelphia, PA 19142 on behalf of Guy Shmuel, Wash Ind., Inc., 45 Longview Ln, Newtown Sq., PA 19073 has submitted a Final Report concerning the remediation of site soil contaminated with lead. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on March 16, 2005.

AAA Mid-Atlantic Bldg., City of Philadelphia, **Philadelphia County**. Richard Werner, Env. Consulting, Inc., 500 E. Washington St., Suite 375, Norristown, PA 19401 on behalf of bill Fisher, Carriage House Condominiums, LP, 1700 Walnut St., 2nd Floor, Philadelphia, PA 19103 has submitted a Final Report concerning the remediation of site soil contaminated with unleaded and leaded gasoline. The Final report demonstrated attainment of

the Statewide Health Standard and was approved by the Department on March 7, 2005.

Cedar Hollow Quarry, East Whiteland & Tredyffrin Township, **Chester County**. Michael Gonshor, Roux Assoc., Inc., on behalf of Jeffrey Goggins, Atwarer 12 LP, 101 W. Elm St., Suite 400, Conshohocken, PA 19428 has submitted a Final Report concerning the remediation of site groundwater contaminated with chlorinated solvents. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on April 28, 2005.

Atglen Quarry, West Sadsbury Township, **Chester County**. James P. Cinelli, P. E., Liberty Env., Inc., 10 N. 5th St., Suite 800, Reading, PA 19691 on behalf of Joanne Folgias, Estate of Charles Butera, 313 Brandon Rd., Norristown, PA 19403 has submitted a Final Report concerning the remediation of site groundwater contaminated with leaded gasoline. The Final report demonstrated attainment of the Statewide Health Standard and was approved by the Department on April 27, 2005.

Former Formal Affairs, Inc., Willistown Borough, **Chester County**. Stephan B. Fulton, P. E., P. G., ARM Group, Inc., 561 W. Chocolate Ave., Hershey, PA 17033 has submitted a Remedial Investigation and Final Report concerning the remediation of site soil and groundwater contaminated with solvents. The Remedial Investigation and Final Report demonstrated attainment of the Site-Specific Standard and was approved by the Department on March 18, 2005.

Northeast Regional Field Office, Joseph A. Brogna, Environmental Cleanup Program Manager, 2 Public Square, Wilkes-Barre, PA 18711-0790, (570) 826-2511.

SMJ&J Fuel Oil Release (Aerni and Hitzel Fuel, Inc., 190 Industrial Drive North), Williams Township, **Northampton County**. John P. Mihalich, P. G., Principal Geologist, MACTEC Engineering and Consulting, 5205 Militia Hill Road, Plymouth Meeting, PA 19462 submitted a Final Report (on behalf of his client, SMJ&J, Inc., c/o Howard Bock, 1810 Columbia Avenue, Building 19, Folcroft, PA 19032) concerning the remediation of soil and/or groundwater found or suspected to have been contaminated by No. 2 fuel oil. The report demonstrated attainment of the Statewide health standard and was approved on April 22, 2005.

Karp Residence, Palmer Township, **Northampton County**. Richard Trimpi, CHMM, P. G., Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 submitted a Final Report (on behalf of his client, Fred Karp, Dalton Street, Easton, PA 18045) concerning the remediation of soils found to have been impacted by fuel oil No. 2. The report demonstrated attainment of the residential Statewide health soil standard and was approved on April 8, 2005.

Pugliese Residence, Palmer Township, **Northampton County**. Richard Trimpi, CHMM, P. G., Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 submitted a Final Report (on behalf of his client, Nick Pugliese, Dalton Street, Easton, PA 18045) concerning the remediation of soils found to have been impacted by fuel oil No. 2. The report demonstrated attainment of the residential Statewide health soil standard and was approved on April 8, 2005.

Lisetski Residence, Palmer Township, **Northampton County**. Richard Trimpi, CHMM, P. G., Trimpi Associates, Inc., 1635 Old Plains Road, Pennsburg, PA 18073 submitted a Final Report (on behalf of his client, Tom Lisetski, Dalton Street, Easton, PA 18045) concerning the

remediation of soils found to have been impacted by fuel oil No. 2. The report demonstrated attainment of the residential Statewide health soil standard and was approved on April 7, 2005.

Penn Forest Pipeline—Carbon Valve Station, Towamensing Township, **Carbon County**. Jennifer L. Huha, P. G., Groundwater and Environmental Services, Inc., 410 Eagleview Blvd., Suite 110, Exton, PA 19341 submitted a Final Report on behalf of her client (Exxon Mobil Refining and Supply Company, 1545 Route 22 East, Room CCM-19, Annadale, NJ 08801) concerning the remediation of soils contaminated with benzene. The report documented attainment of the residential Statewide health soil standard and was approved on April 4, 2005.

Southcentral Region: Environmental Cleanup Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

Kimmel Iron and Metal Co., Inc., Manheim Township, **Lancaster County**. Marks Environmental, Inc., 140 Bollinger Road, Elverson, PA 19520, on behalf of Franklin & Marshall College, 501 Harrisburg Pike, Lancaster, PA 17604-3003, submitted a Final Report concerning remediation of site soils contaminated with inorganics and site groundwater contaminated with chlorinated solvents. The final report demonstrated attainment of the Site-specific standard, and was approved by the Department on April 26, 2005.

HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES

Permits issued, suspended, expired, denied, revoked, reinstated or returned under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003) and regulations to operate a Hazardous waste treatment, storage, or disposal facility.

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

PAD096837356. Boeing Co Integrated Defense System Rotocraft, Ms P25 62, P. O. Box 16858, Philadelphia, PA 19142-0858, Eddystone, Ridley Borough, Ridley Township, **Delaware County**. Permittee requested permit revocation on the above referenced RCRA Part B permit for its Building 3-98 hazardous waste storage facility. Permit revoked by the Southeast Regional Office on May 3, 2005.

OPERATE WASTE PROCESSING OR DISPOSAL AREA OR SITE

Permits issued under the Solid Waste Management Act (35 P. S. §§ 6018.101—6018.1003), the Municipal Waste Planning, Recycling and Waste Reduction Act (53 P. S. §§ 4000.101—4000.1904) and regulations to operate solid waste processing or disposal area or site.

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

Permit No. 101413. McCusker & Sons Paper Salvage Inc., 725 E. 4th St., Chester PA 19013-4526, City of Chester, **Delaware County**. This permit is for the 10-year renewal for their existing solid waste permit for the continuing operation of the municipal and construction/demolition waste transfer facility. The permit was issued by the Southeast Regional Office on April 26, 2005.

Permit No. 101264. Philadelphia Water Dept., 1101 Market Street, 4th Floor, Aramark Tower, Philadelphia, PA 19107-2934, City of Philadelphia. This permit modification is for the operation of the Eco Technology pilot project within the permitted area of the Biosolids Recycling Center. The permit was issued by the Southeast Regional Office on May 3, 2005.

AIR QUALITY

General Plan Approval and Operating Permit Usage Authorized under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code Chapter 127 to construct, modify, reactivate or operate air contamination sources and associated air cleaning devices.

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

GP4-05-03001A: Bedford Burn Off Services, Inc. (528 Forbes Road, Bedford, PA 15522) on April 29, 2005, for Burn Off Ovens under GP4 in Bedford Borough, **Bedford County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

GP5-65-00971: Texas Keystone, Inc. (Fifth Avenue Place, Suite 2500, Pittsburgh, PA, 15222) on April 25, 2005, to operate one 330 bhp Caterpillar rich burn engine model number G379NA-HC and a Natco 125 mmBtu natural gas fired glycol dehydrator model number 9550168 at their Fairfield Township Facility in **Westmoreland County**.

Plan Approvals Issued under the Air Pollution Control Act (35 P. S. §§ 4001—4015) 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.

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

40-317-023: Hershey Foods Corp. (1025 Reese Avenue, P. O. Box 805, Hershey, PA 17033) on April 26, 2005, to construct a confectionary manufacturing process and associated air cleaning devices at their facility in Hazle Township, **Luzerne County**.

45-301-029: HG Smith Wilbert Vault Co. (2120 North Fifth Street, Stroudsburg, PA 18360) on April 14, 2005, to construct a crematory and associated air cleaning device at their facility in Stroudsburg Borough, **Monroe County**.

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

06-05002F: Lehigh Cement Co. (537 Evansville Road, Fleetwood, PA 19522-8541) on April 27, 2005, to construct and modify their clinker handling system controlled by seven fabric collectors in Maiden Creek Township, **Berks County**.

06-05104A: H. B. Mellott Estate, Inc. (100 Mellott Drive, Suite 100, Warfordsburg, PA 17267-8555) on April 28, 2005, to construct a replacement nonmetallic mineral crushing plant controlled by wet suppression in Maiden Creek Township, **Berks County**.

28-03039B: Warrior Roofing Manufacturing of PA, LLC (3050 Warrior Road, P. O. Box 40185, Tuscaloosa, AL 35404) on May 2, 2005, to install a regenerative thermal oxidizer at their existing facility in Greene and Lettkeny Townships, **Franklin County**.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; William Charlton, New Source Review Chief, (412) 442-4174.

26-00451C: CONSOL Docks, Inc. (1800 Washington Road, Pittsburgh, PA, 15241) on April 29, 2005, for coal stockpiling at their Alicia Dock in Luzerne Township in **Fayette County**.

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

42-181C: Elkhorn Field Services (60 B Kinzua Road, Warren, PA 16365) on April 25, 2005, to construct a fractionation skid at the existing gas processing plant at their Lewis Run Plant in Bradford Township, **McKean County**. The facility is subject to Federal New Source Performance Standards 40 CFR Part 60, Subpart KKK pertaining to Equipment Leaks of VOCs from Onshore Natural Gas Processing Plants.

43-337A: Bessemer and Lake Erie Railroad Co. (85 Ohl Street, Greenviell, PA 16125-2370) on April 18, 2005, issued a plan approval for post-construction of a flow coating line at their West Hempfield Plant in Hempfield Township, **Mercer County**.

Plan Approval Revisions Issued including Extensions, Minor Modifications and Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.13, 127.13a and 127.32.

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

23-0051: Riddle Memorial Hospital (1068 West Baltimore Pike, Media, PA 19063) on April 27, 2005, to operate a waste heat boiler and wet scrubber in Middletown Township, **Delaware County**.

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

39-313-045: Carpenter Co. (P. O. Box 519, 57 Olin Way, Fogelsville, PA 18051) on March 25, 2005, to modify an expanded polystyrene manufacturing process and associated air cleaning device at their facility in Upper Macungie Township, **Lehigh County**. The Plan Approval has been extended.

39-399-056: Carpenter Co. (P. O. Box 519, 57 Olin Way, Fogelsville, PA 18051) on March 25, 2005, to construct a polyurethane foam manufacturing process at their facility in Upper Macungie Township, **Lehigh 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.

56-00025E: New Enterprise Stone and Lime (P. O. Box 77, New Enterprise, PA 16664) on April 25, 2005 to complete installation of a crusher at an existing Non-Metallic Mineral Processing Plant in Jefferson Township, **Jefferson County**. This plan approval was extended.

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

10-345A: Allegheny Mineral Corp.—Murrinsville Quarry (102 VanDyke Road, Harrisville, PA 16038) on March 31, 2005, to install a limestone processing facility in conjunction with their new Limestone Mining Operation in Marion Township, **Butler County**.

Operating Permits for Non-Title V Facilities Issued 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 19401; Edward Jurdones Brown, Facilities Permitting Chief, (484) 250-5920.

46-00168: Moss Rehab—Einstein at Elkins Park (60 East Township Line Road, Elkins Park, PA 19027) on April 28, 2005, to operate a Synthetic Minor Operating Permit in Cheltenham Township, **Montgomery County**.

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

67-05107: Crown Cork and Seal Co. USA, Inc. (1650 Broadway, Hanover, PA 17331-8118) on April 25, 2005, to operate their can manufacturing facility in Penn Township, **York County**.

Northcentral Region: Air Quality Program, 208 West Third Street, Williamsport, PA 17701; David Aldenderfer, Program Manager, (570) 327-3637.

55-00013: Mid-West School District—West Snyder Middle School (568 East Main Street, Middleburg, PA 17842) on April 12, 2005, to operate a middle school in Spring Township, **Snyder County**. The facility is a natural minor facility.

17-00056: M. B. Energy, Inc. (175 McKnight Road, Blairsville, PA 15717) on April 19, 2005, to operate a coal crushing, stockpiling and loading facility at their Brinks Scollon No. 3 Mine in Chest Township, **Clearfield County**. The facility is a natural minor facility.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

63-00491: California University of Pennsylvania—Heating Plant (250 University Avenue, California, PA, 15419-1341) in the Borough of California, **Washington County**. The facility's major sources of emissions include three natural gas fired heating boilers.

03-00182: Equitable Gas Co. (225 North Shore Drive, 2nd Floor, Pittsburgh, PA 15212) on April 27, 2005, for a synthetic minor state only operating permit for two internal combustion engines at the Fisher Compressor Station in Redbank Township, **Armstrong County**.

Northwest Region: Air Quality Program, 230 Chestnut Street, Meadville, PA 16335-3481; Eric Gustafson, Facilities Permitting Chief, (814) 332-6940.

25-00954: National Fuel Gas Supply Corp.—Summit Station (520 Robison Road, Summit Township, PA 16509) on April 27, 2005, to operate a natural gas compressor station in Summit Township, **Erie County**.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.

V03-003: Hunting Fox I Associates, LP (2450 Hunting Park Avenue, Philadelphia, PA 19129) on May 2, 2005, administratively amended to change ownership from ThyssenKrupp Budd Company. The Title V operating permit was originally issued on October 4, 2004.

Operating Permit Revisions Issued including Administrative Amendments, Minor Modifications or Transfers of Ownership under the Air Pollution Control Act (35 P. S. §§ 4001—4015) and 25 Pa. Code §§ 127.412, 127.450, 127.462 and 127.464.

Department of Public Health, Air Management Services: 321 University Avenue, Philadelphia, PA 19104; Edward Braun, Chief, (215) 823-7584.

S03-007: Regal Corrugated Box Company (Adams Avenue and Ashland Street, Philadelphia, PA 19124) on April 28, 2005, administratively amended to remove a gasoline pump. The Synthetic Minor Operating Permit was originally issued July 29, 2004.

De Minimis Emissions Increases Authorized under 25 Pa. Code § 127.449.

Southwest Region: Air Quality Program, 400 Waterfront Drive, Pittsburgh, PA 15222-4745; Mark Wayner, Facilities Permitting Chief, (412) 442-4174.

03-00027: Reliant Energy Northeast Management Co. (121 Champion Way, Canonsburg, PA 15317) on April 27, 2005, to revise the SCR Limestone Addition System at the Keystone Power Plant in Plumcreek Township, **Armstrong County**. The revised system will increase PM10 emissions by 0.31 ton per year. This emission increase qualifies as de minimis increases under 25 Pa. Code § 127.449.

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) 769-7100.

30031301 and NPDES Permit No. PA0235610, Dana Mining Company of PA, Inc., (P. O. Box 1209, Morgantown, WV 26507), to operate the 4 West Mine in Dunkard and Perry Townships, **Greene County** and related NPDES permit. Surface Acres Proposed 30.5, Underground Acres Proposed 2100, SCP Acres Proposed

390. Receiving stream: Dunkard Creek, classified for the following use: WWF. Permit issued April 25, 2005.

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1900.

Permit No. 32900103 and NPDES No. PA0598763. Black Oak Development Corporation, P. O. Box 205, Glen Campbell, PA 15742, permit renewal for reclamation only of a bituminous surface mine in Banks Township, **Indiana County**, affecting 133.8 acres. Receiving stream: UNTs to Cush Creek, classified for the following uses: CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 2, 2005. Permit issued: April 26, 2005.

56673133 and NPDES Permit No. PA0597228. Soberdash Coal Company, Box 55A, R. D. 2, Dunbar, PA 15431, permit renewal for reclamation only of a bituminous surface mine in Black Township, **Somerset County**, affecting 507.6 acres. Receiving streams: UNT to Wilson Creek; to Wilson Creek and to Weimer Run classified for the following uses: WWF; WWF; CWF. There are no potable water supply intakes within 10 miles downstream. Application received March 4, 2005. Permit Issued April 28, 2005.

56990104 and NPDES No. PA0235181. AMFIRE Mining Co., LLC, One Energy Place, Latrobe, PA 15650, permit renewal for reclamation only and for continued restoration of a bituminous surface-auger mine in Jenner Township, **Somerset County**, affecting 140.0 acres. Receiving streams: UNTs to/and Gum Run; UNTs to/and Roaring Run classified for the following uses: CWF. The first downstream potable water supply intake from the point of discharge is Cambria Somerset Authority Quemahoning Dam Withdrawal. Application received April 8, 2005. Permit issued April 28, 2005.

Greensburg District Mining Office: R. R. 2, Box 603-C, Greensburg, PA 15601, (724) 925-5500.

65950105 and NPDES Permit No. 0201227. Mehalic Bros. (1089 Sessi Road, Latrobe, PA 15650). Renewal permit for reclamation only to an existing bituminous surface mine, located in Mt. Pleasant Township, **Westmoreland County**, affecting 140 acres. Receiving streams: UNT to Welty Run and Welty Run. Renewal application received: March 21, 2005. Permit issued: April 21, 2005.

65-04-04, Joseph Rostosky Coal Company (2578 Country Lane, Monongahela, PA 15063). Government Financed Construction Contract issued for reclamation of approximately 12.2 acres of abandoned mine lands located in Salem Township, **Westmoreland County**. Receiving streams: Crabtree Creek to Loyalhanna Creek to Kiskiminetas River. Application received: September 29, 2004. Contract issued: April 27, 2005.

Knox District Mining Office: P. O. Box 669, Knox, PA 16232, (814) 797-1191.

16803004 and NPDES Permit No. PA0121118. Milestone Crushed, Inc. (521 South Street, Clarion, PA 16214) Renewal of an existing bituminous strip, auger and tippel refuse disposal operation in Perry and Toby Townships, **Clarion County** affecting 165.0 acres. This renewal is issued for reclamation only. Receiving streams: UNT to Fiddlers Run. Application received: March 2, 2005. Permit Issued: April 26, 2005.

10990103 and NPDES Permit No. PA0241610. Ben Hal Mining Company (289 Irishtown Road, Grove City, PA 16127). Renewal of an existing bituminous surface strip operation in Slippery Rock Borough and Slippery

Rock Township, **Butler County** affecting 9.5 acres. This renewal is issued for reclamation only. Receiving streams: UNTs to Wolf Creek. Application received: March 10, 2005. Permit Issued: April 27, 2005.

Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

13890201R3 and NPDES Permit No. PA0594580. Panther Creek Partner, (1001 Industrial Road, Nesquehoning, PA 18240), renewal of an existing anthracite coal refuse reprocessing, disposal and preparation operation in Nesquehoning Borough, **Carbon County** affecting 428.0 acres, receiving stream: First Hollow Run and Nesquehoning Creek. Application received February 25, 2005. Renewal issued April 25, 2005.

54040203. Wheelabrator Culm Services, Inc., (4 Liberty Lane West, Hampton, NH 03842), commencement, operation and restoration of an anthracite coal refuse reprocessing operation in Mahanoy Township, **Schuylkill County** affecting 42.1 acres, receiving stream: none. Application received December 16, 2004. Permit issued April 26, 2005.

Noncoal Permits Actions

Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

58050803. Edward Greene, III (R. R. 3 Box 217A-3, Susquehanna PA 18847), commencement, operation and restoration of a quarry operation in Harmony Township, **Susquehanna County** affecting 5.0 acres. Receiving stream: none. Application received December 22, 2004. Permit issued April 25, 2005.

58050809. Michael Kirchmeier, (R. D. 3 Box 238, Montrose, PA 18801), commencement, operation and restoration of a quarry operation in Silver Lake Township, **Susquehanna County** affecting 5.0 acres, receiving stream: none. Application received March 7, 2005. Permit issued April 26, 2005.

6774SM1C5 and NPDES Permit No. PA0594695. National Limestone Quarry, Inc., (P. O. Box 397, Middleburg, PA 17847), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Perry Township, **Snyder County**, receiving stream: North Branch Mahantongo Creek. Application received March 20, 2005. Renewal issued April 27, 2005.

40930302C2 and NPDES Permit No. PA0223280. Linde Enterprises, Inc., (239 Golf Hill Road, P. O. Box A, Honesdale, PA 18431), renewal of NPDES Permit for discharge of treated mine drainage from a quarry operation in Pittston Township, **Luzerne County**, receiving stream: Mill Creek. Application received March 11, 2005. Renewal issued April 27, 2005.

ABANDONED MINE RECLAMATION

Cambria District Mining Office: 286 Industrial Park Road, Ebensburg, PA 15931, (814) 472-1800.

Bond Forfeiture Contract Awarded	BF 442-101.1
Location	Boggs Township Clearfield County
Description	Abandoned Mine Land Reclamation Project T & T Clay Co. Mining Permit Nos. 17900126-01, 02, 03

Contractor Transcontinental Construction Co., Inc.
Box 103
Sandy Ridge, PA 16677

Amount \$103,110

Date of Award April 28, 2005

**ACTIONS ON BLASTING ACTIVITY
APPLICATIONS**

Actions on applications under the Explosives Acts of 1937 and 1957 (43 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.

Moshannon District Mining Office: 186 Enterprise Drive, Philipsburg, PA 16866, (814) 342-8200.

14054007. Triangle Construction (1076 E. Bishop Street, Bellefonte, PA 16823), for construction blasting, located in Walker Township, **Centre County**, with an expected duration of 250 days. Permit issued: April 7, 2005.

08054001. Great Lakes Geophysical, Inc. (P. O. Box 127, Williamsburg, MI 49690), for exploratory blasting, located in Athens and Ridgebury Townships, **Bradford County**, with an expected duration of 91 days. Permit issued: April 20, 2005.

14054009. HRI, Inc. (1750 W. College Avenue, State College, PA 16801), for construction blasting, located in Snow Shoe Township, **Centre County**, with an expected duration of 365 days. Permit issued: April 20, 2005.

14054008. Nittany Mountain Excavating (145 Huey Lane, Spring Mills, PA 16875), for construction blasting, located in Ferguson Township, **Centre County**, with an expected duration of 54 days. Permit issued: April 7, 2005.

14054010. Paradise Contracting (223 Paradise Road, Bellefonte, PA 16823), for construction blasting, located in College Township, **Centre County**, with an expected duration of 150 days. Permit issued: April 20, 2005

14054011. Ameron Construction (2501 N. Atherton Street, State College, PA 16803), for construction blasting, located in College Township, **Centre County**, with an expected duration of 365 days. Permit issued: April 20, 2005.

Pottsville District Mining Office: 5 W. Laurel Boulevard, Pottsville, PA 17901, (570) 621-3118.

06054107. Brubacher Excavating, Inc. (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Reedy Estates in Spring Township, **Berks County** with an expiration date of December 31, 2005. Permit issued April 25, 2005.

21054123. John W. Gleim, Jr., Inc. (625 Hamilton Street, Carlisle, PA 17013), construction blasting for North Ridge Development in North Middleton Township, **Cumberland County** with an expiration date of September 1, 2005. Permit issued April 25, 2005.

21054127. Brubacher Excavating, Inc. (P. O. Box 528, Bowmansville, PA 17507), construction blasting for Carlisle Elementary School in North Middleton Township, **Cumberland County** with an expiration date of April 22, 2006. Permit issued April 25, 2005.

28054112. David H. Martin Excavating, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting for Gateway Lot Improvements in Greene Township, **Franklin County** with an expiration date of April 30, 2006. Permit issued April 25, 2005.

28054113. David H. Martin Excavating, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting for Gateway Center in Chambersburg Borough, **Franklin County** with an expiration date of April 30, 2006. Permit issued April 25, 2005.

28054114. David H. Martin Excavating, Inc. (4961 Cumberland Highway, Chambersburg, PA 17201), construction blasting for Gateway Avenue and Parkwood Extensions in Chambersburg Borough, **Franklin County** with an expiration date of April 30, 2006. Permit issued April 25, 2005.

67054016. Rogele, Inc. (1025 South 21st Street, P. O. Box 1757, Harrisburg, PA 17105-1757), construction blasting for Pennsylvania American Water Company's West Shore Off-Site Transmission Mains in Fairview Township, **York County** with an expiration date of August 31, 2005. Permit issued April 25, 2005.

21054125. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013), construction blasting for Weaver home in Carlisle Borough, **Cumberland County** with an expiration date of April 30, 2006. Permit issued April 26, 2005.

28054110. TJ Angelozzi, Inc. (7845 Kabik Court, Woodbine, MD 21797) construction blasting for Saddle Ridge Development in Guilford Township, **Franklin County** with an expiration date of April 18, 2006. Permit issued April 26, 2005.

28054111. M & J Explosives, Inc. (P. O. Box 608, Carlisle, PA 17013), construction blasting for Rost home in Quincy Township, **Franklin County** with an expiration date of April 30, 2006. Permit issued April 26, 2005.

40054105. ER Linde Construction Corp. (9 Collan Park, Honesdale, PA 18431), construction blasting for Hanover Crossings in Hanover Township, **Luzerne County** with an expiration date of April 1, 2006. Permit issued April 26, 2005.

09054102. Rock Work, Inc. (1257 Dekalb Pike, Blue Bell, PA 19422), construction blasting for Wellington Estates in Bensalem Township, **Bucks County** with an expiration date of May 1, 2006. Permit issued April 27, 2005.

21054129. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Logistics Center of Carlisle in North Middleton Township, **Cumberland County** with an expiration date of April 30, 2006. Permit issued April 27, 2005.

21054128. Hall Explosives, Inc. (2981 Elizabethtown Road, Hershey, PA 17033), construction blasting for Walnut Point Development in Silver Spring Township, **Cumberland County** with an expiration date of April 30, 2006. Permit issued April 28, 2005.

36054117. Keystone Blasting Service (381 Reifsnnyder Road, Lititz, PA 17543), construction blasting for Valley View Development in Sadisbury Township, **Lancaster County** with an expiration date of December 30, 2006. Permit issued April 28, 2005.

45054112. Austin Powder Co. (25800 Science Park Drive, Cleveland, OH 44122), construction blasting for Green View Estates in East Stroudsburg Borough, **Mon-**

roe County with an expiration date of April 30, 2006. Permit issued April 29, 2005.

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

Southcentral Region: Water Management Program Manager, 909 Elmerton Avenue, Harrisburg, PA 17110.

E01-253: Department of Transportation, Engineering District 8-0, 2140 Herr Street, Harrisburg, PA 17103 in Carroll Valley Borough, **Adams County**, ACOE Baltimore District.

To remove the existing structure and then to construct and maintain a bridge with a single span of 85.9 feet on a 70° skew with an underclearance of 9.2 feet across Toms

Creek (CWF) on SR 0116, Section 012, Segment 0040, Offset 0000 and to provide a 310-foot long left streambank protection in order to improve the traffic safety condition located about 1.5 miles from its intersection with SR 0016 (Iron Springs, PA Quadrangle N: 1.05 inches; W: 0.8 inch) in Carroll Valley Borough, Adams County.

E28-320: Echo Development, 701 Alpha Drive, Pittsburg, PA 15238 in Washington Township, **Franklin County**, ACOE Baltimore District.

To construct and maintain a 50-foot wide precast concrete bridge having a 28-foot span across Red Run (CWF, wild trout) located just north of Route 16 (Smithburg, PA Quadrangle N: 21.25 inches; W: 4.25 inches) in Washington Township. The purpose of the bridge is to access a proposed commercial development.

E67-760: Chanceford Township Board of Supervisors, 51 Muddy Creek Forks Road, P. O. Box 115, Brogue, PA 17309 in Chanceford Township, **York County**, ACOE Baltimore District

To remove two temporary pipe culverts authorized by EP-67-03-112 and then construct and maintain three 6-foot by 14-foot concrete box culverts in an UNT to the North Branch of Muddy Creek (CWF) along Duff Hollow Road (T-666). Culverts No. 1 and No. 2 are located on the (Airville, PA Quadrangle N: 17.2 inches; W: 17.1 inches and N: 16.5 inches; W: 17.4 inches), respectively. Culvert No. 3 is located on the (Stewartstown, PA Quadrangle N: 15.6 inches; W: 0.3 inch) in Chanceford Township, York County.

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

E17-405. Department of Transportation, Engineering District 2-0, P. O. Box 342, 1924-30 Daisy Street, Clearfield, PA 16830. SR 2014, Section A01 Bridge Replacement, Decatur Township, **Clearfield County**, ACOE Baltimore District (Houtzdale, PA Quadrangle N: 19.8 inches; W: 9.8 inches).

To remove an existing structure and to construct, operate and maintain a single span concrete box beam bridge to carry SR 2014, Section A01 across Coal Run and to change the channel of an UNT to Coal Run for highway safety improvements. The bridge across Coal Run shall be constructed with a minimum span of 40 feet, width of 30 feet and an underclearance of 5 feet. All construction and future repair work shall be completed during stream low flow. Construction of the bridge requires the channel change of the UNT; the relocated channel of the UNT shall be constructed with a maximum channel side slope of 1 foot vertical to 2 feet horizontal. The bridge replacement project is located along the western right-of-way of SR 0053, approximately 1.1 miles west of SR 2014 and SR 0053 intersection. This permit also authorizes construction, operation, maintenance and removal of temporary construction road crossings, cofferdams and stream diversions. Upon completion of the bridge replacement project, all temporary structures shall be removed and all disturbed areas shall be restored to original contour and elevation with final stabilization applied. Construction of the bridge will permanently impact 0.201 acre of wetland that shall be mitigated onsite by the permittee with 0.225 acre of replacement wetland. The permittee shall start replacement wetland construction prior to the bridge construction authorized by this permit.

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>
05-02-025	Larry L. Bucher BP Products North America Coraopolis Terminal 4800 East 49th Street Cleveland, OH 44125	Allegheny	Moon Township	1 AST storing gasoline	62,178 gallons total capacity
05-49-001	Stephen J. Carten Eldorado Properties Corp. Northumberland West Terminal P. O. Box 2621 Harrisburg, PA 17105-2621	Northumberland	Point Township	2 ASTs storing gasoline/distillate	7,962,080 gallons total capacity
05-61-003	Heath Oil, Inc. P. O. Box 1128 Oil City, PA 16301 Attn: Richard H. Fisher	Venango	Borough of Barkeyville	2 ASTs storing gasoline	743,590 gallons total capacity

SPECIAL NOTICES

Certification to Perform Radon-Related Activities in Pennsylvania

In the month of April 2005 the Department of Environmental Protection, under the Radon Certification Act (63 P. S. §§ 2001—2014) and regulations promulgated thereunder at 25 Pa. Code Chapter 240, has certified the following persons to perform radon-related activities in this Commonwealth. The period of certification is 2 years. For a complete list of persons currently certified to perform radon-related activities in this Commonwealth and for information as to the specific testing devices that persons certified for testing or laboratory are certified to use, contact the Bureau of Radiation Protection, Radon Division, P. O. Box 8469, Harrisburg, PA 17105-8469, (800) 23RADON.

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Matthew Beinhaur Harris Environmental, Inc.	600 Stone House Road Clarion, PA 16214	Mitigation
Chuck Berthoud	47 Brookside Avenue Hershey, PA 17033	Testing
G. Frank Burditt, Jr.	387 Winfred Manor Drive Bethel Park, PA 15102	Testing
Robert Carson	907 Roy Street Connellsville, PA 15425	Testing
Kim Fella	109 North Richmond Street Fleetwood, PA 19522	Testing
Michael Fella	P. O. Box 543 Fleetwood, PA 19522	Testing
Timothy Gentry	474 Easton Road Horsham, PA 19044	Mitigation
Susan Hetrick	766 Magaro Road Enola, PA 17025	Testing
Cheryl Krause	305 Mattison Avenue Ambler, PA 19002	Testing
George Kucharski	22163 Daisy Avenue Meadville, PA 16335	Testing
David Kutschbach	213 Keifer Drive Pittsburgh, PA 15241	Testing
Randy Martin	P. O. Box 255 Mifflinburg, PA 17844	Mitigation

<i>Name</i>	<i>Address</i>	<i>Type of Certification</i>
Karl May, Jr.	117 Whitetail Circle Wellsboro, PA 16901	Mitigation
Joseph McGinley	25 Williams Way Downingtown, PA 19335	Testing
Ira Nerenberg	151 Indian Drive Greentown, PA 18426	Testing
Richard Onega	333 Lindsay Road Zelienople, PA 16063	Testing
Philip Parke, Sr.	3201 Addison Drive Wilmington, DE 19808	Testing
Harvey Ricci SPY Inspection Services, Inc.	16 East Main Street Lansdale, PA 19446	Testing
Ronald Rusnock	P. O. Box 2245 Hazleton, PA 18201	Testing
David Scott	417 Pikeland Avenue Spring City, PA 19475	Mitigation
Charles Sigg	243 West Mt. Pleasant Avenue Ambler, PA 19002	Testing
Dennis Swindell	227 Locust Street Box 12 Alum Bank, PA 15521	Testing

Sewage Facilities Act Special Notice

Special Notice Under the Pennsylvania Sewage Facilities Act (35 P. S. §§ 750.1—750.20a)

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

Project Location:

<i>Borough or Township</i>	<i>Borough or Township Address</i>	<i>County</i>
Mill Hall Borough	215 Beech Creek Avenue Mill Hall, PA 17751	Clinton

Project Description: On April 29, 2005, the Department of Environmental Protection entered into a Consent Order and Agreement (CO & A) with Mill Hall Borough Council, Mill Hall Borough, Clinton County. Mill Hall Borough's collection system receives significant quantities of inflow/infiltration during wet weather resulting in overflows of sewage to Bald Eagle Creek. The CO & A requires the Mill Hall Borough to complete construction of a flow equalization tank to capture excessive wet weather flows to prevent bypasses by November 2006. Mill Hall Borough and East Nittany Valley Joint Sewer Authority, whose collection system is tributary to the Mill Hall Borough's collection system, are prohibited from new sewer connections and extensions except for a limited schedule of connections provided in the CO & A.

[Pa.B. Doc. No. 05-946. Filed for public inspection May 13, 2005, 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 2005.

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.

Notice to Rescind

DEP ID: 381-5513-001. Title: Guidance for Review and Processing of Act 339 State Grants for the Operation of Sewage Treatment Works. Description: This document is no longer needed because the grant program it pertains to

has not been funded since FY02. Effective Date: The document will be rescinded effective May 24, 2005. Contact: Cheri Sansoni, Bureau of Water Supply and Wastewater Management, (717) 772-5158.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 05-947. Filed for public inspection May 13, 2005, 9:00 a.m.]

Pennsylvania Energy Harvest Grant Program Applications

The Department of Environmental Protection (Department) announces the availability of \$5 million in the 3rd year of the Commonwealth's Energy Harvest Grant Program (program) for innovative energy deployment projects that protect or improve air quality or watersheds.

The grants will fund projects that promote awareness and build markets for cleaner or renewable energy technologies. Proposals should manage this Commonwealth's energy resources in a way that also improves the environment, supports economic development and enhances quality of life. For proposals related to energy efficient construction, the Department encourages the incorporation of ENERGY STAR techniques or products. For more information on ENERGY STAR, visit: www.energystar.gov.

Businesses, individuals, municipalities of this Commonwealth and public corporations, authorities or bodies are eligible to apply for grants under this program. Proposals should involve renewable energy deployment, including biomass energy, waste coal reclamation for energy, deployment of innovative energy efficiency technologies or distributed generation projects.

Applications are available by contacting the Department of Environmental Protection, Office of Energy and Technology Development, 15th Floor, Rachel Carson State Office Building, 400 Market Street, P. O. Box 8772, Harrisburg, PA 17105-8772, (717) 783-8411. Applications are also available on the Department's website: www.dep.state.pa.us (DEP Keyword: Energy Harvest). The application package contains the materials and instructions necessary for applying for a grant.

Applications must be postmarked or received by 4 p.m. on July 22, 2005.

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 05-948. Filed for public inspection May 13, 2005, 9:00 a.m.]

Revised Bond Rate Guidelines for the Calculation of Land Reclamation Bonds on Coal Mining Operations

The Department of Environmental Protection (Department) announces revisions to the bond rate guidelines for 2005 for anthracite and bituminous coal mining operations. These revisions are effective July 1, 2005. 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 at the Public Participation Center page on the Department's website: www.dep.state.pa.us, (DEP Keyword: "Participate").

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 and may conduct similar reviews at the midterm 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 (52 P. S. §§ 1406.1—1406.21).

These revisions are the result of a survey conducted relating to the bond rates for mine sites awaiting final (stage 3) bond release. The results of the survey indicated that many stage 3 sites were over bonded and some may be under bonded. The survey also identified the primary potential reclamation liabilities on these sites to be unreclaimed temporary structures (the most common example of this is sediment controls) and the possible need for active management (costs for fertilizer and or lime) for cropland areas.

Therefore, new Bond Rate Guidelines have been established for the stage 3 maintenance bond for land uses where crop yield data is required (either including reseeded or not). In addition, a new Bond Rate Guideline has been established for the cost for removing the remaining ditches. Another consequence of the survey is the reduction of the standard per-acre rate for the stage 3 maintenance bond for noncropland land uses (where crop yields are not needed).

The approach to determining bond amounts for sediment control reclamation has been changed. Prior to stage 2 bond release, the bond liability for ponds will remain the flat per-pond rate. However, after stage 2 bond release, the cost of the reclamation of any remaining temporary structures is the primary cost item. Therefore, a site-specific calculation for the reclamation of a sediment pond must be completed. This is done by calculating the pond embankment volume (applying the <500 feet earthmoving Bond Rate Guideline) and the per-acre revegetation cost for the area disturbed by the reclamation and adding in the cost for spreading topsoil. A Bond Rate Guideline has also been established for stage 3 ditch removal.

Similarly, the approach to calculating mobilization costs has been changed. Prior to stage 2 release, mobilization costs are calculated at 4% of the direct costs (with a maximum of \$40,000). After stage 2 release, the mobilization costs would be limited to moving small equipment. This cost was determined to be \$2,500.

The stage 3 maintenance bond amount is the combined cost for mobilization, the total of the per-acre amounts, and the cost for removal of any remaining temporary structures.

In addition, to implement the Land Maintenance Financial Guarantee Program, fees have been established for the cost for publication of the notice of a bond release request and for the cost to the Department to administer the program. These fees will be reviewed from time to time and published along with the Bond Rate Guidelines. These fees are set out in Table 2.

General Methodology

The revised bond rate for the stage 3 maintenance bond was calculated using data collected during the survey of stage 3 permits. The average estimated cost to complete the reclamation of the sites included in the survey was slightly less than \$100 per acre. The new rates for cropland and pastureland or land occasionally cut for hay were calculated using the contract data for soil amendments and seed for the contracts from 2001-2003.

The Department developed the bond rate guidelines for 2005 from a spreadsheet of unit costs provided by the 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, then 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 like "*Means Building Construction Cost Data*" or "*Walker's Building Estimator's Reference Book*."

The bond rate guidelines are available at www.dep.state.pa.us/dep/deputate/minres/BMR/BMRhome.htm. For background information and supporting documentation regarding bonding 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 will become effective July 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 Active Phase ²	Pond	3,500.00
Erosion and Sedimentation Control (Temporary Installation)	Job	Lump sum (5% of direct costs for site)
Stage 3 Maintenance Bond Noncropland Areas (Land uses where crop yields are not required)	Acre	100.00
Stage 3 Maintenance Bond Cropland (not row crops) Pastureland or Land occasionally cut for hay (excludes seed cost)	Acre	500.00

<i>Unit Operation</i>	<i>Unit Measure</i>	<i>Unit Costs (\$)</i>
Stage 3 Maintenance Bond Cropland Area-Row Crops (includes seed cost)	Acre	700.00
Stage 3 Mobilization	Job	2,500.00
Pond Removal—Stage 3	Cubic yards (Embankment volume) Plus Topsoiling and Revegetation Cost	Use <500 grading for pond embankment volume plus Topsoiling and Revegetation cost for the area disturbed
Ditch Removal—Stage 3 Structure Demolition	Lineal Foot	0.55
	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> .	
	shaft (10 ft. or less diameter)	1,400.00
Mine Sealing ³	shaft (11 to 15 ft. diameter)	3,000.00
Nonhydraulic shaft seal—inert fill	shaft (16 to 20 ft. diameter)	4,500.00
	shaft (21 to 25 ft. diameter)	8,000.00
	shaft (10 ft. or less diameter)	7,600.00
Mine Sealing ³	shaft (11 to 15 ft. diameter)	9,200.00
Hydraulic shaft seal w/bulkhead	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
Nonhydraulic drift/slope seal	drift/slope	6,200.00
Mine Sealing ³		
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. This flat rate is used until the permit area is approved for stage 2 release.

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 an industry-standard cost estimation publication, such as *Means Estimating Handbook* or *Walker's Building Estimator's Reference Book*.

TABLE 2
Land Maintenance Financial Guarantee Fees
for Year 2005

<i>Fee Category</i>	<i>Fee (\$)</i>
Publication	\$1,000
Administrative	\$ 300

KATHLEEN A. MCGINTY,
Secretary

[Pa.B. Doc. No. 05-949. Filed for public inspection May 13, 2005, 9:00 a.m.]

DEPARTMENT OF HEALTH

Application of Geisinger Medical Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Geisinger Medical Center has requested an exception to the requirements of 28 Pa. Code § 551.21 (relating to criteria for ambulatory surgery).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and

Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, 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 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 number, for speech and/or hearing

impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-950. Filed for public inspection May 13, 2005, 9:00 a.m.]

Application of Hamot Surgery Center for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Hamot Surgery Center has requested an exception to the requirements of 28 Pa. Code § 551.21 (relating to criteria for ambulatory surgery).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, 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 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 number, for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-951. Filed for public inspection May 13, 2005, 9:00 a.m.]

Application of Somerset Hospital for Exception

Under 28 Pa. Code § 51.33 (relating to requests for exceptions), the Department of Health (Department) gives notice that Somerset Hospital has requested an exception to the requirements of 28 Pa. Code § 107.26 (relating to additional committees).

The request is on file with the Department. Persons may receive a copy of a request for exception by requesting a copy from the Department of Health, Division of Acute and Ambulatory Care, Room 532, Health and Welfare Building, Harrisburg, PA 17120, (717) 783-8980, fax (717) 772-2163, 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 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 number, for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Services at (800) 654-5984.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-952. Filed for public inspection May 13, 2005, 9:00 a.m.]

Availability of Title V Funds through Mini-Grants to Support Elimination of Barriers to Community Inclusion for Children/Youth with Special Health Care Needs

The Bureau of Family Health (Bureau) is accepting mini-grant applications up to \$3,000 related to eliminating barriers to inclusion of children and youth with special health care needs in communities of this Commonwealth. Mini-grants are available to support activities which directly address physical, environmental and informational barriers allowing community organizations, businesses, places of worship and schools to be more inclusive of children with special health care needs. This project is an extension of the Bureau's Building Inclusive Communities for Children/Youth With Special Health Care Needs Mini-grant Initiative (BIC) which offers financial support for educational endeavors addressing community inclusion. Barrier Elimination Project (BE) funds will be used to advance this work by financially supporting the elimination of tangible barriers to inclusion.

For purposes of this funding opportunity, "children with special health care needs" are defined as those aged birth to 21 years of age who have or are at risk of developing a chronic physical, developmental, behavioral or emotional condition requiring services of a type or amount beyond that required by children generally.

The degree to which communities are healthy can be partly gauged by the degree to which children/youth with special health care needs are provided a full complement of services, civic engagement and social interaction. The BE Project is designed to empower communities by providing financial support for activities that either remove or significantly reduce obstacles that children and youth with special health care needs and their families confront as they seek to participate fully and productively in their communities. These include barriers to self-care, activities of daily living, receptive/expressive communication, learning, mobility, access to service, recreation, academics, spiritual practice, volunteerism, hobby exploration, employment, voting and economic self-sufficiency. The ultimate goal of the project is to build social capital by assisting communities to be fully accessible and inclusive and, consequently, allow for the full integration of children of this Commonwealth with special health care needs in all aspects of community life. Project funds must be used to reimburse purchases and activities occurring prior to June 30, 2006.

Eligible applicants are public and private organizations, foundations or community-based agencies in this Commonwealth as recognized by a Federal Tax ID number. Individuals may not apply. Informal groups without Federal Tax ID numbers are encouraged to partner with a sponsor organization that may apply on behalf of the

group. For-profit organizations may apply. However, no applicant may take a profit from these funds.

Applicants may include:

- Day care centers and child care providers
- Educational providers
- Community planners
- Community groups/civic clubs
- Potential employers/businesses
- Libraries
- Travel/tourism providers
- Bankers/lenders
- Minority groups
- Medical/dental providers
- Youth groups
- Places of worship/congregations
- Entertainment/recreation/play providers
- Professional associations/organizations
- Voting/polling providers
- Park/forest/camp ground staff
- Retailers

Applicants may apply for funding for reimbursement of multiple purchases or activities. However, the maximum cumulative award to any one applicant (as identified by Federal Tax ID number) is \$3,000 per fiscal year when combined with any other funding received through the BIC. In all cases, Department of Health (Department) funds should be used as payer of last resort. Grant funds may not supplant existing funds. Grant funds may be used for reimbursement of one time purchases only, after which time the grantee becomes sole owner of the purchased property. Eligible expenses fall within the following categories: equipment, assistive technology/communication devices, site/facility improvements, environment/curriculum and technology, as described in the application materials.

It is anticipated that 33 to 36 awards of \$3,000 or less will be made for this fiscal year period. Three deadlines have been set: August 2, 2005, with awards made known by October 1, 2005; November 1, 2005, with awards made known by January 1, 2006; and January 15, 2006, with awards made known by March 1, 2006, but only if funds have not been fully awarded for the fiscal year. Before applying, check the Department's website: www.health.state.pa.us.

To apply for funding, seven copies of a complete application must be received by the Department by 4:30 p.m. on the dates identified previously. Applications may be mailed or hand delivered. Applications may not be faxed. Late applications will not be accepted regardless of the reason. This is a reimbursement program. Grantees must spend their own funds first and then be reimbursed by the Department.

Funding decisions are contingent upon the availability of Fiscal Year 2005—2006 funds and Department approval by means of a proposal review panel. The approval will be based upon a common set of preestablished criteria, including:

1. The justifiable need for elimination of the proposed barriers to advance the inclusion of young people with disabilities, as justified by the applicant.

2. The number of young people with special needs who will ultimately benefit from elimination of the barrier.

3. The likelihood that the activities proposed will be of ongoing, systemic benefit to the community.

4. The reasonableness of proposed expenditures/purchases.

To meet the purposes of this program, applicants that propose activities with the potential to serve a large number of young people with special health care needs in environments that include many typically developing children generally receive higher scores.

Application materials can be downloaded from the Department's website: www.health.state.pa.us (Search: Inclusion). Individuals can also request application materials or additional information related to this initiative by contacting Wanda Godar, Bureau of Family Health, Division of Community Systems Development and Outreach, P. O. Box 90, 7th Floor East, Health and Welfare Building, Harrisburg, PA 17108, (717) 783-6536, wgodar@state.pa.us, for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service, (800) 634-5984 (TT). Persons with a disability requiring an application in alternative formats should contact Wanda Godar.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-953. Filed for public inspection May 13, 2005, 9:00 a.m.]

Availability of Title V Funds through Mini-Grants to Support Presentations about Building Inclusive Communities for Children and Youth with Special Health Care Needs

The Bureau of Family Health (Bureau) is accepting mini-grant applications to promote the building of inclusive communities. Mini-grants are available to support innovative, interactive educational events (for example, presentations, conference sessions, skits, trainings, forums, work shops, and the like) that will enhance community resources to promote inclusion of children and youth with special health care needs into everyday activities. For purposes of this funding opportunity, "children and youth with special health care needs" are defined as those aged birth to 21 years of age who have or are at risk of developing a chronic physical, developmental, behavioral or emotional condition requiring services of a type or amount beyond that required by children generally.

The degree to which communities are healthy can be partly gauged by the degree to which children and youth with special health care needs are provided supports to contribute and be a part of the community. These children and youth are often segregated and not offered full access to community, recreational, spiritual, social and educational life. The Building Inclusive Communities mini-grant program attempts to address this issue by providing financial support for innovative educational initiatives designed to expand the knowledge and awareness of communities in this Commonwealth as it relates to the needs of this population. The ultimate goal of the program is to build social capital and, consequently, allow for the full integration of children and youth of this Commonwealth with special health care needs into all aspects of

community life. The mini-grants provide funding for events occurring prior to June 30, 2006.

Target audiences may include:

- Day care centers and child care providers
- Educational providers
- Community planners
- Community groups/civic clubs
- Potential employers/businesses
- Professional associations/organizations
- Voting/polling providers
- Park/forest/camp ground staff
- Retailers
- Policy makers
- Medical/dental providers
- Youth groups
- Places of worship/congregations
- Entertainment/recreation/play providers
- Families/relatives of children with special health care needs
- Travel/tourism providers
- Bankers/lenders
- Minority groups

Eligible applicants are public and private organizations, foundations or community-based agencies in this Commonwealth as recognized by Federal Tax ID number. For-profit entities may not apply. Individuals in informal groups without Federal Tax ID numbers are encouraged to partner with a sponsor organization that may apply on behalf of the group. Conference facilities must meet current Americans With Disabilities Act requirements.

To apply for funding, a complete application must be received by the Department of Health (Department) at least 45 days prior to the date of the proposed educational event. Applications will be accepted until May 15, 2006.

Funding decisions are contingent upon the availability of Fiscal Year 2005–2006 funds and Department approval. Completed applications will be scored against a common set of criteria in the order that they are received by a proposal review panel. Applications achieving a minimum score of 7.5 on a 10 point rating scale will be awarded funding as funds remain available. Applicants will be notified of approval/disapproval in writing within 30 days of receipt of a completed application. Applicants not selected for funding will be notified and may revise their application once to conform to the guidelines for reconsideration. It is anticipated that 17 to 20 awards of \$3,000 or less will be made. This is a reimbursement program. Grantees must spend their own funds first and then be reimbursed by the Department.

Applicants may apply for funding to cover multiple presentations. However, the maximum cumulative award to any one applicant (as identified by Federal Tax ID number) is \$3,000 per fiscal year or for any one event when combined with any funding awards received through the Bureau's Barrier Elimination Project for the same fiscal year. Department funds should be used as payer of last resort. Grant funds may not be used to supplant existing funds. Applicant requesting partial funding of an event must provide assurances that balance

of funds have been secured. Expenses eligible for reimbursement under this mini-grant include:

1. Speaker fees/honoraria
2. Speaker travel costs to and from event (for example, airfare, train, automobile mileage, tolls, parking, and the like)
3. Speaker's lodging and subsistence
4. Handout/resource material development/duplication
5. Event promotion/media
6. Audio-visual equipment rental/supplies
7. Room rental costs
8. Training supplies

Application materials can be downloaded from the Department's website: www.health.state.pa.us (Search: Inclusion). Individuals can also request application materials or additional information related to this initiative by contacting Wanda Godar, Bureau of Family Health, Division of Community Systems Development and Outreach, P. O. Box 90, 7th Floor East, Health and Welfare Building, Harrisburg, PA 17108, (717) 783-6536, wgodar@state.pa.us, for speech and/or hearing impaired persons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service, (800) 634-5984 (TT). Persons with a disability desiring an application in alternative formats should contact Wanda Godar.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-954. Filed for public inspection May 13, 2005, 9:00 a.m.]

Availability of Title V Funds to Fund Breastfeeding Awareness and Support Activities through Mini-Grants

The Bureau of Family Health (Bureau) is accepting mini-grant applications for breastfeeding awareness, community outreach and peer support activities occurring between July 1, 2005, and June 30, 2006, or July 1, 2005, and June 30, 2007. Starting July 1, 2005, applicants will have a choice of applying for a "single" or a "double" mini-grant. A "single" mini-grant applies to activities occurring between July 1, 2005, and June 30, 2006. A maximum of \$3,000 is available for this period. A "double" mini-grant applies to activities occurring between July 1, 2005, and June 30, 2007. A maximum of \$6,000 is available for this 2-fiscal-year period, with a maximum of \$3,000 for each fiscal year period. Funds cannot be carried over from 1 fiscal year to the next. "Double" mini-grants awards will have the assurance of knowing that the Bureau has planned to commit Fiscal Year (FY) 2006-2007 resources to its project, but, like all expenditures of Commonwealth and Federal funds, this commitment is contingent upon the appropriation and availability of those funds.

Mini-grants for up to \$3,000 per 12-month period are available to support activities, events or services with the direct objective of: increasing the number of women who breastfeed for up to 1 year; increasing the number of people who consider breastfeeding acceptable and desirable; increasing the number of pregnant women who select breastfeeding as their long-term infant feeding practice; and decreasing the negative stereotypes associated with breastfeeding among the general public.

The public health benefits of breastfeeding have been extensively documented. Experts agree that breastfeeding is the optimal way to feed infants. Breastfeeding significantly promotes infant and maternal immediate and long-term health, decreases the frequency of doctor visits, hospitalizations and medication utilization and thereby lowers medical costs. As a result, the decision to breastfeed is of significant importance to the newborn child, the mother and the public health and healthcare system.

Eligible applicants are public and private organizations, foundations or community-based agencies in this Commonwealth recognized by a Federal Tax ID number. Individuals may not apply. Eligible applicants include medical care facilities, medical providers, educational providers, youth groups, community organizations, employers/businesses, professional associations, local governments, social/human service agencies and schools/colleges/universities. Agencies contracting with the Department of Health (Department) to provide Special Supplemental Nutrition Program for Women, Infants and Children for the period July 1, 2005, through June 30, 2007, are not eligible to apply.

Funds may be used to support ongoing or one-time activities, events or services that promote the objectives of the program, including equipment, teaching tools, staff time to perform group counseling, community educational and advocacy functions, advertising, space rental for special activity and trainer expenses. Applicants may apply for funding to cover multiple purchases/activities, not to exceed \$3,000 cumulatively per grant period.

Completed applications for either "single" or "double" mini-grants will be accepted between June 1, 2005, and March 1, 2006. Applicants will be considered on a first-come-first-served basis contingent upon the availability of 2005 fiscal year funds and Department approval. Applications received after March 1, 2006, cannot be considered for FY 2005-2006 funding. Copies of application forms and other background information are available on the Department's website: www.health.state.pa.us (Search: Mini-grants).

Completed applications will be scored by an independent review panel using a 10 factor rating scale. The 5 rating factors are: soundness of approach (5 points), documented need and target population selection (2 points), resources leveraged and involvement of key stakeholders in application planning (1 point), media involvement (1 point) and evaluation/measurement of results (1 point). One bonus point will given to any applicant with documented media commitment or involvement.

Applicants will be notified of approval/disapproval in writing within 30 days of receipt of a completed application. Applicants not selected for funding will be offered one opportunity to be reconsidered after revising their application to conform to the guidelines. It is anticipated that 50 awards may be made. Awardees are expected to abide the provisions and limitations of the Federal funding source, the Title V Maternal and Child Health Block Grant (42 U.S.C.A. § 701 et seq.)

To request application materials or for additional information related to this initiative, contact Wanda Godar, Bureau of Family Health, Division of Community Systems Development and Outreach, P. O. Box 90, 7th Floor East, Health and Welfare Building, Harrisburg, PA 17108, (717) 783-6536, for speech and/or hearing impaired per-

sons V/TT (717) 783-6154 or the Pennsylvania AT&T Relay Service, (800) 634-5984 (TT).

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-955. Filed for public inspection May 13, 2005, 9:00 a.m.]

Governor's Advisory Council on Physical Fitness and Sports Meeting

The Governor's Advisory Council on Physical Fitness and Sports will hold a meeting on Tuesday, May 24, 2005, from 2 p.m. to 4 p.m. at the Governor's Mansion, 2035 North Front Street, Harrisburg, PA 17102.

Persons with a disability who plan to attend the meeting and require an auxiliary aid, service or other accommodation to do so should contact James E. Domen by Friday, May 20, 2005, (717) 787-5876, V/TT (717) 783-6514 or the Pennsylvania AT&T Relay Services, (800) 654-5984 (TT) for speech and/or hearing impaired persons.

For additional information, contact James E. Domen, Acting Manager, Physical Activity Program, Department of Health, Cardiovascular Health Section, Room 1011, Health and Welfare Building, Harrisburg, PA, (717) 787-5876.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-956. Filed for public inspection May 13, 2005, 9:00 a.m.]

Moratorium on Demonstration Projects

The Department of Health (Department) has adopted regulations regarding general and acute care hospitals in 28 Pa. Code Chapters 101—158 (relating to general and special hospitals). Included in these regulations are provisions regarding the performance of cardiac catheterization procedures in 28 Pa. Code Chapter 138 (relating to cardiac catheterization services). Cardiac catheterizations are categorized as either low risk or high risk. High risk cardiac catheterizations are those that present a high risk of significant cardiac complication. Included in this category are all percutaneous transluminal coronary angioplasties, also known as percutaneous coronary intervention procedures (PCI). These PCI procedures involve the use of a balloon catheter, plaque removing device, laser device or mechanical stent to reopen collapsed, blocked or partially blocked arteries. Section 138.15 of 28 Pa. Code (relating to high-risk cardiac catheterizations) provides that a hospital may perform high risk cardiac catheterizations only if it has an open heart surgical program onsite.

Over the past 4 years, the Department has received numerous requests for an exception to the requirements of 28 Pa. Code § 138.15. The Department reviewed these requests in accordance with the standards in 28 Pa. Code §§ 51.31—51.34 (relating to exceptions). These regulations state that the Department may grant exceptions to regulatory requirements for several reasons, including

when compliance would create an unreasonable hardship and an exception would not endanger the health, safety or welfare of a patient.

Several of the requests that the Department received for an exception to 28 Pa. Code § 138.15 indicated that residents of the hospital's service area had difficulty obtaining emergent and elective PCI procedures due to the travel distances involved to tertiary facilities with open heart surgical services. After discussing this matter with numerous entities, including hospital representatives, cardiac surgeons and cardiologists, as well as reviewing the current medical literature on this subject, the Department determined that it would balance the potential risk of providing PCI in a hospital without open heart surgical services with the benefits of making this service available to more citizens of this Commonwealth. Accordingly, the Department established a demonstration project and granted exceptions to the requirements of 28 Pa. Code § 138.15 to those hospitals that could show that they would be providing PCI services to individuals who would otherwise have to travel substantial distances or faced other barriers that hindered access to this service.

Under the terms of the demonstration project, these hospitals were permitted to provide emergent and elective PCI procedures upon entering into an agreement with the Department under which the hospital agreed to: follow guidelines issued by the American College of Cardiology for the performance of PCI procedures, seek training and monitoring by a tertiary hospital that currently provides open heart surgical services, report all transfers of PCI patients to the Department, provide notification to its liability insurance carrier that it is providing primary and elective PCI services without the availability of onsite open heart surgical services, disclose information regarding the demonstration project to prospective PCI patients in a consent form and enroll in the American College of Cardiology—National Cardiovascular Data Registry and provide all required data to that organization regarding performance of the PCI procedures.

The Department currently has 11 hospitals enrolled in the demonstration project. These hospitals are located in several geographic regions around this Commonwealth and in rural, urban and suburban settings.

In a report issued on April 13, 2005, by the Legislative Budget and Finance Committee (Committee) entitled "Quality Assurance for Specialized Clinical Services," the Committee reviewed these PCI demonstration projects. Due to various reasons, including the fact that the guidelines of the American College of Cardiology do not recommend the provision of elective PCI at hospitals without onsite open heart surgical services, the Committee recommended that the Department institute a moratorium on approval of additional exceptions to the requirements of 28 Pa. Code § 138.15 and admission of additional hospitals into the demonstration project.

The Department has agreed to adopt the Committee's recommendation. As detailed in the Department's response to the Committee's report, there is an ongoing discussion in the medical community concerning the issue of providing elective PCI at hospitals without onsite open heart surgical services. The Committee's report and the Department's response can be found at lbcf.legis.state.pa.us. While the Department believes that the exceptions granted were appropriate, there are a sufficient number of hospitals in the demonstration project to provide relevant and useful data on this matter.

Until further notice, the Department will not consider any further applications for an exception request to the provisions of the hospital regulations that require that high risk cardiac catheterization procedures shall be performed in hospitals with onsite open heart surgical services. Any further requests received by the Department will be returned to the applicant with a copy of this notice. If the Department decides to lift this moratorium, a notice will be published in the *Pennsylvania Bulletin* and only applications received after that publication will be considered by the Department.

Persons with a disability who require an alternative format of this notice (for example, large print, audiotape or Braille) should contact Sandra Knoble, Department of Health, Division of Acute and Ambulatory Care, P. O. Box 90, Room 532, Health and Welfare Building, Harrisburg, PA 17108, (717) 783-8980, 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. 05-957. Filed for public inspection May 13, 2005, 9:00 a.m.]

Requests for Exception; Long-Term Care Nursing Facilities

The following long-term care nursing facilities are seeking an exception to 28 Pa. Code § 201.18(e) (relating to management):

Mercy Skilled Nursing Facility Scranton
746 Jefferson Ave.
Scranton, PA 18501

Mercy Skilled Nursing Unit, Wilkes-Barre
Box 658 25 Church Street
Wilkes-Barre, PA 18765

The following long-term care nursing facility is seeking an exception to 28 Pa. Code § 205.33 (relating to utility room):

St. Joseph's Manor
1616 Huntingdon Pike
Meadowbrook, PA 19046

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, 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 15 days after the date of publication of this notice will be reviewed by the Department before it decides whether to approve or disapprove the request for exception.

Persons with a disability who require an alternative format of this document or who wish to comment in an alternative format (for example, large print, audiotape or Braille) should contact the Division of Nursing Care Facilities at the address or phone number listed previously, V/TT (717) 783-6514 or the Pennsylvania AT&T

Relay Service at (800) 654-5984 (TT) for speech and/or hearing impaired persons.

CALVIN B. JOHNSON, M.D., M.P.H.,
Secretary

[Pa.B. Doc. No. 05-958. Filed for public inspection May 13, 2005, 9:00 a.m.]

DEPARTMENT OF STATE

Corporation Bureau Advisory Committee Meeting

The Corporation Bureau Advisory Committee (Committee), under 15 Pa.C.S. § 155(c) (relating to disposition of funds), has scheduled a meeting to discuss issuance of the Committee's biennial report to the General Assembly for Monday, May 16, 2005, at 11:30 a.m. in the 303/304 Executive Office Conference Room, Department of State, 3rd Floor, North Office Building, Harrisburg, PA 17101. The public is invited to attend. Persons who need accommodation due to a disability to attend the meeting should contact Travis Blouch at (717) 787-1057 so that arrangements can be made.

PEDRO A. CORTES,
Secretary of the Commonwealth

[Pa.B. Doc. No. 05-959. Filed for public inspection May 13, 2005, 9:00 a.m.]

DEPARTMENT OF TRANSPORTATION

Contemplated Sale of Land No Longer Needed for Transportation Purposes

The Department of Transportation (Department), under section 2003(e)(7) of The Administrative Code of 1929 (71 P. S. § 513(e)(7)), intends to sell certain land owned by the Department located at 104 Highfield Road, Radnor Township, Delaware County. The parcel contains 10,400 square feet of unimproved ground.

Classification of Wild Trout Streams—2005

Under 58 Pa. Code § 57.11 (relating to listing of wild trout streams), it is the policy of the Fish and Boat Commission (Commission) to accurately identify and classify stream sections supporting naturally reproducing populations of trout as wild trout streams. The listing of a stream section as a wild trout stream is a biological designation that does not determine how it is managed. The Commission uses many factors in determining the appropriate management of streams. The Commission's Fisheries Management Division maintains the list of wild trout streams. The Executive Director, with the approval of the Commission, will from time to time publish the list of wild trout streams in the *Pennsylvania Bulletin*.

The Commission has approved the list of wild trout streams as published at 33 Pa.B. 6292 (December 20, 2003) with the changes described as follows. Specifically, the Commission has removed the following 25 streams or portions of streams from the list.

<i>County of Mouth</i>	<i>Stream Name</i>	<i>Tributary to</i>	<i>Section Limits</i>
Carbon	Indian Run	Buck Mountain Creek	Headwaters downstream to mouth
Carbon	Mill Creek	Aquashicola Creek	Headwaters downstream to mouth
Carbon	Oberson Run	Quakake Creek	Headwaters downstream to mouth
Carbon	Schaffers Run	Buck Mountain Creek	Headwaters downstream to mouth
Carbon	Wetzel Creek	Quakake Creek	Headwaters downstream to mouth

Interested public entities are invited to express their interest in purchasing the site within 30 calendar days from the date of publication of this notice to the Department of Transportation, Andrew L. Warren, District Administrator, 7000 Geerdes Boulevard, King of Prussia, PA 19406-1525.

ALLEN D. BIEHLER, P. E.,
Secretary

[Pa.B. Doc. No. 05-960. Filed for public inspection May 13, 2005, 9:00 a.m.]

FISH AND BOAT COMMISSION

Changes to List of Class A Wild Trout Waters—2005

The Fish and Boat Commission (Commission) has approved the additions to the list of Class A Wild Trout Streams as set forth at 34 Pa.B. 6730 (December 18, 2004) and restated at 35 Pa.B. 1486 (February 26, 2005) with the exception of sections of Plum Creek and Halter Creek in Blair County. The Commission notes that the 2.8-mile section of Ontelaunee Creek, from the headwaters downstream to the SR 4024 bridge, is located in Lehigh County, not Berks County, as indicated in the prior notices.

Under 58 Pa. Code § 57.8a (relating to Class A wild trout streams), it is the Commission's policy to manage self-sustaining Class A wild trout populations as a renewable natural resource and to conserve that resource and the angling that it provides. Class A wild trout populations represent the best of this Commonwealth's naturally reproducing trout fisheries. The Commission manages these stream sections for wild trout with no stocking.

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

[Pa.B. Doc. No. 05-961. Filed for public inspection May 13, 2005, 9:00 a.m.]

<i>County of Mouth</i>	<i>Stream Name</i>	<i>Tributary to</i>	<i>Section Limits</i>
Cumberland	Wertz Run	Conodoguinet Creek	Headwaters downstream to mouth
Huntingdon	Kennedy Run	Miller Run	Headwaters downstream to mouth
Huntingdon	Miller Run	Shoup Run	Headwaters downstream to mouth
Huntingdon	Tatman Run	Raystown Branch Juniata River	Headwaters downstream to mouth
Jefferson	East Branch Mahoning Creek	Mahoning Creek	Headwaters to conf Beech Run
Lebanon	East Branch Rausch Creek	Rausch Creek	Headwaters downstream to mouth
Luzerne	Dreck Creek	Hazle Creek	Headwaters downstream to mouth
Mifflin	Minehart Run	Juniata River	Headwaters downstream to mouth
Pike	Diamond Creek	Wallenpaupack Creek	Headwaters downstream to mouth
Pike	Sheridan Brook	Wallenpaupack Creek	Headwaters downstream to mouth
Schuylkill	Swope Valley Run	Swatara Creek	Headwaters downstream to mouth
Schuylkill	UNT Schuylkill R Ltl (W Penn)	Little Schuylkill River	Headwaters downstream to mouth
Wayne	Ariel Creek	Wallenpaupack Creek	Headwaters downstream to mouth
Wayne	Carley Brook	Lackawaxen River	Headwaters downstream to mouth
Wayne	Headley Brook	Van Auken Creek	Headwaters downstream to mouth
Wayne	Purdy Creek	Wallenpaupack Creek	Headwaters downstream to mouth
Wayne	Seeley Brook	Wallenpaupack Creek	Headwaters downstream to mouth
Wayne	Spinner Brook	Wallenpaupack Creek	Headwaters downstream to mouth
Wayne	Swan Creek	Wallenpaupack Creek	Headwaters downstream to mouth
Wayne	Van Auken Creek	West Branch Lackawaxen River	Headwaters downstream to mouth

The Commission also has revised the limits of the following 60 streams on the list. Principally, these changes involve adjusting the downstream limits to reflect the sections in which samples documenting wild trout were collected.

<i>County of Mouth</i>	<i>Stream Name</i>	<i>Tributary to</i>	<i>Listed Section Limits</i>	<i>Revised Section Limits</i>
Allegheny	Allegheny River	Ohio River	Headwater downstream to conf Allegheny Portage Creek	Headwaters downstream to conf Reed Run
Armstrong	Glade Run	Allegheny River	Headwaters downstream to mouth	Headwaters downstream to second tributary upstream from mouth
Armstrong	Scrubgrass Creek	Mahoning Creek	Headwaters downstream to mouth	Headwaters downstream to Pine Township Line
Bedford	Rhodes Run	Bobs Creek	Headwaters downstream to mouth	Headwaters downstream to State Game Lands No. 26 Boundary
Berks	Angelica Creek	Schuylkill River	SR 3003 Bdg downstream to Angelica Lake	SR 3003 Bridge downstream to SR 0724
Berks	Antietam Creek	Schuylkill River	Headwaters downstream to 1st UNT downstream from T434 Gibraltar Road	Headwaters downstream to first UNT downstream of T-434 Fairlane Road
Berks	Furnace Creek	Spring Creek	Headwaters downstream to mouth	Headwaters downstream to Robeson Reservoir
Berks	Mill Creek	Sacony Creek	500 meters upstream from T-799 downstream to mouth	500 meters upstream of T-799 downstream to first T-775 Bridge
Berks	Pine Creek	Maiden Creek	Headwaters downstream to mouth	Headwaters downstream to junction of SR 1018 and T-814

<i>County of Mouth</i>	<i>Stream Name</i>	<i>Tributary to</i>	<i>Listed Section Limits</i>	<i>Revised Section Limits</i>
Berks	Spring Creek	Tulpehocken Creek	Headwaters downstream to mouth	Headwaters downstream to Robesonia-Wernersville STP 490 meters upstream of SR 3010
Berks	UNT (Packwechen Run)	Perkiomen Creek	Headwaters downstream to mouth	Headwaters downstream to tributary between T-926 and T-928
Blair	Mill Run	Beaverdam Branch	Headwaters downstream to mouth	Headwaters downstream to Mill Run Reservoir
Cambria	Bens Creek	Little Conemaugh River	Headwaters downstream to mouth	Headwaters to 0.9 kilometer downstream of LR 11071 Bridge
Cambria	Laurel Run	Conemaugh River	Headwaters downstream to mouth	Headwaters downstream to 1.2 kilometers upstream conf Red Run
Cambria	Saltlick Run	Little Conemaugh River	Headwaters downstream to mouth	Headwaters downstream to Saltlick Reservoir backwater
Cambria	South Fork Little Conemaugh River	Little Conemaugh River	Headwaters downstream to mouth	Headwaters to SR 0869 Bridge at Lloydell
Cambria	Trout Run	Little Conemaugh River	Headwaters downstream to mouth	Headwaters to 300 meters downstream SR 0164 Bridge
Carbon	Aquashicola Creek	Lehigh River	NJ Zinc Entrance upstream to Headwaters	Headwaters downstream to conf Buckwha Creek
Carbon	Lizard Creek	Lehigh River	1.0 kilometer downstream to SR 0309 bridge upstream to Headwaters	Headwaters downstream to 1.0 mile upstream of T-960 Andreas Road
Carbon	Mud Run	Lehigh River	Headwaters downstream to mouth	Headwaters downstream to lower boundary of Hickory Run State Park
Carbon	Quakake Creek	Black Creek	Headwaters downstream to mouth	Headwaters downstream to T-459 Bridge
Clinton	Tangascootack Creek	West Branch Susquehanna River	Headwaters to Muddy Run and conf N Fk to conf S Fk	Headwaters downstream to conf Muddy Run
Elk	West Branch Clarion River	Clarion River	Headwaters downstream to mouth	Headwaters downstream to Silver Creek Road Bridge
Fayette	Brownfield Hollow	Mountain Creek	Headwaters downstream to mouth	Headwaters to SR 0857 Bridge
Fayette	Buck Run	Laurel Run	Headwaters downstream to mouth	Headwaters downstream to 2.3 kilometers upstream of mouth
Fayette	Dunbar Creek	Youghiogheny River	Headwaters downstream to mouth	Headwaters downstream to LR 26047 Bridge at Pechin
Fayette	Poplar Run	Indian Creek	Headwaters downstream to mouth	Headwaters downstream to conf Newmyer Run
Fayette	Rubles Run	Cheat River	Headwaters downstream to mouth	Headwaters to first crossing of PA—WV Stateline
Franklin	East Branch Antietam Creek	Antietam Creek	Headwaters downstream to mouth	Headwaters downstream to T-365 lower limit of Delayed Harvest Area
Franklin	Falling Spring Branch	Conococheague Creek	Headwaters downstream to mouth	Headwaters downstream to Fifth Avenue Bridge
Huntingdon	Blacklog Creek	Aughwick Creek	Headwaters downstream to mouth	Headwaters downstream to Byron Church Farm Lane

<i>County of Mouth</i>	<i>Stream Name</i>	<i>Tributary to</i>	<i>Listed Section Limits</i>	<i>Revised Section Limits</i>
Huntingdon	Frankstown Branch Juniata River	Juniata River	Headwaters downstream to mouth	Headwaters downstream to 500 meters downstream SR 0305 Bridge in Alexandria
Huntingdon	Spruce Creek	Little Juniata River	Headwaters downstream to mouth	Headwaters downstream to Lower Boundary of PSU Experimental Area
Indiana	South Branch Two Lick Creek	Two Lick Creek	Headwaters downstream to mouth	Headwaters downstream to SR 1014
Jefferson	Big Run	Mahoning Creek	Headwaters downstream to mouth	Headwaters downstream to T-519 Bridge
Lancaster	Climbers Run	Pequea Creek	Trout Run downstream to mouth	Conf Trout Run to a point 600 meters downstream conf Trout Run
Lancaster	Donegal Creek	Chickies Creek	Headwaters downstream to mouth	Headwaters downstream to SR 0023
Lancaster	Fishing Creek	Susquehanna River	Headwaters downstream to mouth	Headwaters downstream to SR 3002
Lancaster	Hammer Creek	Cocalico Creek	UNT Buffalo Springs downstream to Speedwell Forge Lake	UNT Buffalo Springs downstream to UNT in county park, Speedwell Forge Road
Mifflin	Laurel Creek	Honey Creek	Headwaters downstream to mouth	Headwaters downstream to conf Lingle Creek
Mifflin	Strodes Run	Juniata River	Headwaters downstream to mouth	Headwaters downstream to 500 meters downstream of T-710 Bridge
Northampton	Hokendauqua Creek	Lehigh River	Headwaters downstream to mouth	Headwaters downstream to 0.38 mile downstream of T-477 Church Road
Northampton	Lehigh River	Delaware River	Headwaters downstream to mouth	Headwaters downstream to conf Sandy Run
Pike	Bush Kill	Delaware River	Headwaters downstream to mouth	Headwaters downstream to lower Delaware State Forest Boundary
Schuylkill	Little Mahanoy Creek	Mahanoy Creek	Headwaters downstream to mouth	Headwaters downstream to Gordon Borough Boundary
Schuylkill	Little Schuylkill River	Schuylkill River	Pine Creek downstream to Panther Creek; Cold Run downstream to Indian Run	Conf Pine Creek downstream to conf Panther Creek
Schuylkill	Locust Creek	Little Schuylkill River	Headwaters downstream to mouth	Headwaters downstream to Tuscarora Lake
Schuylkill	Tumbling Run	Schuylkill River	Headwaters downstream to mouth	Headwaters downstream to upper Tumbling Run Reservoir
Somerset	Mill Creek	Bens Creek	Headwaters downstream to mouth	Headwaters downstream to Mill Creek Reservoir
Somerset	North Fork Bens Creek	Bens Creek	Headwaters downstream to mouth	Headwaters downstream to North Fork Reservoir
Somerset	Roaring Run	Quemahoning Creek	Headwaters downstream to mouth	Headwaters downstream to conf Gum Run
Somerset	Sandy Run	Laurel Hill Creek	Headwaters downstream to mouth	Headwaters downstream to 200 meters downstream of T-455
Warren	Kinzua Creek	Allegheny River	Headwaters downstream to mouth	Headwaters downstream to conf Meade Run

<i>County of Mouth</i>	<i>Stream Name</i>	<i>Tributary to</i>	<i>Listed Section Limits</i>	<i>Revised Section Limits</i>
Wayne	Wallenpaupack Creek	Lackawaxen River	Headwaters upstream to Lake Wallenpaupack Dam	Headwaters downstream to 0.5 kilometer downstream of conf West Branch Wallenpaupack Creek
Wayne	West Branch Lackawaxen River	Lackawaxen River	Prompton Res inlet upstream to Belmont Lake outlet	Belmont Lake downstream to 600 meters downstream of T-611 Third Hatchery Road Bridge
Westmoreland	Baldwin Creek	Conemaugh River	Headwaters downstream to mouth	Headwaters downstream to State Game Lands No. 42 Boundary
Westmoreland	Mill Creek	Loyalhanna Creek	Headwaters downstream to mouth	Headwaters downstream to conf Hannas Run
Westmoreland	Trout Run	McGee Run	Headwaters downstream to mouth	Headwaters downstream to backwaters of Blairsville Reservoir
Westmoreland	Tubmill Creek	Conemaugh River	Headwaters downstream to mouth	Headwaters downstream to Tubmill Reservoir
York	South Branch Codorus Creek	Codorus Creek	Headwaters downstream to T527 Grainery Road	Headwaters downstream to 1 kilometer downstream from SR 0616 in Centerville

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

[Pa.B. Doc. No. 05-962. Filed for public inspection May 13, 2005, 9:00 a.m.]

Designations and Removals; Exclusive Use Fishing Areas

The Executive Director of the Fish and Boat Commission (Commission), acting under the authority of 58 Pa. Code § 65.21 (relating to waters limited to specific purposes—exclusive use fishing areas), designates the following water areas as being for the exclusive use of children, special populations, or both, as indicated. These designations are effective when the waters are so posted after publication of this notice in the *Pennsylvania Bulletin*.

<i>County</i>	<i>Water Area</i>	<i>Upper Limit</i>	<i>Lower Limit</i>
Adams	Latimore Creek	Baltimore Road bridge	Downstream 150 yards from bridge
Clearfield	Little Muddy Run*	Janesville Dam spillway	Bridge on TR-919 (Walnut St.)
Crawford	Pymatuning Pond	Pymatuning Sportsmen's Club property	Pymatuning Sportsmen's Club property
Dauphin	Clarks Creek	First bridge upstream of Route 225	Route 225 bridge
Dauphin	Powells Creek	1/10 mile upstream of Lebo Road	1/4 mile downstream of Lebo Road
Elk	Powers Run*	St. Mary's Sportsmen's Club property	St. Mary's Sportsmen's Club property
Erie	Conneauttee Creek	Edinboro Lake Dam	West Normal Street bridge
Erie	Girard Park Pond	Girard Park property	Girard Park property
Forest	Toms Run	Cable across stream above pond	Cable across stream below pond
Fulton	Esther Run	From a point opposite the stone house above raceway	Downstream approximately .4 mile below T-342 to a steel cable
Lackawanna	Manny Gordon Pond*	McDade Park	McDade Park
Lehigh	Coplay Creek	Chestnut Street bridge	MacArthur Road bridge
McKean	Marvin Creek*	Mouth of Kane Creek	Downstream approximately 1,200 feet to a wire with signs across the stream

<i>County</i>	<i>Water Area</i>	<i>Upper Limit</i>	<i>Lower Limit</i>
Monroe	Tobyhanna Creek	1,250 feet upstream from Main Street bridge	500 feet upstream from Main Street bridge
Montour	Mahoning Creek	Route 11 bridge	1/4 mile downstream of Route 11 bridge
Potter	Kettle Creek	200 yards above T-537 bridge	100 yards below T-537 bridge
Potter	Kettle Creek (State Park)	Dam at beach area	Causeway crossing stream to campground
Union	Buffalo Creek*	North 8th Street bridge	North 3rd Street bridge

* Children Only Area (12 years of age and under)

The Executive Director also removes the designations as exclusive use fishing areas on the following water areas. These removals are effective immediately upon publication of this notice in the *Pennsylvania Bulletin*.

Cameron County	Wykoff Run
Centre County	Tomtitt Run
Clearfield County	Goss Run
Lancaster County	Big Beaver Creek
Lancaster County	Fishing Creek
Monroe County	Pocono Creek
Schuylkill County	Deep Creek
Schuylkill County	Pine Creek

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

[Pa.B. Doc. No. 05-963. Filed for public inspection May 13, 2005, 9:00 a.m.]

Redesignation of Water Subject to Special Fishing Regulation; McMichaels Creek, Monroe County

The Fish and Boat Commission (Commission) has redesignated the section of McMichaels Creek, Monroe County that is currently regulated and managed under 58 Pa. Code § 65.6 (relating to delayed harvest artificial lures only areas). Presently, the following section of McMichaels Creek is regulated and managed as a delayed harvest artificial lures only area: From 130 yards downstream of the bridge on Turkey Hill Road (T-416) downstream to the upstream boundary of the Glen Brook Golf Course, a distance of 1.74 miles. The revised limits are from a point 0.71 mile downstream of the bridge on Turkey Hill Road (T-416) downstream to the upstream boundary of the Glen Brook Golf Course, for a distance of 1.1 miles. This redesignation shall be effective immediately upon publication of this notice in the *Pennsylvania Bulletin*.

DOUGLAS J. AUSTEN, Ph.D.,
Executive Director

[Pa.B. Doc. No. 05-964. Filed for public inspection May 13, 2005, 9:00 a.m.]

Triploid Grass Carp Permit Application

Under 58 Pa. Code § 71.7 (relating to triploid grass carp), the Fish and Boat Commission (Commission) may issue permits to stock triploid grass carp in waters of this Commonwealth. Triploid grass carp are sterile fish that may, in appropriate circumstances, help control aquatic vegetation. The Commission has determined consistent with 58 Pa. Code § 71.7(e)(3) to seek public input with respect to any proposed stockings of triploid grass carp in waters having a surface area of more than 5 acres.

Interested persons are invited to submit written comments, objections or suggestions about the notice to the Executive Director, Fish and Boat Commission, P. O. Box 67000, Harrisburg, PA 17106-7000 within 10 days after publication of this notice in the *Pennsylvania Bulletin*. Comments submitted by facsimile will not be accepted. Comments also may be submitted electronically 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.

The following application to stock triploid grass carp in waters having a surface area of greater than 5 acres is currently undergoing staff review:

<i>Applicant</i>	<i>Water</i>	<i>Location of Water</i>	<i>Description of Water</i>	<i>Nature of Vegetation to be Controlled</i>
Analab, Inc.	Lake at Spring Hill Airport	Sterling Township Wayne County	10.1-acre lake which discharges into a grassy and forested area within the Uban Creek drainage	Potamogeton pusillus (Small pondweed) Najas flexilis (naiad)
				DOUGLAS J. AUSTEN, Ph.D., <i>Executive Director</i>

[Pa.B. Doc. No. 05-965. Filed for public inspection May 13, 2005, 9:00 a.m.]

INDEPENDENT REGULATORY REVIEW COMMISSION

Actions Taken by the Commission

The Independent Regulatory Review Commission met publicly at 11 a.m., Thursday, April 28, 2005, and announced the following:

Regulation Deemed Approved under section 5(g) of the Regulatory Review Act—Effective April 27, 2005

Department of State #16-33: Fees for Notary Services (amends 4 Pa. Code § 161.1)

Regulations Approved

Pennsylvania Public Utility Commission #57-234: Public Utility Security Planning and Readiness (adds 52 Pa. Code Chapter 101)

State Board of Optometry #16A-528: General Revisions (amends 49 Pa. Code Chapter 23)

Approval Order

Public Meeting held
April 28, 2005

Commissioners Voting: Murray Ufberg, Esq., Acting Chairperson; Alvin C. Bush, Vice Chairperson by phone; Daniel F. Clark, Esq.; Arthur Coccodrilli

Pennsylvania Public Utility Commission—Public Utility Security Planning and Readiness; Regulation No. 57-234

On June 3, 2004, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the Pennsylvania Public Utility Commission (PUC). This rulemaking adds 52 Pa. Code Chapter 101. The proposed regulation was published in the June 19, 2004, *Pennsylvania Bulletin* with a 30-day public comment period. The final-form regulation was submitted to the Commission on October 15, 2004. On November 17, 2004, the PUC withdrew the final-form regulation. On March 24, 2005, the PUC resubmitted the final-form regulation.

This regulation requires all jurisdictional utilities to develop and maintain written physical security, cyber security, emergency response and business continuity plans. Jurisdictional utilities must submit a self certification form to the PUC documenting compliance with the requirements contained in Chapter 101.

We have determined this regulation is consistent with the statutory authority of the Pennsylvania Public Utility Commission (66 Pa.C.S. §§ 501, 504 and 1501) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

Approval Order

Public Meeting held
April 28, 2005

Commissioners Voting: Murray Ufberg, Esq., Acting Chairperson; Alvin C. Bush, Vice Chairperson by phone; Daniel F. Clark, Esq.; Arthur Coccodrilli

State Board of Optometry—General Revisions; Regulation No. 16A-528

On February 12, 2003, the Independent Regulatory Review Commission (Commission) received this proposed regulation from the State Board of Optometry (Board). This rulemaking amends 49 Pa. Code Chapter 23. The proposed regulation was published in the March 1, 2003, *Pennsylvania Bulletin* with a 30-day public comment period. A final-form regulation was submitted to the Commission on October 1, 2004. On October 15, 2004, the Board withdrew that final-form regulation. On March 24, 2005, the Board resubmitted the final-form regulation.

This regulation establishes the means and methods for the examination, diagnosis and treatment of conditions of the visual system. It also updates requirements related to practice location, equipment and the filling of prescriptions.

We have determined this regulation is consistent with the statutory authority of the Board (63 P. S. §§ 244.3(a) (2.1), 244.3(a)(3), 244.3(b)(9) and 244.3(b)(14)) and the intention of the General Assembly. Having considered all of the other criteria of the Regulatory Review Act, we find promulgation of this regulation is in the public interest.

By Order of the Commission:

This regulation is approved.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 05-966. Filed for public inspection May 13, 2005, 9:00 a.m.]

Notice of Comments Issued

Section 5(g) of the Regulatory Review Act (71 P. S. § 745.5(g)) provides that the Independent Regulatory Review Commission (Commission) may issue comments within 30 days of the close of the public comment period. The Commission comments are based upon the criteria contained in section 5.2 of the Regulatory Review Act (71 P. S. § 745.5b).

The Commission has issued comments on the following proposed regulation. The agency must consider these comments in preparing the final-form regulation. The final-form regulation must be submitted within 2 years of the close of the public comment period or it will be deemed withdrawn.

<i>Reg. No.</i>	<i>Agency/Title</i>	<i>Close of the Public Comment Period</i>	<i>IRRC Comments Issued</i>
16A-559	State Board of Accountancy Revision of and Deletion of Existing Regulations 35 Pa.B. 1573 (March 5, 2005)	4/4/05	5/4/05

State Board of Accountancy Regulation #16A-559 (IRRC #2465)

Revision of and Deletion of Existing Regulations May 4, 2005

We submit for your consideration the following comments that include references to the criteria in the Regulatory Review Act (71 P. S. § 745.5b) which have not been met. The State Board of Accountancy (Board) must respond to these comments when it submits the final-form regulation. The public comment period for this regulation closed on April 4, 2005. If the final-form regulation is not delivered within 2 years of the close of the public comment period, the regulation will be deemed withdrawn.

1. General.—Consistency with statute; Reasonableness; Clarity.

Redundancy of provisions

The Board states in its Preamble that it is deleting numerous provisions found in 49 Pa. Code Chapter 11 because they are repeated verbatim from the CPA Law. The House Professional Licensure Committee (House Committee) has requested that the Board retain language found in the Act to facilitate ease of use by licensees. We agree with the House Committee and recommend that the Board retain the statutory language in the regulation, and if needed, update the regulation to reflect changes to the CPA Law. If the Board doesn't reinstate the statutory language, it should add cross-references in the regulation to the appropriate sections of the CPA Law.

Recognized standard setting bodies

In Section 11.21 (relating to independence) and Section 11.27 (relating to auditing standards and other technical standards), the Board lists a number of recognized public and private standard setting bodies that publish rules and regulations that a licensee must abide by. The House Committee has requested that the Board add the Public Company Accounting Oversight Board (PCAOB) to the list of standard setting bodies that the Board will recognize. It is our understanding that PCAOB was not in existence when the Board drafted this regulation. We concur with the House Committee and ask that the Board include PCAOB as a recognized standard setting body in the appropriate sections of the final-form regulation. Additionally, the Board should provide a definition of PCAOB in the definition section.

2. Section 11.1.—Definitions.—Consistency with statute; Clarity.

As discussed previously, we recommend the Board repeat the statutory definitions found in the CPA Law or add a cross references to those definitions.

3. Section 11.5.—Temporary practice in this Commonwealth.—Consistency with statute; Reasonableness.

In Subsection (a), the Board is proposing to delete the phrase "or other jurisdiction of the United States." Subsections (a)(1) and (a)(2) delete the phrase, "or jurisdiction." By deleting this language, the Board will not allow licensed accountants from the District of Columbia to apply for temporary licenses. Was this the Board's intent? If so, why?

4. Section 11.9.—Use of professional title solely as mark of achievement by individual without current license.—Consistency with statute; Protection of public welfare; Reasonableness.

The House Committee has expressed concerns that allowing the use of "CPA" as a professional title without the need to maintain a current license has the potential to mislead the public. We agree. As an example, Paragraphs (5)(ii) and (iii) state that an individual who is using CPA as a professional title may use "CPA" on business cards or letterhead and other stationery respectively. By contrast, Paragraph (5)(i) only allows a person to use CPA as a professional title solely on a resume or curriculum vitae "... when accompanied by language reflecting that the individual's license is inactive."

Should an individual who only wants to use "CPA" as a mark of professional achievement on a business card or letterhead be required to disclose that their license is inactive as is required by Paragraph (5)(i)?

5. Section 11.25.—Contingent fees.—Consistency with other regulations.

The Board states in the Preamble that it used the American Institute of Certified Public Accountants' (AICPA) professional standards as the model for this section of the regulation. We understand that since the Board drafted this regulation, both the Securities and Exchange Commission and PCAOB have expressed concerns with the AICPA's interpretations with regard to the use of contingent fees. Therefore, we recommend the Board reconsider the applicability of AICPA's standards with regard to contingent fees.

6. Section 11.31.—Records.—Clarity.

The first sentence of this section, as found in the Board's submittal of the proposed regulation, was not included in the March 5, 2005 edition of the *Pennsylvania Bulletin*. This error should be corrected in the final-form publication.

7. Section 11.55.—Experience requirements for CPA certification.—Consistency with statute; Reasonableness; Clarity.

Subsection (a)

This subsection lists the general requirements for candidates seeking to become qualified for the CPA examination. Section 4.1(c) of Act 140 of 1996 (Act) states that individuals sitting for the CPA examination for the first time after January 1, 2000, must complete their CPA experience requirements within 120 months after applying for certification. The Act also states in the same section that individuals who took the CPA exam for the first time before January 1, 2000, do not have to adhere to the time requirements.

For the reasons stated in our first comment, the Board should include the time limitations found in Section 4.1(c) of the Act in the final-form regulation.

Subsection (b)

The Board is deleting “training sessions on the attest function” as part of the qualified experience in attest activities that an individual can acquire to satisfy the experience requirement for CPA certification. The Board should clarify that candidates for CPA certification who have participated in “training sessions on the attest function” before the effective date of this regulation will be able to count those hours toward part of their required qualified experience.

8. Section 11.56.—Supervisor of experience; verification.—Clarity.

The House Committee has recommended that the Board retain language in Subsection (c) that states, “A supervisor may not knowingly submit a false or inaccurate statement or willfully refuse to submit a verified statement when qualified experience has been acquired.” If the Board chooses to make this change in the final-form regulation, a cross-reference should also be included to the applicable penalties that may apply.

JOHN R. MCGINLEY, Jr.,
Chairperson

[Pa.B. Doc. No. 05-967. Filed for public inspection May 13, 2005, 9:00 a.m.]

INSURANCE DEPARTMENT

Application and Request for Approval to Redomesticate

Mountain Laurel Assurance Company, a domestic stock casualty insurance company, has filed an application for approval of a plan of redomestication whereby the state of domicile would change from Pennsylvania to Ohio. The initial filing was made under 15 Pa.C.S. §§ 1101—1110 (relating to the Business Corporation Law of 1988). Persons wishing to comment on the grounds of public or private interest to the issuance of the Insurance Department’s (Department) order approving the redomestication are invited to submit a written statement to the Department within 30 days from the date of this issue of the *Pennsylvania Bulletin*. Written statements must include name, address and telephone number of the interested party, identification of the application to which the statement is addressed and a concise statement with

sufficient detail and relevant facts to inform the Department of the exact basis of the statement. Written statements should be directed to Robert Brackbill, Company Licensing Division, Insurance Department, 1345 Strawberry Square, Harrisburg, PA 17120, fax (717) 787-8557, rbrackbill@state.pa.us.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-968. Filed for public inspection May 13, 2005, 9:00 a.m.]

Life Investors Insurance Company; Rate Increase Filing for Several Long Term Care Policy Forms; Rate Filing

Life Investors Insurance Company is requesting approval to increase the premium 35% for the following long term care forms: GCPLUS 1290 (PA), GCPLUS 2 1290 (PA), GCPRO (PA) 193, GCPRO (PA-FR) 193, GCPRO (PA) 995, GCPRO (PA-FR) 995, GCPRO-II (PA) 794, GCPRO-II (PA-FR) 794, GCPRO-II (PA) 995, GCPRO-II (PA-FR) 995, KLTCP 1 (PA) 490, LI-LTCP (PA) 192, LI-LTCP (PA) 195, LI-LTCP (PA-FR) 195, LI-LTCP TQ (PA) 898, LI-LTCP TQ (PA-FR) 898, GC001-NH (PA) 796, GC001-LTC (PA) 796 and GC001-HHC (PA) 796. The premium increase will affect 319 policyholders in this Commonwealth.

Unless formal administrative action is taken prior to July 27, 2005, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department’s (Department) website: www.ins.state.pa.us. Under the Quick Links section, click on the link “Rate Filings Published in the PA Bulletin.”

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 James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-969. Filed for public inspection May 13, 2005, 9:00 a.m.]

Transamerica Life Insurance Company; Rate Increase Filing for Several Long Term Care Policy Forms; Rate Filing

Transamerica Life Insurance Company is requesting approval to increase the premium 35% for the following long term care forms: 6222 (PA) 289, LTC 2 (PA) 1290, LTC 3 (PA) 1091, LTC 3 (PA) 1091 (GR194), LTC 3 (PA) 1091 (GR195), LTC 3 (PA) 1091 (REV194), IP-70-PA-494, IP-71-PA-494, FP-70-PA-494, FP-71-PA-494, LTC 5 COM (PA) 196, LTC 5 COM (PA-FP) 196, LTC 5 NH (PA) 196, LTC 5 NH (PA-FP) 196, LTC 5 TQ COM (PA) 1096, LTC 5

TQ COM (PA-FP) 1096, LTC 5 TQ NH (PA) 1096 and LTC 5 TQ NH (PA-FP) 1096. The premium increase will affect 278 policyholders in this Commonwealth.

Unless formal administrative action is taken prior to July 27, 2005, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) website at www.ins.state.pa.us. Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

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 James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-970. Filed for public inspection May 13, 2005, 9:00 a.m.]

Transamerica Occidental Life Insurance Company; Rate Increase Filing for Several Long Term Care Policy Forms; Rate Filing

Transamerica Occidental Life Insurance Company is requesting approval to increase the premium 35% for the following Long Term Care Forms: 1-812 44-190, 1-820 44-991, 1-822 44991, LTC-104-194, LTC-105-194, LTC-106-194, LTC-124-197, LTC-125-197, LTC-126-197, LTC-224-197, LTC-225-197, LTC-226-197, LTC-304-198 and LTC-305-198. The premium increase will affect 3,140 policyholders in this Commonwealth.

Unless formal administrative action is taken prior to July 27, 2005, the subject filing may be deemed approved by operation of law.

A copy of the filing is available on the Insurance Department's (Department) website at www.ins.state.pa.us. Under the Quick Links section, click on the link "Rate Filings Published in the PA Bulletin."

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 James Laverty, Actuary, Insurance Department, Insurance Product Regulation and Market Enforcement, Room 1311, Strawberry Square, Harrisburg, PA 17120, jlaverty@state.pa.us within 30 days after publication of this notice in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,
Insurance Commissioner

[Pa.B. Doc. No. 05-971. Filed for public inspection May 13, 2005, 9:00 a.m.]

PENNSYLVANIA PUBLIC UTILITY COMMISSION

Service of Notice of Motor Carrier Applications

The following temporary authority and/or permanent authority applications for the right to render service as a common carrier or contract carrier in this Commonwealth have been filed with the Pennsylvania Public Utility Commission. Formal protests and petitions to intervene must be filed in accordance with 52 Pa. Code (relating to public utilities). A protest shall indicate whether it applies to the temporary authority application, the permanent authority application, or both. Filings must be made with the Secretary, Pennsylvania Public Utility Commission, P. O. Box 3265, Harrisburg, PA 17105-3265, with a copy served on the applicant by June 6, 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-00117894, Folder 2. Francis A. Larkin t/d/b/a Door to Door Limo Service (633 Laurel Road, Springfield, Delaware County, PA 19064)—persons, in limousine service, between points in the Counties of Philadelphia, Delaware, Chester and Montgomery, and from points in said counties, to points in Pennsylvania, and return.

A-00121690. Samuel P. Peachey (2409 West Back Mountain Road, Belleville, Mifflin County, PA 17004)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, between points in the County of Mifflin, and from points in said county, to points in Pennsylvania, and return.

A-00121691. Vonnie Hamilton t/d/b/a Hamilton's Enterprise (5524 Willows Avenue, Philadelphia, Philadelphia County, PA 19143)—persons, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, between points in the City and County of Philadelphia, and from points in said territory, to points in Pennsylvania, and return.

A-00119180 Folder 3. Dennis Sosa t/d/b/a Xpres Limousine Service (648 West Park Street, Honesdale, Wayne County, PA 18431)—persons, in limousine service, between points in the Counties of Pike and Wayne, and from points in said counties, to points in Pennsylvania, and return. *Attorney:* Joseph R. Rydzewski, HCR 6, Box 6025, Hawley, PA 18428.

A-00119180, Folder 4. Dennis Sosa t/d/b/a Xpres Limousine Service (R. R. 1, Box 1113A, Waymart, Wayne County, PA 18472)—persons, in group and party service, in vehicles seating 11 to 15 passengers, including the driver, between points in the Counties of Pike and Wayne, and from points in said counties, to points in Pennsylvania, and return. *Attorney:* Joseph R. Rydzewski, HCR 6, Box 6025, Hawley, PA 18428.

A-00121692. Williams & Palmer Funeral Home, Inc. (7103 Woodland Avenue, Philadelphia PA 19142)—persons in limousine service, between points in the Counties of Philadelphia, Montgomery and Delaware and from points in said counties, to points in Pennsylvania, and return.

A-00121695. DRS Transport, LLC (P. O. Box 308, Columbia, Lancaster County, PA 17512), a limited liability company—persons, in paratransit service, between points in the Counties of Lancaster, York, Lebanon, Dauphin, Berks and Cumberland, and from points in said territory, to points in Pennsylvania, and return. *Attorney:* Susan M. Zeamer, 4431 North Front Street, Harrisburg, PA 17110.

A-00121698. Premium Taxi (2827 Elm Court, Allentown, Lehigh County, PA 18103), a limited liability company of the Commonwealth—persons, upon call or demand, in the City of Allentown, Lehigh County; the Townships of North Whitehall, South Whitehall and Salisbury, all in Lehigh County; and the City of Bethlehem, Lehigh and Northampton Counties.

A-00121696. Adam Weaver (44 Fredericksville Road, Mertztown, Berks County, PA 19539)—persons in paratransit service, whose personal convictions prevent them from owning or operating motor vehicles, between points in the Counties of Berks, Union, Lancaster, Franklin and Cumberland, and from points in said counties, to points in Pennsylvania, and return.

A-00121694. Frederick D. Aimino (220 Bloom Road, Punxsutawney, Indiana County, PA 15767)—persons in paratransit service, limited to persons whose personal convictions prevent them from owning or operating motor vehicles, between points in the County of Indiana, and from points in said county, to points in Pennsylvania, and return.

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-00119503, Folder 1, Am-A. Anthony Kiliany t/d/b/a White Knight Limousine (1807 West Loucks Avenue, Scottdale, Westmoreland County, PA 15683)—persons in limousine service, between points in Fayette, Indiana, Washington and Westmoreland Counties, and from points in said counties and the County of Allegheny to points in Pennsylvania, and return. *Attorney:* John A. Pillar, 680 Washington Road, Suite B-101, Pittsburgh, PA 15228.

Application of the following for approval of the beginning of the exercise of the right and privilege of operating motor vehicles as common carriers for the transportation of persons by transfer of rights as described under the application.

A-00121693. Astro Limousine Service, Inc. (Suite 214, 4201 Neshaminy Boulevard, Bensalem PA 19020)—persons, in limousine service, between points in Pennsylvania; which is to be a transfer of all of the limousine rights authorized under the certificate issued at A-00109093, to Penn Express Transportation Co., subject to the same limitations and conditions. *Attorney:* David P. Temple, 1760 Market Street, Suite 1100, Philadelphia PA 19103, (215) 963-1555.

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-00119867, Folder 1, Am-B. John C. and Ida Taylor t/a Top Notch Van Services (2809 Rhawn Street, Philadelphia, Philadelphia County, PA 19152)—

discontinuance of service and cancellation of their certificate, as a common carrier, by motor vehicle, at A-00119867, authorizing the transportation of persons, in paratransit service, from points in the City and County of Philadelphia, to all State and Federal correctional institutions, located in Pennsylvania, and return.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-972. Filed for public inspection May 13, 2005, 9:00 a.m.]

Telecommunications

A-310580F7001. Verizon North Inc. and MCI WorldCom Communications, Inc. (as successor to Rhythms Links, Inc.) Joint petition of Verizon North Inc. and MCI WorldCom Communications, Inc. (as successor to Rhythms Links, Inc.) for approval of amendment no. 2 to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon North Inc. and MCI WorldCom Communications, Inc. (as successor to Rhythms Links, Inc.), by its counsel, filed on April 22, 2005, 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 MCI WorldCom Communications, Inc. (as successor to Rhythms Links, 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. 05-973. Filed for public inspection May 13, 2005, 9:00 a.m.]

Telecommunications

A-310401F7000. Verizon Pennsylvania Inc. and Intermedia Communications, Inc. d/b/a Pennsylvania Intermedia Communications, Inc. Joint petition of Verizon Pennsylvania Inc. and Intermedia Communications, Inc. d/b/a Pennsylvania Intermedia Communications, Inc. for approval of amendment no. 3 to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and Intermedia Communications, Inc. d/b/a Pennsylvania Intermedia Communications, Inc., by its counsel, filed on April 22, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment no. 3 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 Intermedia Communications, Inc. d/b/a Pennsylvania Intermedia Communications, Inc. joint petition are on file with the Commission and are available for public inspection.

The contact person is Cheryl Walker Davis, Director, Office of Special Assistants, (717) 787-1827.

JAMES J. MCNULTY,
Secretary

[Pa.B. Doc. No. 05-974. Filed for public inspection May 13, 2005, 9:00 a.m.]

Telecommunications

A-310580F7000. Verizon Pennsylvania Inc. and MCI WorldCom Communications, Inc. (as successor to Rhythms Links, Inc.) Joint petition of Verizon Pennsylvania Inc. and MCI WorldCom Communications, Inc. (as successor to Rhythms Links, Inc.) for approval of amendment no. 2 to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and MCI WorldCom Communications, Inc. (as successor to Rhythms Links, Inc.), by its counsel, filed on April 22, 2005, 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 MCI WorldCom Communications, Inc. (as successor to Rhythms Links, 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. 05-975. Filed for public inspection May 13, 2005, 9:00 a.m.]

Telecommunications

A-310820F7000. Verizon Pennsylvania Inc. and SNIp LiNK, LLC. Joint petition of Verizon Pennsylvania Inc. and SNIp LiNK, LLC for approval of amendment no. 1 to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. and SNIp LiNK, LLC, by its counsel, filed on April 20, 2005, at the Pennsylvania Public Utility Commission (Commission), a joint petition for approval of amendment no. 1 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 SNIp LiNK, 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. 05-976. Filed for public inspection May 13, 2005, 9:00 a.m.]

Telecommunications

A-310580F7000. Verizon Pennsylvania Inc. (f/k/a Bell Atlantic-Pennsylvania, Inc.) and MCI WorldCom Communications, Inc. (f/k/a MFS Intelenet of Pennsylvania, Inc.) Joint petition of Verizon Pennsylvania Inc. (f/k/a Bell Atlantic-Pennsylvania, Inc.) and MCI WorldCom Communications, Inc. (f/k/a MFS Intelenet of Pennsylvania, Inc.) for approval of amendment no. 2 to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. (f/k/a Bell Atlantic-Pennsylvania, Inc.) and MCI WorldCom Communications, Inc. (f/k/a MFS Intelenet of Pennsylvania, Inc.), by its counsel, filed on April 22, 2005, 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. (f/k/a Bell Atlantic-Pennsylvania, Inc.) and MCI WorldCom Communications, Inc. (f/k/a MFS Intelenet of Pennsylvania, 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. 05-977. Filed for public inspection May 13, 2005, 9:00 a.m.]

Telecommunications

A-310752F7000. Verizon Pennsylvania Inc. (f/k/a Bell Atlantic-Pennsylvania, Inc.) and MCI metro Access Transmission Services LLC. Joint petition of Verizon Pennsylvania Inc. (f/k/a Bell Atlantic-Pennsylvania, Inc.) and MCI metro Access Transmission Services LLC for approval of amendment no. 4 to an interconnection agreement under section 252(e) of the Telecommunications Act of 1996.

Verizon Pennsylvania Inc. (f/k/a Bell Atlantic-Pennsylvania, Inc.) and MCI metro Access Transmission Services LLC, by its counsel, filed on April 22, 2005, at the Pennsylvania Public Utility Commission (Commis-

sion), a joint petition for approval of amendment no. 4 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. (f/k/a Bell Atlantic-Pennsylvania, Inc.) and MCImetro Access Transmission Services 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. 05-978. Filed for public inspection May 13, 2005, 9:00 a.m.]

PUBLIC SCHOOL EMPLOYEES' RETIREMENT BOARD

Hearing Scheduled

A hearing has been scheduled, as authorized by 24 Pa.C.S. Part IV (relating to Public School Employees' Retirement Code), in connection with the Public School Employees' Retirement System's (System) denial of claimant's request concerning the indicated account.

The hearing will be held before a hearing examiner at the Public School Employees' Retirement System, 5 North Fifth Street, Harrisburg, PA 17101:

July 20, 2005 David J. Petrosky 2:30 p.m.
(Return to Service)

Persons with a disability who wish to attend the listed hearing and require an auxiliary aid, service or other accommodation to participate in the proceedings should contact Marilyn Fuller-Smith, Assistant to the Executive Director at (717) 720-4921 to discuss how the System may best accommodate their needs.

Parties may appear with or without counsel and offer relevant testimony or evidence to support their respective positions. The hearing will be held in accordance with the requirements of 2 Pa.C.S. §§ 501—508 and 701—704 (relating to the Administrative Agency Law). Under 22 Pa. Code § 201.1 (relating to applicability of general rules), procedural matters will be in conformance with 1 Pa. Code Part II (relating to the General Rules of Administrative Practice and Procedure) unless specific exemption is granted.

JEFFREY B. CLAY,
Executive Director

[Pa.B. Doc. No. 05-979. Filed for public inspection May 13, 2005, 9:00 a.m.]

STATE BOARD OF VEHICLE MANUFACTURERS, DEALERS AND SALESPERSONS

Bureau of Professional and Occupational Affairs v. Anthony Williams a/k/a Anthony Darnell Williams; Doc. No. 1325-60-04

On March 16, 2005, Anthony Williams a/k/a Anthony Darnell Williams, license number MV-181646, of Philadelphia County, was ordered to pay a civil penalty of \$10,000 and license revoked, based upon his criminal convictions. Williams last practiced in Delaware County.

Individuals may obtain a copy of the adjudication by writing to Thomas A. Blackburn, Board Counsel, State Board of Vehicle Manufacturers, Dealers and Salespersons, P. O. Box 2649, Harrisburg, PA 17105-2649.

This adjudication and order represent the final State Board of Vehicle Manufacturers, Dealers and Salespersons (Board) decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Board with a copy of the petition for review. The Board contact for receiving service of appeals is the previously named Board counsel.

EDWIN K. GALBREATH, Jr.,
Chairperson

[Pa.B. Doc. No. 05-980. Filed for public inspection May 13, 2005, 9:00 a.m.]

STATE REAL ESTATE COMMISSION

Bureau of Professional and Occupational Affairs v. David M. Doheny; Doc. No. 1718-56-04

On March 21, 2005, the State Real Estate Commission (Commission) suspended David M. Doheny's license until he pays a \$5,000 fine and \$1,163,719.22 in restitution for pleading guilty to engaging in fraud.

Individuals may obtain a copy of the adjudication by writing to Judith Pachter Schulder, Board Counsel, State Real Estate Commission, P. O. Box 2649, Harrisburg, PA 17105-2649.

This final order represents the final Commission decision in this matter. It may be appealed to the Commonwealth Court of Pennsylvania by the filing of a petition for review with that court in accordance with the Pennsylvania Rules of Appellate Procedure. Individuals who take an appeal to the Commonwealth Court must serve the Commission with a copy of the petition for review. The Commission contact for receiving service of appeals is the previously named Commission counsel.

BEVERLY R. BROOKES,
Chairperson

[Pa.B. Doc. No. 05-981. Filed for public inspection May 13, 2005, 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.

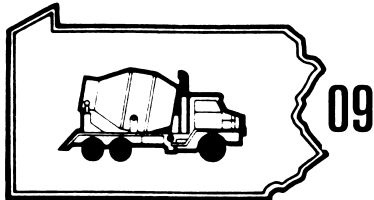
(For commodities) Vendor Services Section (717) 787-2199 or (717) 787-4705

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

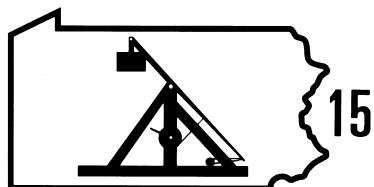
ROBERT P. CASEY, Jr.,
State Treasurer



Construction & Construction Maintenance

SSHE 401-BL-772 Work under this project consists of the construction of an access road for a new parking lot on the upper campus of Bloomsburg University. Primary items of work include final grading, storm drainage, and bituminous paving for the access road. To obtain a copy of the bid documents submit a \$25.00 + tax non-refundable deposit and \$20.00 + tax will be required for shipping to Larson Design Group, 1000 Commerce Park Drive, Williamsport, PA 17703-0487, phone #570-389-6603. The pre-bid conference will held on May 11, 2005 at 10:00 am, Bloomsburg University, Waller Admin. Bldg., Room 38A, Bloomsburg. The bids will be due at 1:00 p.m. on May 24, 2005.

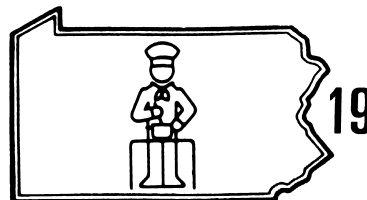
Department: State System of Higher Education
Location: Bloomsburg University, 400 East Second Street, Bloomsburg, PA 17815
Duration: Completion date: August 15, 2005
Contact: Diann Shamburg, (570) 389-4312



Environmental Maintenance Service

OSM 17(0084)103.1 Water Line Extension Project, Needful West. The principal items of work and approximate quantities include Site Preparation and Restoration, Connection to Existing System, 5,880 linear feet of Installation of Eight-Inch (8") Ductile Iron Pipe Including Fittings, 11 Eight Inch (8") Gate Valves and Valve Boxes, 1,015 cubic yards of Select Granular Material (2RC), 30 linear feet of Highway Crossing, 3 Two Inch (2") Automatic Air Release Valves, 4 Two Inch (2") Blow Off Valves, 18 Valve Markers, Pressure Reducing Vault, Meter and Control Components and Traffic Control. This project issues on May 13, 2005 and bids will be opened on June 7, 2005 at 2:00 p.m. Bid documents cost \$15.00 per set and will not be mailed until payment has been received. 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: Bradford Township, Clearfield County
Duration: 180 calendar days after the official starting date.
Contact: Construction Contracts Section, (717) 787-7820



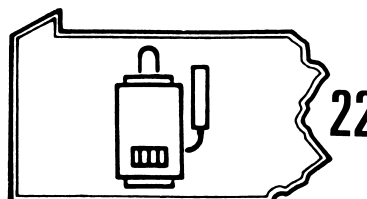
Food

30081844 This bid is for bread, rolls and English muffins. A copy of the bid packet is available by contacting the Purchasing Department by phone at 610-740-3425 or fax at (610) 740-3424.

Department: Public Welfare
Location: Allentown State Hospital, 1600 Hanover Avenue, Allentown, PA 18109-2498
Duration: July 1, 2005 TO June 30, 2006
Contact: Robert Mitchell, (610) 740-3425

CN00014834 Coffee, concentrate, decaffeinated, non-frozen, liquid. Successful bidder to furnish, install and maintain at no additional cost to the Hospital all dispensing equipment as specified in bid. Please send a fax to 570-587-7108 with your company name, address, telephone and fax number, Federal ID Number and your PA vendor number to request a bid package. Bid packages cannot be faxed.

Department: Public Welfare
Location: Clarks Summit State Hospital, 1451 Hillside Drive, Clarks Summit, PA 18411-9505
Duration: July 1, 2005 - June 30, 2006
Contact: Stanley Rygelski, PA, (570) 587-7291



HVAC Services

W-0583-0402 Replace existing steam converters in building #5 at the Ebensburg Center per project work specifications.

Department: Public Welfare
Location: Ebensburg Center; Department of Public Welfare; Route 22 West, PO Box 600; Ebensburg, PA 15931
Duration: Estimate 90 Calendar days from effective date of contract
Contact: Marilyn Cartwright, Purchase Agent 3, (814) 472-0259/0288



Janitorial Services

FM8886 Furnish materials, equipment, and labor to perform janitorial services three (3) 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.

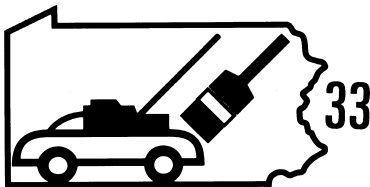
Department: State Police
Location: Pennsylvania State Police, Troop H, Carlisle Station, 1538 Commerce Avenue, Carlisle, PA 17013
Duration: July 1, 2005 through June 30, 2008
Contact: Helen Fuhrman, (717) 705-5952

FM 8883 Furnish materials, equipment, and labor to perform janitorial services three (3) 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, Troop D, Mercer Station, 826 Franklin Road, Mercer, PA 16137
Duration: July 1, 2005 through June 30, 2008
Contact: Helen Fuhrman, (717) 705-5952

FM8914 Furnish materials, equipment, and labor to perform janitorial services three (3) 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.

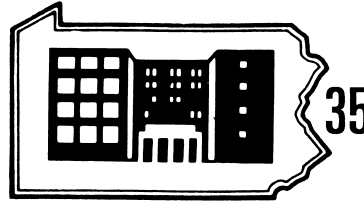
Department: State Police
Location: Pennsylvania State Police, Troop C, Ridgway Station, 15010 Boot Jack Road, Ridgeway, PA 15853
Duration: July 1, 2005 through June 30, 2008
Contact: Helen Fuhrman, (717) 705-5952



Property Maintenance

8915 Furnish all labor, materials and equipment to cut, trim and maintain grass area at the PA State Police, Towanda Station, THREE (3) cuttings per month, or as required by the Station Commander. Detailed Work Schedule and Bid must be obtained from the Facility Management Division at 717-705-5951.

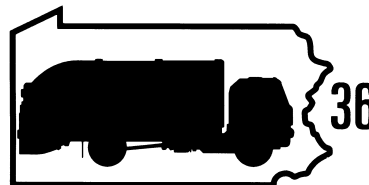
Department: State Police
Location: Troop P, Towanda Station, R. D. #1, Towanda, PA 18848, Phone #570-265-2186
Duration: 07/01/05 to 06/30/08
Contact: Sandy Wolfe, (717) 705-5951



Real Estate Services

93848 LEASE OFFICE SPACE TO THE COMMONWEALTH OF PA. Proposals are invited to provide the Office of Attorney General with 28,638 useable square feet of office space in Norristown, Montgomery County, PA, with a minimum parking for 120 vehicles. For more information on SFP #93848 which is due on June 20, 2005, visit www.dgs.state.pa.us and click on Real Estate to download an SFP document or call (717) 787-0952.

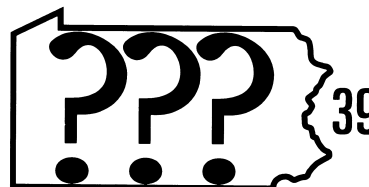
Department: Attorney General
Location: 505 North Office Building, Harrisburg, PA 17125
Contact: Cynthia T. Lentz, (717) 787-0952



Sanitation

CN00014768 One 40 cubic yard trash container for Philadelphia County PennDot yard, Blaine & Ruffner Streets to be emptied once a week.

Department: Transportation
Location: Blaine & Ruffner Street, Philadelphia, PA 19140
Duration: One year contract
Contact: Suleica Vazquez, (215) 225-1415



Miscellaneous

81602915000 The Pennsylvania Commission on Crime and Delinquency is accepting proposals to identify a provider for training facilities, administration and instruction for Deputy Sheriffs' Basic Training under 1984-2 as amended by Act 1998-10 and Act 2002-184. The purpose of this RFP is to identify a single training delivery contractor to provide for the delivery of deputy sheriffs' basic training programs at a single site, geographically located centrally within the state. The Pennsylvania Commission on Crime and Delinquency is an equal opportunity employer.

Department: Commission on Crime and Delinquency
Location: Contractor provided single site, geographically located centrally within the state.
Duration: Multi-year contract: Initial - Approximately 24 Months/Renewable for Two Additional Two Year Contracts
Contact: Don Numer, (717) 705-3693 X 3041

W-0501-0405 Furnishing all labor, materials, necessary piping, connections, equipment, tools, and supervision to repair/replace degraded ash handling system components. A complete bid packet can be obtained by calling the Purchasing Department 610-740-3425 or Faxing a request to 610-740-3424.

Department: Public Welfare
Location: Allentown State Hospital, 1600 Hanover Avenue, Allentown, PA 18109-2498
Duration: Contractor will have 120 days after contract awarded.
Contact: Robert Mitchell, (610) 740-3425

SWIF-LBP-003 Contractor shall be responsible for Total Document Shredding for various locations of the State Workers' Insurance Fund. For Detailed specifications please send a request via e-mail to bpartyka@state.pa.us.

Department: Labor and Industry
Location: State Workers' Insurance Fund, 100 Lackawanna Avenue, Scranton, PA 18503 as well as 3 additional district offices
Duration: August 1, 2005 through July 31, 2006
Contact: Barbara Partyka, PA-1, (570) 963-4614

MI-934 PROJECT TITLE: MI-934 Alumni Hall / Lyte Auditorium - New Roof & Coping. BRIEF Remove and properly dispose of existing roofing system, coping, flashing and asbestos coating; repair existing gypsum roof deck as necessary; provide new base flashings, insulation, 30-year warranty EPDM single-ply membrane roofing system, metal coping and flashing, and all work necessary for a complete and weathertight system. CERTIFICATION REQUIREMENTS to be submitted with proposal: Roof Installer - provide a certificate signed by the roofing system manufacturer certifying that the installer is approved, authorized, &/or licensed by the manufacturer for the installation of their 30-year fully-adhered membrane roofing system; Asbestos Handling Demolition Superintendent and Crew: 1. provide the name of the on-site superintendent in charge of the asbestos abatement demolition crew and EPA AHERA 40-hr Supervisor Training Certification; 2. provide the names for each person in the asbestos abatement demolition crew and OSHA 8-hr Asbestos-Handling for Roofers Training Certificates. BID DUE DATE: 06/02/05, 2:30 p.m. 202B Construction Contracting, Dilworth. PREBID CONFERENCE AND SITE VISIT: 05/17/05, 2:30 p.m. 203 Dilworth. ALL CONTRACTORS WHO HAVE SECURED CONTRACT DOCUMENTS ARE INVITED AND URGED TO ATTEND THIS PRE-BID CONFERENCE. Bid Document Requests: http://muweb.millersville.edu/~purchase/current_bid_opportunities.html or fax (717-871-5622) Point of Contact Name, Company Name, Street Address, telephone and fax numbers and email address.

Department: State System of Higher Education
Location: 60 Lyte Road, Main Campus Millersville University, Millersville, PA
Duration: 60 construction days from the date of the Notice to Proceed
Contact: Jill M. Coleman, (717) 872-3730

CN00014827 This Request For Quote (RFQ) is to provide maintenance and repair services for existing Highway Advisory Radio (HAR) equipment for Engineering District 1-0 located in northwestern Pennsylvania. HAR is a traffic information broadcasting system used to alert drivers to tune their car radios to a specific channel in order to receive transmitted information regarding current conditions on roadways. Specific manufacture of the equipment and locations of the sites are provided in the "Specifications" of the RRQ.

Department: Transportation
Location: Various locations within District 1-0.
Duration: This contract will be for one year with one four-year renewal for a total of five years.
Contact: Amy Judson-Burak, (814) 678-7185

[Pa.B. Doc. No. 05-982. Filed for public inspection May 13, 2005, 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

